

State of Arizona
House of Representatives
Forty-fourth Legislature
First Regular Session
1999

HOUSE BILL 2189

AN ACT

AMENDING SECTIONS 1-215, 28-5805, 41-796.01, 41-803, 41-1516, 41-2083 AND 41-2116, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 41, CHAPTER 15, ARTICLE 6, ARIZONA REVISED STATUTES, TO "MOTOR FUEL"; AMENDING SECTIONS 41-2121 AND 41-2122, ARIZONA REVISED STATUTES; AMENDING SECTION 41-2123, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1998, CHAPTER 217, SECTION 11; REPEALING SECTION 41-2123, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1998, CHAPTER 146, SECTION 21; AMENDING SECTIONS 41-2124 AND 41-2128, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 15, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2129; AMENDING SECTIONS 41-2132, 41-2133, 41-2134, 41-2501, 43-1026, 43-1086, 43-1086.01, 43-1128.01, 43-1174, 43-1174.01 AND 49-105, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 1.1; AMENDING SECTIONS 49-281, 49-282, 49-282.03 AND 49-282.05, ARIZONA REVISED STATUTES; REPEALING SECTION 49-285, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1997, CHAPTER 233, SECTION 43; AMENDING SECTIONS 49-287, 49-287.03, 49-287.06, 49-289.03, 49-289.04, 49-292.01, 49-292.02, 49-401.01, 49-402, 49-404, 49-454, 49-541, 49-516 AND 49-571, ARIZONA REVISED STATUTES; AMENDING SECTION 49-1091, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1998, CHAPTER 298, SECTION 15; AMENDING SECTION 49-1203, ARIZONA REVISED STATUTES; AMENDING LAWS 1997, CHAPTER 287, SECTIONS 51 AND 52; AMENDING LAWS 1998, CHAPTER 217, SECTION 42; REPEALING SECTION 49-1052, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1998, CHAPTER 181, SECTION 7; REPEALING SECTION 49-1091, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1998, CHAPTER 181, SECTION 9; REPEALING LAWS 1998, CHAPTER 181, SECTION 11; RELATING TO THE ENVIRONMENT.

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

2 Section 1. Section 1-215, Arizona Revised Statutes, is amended to
3 read:

4 1-215. Definitions

5 In the statutes and laws of the state, unless the context otherwise
6 requires:

7 1. "Action" includes any matter or proceeding in a court, civil or
8 criminal.

9 2. "Adopted rule" means a final rule as defined in section 41-1001.

10 3. "Adult" means a person who has attained the age of eighteen years.

11 4. "Alternative fuel" means:

12 (a) Liquefied petroleum gas.

13 (b) Natural gas.

14 (c) Hydrogen.

15 (d) A blend of hydrogen with liquefied petroleum or natural gas.

16 (e) An emulsion of water-phased hydrocarbon fuel that contains not
17 less than twenty per cent water by volume and that complies with any of the
18 following:

19 (i) Is used in an engine that is certified to meet at a minimum the
20 United States environmental protection agency low emission vehicle standard
21 pursuant to 40 Code of Federal Regulations section ~~88.104-95~~ 88.104-94 or
22 88.105-94.

23 (ii) Is used in an engine that is certified by the engine modifier to
24 meet the addendum to memorandum 1-A of the United States environmental
25 protection agency.

26 (iii) Is used in an engine that is the subject of a waiver for that
27 specific engine application from the United States environmental protection
28 agency's memorandum 1-A addendum requirements and that waiver is documented
29 to the reasonable satisfaction of the department of commerce energy office.

30 (f) Only for vehicles that use alcohol fuels before the effective date
31 of this amendment to this section, alcohol fuels that contain not less than
32 eighty-five per cent alcohol by volume.

33 (g) Electricity.

34 (h) Solar energy.

35 (i) A combination of at least seventy per cent alternative fuel and
36 no more than thirty per cent petroleum based fuel and that operates in an
37 engine that meets the United States environmental protection agency low
38 emission vehicle standard pursuant to 40 Code of Federal Regulations section
39 ~~88.104-95~~ 88.104-94 or 88.105-94 and is certified by the engine manufacturer
40 to consume at least seventy per cent alternative fuel during normal vehicle
41 operations.

42 5. "Bribe" signifies anything of value or advantage, present or
43 prospective, asked, offered, given, accepted or promised with a corrupt

1 intent to influence, unlawfully, the person to whom it is given in his
2 action, vote or opinion, in any public or official capacity.

3 6. "Child" or "children" as used in reference to age of persons means
4 persons under the age of eighteen years.

5 7. "Corruptly" imports a wrongful design to acquire or cause some
6 pecuniary or other advantage to the person guilty of the act or omission
7 referred to, or to some other person.

8 8. "Daytime" means the period between sunrise and sunset.

9 9. "Depose" includes every manner of written statement under oath or
10 affirmation.

11 10. "Grantee" includes every person to whom an estate or interest in
12 real property passes, in or by a deed.

13 11. "Grantor" includes every person from or by whom an estate or
14 interest in real property passes, in or by a deed.

15 12. "Includes" or "including" means not limited to and is not a term
16 of exclusion.

17 13. "Inhabitant" means a resident of a city, town, village, district,
18 county or precinct.

19 14. "Issue" as used in connection with descent of estates includes all
20 lawful, lineal descendants of the ancestor.

21 15. "Knowingly" imports only a knowledge that the facts exist which
22 bring the act or omission within the provisions of the statute using such
23 word. It does not require any knowledge of the unlawfulness of the act or
24 omission.

25 16. "Magistrate" means an officer having power to issue a warrant for
26 the arrest of a person charged with a public offense and includes the chief
27 justice and judges of the supreme court, judges of the superior court,
28 justices of the peace and police magistrates in cities and towns.

29 17. "Majority" or "age of majority" as used in reference to age of
30 persons means the age of eighteen years or more.

31 18. "Malice" and "maliciously" import a wish to vex, annoy or injure
32 another person, or an intent to do a wrongful act, established either by
33 proof or presumption of law.

34 19. "Mentally ill person" includes an idiot, an insane person, a
35 lunatic or a person non compos.

36 20. "Minor" means a person under the age of eighteen years.

37 21. "Minor children" means persons under the age of eighteen years.

38 22. "Month" means a calendar month unless otherwise expressed.

39 23. "Neglect," "negligence," "negligent" and "negligently" import a
40 want of such attention to the nature or probable consequence of the act or
41 omission as a prudent man ordinarily bestows in acting in his own concerns.

42 24. "Nighttime" means the period between sunset and sunrise.

43 25. "Oath" includes affirmation or declaration.

1 26. "Peace officers" means sheriffs of counties, constables, marshals,
2 policemen of cities and towns, commissioned personnel of the department of
3 public safety, police officers appointed by community college district
4 governing boards who have received a certificate from the Arizona peace
5 officer standards and training board and police officers appointed by the
6 Arizona board of regents who have received a certificate from the Arizona
7 peace officer standards and training board.

8 27. "Person" includes a corporation, company, partnership, firm,
9 association or society, as well as a natural person. When the word "person"
10 is used to designate the party whose property may be the subject of a
11 criminal or public offense, the term includes the United States, this state,
12 or any territory, state or country, or any political subdivision of this
13 state which may lawfully own any property, or a public or private
14 corporation, or partnership or association. When the word "person" is used
15 to designate the violator or offender of any law, it includes corporation,
16 partnership or any association of persons.

17 28. "Personal property" includes money, goods, chattels, dogs, things
18 in action and evidences of debt.

19 29. "POPULATION" MEANS THE POPULATION ACCORDING TO THE MOST RECENT
20 UNITED STATES DECENNIAL CENSUS.

21 ~~29.~~ 30. "Process" means a citation, writ or summons issued in the
22 course of judicial proceedings.

23 ~~30.~~ 31. "Property" includes both real and personal property.

24 ~~31.~~ 32. "Real property" is coextensive with lands, tenements and
25 hereditaments.

26 ~~32.~~ 33. "Registered mail" includes certified mail.

27 ~~33.~~ 34. "Seal" as used in reference to a paper issuing from a court
28 or public office to which the seal of such court or office is required to be
29 affixed means the impression on such paper, as well as the impression of the
30 seal affixed thereto by means of a wafer or wax.

31 ~~34.~~ 35. "Signature" or "subscription" includes mark, when a person
32 cannot write, with his name written near it and witnessed by a person who
33 writes his own name as witness.

34 ~~35.~~ 36. "State" as applied to the different parts of the United
35 States, includes the District of Columbia, this state and the territories.

36 ~~36.~~ 37. "Testify" includes every manner of oral statement under oath
37 or affirmation.

38 ~~37.~~ 38. "United States" includes the District of Columbia and the
39 territories.

40 ~~38.~~ 39. "Vessel", as used in reference to shipping, includes ships of
41 all kinds, steamboats, steamships, barges, canal boats and every structure
42 adapted to navigation from place to place for the transportation of persons
43 or property.

1 ~~39.~~ 40. "Wilfully" means, with respect to conduct or to a circumstance
2 described by a statute defining an offense, that a person is aware or
3 believes that his or her conduct is of that nature or that the circumstance
4 exists.

5 ~~40.~~ 41. "Will" includes codicils.

6 ~~41.~~ 42. "Workers' compensation" means workmen's compensation as used
7 in article XVIII, section 8, Constitution of Arizona.

8 ~~42.~~ 43. "Writ" signifies an order or precept in writing issued in the
9 name of the state or by a court or judicial officer.

10 ~~43.~~ 44. "Writing" includes printing.

11 Sec. 2. Section 28-5805, Arizona Revised Statutes, is amended to read:

12 28-5805. Motor vehicle powered by alternative fuels;
13 classification; vehicle license tax; definitions

14 A. A separate classification of motor vehicles is established for
15 purposes of taxation pursuant to article IX, section 11, Constitution of
16 Arizona, that consists of motor vehicles powered by alternative fuels.

17 B. Notwithstanding section 28-5801, the registering officer shall
18 collect at the time of application for and before registration of the motor
19 vehicle classified under this section an annual license tax of four dollars
20 for each one hundred dollars in value. During the first twelve months of the
21 life of the vehicle as determined by its initial registration, the value is
22 one per cent of the manufacturer's base retail price of the vehicle. During
23 each succeeding twelve month period the value of the vehicle is fifteen per
24 cent less than the value of the preceding twelve month period.

25 C. The minimum amount of the license tax computed under this section
26 is five dollars per year for each vehicle subject to the tax.

27 D. Except as specifically provided in this section, the vehicle
28 license tax on a vehicle classified under this section is governed by this
29 article.

30 E. The owner of a vehicle claiming the special annual license tax rate
31 provided by this section shall provide proof at the time of application and
32 before registration of the vehicle each year as follows:

33 1. The owner of a vehicle that is purchased new shall provide a
34 certificate from the manufacturer indicating that the vehicle is powered by
35 an alternative fuel.

36 2. The owner of a vehicle that is not purchased new, that is a
37 converted vehicle or that is assembled by the owner shall provide either:

38 (a) A certificate issued by the department of environmental quality
39 indicating that the vehicle is powered by liquefied petroleum gas, natural
40 gas, hydrogen, a blend of hydrogen with liquefied petroleum or natural gas,
41 or alcohol fuels that contain not less than eighty-five per cent alcohol by
42 volume.

1 (b) A certificate issued by the department of transportation
2 indicating that the vehicle is powered by either electricity or solar energy.

3 F. For purposes of this section:

4 1. "Alternative fuels" means:

5 (a) Liquefied petroleum gas.

6 (b) Natural gas.

7 (c) Hydrogen.

8 (d) A blend of hydrogen with liquefied petroleum or natural gas.

9 (e) An emulsion of water-phased hydrocarbon fuel that contains not
10 less than twenty per cent water by volume and that complies with any of the
11 following:

12 (i) Is used in an engine that is certified to meet at a minimum the
13 United States environmental protection agency low emission vehicle standard
14 pursuant to 40 Code of Federal Regulations section ~~88.104-95~~ 88.104-94 or
15 88.105-94.

16 (ii) Is used in an engine that is certified by the engine modifier to
17 meet the addendum to memorandum 1-A of the United States environmental
18 protection agency.

19 (iii) Is used in an engine that is the subject of a waiver for that
20 specific engine application from the United States environmental protection
21 agency's memorandum 1-A addendum requirements and that waiver is documented
22 to the reasonable satisfaction of the department of commerce energy office.

23 (f) Only for vehicles that use alcohol fuels before the effective date
24 of this amendment to this section, alcohol fuels that contain not less than
25 eighty-five per cent alcohol by volume.

26 (g) Electricity.

27 (h) Solar energy.

28 (i) A combination of at least seventy per cent alternative fuel and
29 no more than thirty per cent petroleum based fuel and that operates in an
30 engine that meets the United States environmental protection agency low
31 emission vehicle standard pursuant to 40 Code of Federal Regulations section
32 ~~88.104-95~~ 88.104-94 or 88.105-94 and is certified by the engine manufacturer
33 to consume at least seventy per cent alternative fuel during normal vehicle
34 operations.

35 2. "Motor vehicle" means a vehicle that meets the safety standards of
36 the national highway traffic safety administration.

37 Sec. 3. Section 41-796.01, Arizona Revised Statutes, is amended to
38 read:

39 41-796.01. Adjusted work hours

40 The director by rule shall require adjusted work hours for at least
41 eighty-five per cent of state employees with offices located in ~~a~~
42 ~~nonattainment~~ area A OR AREA B as defined in section 49-541 each year

1 beginning October 1 and ending April 1 in order to reduce the level of carbon
2 monoxide concentrations caused by vehicular travel.

1 Sec. 4. Section 41-803, Arizona Revised Statutes, is amended to read:

2 41-803. Operation of state motor vehicle fleet; energy
3 conservation; alternative fuels; definitions

4 A. The director shall operate a motor vehicle fleet for all state
5 owned motor vehicles for the purpose of providing transportation for state
6 officers and employees, except those officers and employees of any agency or
7 department excluded by subsection E of this section. The director shall make
8 fleet motor vehicles available to state agencies and departments on the
9 request of the chosen representative for that agency or department.

10 B. The director may adopt rules necessary for the administration of
11 the motor vehicle fleet.

12 C. The director shall provide for detailed cost, operation,
13 maintenance, mileage and custody records for each state owned vehicle. On
14 or before August 1 of each year, all state agencies and departments,
15 including those listed in subsection E of this section, shall make
16 information available to the director regarding vehicle cost, operation,
17 maintenance and mileage and other information as established by the director
18 in policies and procedures for the purposes of the report prescribed in
19 subsection P of this section.

20 D. Each state department and agency shall pay from available monies
21 the cost of motor vehicle services received from the state motor vehicle
22 fleet at a rate determined by the director.

23 E. The following departments and agencies are excluded from
24 participation in the state motor vehicle fleet:

- 25 1. Department of public safety.
- 26 2. Department of transportation.
- 27 3. Department of economic security.
- 28 4. State department of corrections.
- 29 5. Universities and community colleges.
- 30 6. Arizona state schools for the deaf and the blind.

31 F. The director shall appoint a person in the office of the director
32 who is the state motor vehicle fleet alternative fuel coordinator. The
33 coordinator shall develop, implement, document, monitor and modify as
34 necessary a statewide alternative fuels plan in consultation with all state
35 agencies and departments that are subject to the alternative fuel
36 requirements prescribed in this section or any other law. The approval of
37 the coordinator is required for all acquisitions of vehicles pursuant to this
38 section.

39 G. Purchases of all new motor vehicles that primarily operate in
40 counties with a population of more than two hundred fifty thousand persons
41 ~~according to the most recent United States decennial census~~ and that have a
42 gross vehicle weight of eight thousand five hundred pounds or less, including
43 those agency motor vehicle fleets listed in subsection E of this section,
44 shall meet the following minimum requirements for vehicles:

1 1. For model year 1997, ten per cent of new motor vehicles purchased
2 shall be capable of operating on alternative fuels.

3 2. For model year 1998, fifteen per cent of new motor vehicles
4 purchased shall be capable of operating on alternative fuels.

5 3. For model year 1999, twenty-five per cent of new motor vehicles
6 purchased shall be capable of operating on alternative fuels.

7 4. For model year 2000, fifty per cent of new motor vehicles purchased
8 shall be capable of operating on alternative fuels.

9 5. For model year 2001 and all subsequent model years, seventy-five
10 per cent of new motor vehicles purchased shall be capable of operating on
11 alternative fuels.

12 H. Purchases of new alternative fuel vehicles that have a gross
13 vehicle weight of eight thousand five hundred pounds or less shall meet the
14 following minimum requirements for vehicles that primarily operate in
15 counties with a population of more than one million two hundred thousand
16 persons ~~according to the most recent United States decennial census:~~

17 1. For model year 2000, forty per cent of new alternative fuel
18 vehicles purchased shall comply with the United States environmental
19 protection agency standards for low emission vehicles pursuant to 40 Code of
20 Federal Regulations sections ~~88.104-95~~ 88.104-94 and 88.105-94.

21 2. For model year 2001, fifty per cent of new alternative fuel
22 vehicles purchased shall comply with the United States environmental
23 protection agency standards for low emission vehicles pursuant to 40 Code of
24 Federal Regulations sections ~~88.104-95~~ 88.104-94 and 88.105-94.

25 3. For model year 2002, sixty per cent of new alternative fuel
26 vehicles purchased shall comply with the United States environmental
27 protection agency standards for low emission vehicles pursuant to 40 Code of
28 Federal Regulations sections ~~88.104-95~~ 88.104-94 and 88.105-94.

29 4. For model year 2003, seventy per cent of new alternative fuel
30 vehicles purchased shall comply with the United States environmental
31 protection agency standards for low emission vehicles pursuant to 40 Code of
32 Federal Regulations sections ~~88.104-95~~ 88.104-94 and 88.105-94.

33 I. The coordinator may waive the requirements of subsection G of
34 this section for any state agency on receipt of certification supported by
35 evidence acceptable to the coordinator that:

36 1. The agency's vehicles will be operating primarily in an area in
37 which neither the agency nor a supplier has established or can reasonably be
38 expected to establish a central refueling station for alternative fuels.

39 2. The agency is unable to acquire or be provided equipment or
40 refueling facilities necessary to operate vehicles using alternative fuels
41 at a projected cost that is reasonably expected to result in net costs of no
42 greater than thirty per cent more than the net costs associated with the
43 continued use of traditional gasoline or diesel fuels measured over the

1 expected useful life of the equipment or facilities supplied. Applications
2 for waivers shall be filed with the department of commerce energy office
3 pursuant to section 41-1516.01. An entity that receives a waiver pursuant
4 to this section shall retrofit fleet heavy-duty diesel vehicles with a gross
5 vehicle weight of eight thousand five hundred pounds or more that were
6 manufactured in or before model year 1993 and that are the subject of the
7 waiver with a technology that is effective at reducing particulate emissions
8 at least twenty-five per cent or more and that has been approved by the
9 United States environmental protection agency pursuant to the urban bus
10 engine retrofit/rebuild program. The entity shall comply with the
11 implementation schedule pursuant to section 49-555.

12 J. The department of administration, through the coordinator, may
13 acquire or be provided equipment or refueling facilities necessary to operate
14 such vehicles using alternative fuels:

- 15 1. By purchase or lease as authorized by law.
- 16 2. By gift or loan of the equipment or facilities.
- 17 3. By gift or loan of the equipment or facilities or any other
18 arrangement pursuant to a service contract for the supply of alternative
19 fuels.

20 K. The coordinator and the department of commerce energy office shall
21 develop and implement a vehicle fleet energy conservation plan for the
22 purposes of reducing vehicle fuel consumption and to encourage and
23 progressively increase the use of alternative fuels in state owned vehicles.
24 The plans shall include:

25 1. A timetable by which fleet vehicles shall be replaced with vehicles
26 that have demonstrated high fuel economy estimates within their vehicle
27 class.

28 2. A timetable for increasing the use of alternative fuels in fleet
29 vehicles either through purchase or conversion. The timetable shall reflect
30 the following schedule and percentage of vehicles which operate on
31 alternative fuels:

32 (a) Not less than forty per cent of the total fleet by December 31,
33 1995.

34 (b) Not less than ninety per cent of the total fleet operating
35 primarily in counties with populations exceeding one million two hundred
36 thousand persons according to the most recent federal decennial census by
37 December 31, 1997.

38 3. Options for increasing, whenever possible, the use of vehicles that
39 have the capability to use available alternative fuels, or vehicles that may
40 be economically converted, if needed, for the use of alternative fuels.

41 4. Options for the use of demonstrated innovative technologies that
42 promote energy conservation and reduced fuel consumption.

43 5. Methods that promote efficient trip planning and state vehicle use.

1 6. Car pooling and van pooling for agency employees for commuting and
2 job related travel.

3 L. The coordinator shall identify specific vehicle models within each
4 vehicle class that would meet the demands of each state agency and that
5 demonstrate a high degree of fuel economy. Vehicle classes and fuel economy
6 comparisons shall be based on United States department of energy and United
7 States environmental protection agency data pursuant to title 15, United
8 States Code sections 2003 through 2006. For the use of an alcohol fueled
9 vehicle, the state agency shall demonstrate to the director that the fuel for
10 the vehicle is available within a ten mile radius of the primary home base
11 of that vehicle.

12 M. Subsections G, H, I, J, K, L and N of this section do not apply to
13 the purchase or lease of the following:

- 14 1. A vehicle to be used primarily for criminal law enforcement.
- 15 2. A motorcycle.
- 16 3. An all-terrain vehicle.
- 17 4. An ambulance.
- 18 5. A fire truck, a fire engine or any other fire suppression
19 apparatus.

20 N. The departments and agencies excluded from participation in the
21 state motor vehicle fleet pursuant to subsection E of this section shall
22 develop and implement a program for alternative fuels and fuel economy for
23 their motor vehicle fleets substantially similar to the standards set forth
24 in this section, and the program shall be submitted to the coordinator for
25 review.

26 O. All agencies, including those listed in subsection E of this
27 section, shall comply with the plan developed and implemented by the director
28 pursuant to subsection F of this section.

29 P. On or before November 1 of each year, the director shall submit a
30 report to the governor, the speaker of the house of representatives, the
31 president of the senate, the governor's office of strategic planning and
32 budgeting and the joint legislative budget committee concerning the use of
33 alternative fuels in the state motor vehicle fleet. The report shall include
34 at least the following:

- 35 1. The number of state fleet vehicles.
- 36 2. The number of state fleet vehicles used primarily in Maricopa
37 county.
- 38 3. The number of state fleet vehicles capable of using alternative
39 fuels.
- 40 4. Progress on compliance with federal and state guidelines mandating
41 the conversion of state fleet vehicles to alternatively fueled vehicles.
- 42 5. Alternative fuels usage data.
- 43 6. Information received from state agencies pursuant to subsection C
44 of this section.

- 1 1. Monies appropriated by the legislature.
- 2 2. Monies from the air quality fund pursuant to section 49-551,
- 3 subsection C, paragraph 2.
- 4 3. Any monies that are appropriated to state agencies for alternative
- 5 fuel vehicles or conversion of conventional vehicles to operate on
- 6 alternative fuels and that have not been spent by the state agency at the end
- 7 of each fiscal year.
- 8 4. Any monies that are allocated from the emissions inspection fund
- 9 established by section 49-544 to the vehicle repair grant program established
- 10 pursuant to section 49-542 and that have not been spent at the end of each
- 11 fiscal year.
- 12 5. Monies collected pursuant to section 49-543, subsection B.
- 13 6. Monies from the state lottery fund pursuant to section 5-522,
- 14 subsection A, paragraph 4.
- 15 7. Any other monies received through gifts, grants and donations.
- 16 B. The director shall administer the fund.
- 17 C. Monies in the fund may be used for any of the following:
- 18 1. To promote public use of alternative fuels by providing individual
- 19 grants that do not exceed one hundred thousand dollars each for alternative
- 20 fuel systems that have had their equipment certified by the department of
- 21 commerce energy office. A recipient of a grant for an alternative fuel
- 22 delivery system pursuant to this paragraph is not eligible to claim a tax
- 23 credit for that alternative fuel delivery system pursuant to section 43-1086
- 24 or 43-1174. Alternative fuel delivery systems that are established using
- 25 grant monies shall be accessible to the general public.
- 26 2. Not more than one-half of the monies deposited into the fund shall
- 27 be used by the department to establish a program that would provide a maximum
- 28 of a two thousand dollar grant for each alternative fuel vehicle that is
- 29 owned or leased by individuals or small businesses for the purchase and
- 30 installation of an alternative fuel delivery system for use on the
- 31 individual's or small business' property in this state. The department of
- 32 commerce shall promptly notify the department of revenue of individuals and
- 33 small businesses that have received a grant and the amount of the grant. For
- 34 the purposes of this paragraph, "small business" has the same meaning
- 35 prescribed in section 41-1001.
- 36 3. Grants to school districts to pay a portion of the cost incurred
- 37 for the alternative fuels program prescribed in section 15-349.
- 38 4. Grants to cities and towns to pay a portion of the cost incurred
- 39 for the alternative fuels vehicle program and for the incremental cost of
- 40 alternative fuel buses pursuant to section 9-500.04.
- 41 5. To pay the costs of high occupancy vehicle lane sign markings
- 42 required by section 28-2416.
- 43 6. Administrative costs incurred by the department in administering
- 44 the programs prescribed in this subsection.

1 7. To conduct public awareness programs for alternative fuels.

2 8. To provide for training for persons involved in alternative fuel
3 activities with automobiles.

4 9. To allocate resources to reduce the cost of converting or acquiring
5 alternative fuel vehicles and equipment as prescribed by sections 43-1026,
6 43-1086, 43-1128.01 and 43-1174.

7 10. To allocate resources to reduce the cost of an alternative fuel as
8 prescribed by sections 43-1026, 43-1086, 43-1128.01 and 43-1174.

9 D. The department may provide certification of alternative fuel
10 vehicles and equipment converted or purchased in previous tax years if the
11 taxpayer provides appropriate documentation to the department and if the
12 department deems the documentation and certification acceptable.

13 E. Tax credits or subtractions for alternative fuel vehicles
14 authorized pursuant to state law shall only be allowed if the vehicle meets
15 one of the following:

16 1. The vehicle ENGINE is certified to meet at a minimum the United
17 States environmental protection agency low emission vehicle standard pursuant
18 to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

19 2. The vehicle ENGINE meets the requirements of the addendum to
20 memorandum 1-A, issued by the United States environmental protection agency,
21 as printed in the federal register, volume 62, number 207, October 27, 1997,
22 pages 55635 through 55637.

23 3. The vehicle ENGINE is the subject of a waiver for that specific
24 engine application from the United States environmental protection agency's
25 memorandum 1-A requirements and that waiver is documented to the reasonable
26 satisfaction of the department.

27 F. The director shall report annually to the legislature on the status
28 of the Arizona clean air fund including a report on expenditures from the
29 fund pursuant to subsection C of this section. The report shall include a
30 summary of alternative fuel delivery systems for which funding was provided
31 during the preceding fiscal year. The report shall be submitted to the
32 president of the senate and the speaker of the house of representatives no
33 later than September 1 of each year.

34 G. Monies in the Arizona clean air fund are exempt from the provisions
35 of section 35-190 relating to lapsing of appropriations. The state treasurer
36 shall invest and divest monies in the fund pursuant to section 35-313.

37 H. For the purposes of this section, "alternative fuel delivery
38 system" means any facility that provides for the fueling of an alternative
39 fuel vehicle.

40 Sec. 6. Section 41-2083, Arizona Revised Statutes, is amended to read:

41 41-2083. Standards for motor fuel; exceptions

42 A. Except as provided in subsections C, D, E, F and G of this section,
43 a retail seller or fleet owner shall not store, sell or expose or offer for

1 sale any motor fuel, kerosene, oil or other liquid or gaseous fuel or
2 lubricating oil, lubricant, mixtures of lubricants or other similar products
3 if the product fails to meet the standards specified in this section and in
4 the rules adopted by the director.

5 B. A person shall not misrepresent the nature, origination, quality,
6 grade or identity of any product specified in subsection A of this section
7 or represent the nature, origination, quality, grade or identity of such
8 product in any manner calculated or tending to mislead or in any way deceive.

9 C. After consultation with the director of the department of
10 environmental quality, the standards and test methods for motor fuels shall
11 be established by the director of the department of weights and measures by
12 rule.

13 D. Maximum vapor pressure for gasoline that is supplied or sold by any
14 person and that is intended as a final product for the fueling of motor
15 vehicles in a ~~vehicle emissions control area as defined by section 49-541~~
16 COUNTY with a population of one million two hundred thousand or more persons
17 ~~according to the most recent United States decennial census~~ AND ANY PORTION
18 OF A COUNTY CONTAINED IN AREA A AS DEFINED IN SECTION 49-541 shall be 9.0
19 pounds per square inch from and after September 30 through March 31 of each
20 year. Fuel used in motor vehicles at a manufacturer's proving ground or a
21 motor vehicle racing event as defined by section 41-2121 is exempt from this
22 subsection.

23 E. From and after September 30 through March 31 of each year a person
24 shall not supply or sell gasoline that exceeds the ASTM D4814 class A vapor
25 pressure/distillation class ten volume per cent evaporated distillation
26 temperature.

27 F. Maximum vapor pressure for gasoline that is supplied or sold by any
28 person and that is intended as a final product for the fueling of motor
29 vehicles in a ~~vehicle emissions control area as defined by section 49-541~~
30 A COUNTY with a population of one million two hundred thousand persons or
31 more ~~according to the most recent United States decennial census~~ AND ANY
32 PORTION OF A COUNTY CONTAINED IN AREA A AS DEFINED IN SECTION 49-541 shall
33 be 7.0 pounds per square inch from and after May 31 through September 30 of
34 each year. Fuel used in motor vehicles at a manufacturer's proving ground
35 or a motor vehicle racing event as defined by section 41-2121 is exempt from
36 this subsection.

37 G. Exclusively for the purposes of transportation conformity and only
38 if the administrator of the United States environmental protection agency
39 fails to approve the applicable plan required pursuant to section 49-406,
40 maximum vapor pressure for gasoline that is supplied or sold by any person
41 and that is intended as a final product for the fueling of motor vehicles in
42 area B as defined in section 49-541 shall be ten pounds per square inch from
43 and after September 30, 1999 through March 31, 2000 and from and after

1 September 30 through March 31 of each year thereafter. Fuel used in motor
2 vehicles at a manufacturer's proving ground or a motor vehicle racing event
3 as defined by section 41-2121 is exempt from this subsection.

4 H. Notwithstanding subsections D, F and G of this section, the
5 director of the department of weights and measures in consultation with the
6 director of the department of environmental quality shall approve alternate
7 fuel control measures that are submitted by manufacturers or suppliers of
8 gasoline and that the directors determine will result in either of the
9 following:

10 1. Motor vehicle carbon monoxide emissions that are equal to or less
11 than emissions that result under compliance with subsection D of this section
12 and section 41-2123. In making this determination, the director of the
13 department of weights and measures and the director of the department of
14 environmental quality shall compare the emissions of the alternate fuel
15 control measure with the emissions of a fuel with a maximum vapor pressure
16 standard as prescribed by this section and with the minimum oxygen content
17 or percentage by volume of ethanol as prescribed by section 41-2123.

18 2. Motor vehicle non-methane hydrocarbon emissions that are equal to
19 or less than the emissions that result under compliance with subsection F of
20 this section. In making this determination, the director of the department
21 of weights and measures and the director of the department of environmental
22 quality shall compare the motor vehicle non-methane hydrocarbon emissions of
23 the alternate fuel control measure with the motor vehicle non-methane
24 hydrocarbon emissions of a fuel that complies with the maximum vapor pressure
25 standard as prescribed by subsection F of this section.

26 I. Any alternate fuel control measures that are approved shall not
27 increase emissions of non-methane hydrocarbons, particulates, carbon monoxide
28 or oxides of nitrogen. Alternate fuel control measures approved pursuant to
29 subsection H of this section and this subsection may be used by any
30 manufacturer or supplier of gasoline unless the approval is rescinded more
31 than one hundred eighty days before the first day of a gasoline control
32 period. Manufacturers and suppliers who use an approved alternate fuel
33 control measure shall annually submit a compliance plan to the director of
34 the department of weights and measures no later than sixty days before the
35 first day of a gasoline control period.

36 J. A person shall not sell or offer or expose for sale diesel fuel
37 grade 1, 2 or 4 as defined in ASTM D975 that contains sulfur in excess of
38 five hundred parts per million for use in area A as defined in section
39 49-541.

40 Sec. 7. Section 41-2116, Arizona Revised Statutes, is amended to read:
41 41-2116. Delinquent civil penalties and fees

42 In addition to any other penalty, if a civil penalty or any fee due
43 pursuant to this chapter has not been paid thirty days after the due date,
44 the civil penalty or fee is delinquent and the department may refuse to issue

1 a license OR MAY REVOKE A LICENSE pursuant to this chapter until the civil
2 penalty or fee is paid in full.

3 Sec. 8. Heading change

4 The article heading of title 41, chapter 15, article 6, Arizona Revised
5 Statutes, is changed from "OXYGENATED FUEL" to "MOTOR FUEL".

6 Sec. 9. Section 41-2121, Arizona Revised Statutes, is amended to read:
7 41-2121. Definitions

8 In this article, unless the context otherwise requires:

9 1. "Area A" has the same meaning prescribed in section 49-541.

10 2. "Area B" ~~means a carbon monoxide vehicle emissions control area in~~
11 ~~a county with a population in excess of four hundred thousand but fewer than~~
12 ~~one million two hundred thousand persons~~ HAS THE SAME MEANING PRESCRIBED IN
13 SECTION 49-541.

14 3. "Fleet owner" means a registered owner or lessee of at least
15 twenty-five vehicles.

16 4. "Gasoline" means a volatile, highly flammable liquid mixture of
17 hydrocarbons that does not contain more than five one-hundredths grams of
18 lead for each United States gallon, that is produced, refined, manufactured,
19 blended, distilled or compounded from petroleum, natural gas, oil, shale oils
20 or coal and other flammable liquids free from undissolved water, sediment or
21 suspended matter, with or without additives, and that is commonly used as a
22 fuel for spark ignition internal combustion engines. Gasoline does not
23 include diesel fuel.

24 5. "Manufacturer's proving ground" means a facility whose sole purpose
25 is to develop complete advanced vehicles for an automotive manufacturer.

26 6. "Motor vehicle racing event" means a race that uses unlicensed
27 vehicles that are designed and manufactured specifically for racing purposes
28 and that is conducted on a public or private racecourse for the entertainment
29 of the general public. A motor vehicle racing event includes practice,
30 qualifying and demonstration laps conducted as part of the activities related
31 to a motor vehicle race.

32 7. "Oxygenate" means any oxygen-containing ashless, organic compound,
33 including aliphatic alcohols and aliphatic ethers, that may be used as a fuel
34 or as a gasoline blending component and that is approved as a blending agent
35 under the provisions of a waiver issued by the United States environmental
36 protection agency pursuant to 42 United States Code section 7545(f).

37 8. "Oxygenated fuel" means an unleaded motor fuel blend that consists
38 primarily of gasoline and at least one and one-half per cent by weight of one
39 or more oxygenates and that has been blended consistent with the provisions
40 of a waiver issued by the United States environmental protection agency
41 pursuant to 42 United States Code section 7545(f).

42 9. "Product ~~transport~~ TRANSFER document" means any bill of lading,
43 loading ticket, manifest, delivery receipt, invoice or other documentation

1 used on any occasion when a person transfers custody or title of motor fuel
2 other than when motor fuel is sold or dispensed at a service station or fleet
3 vehicle fueling facility.

4 10. "Supplier" means any person who imports gasoline into a **carbon**
5 **monoxide** vehicle emissions control area by means of a pipeline or in
6 truckload quantities for the person's own use within the vehicle emissions
7 control area or any person who sells gasoline intended for ultimate
8 consumption within a vehicle emissions control area, except that supplier
9 does not mean a person with respect to gasoline supplied or sold by the
10 person to another for resale to a retailer within a vehicle emissions control
11 area or to a fleet owner for consumption within a vehicle emissions control
12 area.

13 11. "Vehicle emissions control area" has the same meaning prescribed
14 in section 49-541, except that such an area does not include a manufacturer's
15 proving ground that is located in the vehicle emissions control area.

16 Sec. 10. Section 41-2122, Arizona Revised Statutes, is amended to
17 read:

18 41-2122. Standards for oxygenated fuel; volatility exceptions

19 A. From and after September 30 through March 31 of each year, **IN A**
20 **COUNTY WITH A POPULATION OF ONE MILLION TWO HUNDRED THOUSAND OR MORE PERSONS**
21 **AND IN ANY PORTION OF A COUNTY CONTAINED** in area A, blends of gasoline with
22 ethanol shall not exceed the volatility requirements prescribed by section
23 41-2083 and rules adopted by the director under that section. From and after
24 September 30, 1999 through March 31, 2000 and from and after September 30
25 through March 31 of each year thereafter, in area B, blends of gasoline with
26 ethanol may exceed the volatility requirements prescribed by section 41-2083
27 and rules adopted by the director under that section by up to one pound per
28 square inch if the base fuel meets the requirements of ASTM D4814 and the
29 final gasoline-ethanol blend contains at least six per cent ethanol by volume
30 but does not exceed United States environmental protection agency waivers.
31 For any other locations and period of time, blends of gasoline with ethanol
32 shall meet the volatility requirements as determined by department rule.

33 B. Notwithstanding subsection D of this section, the director of the
34 department of weights and measures in consultation with the director of the
35 department of environmental quality shall approve alternate fuel control
36 measures that are submitted by manufacturers or suppliers of gasoline and
37 that the directors determine will result in motor vehicle carbon monoxide
38 emission reductions that will equal or exceed the reductions that result
39 under subsection D of this section. In making those determinations, the
40 directors shall compare the alternative measure against the emission
41 reduction that would be obtained from a fuel with the maximum vapor pressure
42 standard prescribed by subsection D of this section and the minimum oxygen
43 standard prescribed by section 41-2123 or 41-2125. Alternative fuel control

1 measures approved by the director of the department of weights and measures
2 in consultation with the director of the department of environmental quality
3 may be used by any manufacturer or supplier of gasoline unless the approval
4 is rescinded by the director of the department of weights and measures at
5 least one hundred eighty days before the beginning of any oxygenate period
6 in the future. Manufacturers and suppliers who choose to use an approved
7 alternate fuel control measure shall annually submit a compliance plan to the
8 director of the department of weights and measures not later than sixty days
9 prior to the start of the oxygenate period.

10 C. From and after September 30 through March 31 of each year, all
11 blends of gasoline with alcohol other than ethanol shall satisfy all of the
12 requirements prescribed by section 41-2083 and rules adopted by the director
13 under that section and the provisions of a waiver issued by the United States
14 environmental protection agency pursuant to 42 United States Code section
15 7545(f).

16 D. Notwithstanding subsection A of this section, if the director of
17 the department of environmental quality has previously raised the minimum
18 oxygen content to the maximum percentage of oxygen allowed for each oxygenate
19 as provided by section 41-2125, the designated air quality planning agency
20 for area B has considered, analyzed and reviewed the costs and benefits of
21 all other reasonable and available control measures in lieu of reducing
22 volatility requirements to nine pounds per square inch and the director of
23 the department of environmental quality finds that area B has failed to
24 maintain the carbon monoxide national ambient air quality standards by
25 violating the standard, beginning with the oxygenate period beginning on the
26 following September 30 and for each oxygenate period thereafter in area B,
27 the volatility requirements described by section 41-2083, subsection G may
28 be reduced to nine pounds per square inch. If a violation of the carbon
29 monoxide national ambient air quality standards is recorded after the
30 volatility requirements have been reduced to nine pounds per square inch, the
31 director of the department of environmental quality shall remove the one
32 pound per square inch waiver for gasoline-ethanol blends.

33 Sec. 11. Section 41-2123, Arizona Revised Statutes, as amended by Laws
34 1998, chapter 217, section 11, is amended to read:

35 41-2123. Area A; sale of gasoline; oxygen content

36 A. From and after November 1 through March 31 of each year:

37 ~~1. All leaded gasoline which is supplied or sold by any person and~~
38 ~~which is intended as a final product for the fueling of motor vehicles within~~
39 ~~a county with a population of one million two hundred thousand or more~~
40 ~~persons according to the most recent United States decennial census and any~~
41 ~~portion of a county contained in area A or which is consumed in a motor~~
42 ~~vehicle within a county with a population of one million two hundred thousand~~
43 ~~or more persons according to the most recent United States decennial census~~
44 ~~and any portion of a county contained in area A by a fleet owner shall~~

1 ~~contain not less than 2.7 per cent by weight of oxygen nor more than 3.7 per~~
2 ~~cent by weight of oxygen.~~

3 ~~2-~~ 1. All ~~unleaded~~ gasoline ~~which~~ THAT is supplied or sold by any
4 person and ~~which~~ THAT is intended as a final product for the fueling of motor
5 vehicles within a county with a population of one million two hundred
6 thousand or more persons ~~according to the most recent United States decennial~~
7 ~~census~~ and any portion of a county contained in area A or ~~which~~ THAT is
8 consumed in a motor vehicle in a county with a population of one million two
9 hundred thousand or more persons ~~according to the most recent United States~~
10 ~~decennial census~~ and any portion of a county contained in area A by a fleet
11 owner shall, for a gasoline-ethanol blend, contain not less than ten per cent
12 by volume of ethanol nor more than the maximum percentage of oxygen allowed
13 by provisions of a waiver issued or other limits established by the United
14 States environmental protection agency.

15 ~~3-~~ 2. All ~~unleaded~~ gasoline ~~which~~ THAT is supplied or sold by any
16 person and ~~which~~ THAT is intended as a final product for the fueling of motor
17 vehicles within a county with a population of one million two hundred
18 thousand or more persons ~~according to the most recent United States decennial~~
19 ~~census~~ and any portion of a county contained in area A or ~~which~~ THAT is
20 consumed in a motor vehicle within a county with a population of one million
21 two hundred thousand or more persons ~~according to the most recent United~~
22 ~~States decennial census~~ and any portion of a county contained in area A by
23 a fleet owner shall, for a blend other than a gasoline-ethanol blend, contain
24 not less than 2.7 per cent by weight of oxygen nor more than the maximum
25 percentage of oxygen allowed by provisions of a waiver issued or other limits
26 established by the United States environmental protection agency.

27 B. Notwithstanding subsection A of this section, the director of the
28 department of weights and measures in consultation with the director of the
29 department of environmental quality shall approve alternate fuel control
30 measures that are submitted by manufacturers or suppliers of gasoline and
31 that the directors determine will result in motor vehicle carbon monoxide
32 emissions that are equal to or less than emissions that result under
33 compliance with subsection A of this section and section 41-2083. In making
34 this determination, the director of the department of weights and measures
35 and the director of the department of environmental quality shall compare the
36 emissions of the alternate fuel control measure with the emissions of a fuel
37 with a maximum vapor pressure standard as prescribed by section 41-2083 and
38 with the minimum oxygen content or percentage by volume of ethanol as
39 prescribed by this section.

40 C. Any alternate fuel control measures that are approved shall not
41 increase emissions of non-methane hydrocarbons, particulates, carbon monoxide
42 or oxides of nitrogen. Alternate fuel control measures approved pursuant to
43 subsection B of this section and this subsection may be used by any

1 manufacturer or supplier of gasoline unless the approval is rescinded more
2 than one hundred eighty days before the first day of a gasoline control
3 period. Manufacturers and suppliers who use an approved alternate fuel
4 control measure shall annually submit a compliance plan to the director of
5 the department of weights and measures no later than sixty days before the
6 first day of a gasoline control period.

1 Sec. 12. Repeal

2 Section ~~41-2123~~, Arizona Revised Statutes, as amended by Laws 1998,
3 chapter 146, section 21, is repealed.

4 Sec. 13. Section 41-2124, Arizona Revised Statutes, is amended to
5 read:

6 ~~41-2124.~~ Area A; fuel reformulation; rules

7 A. From and after May 1, 1999 all gasoline produced and shipped to
8 ~~Maricopa county~~ OR WITHIN THIS STATE and sold or offered for sale for use in
9 motor vehicles IN A COUNTY WITH A POPULATION OF ONE MILLION TWO HUNDRED
10 THOUSAND OR MORE PERSONS AND ANY PORTION OF A COUNTY CONTAINED in area A,
11 subject to an appropriate waiver granted by the administrator of the United
12 States environmental protection agency pursuant to section 211(c)(4) of the
13 clean air act as defined ~~pursuant to~~ IN section 49-401.01, shall comply with
14 either of the following fuel reformulation options:

15 1. A gasoline that meets standards for federal phase II reformulated
16 gasoline, as provided in 40 Code of Federal Regulations section 80.41,
17 paragraphs (a) through (h), in effect on January 1, ~~1997~~ 1999, and THAT
18 meets the maximum vapor pressure requirements in section 41-2083, subsections
19 D and F.

20 2. California phase 2 reformulated gasoline, including alternative
21 formulations allowed by the predictive model, as adopted by the California
22 air resources board pursuant to ~~the~~ California code of regulations, title
23 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997,
24 that meets the maximum vapor pressure requirements in section 41-2083,
25 subsections D and F.

26 B. From and after November 1, 2000 through March 31, 2001 and from the
27 period beginning November 1 through March 31 of each subsequent year, all
28 gasoline produced and shipped to ~~Maricopa county~~ OR WITHIN THIS STATE and
29 sold or offered for sale for use in motor vehicles IN A COUNTY WITH A
30 POPULATION OF ONE MILLION TWO HUNDRED THOUSAND OR MORE PERSONS AND ANY
31 PORTION OF A COUNTY CONTAINED in area A, subject to an appropriate waiver
32 granted by the administrator of the United States environmental protection
33 agency pursuant to section 211(c)(4) of the clean air act as defined ~~pursuant~~
34 ~~to~~ IN section 49-401.01, shall comply with standards for California phase 2
35 reformulated gasoline, including alternative formulations allowed by the
36 predictive model, as adopted by the California air resources board pursuant
37 to ~~the~~ California code of regulations, title 13, sections 2261 through
38 2262.7 and 2265, in effect on January 1, 1997, and shall meet the maximum
39 vapor pressure requirements in section 41-2083, subsections D and F. The
40 fuel described in this subsection shall meet the requirements of section
41 41-2123, subsection A, paragraph ~~2~~ 1.

42 C. From November 1, 2000 through March 31, 2001, and for each winter
43 season of November through March thereafter, the director of the department

1 of weights and measures shall determine the average levels of the
2 constituents in the gasoline sold or offered for sale in area A and shall
3 provide the results of this determination to the director of environmental
4 quality. The director of environmental quality shall analyze the data
5 provided by the director of the department of weights and measures and, no
6 later than July 1, 2001 and each July thereafter, shall determine the average
7 daily carbon monoxide reductions resulting from the use of the gasoline
8 specified in subsection B of this section during the preceding winter season.
9 If the average daily carbon monoxide reductions resulting from the use of the
10 gasoline specified in subsection B of this section during the preceding
11 winter season are less than ninety per cent of the goal of thirty-two tons
12 per day in 2001, thirty-one tons per day in 2003, thirty tons per day in
13 2005, twenty-nine tons per day in 2007, or twenty-eight tons per day in 2009,
14 ~~then~~ the DIRECTOR OF THE department of environmental quality shall
15 immediately notify the governor, the president of the senate and the speaker
16 of the house of representatives.

17 D. Any registered supplier or oxygenate blender, as defined in
18 department rules, may petition the director to request that all registered
19 suppliers or oxygenate blenders be allowed to comply with any provision of
20 section 41-2123, subsection A, provided the petitioner can demonstrate that
21 ethanol supply shortages are imminent.

22 E. The petition shall:

23 1. Identify specific supply conditions that will result in a shortage
24 of ethanol.

25 2. Identify which oxygenate or oxygenates will be blended into
26 gasoline for sale or use in area A.

27 3. Demonstrate that the alternative oxygenate blend comes closest to
28 meeting a three and one-half per cent by weight oxygen content at reasonable
29 cost.

30 4. Specify a time period for compliance with any provision of section
31 41-2123, subsection A, not to exceed sixty days.

32 F. The director shall either grant or deny the petition in writing
33 within seven days of its receipt. Any decision by the director to grant the
34 petition shall be equally applicable to all registered suppliers or oxygenate
35 blenders and shall not be selectively applied to any single registered
36 supplier or oxygenate blender. The petition may be granted only if the
37 director verifies that the basis for requesting the petition is factual.

38 G. The director may reauthorize a petition if the petitioner can
39 demonstrate that the conditions have continued. The reauthorization of a
40 petition shall not exceed thirty days.

41 H. The director OF THE DEPARTMENT OF WEIGHTS AND MEASURES shall
42 consult with the director of the department of environmental quality prior
43 to granting, reauthorizing or denying any such petition.

1 I. From and after November 1, 1999 through March 31, 2000 ~~of each~~
2 ~~year~~, the fuels described in subsection A of this section shall meet the
3 requirements of section 41-2123.

4 J. The director of environmental quality in consultation with the
5 director of the department of weights and measures shall adopt by rule:

- 6 1. Requirements to implement subsections A through E of this section.
7 2. Requirements for record keeping, reporting and analytical methods
8 for fuel providers to demonstrate compliance with subsections A through E of
9 this section.

10 K. This section does not apply to fuel sold for use at a motor vehicle
11 manufacturer proving ground or at a motor vehicle racing event.

12 Sec. 14. Section 41-2128, Arizona Revised Statutes, is amended to
13 read:

14 41-2128. Inspections

15 A. On request, AN INTERSTATE PIPELINE TERMINAL OR a motor fuel storage
16 or dispensing site shall provide a product transfer document to the
17 department. Product transfer documents may be stored off site as provided
18 by department rule.

19 B. On request, a motor fuel storage or dispensing site shall provide
20 access to motor fuel dispensing cabinets to the department for inspection of
21 fuel dispensing meters and blending valves.

22 Sec. 15. Title 41, chapter 15, article 6, Arizona Revised Statutes,
23 is amended by adding section 41-2129, to read:

24 41-2129. Diesel fuel sampling and reporting

25 A. BEGINNING ON JANUARY 1, 2000 AND ENDING ON JULY 1, 2000, AND FROM
26 JANUARY 1 THROUGH JULY 1 OF EACH SUBSEQUENT YEAR, GASOLINE REFINERS AND OTHER
27 SUPPLIERS OF DIESEL FUEL THAT IS SUPPLIED OR SOLD AND INTENDED AS A FINAL
28 PRODUCT FOR THE FUELING OF DIESEL VEHICLES IN A COUNTY WITH A POPULATION OF
29 ONE MILLION TWO HUNDRED THOUSAND OR MORE PERSONS AND ANY PORTION OF A COUNTY
30 CONTAINED IN AREA A SHALL REPORT TO THE DIRECTOR OF THE DEPARTMENT OF WEIGHTS
31 AND MEASURES BY THE FIFTEENTH DAY OF EACH MONTH THE QUANTITY AND QUALITY OF
32 DIESEL FUEL SHIPPED TO OR PRODUCED IN A COUNTY WITH A POPULATION OF ONE
33 MILLION TWO HUNDRED THOUSAND OR MORE PERSONS AND TO ANY PORTION OF A COUNTY
34 CONTAINED IN AREA A DURING THE PRECEDING MONTH. REFINERS AND OTHER SUPPLIERS
35 OF DIESEL FUEL SUBJECT TO THIS REQUIREMENT SHALL REPORT BY BATCH AS FOLLOWS:

- 36 1. SULFUR CONTENT.
37 2. AROMATIC HYDROCARBON CONTENT.
38 3. CETANE NUMBER.
39 4. SPECIFIC GRAVITY.
40 5. AMERICAN PETROLEUM INSTITUTE GRAVITY.
41 6. THE TEMPERATURES AT WHICH TEN PER CENT, FIFTY PER CENT AND NINETY
42 PER CENT OF THE DIESEL FUEL BOILED OFF DURING DISTILLATION.

1 B. THE REPORT PRESCRIBED BY THIS SECTION SHALL BE ON A FORM PRESCRIBED
2 BY THE DIRECTOR AND SHALL CONTAIN A CERTIFICATION OF TRUTHFULNESS AND
3 ACCURACY OF THE DATA SUBMITTED. THE REPORT SHALL BE SIGNED BY A CORPORATE
4 OFFICER WHO IS RESPONSIBLE FOR OPERATIONS AT THE FACILITY THAT PRODUCES OR
5 SUPPLIES THE DIESEL FUEL.

6 C. THE DIRECTOR OF THE DEPARTMENT OF WEIGHTS AND MEASURES SHALL REPORT
7 THE RESULTS OF THE SIX MONTH SAMPLING AND REPORTING PERIOD PRESCRIBED BY
8 SUBSECTION A TO THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY BY
9 OCTOBER 1 OF EACH YEAR FOLLOWING THE REPORTING PERIOD.

10 Sec. 16. Section 41-2132, Arizona Revised Statutes, is amended to
11 read:

12 41-2132. Stage I and stage II vapor recovery systems

13 A. A person shall not offer for sale, sell, install or use a new or
14 rebuilt gasoline vapor recovery system, or any of its component parts, unless
15 the system has been certified by the California air resources board pursuant
16 to California health and safety code sections 41950 through 41962 in effect
17 on January 1, 1998, and is clearly identified by a permanent identification
18 of the certified manufacturer or rebuilder. The department of weights and
19 measures shall maintain and keep current a list of those design and
20 performance standards for stage I and stage II vapor recovery systems
21 certified by the California air resources board. Only those systems so
22 certified shall be used in this state.

23 B. For gasoline dispensing sites with a throughput of over ten
24 thousand gallons per month in area A or area B as defined in section 49-541,
25 AND BEGINNING ON JANUARY 1, 2001 FOR GASOLINE DISPENSING SITES WITH A
26 THROUGHPUT OF OVER TEN THOUSAND GALLONS PER MONTH IN AREA A BUT OUTSIDE OF
27 THE PHOENIX AREA MARICOPA COUNTY OZONE NONATTAINMENT AREA AS PRESCRIBED IN
28 40 CODE OF FEDERAL REGULATIONS SECTION 81.303, a person shall not transfer
29 or allow the transfer of gasoline into storage tanks at gasoline dispensing
30 sites unless the storage tank is equipped with either of the following:

31 1. A stage I vapor collection system consisting of a vapor-tight
32 return line from the storage tank or its vent to the gasoline transport
33 vehicle.

34 2. A properly installed on-site vapor control system connected to a
35 vapor collection system.

36 C. In an ozone nonattainment area designated as moderate, serious,
37 severe or extreme by the United States environmental protection agency under
38 section 107(d) of the clean air act, area A or other geographical area as
39 provided in subsection I, an owner or operator of a gasoline dispensing site
40 shall not transfer or allow the transfer of gasoline into a motor vehicle
41 fuel tank at a gasoline dispensing site unless the gasoline dispensing site
42 is equipped with a stage II vapor collection system. This subsection does
43 not apply to gasoline dispensing sites with a throughput of less than ten

1 thousand gallons per month, or to a gasoline dispensing site with a
2 throughput of less than fifty thousand gallons per month in the case of an
3 independent small business marketer of gasoline as defined in section 324 of
4 the clean air act or to a gasoline dispensing site that is located on a
5 manufacturer's proving ground. BEGINNING ON JANUARY 1, 2001, THIS SUBSECTION
6 APPLIES TO GASOLINE DISPENSING SITES THAT ARE LOCATED WITHIN AREA A BUT
7 OUTSIDE THE PHOENIX AREA MARICOPA COUNTY OZONE NONATTAINMENT AREA AS DEFINED
8 IN 40 CODE OF FEDERAL REGULATIONS SECTION 81.303.

9 D. An owner or operator of a gasoline storage tank, gasoline transport
10 vehicle or gasoline dispensing site subject to stage I or stage II vapor
11 collection requirements shall comply with the following:

12 1. Install all necessary stage I and stage II vapor collection and
13 control systems and make any modifications necessary to comply with the
14 requirements.

15 2. Provide adequate training and written instructions to the operator
16 of the affected gasoline dispensing site and the gasoline transport vehicle.

17 3. Replace, repair or modify any worn or ineffective component or
18 design element to ensure the vapor-tight integrity and efficiency of the
19 stage I and stage II vapor collection systems.

20 4. Connect and ensure proper operation of the stage I and stage II
21 vapor collection systems whenever gasoline is being loaded, unloaded or
22 dispensed.

23 E. Before the initial installation or modification of any stage I or
24 stage II recovery system, the owner or operator of a gasoline storage tank,
25 gasoline transport vehicle or gasoline dispensing site shall obtain a plan
26 review and approval from the department. Application for the plan review and
27 approval shall be on forms prescribed and provided by the department.

28 F. The operator or each gasoline dispensing site using a stage II
29 vapor recovery system shall conspicuously post operating instructions for the
30 system in the gasoline or oxygenated fuel dispensing area. The instructions
31 shall clearly describe how to fuel vehicles correctly with the vapor recovery
32 nozzles used at the station and shall include a warning that topping off may
33 result in spillage or recirculation of gasoline or oxygenated fuel and is
34 prohibited.

35 G. The department of weights and measures in consultation with the
36 department of environmental quality and the state fire marshal shall
37 establish by rule standards for the installation and operation of stage I and
38 stage II vapor recovery systems. The department of weights and measures
39 shall establish by rule plan review and approval fees. In establishing those
40 rules and standards, the director shall consider requirements in other states
41 to assure that only state of the art technology is used.

42 H. Approval of a stage I or stage II vapor collection system by the
43 department does not relieve the owner or operator of the responsibility to

1 comply with other applicable statutes, codes and rules pertaining to fire
2 prevention, environmental quality and safety matters.

3 I. Any county, city or town outside an ozone nonattainment area
4 designated as moderate, serious or severe by the environmental protection
5 agency under section 107(d) of the clean air act or outside of area A as
6 defined in section 49-541 may require gasoline dispensing sites with a
7 throughput greater than ten thousand gallons per month or fifty thousand
8 gallons per month in the case of an independent small business marketer of
9 gasoline as defined in section 324 of the clean air act to install, operate
10 and maintain stage II vapor collection systems in accordance with this
11 section. For a county, city or town considering the adoption of a resolution
12 to require stage II vapor collection systems within its jurisdiction and on
13 request, the department of environmental quality shall provide technical
14 assistance in evaluating the air quality in that county, city or town and
15 shall provide final review and approval of an adopted resolution.

16 J. A county board of supervisors or governing body of a city or town
17 shall submit a resolution approved by the department of environmental quality
18 to the director of the department of weights and measures requesting the
19 imposition of the requirements for stage II vapor collection systems within
20 its jurisdiction.

21 K. The director shall adopt, by rule, compliance schedules for
22 gasoline dispensing sites located within the jurisdiction requesting stage
23 II vapor collection system requirements no later than twelve months after
24 receipt of the resolution from the county board of supervisors or governing
25 board of a city or town. All gasoline dispensing sites other than those that
26 are exempt pursuant to subsection C shall be required to comply with stage
27 II vapor collection system rules within twenty-four months after the rules
28 have been filed with the secretary of state.

29 L. A county board of supervisors or governing body of a city or town
30 that adopts the requirements for stage II vapor collection systems may repeal
31 those requirements by adopting a resolution to remove the imposition of those
32 requirements within its jurisdiction unless the county, city or town is in
33 an ozone nonattainment area that has since been designated as moderate,
34 serious or severe by the United States environmental protection agency under
35 section 107(d) of the clean air act. On receipt of the resolution, the
36 director of the department of weights and measures shall consult with the
37 director of the department of environmental quality to verify that a county,
38 city or town is outside of an ozone nonattainment area designated as
39 moderate, serious or severe by the United States environmental protection
40 agency under section 107(d) of the clean air act. After consultation with
41 the department of environmental quality, the director of the department of
42 weights and measures shall revise the rules to repeal the requirements for
43 stage II vapor collection systems within that jurisdiction as soon as
44 practicable.

1 Sec. 17. Section 41-2133, Arizona Revised Statutes, is amended to
2 read:

1 41-2133. Compliance schedules

2 Notwithstanding section 41-2132, subsection K relating to schedules of
3 compliance:

4 1. Gasoline dispensing facilities located in an ozone nonattainment
5 area designated as moderate, **SERIOUS OR SEVERE** by the United States
6 environmental protection agency under section 107(d) of the clean air act,
7 **IN AREA A** or **IN ANY** other geographical area as provided in section 41-2132,
8 subsection I, ~~—~~ for which construction began after the certification of rules
9 adopted pursuant to section 41-2132 shall be constructed to include stage I
10 and stage II systems that meet the minimum standards set forth in this
11 chapter and department rules.

12 2. All gasoline dispensing sites located in an ozone nonattainment
13 area designated as moderate, **SERIOUS OR SEVERE** by the United States
14 environmental protection agency under section 107(d) of the clean air act,
15 **IN AREA A** or **IN ANY** other geographical area as provided in section 41-2132,
16 subsection I, ~~—~~ that begin underground storage tank replacement and that apply
17 for a permit pursuant to title 49, chapter 3, article 3 or 5 on or after
18 September 30, 1992 shall be in compliance within six months after the
19 effective date of the rules adopted pursuant to section 41-2132. Compliance
20 with this article is a condition of the permit.

21 Sec. 18. Section 41-2134, Arizona Revised Statutes, is amended to
22 read:

23 41-2134. Stage II rule effectiveness; enhanced enforcement

24 The director shall adopt rules to:

25 1. Enhance enforcement of the department's stage II vapor recovery
26 program. The enforcement shall be enhanced through programs that may include
27 increased frequency of or targeting of inspections, increased sampling
28 frequency, use of portable analyzers or any other technique.

29 2. **ESTABLISH STANDARDS AND FEES FOR REQUIRED INSPECTIONS OF VAPOR**
30 **RECOVERY SYSTEMS.**

31 Sec. 19. Section 41-2501, Arizona Revised Statutes, is amended to
32 read:

33 41-2501. Applicability

34 A. This chapter applies only to procurements initiated after January
35 1, 1985 unless the parties agree to its application to procurements initiated
36 before that date.

37 B. This chapter applies to every expenditure of public monies,
38 including federal assistance monies except as otherwise specified in section
39 41-2637, by this state, acting through a state governmental unit as defined
40 in this chapter, under any contract, except that this chapter does not apply
41 to either grants or contracts between this state and its political
42 subdivisions or other governments, except as provided in article 10 of this
43 chapter. This chapter also applies to the disposal of state materials.

1 Nothing in this chapter or in rules adopted under this chapter shall prevent
2 any state governmental unit or political subdivision from complying with the
3 terms and conditions of any grant, gift, bequest or cooperative agreement.

4 C. All political subdivisions and other local public agencies of this
5 state may adopt all or any part of this chapter and the rules adopted
6 pursuant to this chapter.

7 D. The Arizona board of regents, the legislative and judicial branches
8 of state government and the state compensation fund are not subject to the
9 provisions of this chapter except as prescribed in subsection E of this
10 section.

11 E. The Arizona board of regents and the judicial branch shall adopt
12 rules prescribing procurement policies and procedures for themselves and
13 institutions under their jurisdiction. The rules must be substantially
14 equivalent to the policies and procedures prescribed in this chapter.

15 F. The Arizona state lottery commission is exempt from the provisions
16 of this chapter for procurement relating to the design and operation of the
17 lottery or purchase of lottery equipment, tickets and related materials. The
18 executive director of the Arizona state lottery commission shall adopt rules
19 substantially equivalent to the policies and procedures in this chapter for
20 procurement relating to the design and operation of the lottery or purchase
21 of lottery equipment, tickets or related materials. All other procurement
22 shall be as prescribed by this chapter.

23 G. The Arizona health care cost containment system administration is
24 exempt from the provisions of this chapter for provider contracts pursuant
25 to section 36-2904, subsection A and contracts for goods and services
26 including program contractor contracts pursuant to title 36, chapter 29,
27 articles 2 and 3. All other procurement, including contracts for the
28 statewide administrator of the program pursuant to section 36-2903,
29 subsection C, shall be as prescribed by this chapter.

30 H. Arizona industries for the blind is exempt from the provisions of
31 this chapter for purchases of finished goods from members of national
32 industries for the blind and for purchases of raw materials for use in the
33 manufacture of products for sale pursuant to section 41-1972. All other
34 procurement shall be as prescribed by this chapter.

35 I. Arizona correctional industries is exempt from the provisions of
36 this chapter for purchases of raw materials, components and supplies that are
37 used in the manufacture or production of goods or services for sale entered
38 into pursuant to section 41-1622. All other procurement shall be as
39 prescribed by this chapter.

40 J. The state transportation board and the director of the department
41 of transportation are exempt from the provisions of this chapter other than
42 section 41-2586 for the procurement of construction or reconstruction,
43 including engineering services, of transportation facilities or highway
44 facilities.

1 K. The Arizona highways magazine is exempt from the provisions of this
2 chapter for contracts for the production, promotion, distribution and sale
3 of the magazine and related products and for contracts for sole source
4 creative works entered into pursuant to section 28-7314, subsection A,
5 paragraph 5. All other procurement shall be as prescribed by this chapter.

6 L. The secretary of state is exempt from the provisions of this
7 chapter for contracts entered into pursuant to section 41-1012 to publish and
8 sell the administrative code. All other procurement shall be as prescribed
9 by this chapter.

10 M. The provisions of this chapter are not applicable to contracts for
11 professional witnesses if the purpose of such contracts is to provide for
12 professional services or testimony relating to an existing or probable
13 judicial proceeding in which this state is or may become a party or to
14 contract for special investigative services for law enforcement purposes.

15 N. The head of any state governmental unit, in relation to any
16 contract exempted by this section from the provisions of this chapter, has
17 the same authority to adopt rules, procedures or policies as is delegated to
18 the director pursuant to this chapter.

19 O. Agreements negotiated by legal counsel representing this state in
20 settlement of litigation or threatened litigation are exempt from the
21 provisions of this chapter.

22 P. The provisions of this chapter are not applicable to contracts
23 entered into by the department of economic security with a provider licensed
24 or certified by an agency of this state to provide child day care services
25 or with a provider of family foster care pursuant to section 8-503 or 36-554,
26 to contracts entered into with area agencies on aging created pursuant to the
27 older Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code
28 section 3001 through 3058ee) or to contracts for services pursuant to title
29 36, chapter 29, article 2.

30 Q. The department of health services may not require that persons with
31 whom it contracts follow the provisions of this chapter for the purposes of
32 subcontracts entered into for the provision of the following:

- 33 1. Mental health services pursuant to section 36-189, subsection B.
- 34 2. Services for the seriously mentally ill pursuant to title 36,
35 chapter 5, article 10.
- 36 3. Drug and alcohol services pursuant to section 36-141.
- 37 4. Domestic violence services pursuant to title 36, chapter 30,
38 article 1.

39 R. The department of health services is exempt from the provisions of
40 this chapter for contracts for services of physicians at the Arizona state
41 hospital.

42 S. Contracts for goods and services approved by the fund manager of
43 the public safety personnel retirement system are exempt from the provisions
44 of this chapter.

1 T. The Arizona department of agriculture is exempt from this chapter
2 with respect to contracts for private labor and equipment to effect cotton
3 or cotton stubble plow-up pursuant to rules adopted under title 3, chapter
4 2, article 1. On or before September 1 each year the director of the Arizona
5 department of agriculture shall establish and announce costs for each acre
6 of cotton or cotton stubble to be abated by private contractors.

7 U. The state parks board is exempt from the provisions of this chapter
8 for purchases of guest supplies and items for resale such as food, linens,
9 gift items, sundries, furniture, china, glassware and utensils for the
10 facilities located in the Tonto natural bridge state park.

11 V. The Arizona state parks board is exempt from the provisions of this
12 chapter for the purchase, production, promotion, distribution and sale of
13 publications, souvenirs and sundry items obtained and produced for resale.

14 W. The Arizona state schools for the deaf and the blind are exempt
15 from the provisions of this chapter when purchasing products through a
16 cooperative that is organized and operates in accordance with state law if
17 such products are not available on a statewide contract and are related to
18 the operation of the schools or are products for which special discounts are
19 offered for educational institutions.

20 X. Expenditures of monies in the morale, welfare and recreational fund
21 established by section 26-153 are exempt from the provisions of this chapter.

22 Y. The state department of corrections is exempt from the provisions
23 of this chapter for purchases of food commodities to be used in the
24 preparation of meals for inmates. All other procurement shall be as
25 prescribed by this chapter.

26 Z. The department of environmental quality is exempt from the
27 provisions of this chapter for contracting for services relating to the
28 implementation of the water quality assurance revolving fund program
29 established pursuant to title 49, chapter 2, article 5 **INCLUDING GOODS AND
30 SERVICES. TO THE EXTENT PRACTICABLE, THE DEPARTMENT OF ENVIRONMENTAL QUALITY
31 SHALL FOLLOW PROCEDURES FOR CONTRACTING THAT ARE SUBSTANTIALLY EQUIVALENT TO
32 THE PROCEDURES PRESCRIBED BY THIS CHAPTER INCLUDING COMPETITIVE BIDDING. THE
33 EXCLUSIVE REMEDY FOR DISPUTES OR CLAIMS RELATING TO CONTRACTING PURSUANT TO
34 THIS SUBSECTION IS AS PRESCRIBED BY ARTICLE 9 OF THIS CHAPTER AND THE RULES
35 ADOPTED PURSUANT TO THAT ARTICLE.** All other procurement by the department
36 shall be as prescribed by this chapter.

37 AA. The motor vehicle division of the department of transportation is
38 exempt from the provisions of this chapter for third party authorizations
39 pursuant to title 28, chapter 13, only if all of the following conditions
40 exist:

- 41 1. The division does not pay any public monies to an authorized third
42 party.
43 2. Exclusivity is not granted to an authorized third party.

1 3. The director has complied with the requirements prescribed in title
2 28, chapter 13 in selecting an authorized third party.

3 BB. This section does not exempt third party authorizations pursuant
4 to title 28, chapter 13 from any other applicable law.

5 Sec. 20. Section 43-1026, Arizona Revised Statutes, is amended to
6 read:

7 43-1026. Subtraction for alternative fuel vehicles and
8 equipment; computing amount; definitions

9 A. For taxable years beginning from and after December 31, 1993, in
10 computing Arizona adjusted gross income a taxpayer may subtract an amount
11 equal to the sum of the following:

12 1. Twenty-five per cent of the purchase price paid for one or more new
13 alternative fuel vehicles purchased for use in this state, exclusive of
14 taxes, interest and other finance charges, but not more than ten thousand
15 dollars with respect to each vehicle. One-third of the subtraction shall be
16 allocated and applied to each of three consecutive taxable years beginning
17 with the taxable year in which the vehicle is purchased, except that if title
18 to the vehicle is conveyed to another person as defined in section 43-104,
19 the subtraction is not allowed for any subsequent taxable year. The
20 subtraction under this paragraph is not allowed with respect to purchasing
21 a used alternative fuel vehicle.

22 2. The cost of converting one or more conventional vehicles for use
23 in this state to operate on an alternative fuel, exclusive of taxes, interest
24 and other finance charges, but not more than five thousand dollars with
25 respect to each vehicle. One-third of the subtraction shall be allocated and
26 applied to each of three consecutive taxable years beginning with the taxable
27 year in which the vehicle is converted, except that if title to the vehicle
28 is conveyed to another person as defined in section 43-104, the subtraction
29 is not allowed for any subsequent taxable year.

30 3. The purchase price of refueling equipment, including storage tanks,
31 for installation on the taxpayer's property in this state for the taxpayer's
32 use, exclusive of taxes, interest and other finance charges, but not more
33 than five thousand dollars. One-third of the subtraction shall be allocated
34 and applied to each of three consecutive taxable years beginning with the
35 taxable year in which the equipment is installed.

36 4. Fifty per cent of the interest paid or accrued during the taxable
37 year on indebtedness incurred by the individual to purchase for private
38 noncommercial use one or more new alternative fuel vehicles, to convert for
39 private noncommercial use one or more conventional vehicles to operate on an
40 alternative fuel or to both purchase and convert such vehicles for private
41 noncommercial use.

42 B. The subtraction allowed by this section is not considered to be a
43 double deduction for any purpose under this title.

1 C. A subtraction under this section is in addition to a credit under
2 section 43-1086. The total amount of a subtraction, a credit and any grant
3 made pursuant to section 41-1516 for a single vehicle is limited to the
4 amount of the incremental cost of the alternative fuel vehicle compared to
5 the same vehicle using conventional fuel.

6 D. For purposes of this section:

7 1. "Alternative fuel" means:

8 (a) Liquefied petroleum gas.

9 (b) Natural gas.

10 (c) Hydrogen.

11 (d) Electricity.

12 (e) Solar energy.

13 (f) Only for vehicles that use alcohol fuels before the effective date
14 of this amendment to this section, alcohol fuels that contain not less than
15 eighty-five per cent alcohol by volume.

16 (g) An emulsion of water-phased hydrocarbon fuel that contains not
17 less than twenty per cent water by volume and that complies with any of the
18 following:

19 (i) Is used in an engine that is certified to meet at a minimum the
20 United States environmental protection agency low emission vehicle standard
21 pursuant to 40 Code of Federal Regulations section ~~88.104-95~~ 88.104-94 or
22 88.105-94.

23 (ii) Is used in an engine that is certified by the engine modifier to
24 meet the addendum to memorandum 1-A of the United States environmental
25 protection agency.

26 (iii) Is used in an engine that is the subject of a waiver for that
27 specific engine application from the United States environmental protection
28 agency's memorandum 1-A addendum requirements and that waiver is documented
29 to the reasonable satisfaction of the department of commerce energy office.

30 (h) A combination of at least seventy per cent alternative fuel and
31 no more than thirty per cent petroleum based fuel and that operates in an
32 engine that meets the United States environmental protection agency low
33 emission vehicle standard pursuant to 40 Code of Federal Regulations section
34 ~~88.104-95~~ 88.104-94 or 88.105-94 and is certified by the engine manufacturer
35 to consume at least seventy per cent alternative fuel during normal vehicle
36 operations.

37 2. "Alternative fuel vehicle" means a self-propelled vehicle that is
38 registered and titled in this state for operation on the highways and that
39 is primarily propelled by an alternative fuel but does not include such
40 vehicles as a golf cart or implement of husbandry, as defined in section
41 28-101, a motorized wheelchair as defined in section 28-601 or a vehicle,
42 such as a forklift, that is not designed primarily for operation on highways.

1 An alternative fuel vehicle that is powered by electricity may include an on
2 board auxiliary motor that is designed and used to recharge batteries.

3 Sec. 21. Section 43-1086, Arizona Revised Statutes, is amended to
4 read:

5 43-1086. Credit for alternative fuel vehicles and equipment;
6 definitions

7 A. For taxable years beginning after December 31, 1997, and before
8 January 1, 2002, a credit against the taxes imposed by this title is allowed
9 to each taxpayer who purchases or enters into a lease, for a duration of at
10 least three years, one or more new alternative fuel vehicles for use in this
11 state, who incurs expenses during the taxable year for converting one or more
12 conventional vehicles for use in this state to operate on an alternative fuel
13 or who purchases an alternative fuel delivery system, including storage
14 tanks, for installation on one or more properties located in this state for
15 the taxpayer's use.

16 B. The amount of the credit is equal to the following:

17 1. If purchased, leased as bi-fuel or converted to bi-fuel operation
18 in taxable years 1998 through 2001, one thousand dollars per purchase, lease
19 or conversion.

20 2. If purchased, leased as dedicated or converted to dedicated
21 operation in taxable years 1998 through 2001, two thousand dollars per
22 purchase, lease as dedicated or conversion.

23 C. For taxable years beginning after December 31, 1997 and before
24 January 1, 2002, a credit against the taxes imposed by this title is allowed
25 to each taxpayer who incurs expenses during the tax year for constructing or
26 operating a fueling station in this state that is capable of dispensing an
27 alternative fuel to an alternative fuel vehicle. The amount of the credit
28 is equal to the following:

29 1. If for a station that is accessible to the general public or if for
30 a station that is dispensing a renewable fuel, fifty per cent of the costs
31 incurred, up to a maximum of four hundred thousand dollars.

32 2. If for a station that does not comply with paragraph 1 of this
33 subsection, twenty-five per cent of the costs incurred, up to a maximum of
34 two hundred thousand dollars.

35 D. A credit under this section is in addition to a subtraction under
36 section 43-1026.

37 E. If the allowable credit exceeds the taxes otherwise due under this
38 title on the claimant's income, or if there are no taxes due under this
39 title, the amount of the credit not used to offset taxes under this title may
40 be carried forward to the next five consecutive taxable years as a credit
41 against subsequent years' income tax liability.

42 F. Co-owners of a business, including partners in a partnership and
43 shareholders of an S corporation as defined in section 1361 of the internal
44 revenue code, may each claim only the pro rata share of the credit allowed

1 under this section based on the ownership interest. The total of the credits
2 allowed all such owners may not exceed the amount that would have been
3 allowed for a sole owner of the business.

4 G. A person who receives a grant pursuant to section 41-1516 is not
5 eligible to claim a credit pursuant to this section for the amount of the
6 grant. If the cost of the alternative fuel delivery system exceeds the
7 amount of the grant, a person may claim a credit for the amount in excess of
8 the amount of the grant not to exceed the limits imposed by this section.

9 H. For purposes of this section:

10 1. "Alternative fuel" means:

11 (a) Liquefied petroleum gas.

12 (b) Natural gas.

13 (c) Hydrogen.

14 (d) Electricity.

15 (e) Solar energy.

16 (f) Only for vehicles that use alcohol fuels before the effective date
17 of this amendment to this section, alcohol fuels that contain not less than
18 eighty-five per cent alcohol by volume.

19 (g) An emulsion of water-phased hydrocarbon fuel that contains not
20 less than twenty per cent water by volume and that complies with any of the
21 following:

22 (i) Is used in an engine that is certified to meet at a minimum the
23 United States environmental protection agency low emission vehicle standard
24 pursuant to 40 Code of Federal Regulations section ~~88.104-95~~ 88.104-94 or
25 88.105-94.

26 (ii) Is used in an engine that is certified by the engine modifier to
27 meet the addendum to memorandum 1-A of the United States environmental
28 protection agency.

29 (iii) Is used in an engine that is the subject of a waiver for that
30 specific engine application from the United States environmental protection
31 agency's memorandum 1-A addendum requirements and that waiver is documented
32 to the reasonable satisfaction of the department of commerce energy office.

33 (h) A combination of at least seventy per cent alternative fuel and
34 no more than thirty per cent petroleum based fuel and that operates in an
35 engine that meets the United States environmental protection agency low
36 emission vehicle standard pursuant to 40 Code of Federal Regulations section
37 ~~88.104-95~~ 88.104-94 or 88.105-94 and is certified by the engine manufacturer
38 to consume at least seventy per cent alternative fuel during normal vehicle
39 operations.

40 2. "Alternative fuel delivery system" means any facility that provides
41 for the fueling of an alternative fuel vehicle.

1 3. "Bi-fuel" or "bi-fuel vehicle" means a vehicle that is capable of
2 operating on both gasoline or an alternative fuel but does not include a
3 vehicle that is capable of operating on a mixture of two or more fuel types.

4 4. "Dedicated vehicle" means a vehicle that is capable of operating
5 only on a single alternative fuel.

6 Sec. 22. Section 43-1086.01, Arizona Revised Statutes, is amended to
7 read:

8 43-1086.01. Credit for alternative fuel vehicles based on
9 emissions levels; definition

10 A. For taxable years beginning from and after December 31, 1998 and
11 before January 1, 2012, a credit against the taxes imposed by this title is
12 allowed to each taxpayer who purchases or leases, for a period of at least
13 three years, one or more original equipment manufactured alternative fuel
14 vehicles for use in this state, in an amount equal to the following:

15 1. Fifty per cent of the incremental cost of a low emission vehicle
16 over and above the cost of a conventionally fueled vehicle.

17 2. Seventy-five per cent of the incremental cost of an ultralow or
18 inherently low emission vehicle over and above the cost of a conventionally
19 fueled vehicle.

20 3. Ninety per cent of the incremental cost of a zero emission vehicle
21 over and above the cost of a conventionally fueled vehicle.

22 B. For taxable years beginning from and after December 31, 2011 and
23 before January 1, 2020, a credit against the taxes imposed by this title is
24 allowed to each taxpayer who purchases or leases, for a period of at least
25 three years, one or more original equipment manufactured alternative fuel
26 vehicles for use in this state, in an amount equal to the following:

27 1. Twenty-five per cent of the incremental cost of a low emission
28 vehicle over and above the cost of a conventionally fueled vehicle.

29 2. Fifty per cent of the incremental cost of an ultralow or inherently
30 low emission vehicle over and above the cost of a conventionally fueled
31 vehicle.

32 3. Seventy-five per cent of the incremental cost of a zero emission
33 vehicle over and above the cost of a conventionally fueled vehicle.

34 C. The tax credit taken pursuant to this section is allowed only if
35 the vehicle is certified to meet the United States environmental protection
36 agency emission standards for the particular type of vehicle for which the
37 credit is claimed as prescribed by 40 Code of Federal Regulations section
38 ~~88.104-95~~ 88.104-94 or 88.105-94.

39 D. The taxpayer is responsible for maintaining the factory or dealer
40 invoice stating the incremental cost difference of the alternative fuel low,
41 inherently low, zero or ultralow emission vehicle over and above the cost of
42 a conventionally fueled low emission vehicle. For a vehicle that is leased,
43 the lessor may claim the credit and the lessee is not eligible to claim the

1 credit if the credit amount is fully deducted from the manufacturer's base
2 retail price for the life of the vehicle.

3 E. If the allowable credit exceeds the taxes otherwise due under this
4 title on the claimant's income, or if there are no taxes due under this
5 title, the amount of the credit not used to offset taxes under this title may
6 be carried forward to the next five consecutive taxable years as a credit
7 against subsequent years' income tax liability.

8 F. Co-owners of a business, including partners in a partnership and
9 shareholders of an S corporation as defined in section 1361 of the internal
10 revenue code may each claim only the pro rata share of the credit allowed
11 under this section based on the ownership interest. The total of the credits
12 allowed all such owners may not exceed the amount that would have been
13 allowed for a sole owner of the business.

14 G. For purposes of this section "alternative fuel delivery system" has
15 the same meaning prescribed in section 43-1086.

16 Sec. 23. Section 43-1128.01, Arizona Revised Statutes, is amended to
17 read:

18 43-1128.01. Subtraction for alternative fuel vehicles and
19 equipment; computing amount; definitions

20 A. For taxable years beginning from and after December 31, 1993, in
21 computing Arizona taxable income a taxpayer may subtract an amount equal to
22 the sum of the following:

23 1. Twenty-five per cent of the purchase price paid for one or more new
24 alternative fuel vehicles purchased for use in this state, exclusive of
25 taxes, interest and other finance charges, but not more than ten thousand
26 dollars with respect to each vehicle. One-third of the subtraction shall be
27 allocated and applied to each of three consecutive taxable years beginning
28 with the taxable year in which the vehicle is purchased, except that if title
29 to the vehicle is conveyed to another person as defined in section 43-104,
30 the subtraction is not allowed for any subsequent taxable year. The
31 subtraction under this paragraph is not allowed with respect to purchasing
32 a used alternative fuel vehicle.

33 2. The cost of converting one or more conventional vehicles for use
34 in this state to operate on an alternative fuel, exclusive of taxes, interest
35 and other finance charges, but not more than five thousand dollars with
36 respect to each vehicle. One-third of the subtraction shall be allocated and
37 applied to each of three consecutive taxable years beginning with the taxable
38 year in which the vehicle is converted, except that if title to the vehicle
39 is conveyed to another person as defined in section 43-104, the subtraction
40 is not allowed for any subsequent taxable year.

41 3. The purchase price of refueling equipment, including storage tanks,
42 for installation on the taxpayer's property in this state for the taxpayer's
43 use, exclusive of taxes, interest and other finance charges, but not more
44 than five thousand dollars. One-third of the subtraction shall be allocated

1 and applied to each of three consecutive taxable years beginning with the
2 taxable year in which the equipment is installed.

3 B. The subtraction allowed by this section is not considered to be a
4 double deduction for any purpose under this title.

5 C. A subtraction under this section is in addition to a credit under
6 section 43-1174. The total amount of a subtraction, a credit and any grant
7 made pursuant to section 41-1516 for a single vehicle is limited to the
8 amount of the incremental cost of the alternative fuel vehicle compared to
9 the same vehicle using conventional fuel.

10 D. For purposes of this section:

11 1. "Alternative fuel" means:

12 (a) Liquefied petroleum gas.

13 (b) Natural gas.

14 (c) Hydrogen.

15 (d) Electricity.

16 (e) Solar energy.

17 (f) Only for vehicles that use alcohol fuels before the effective date
18 of this amendment to this section, alcohol fuels that contain not less than
19 eighty-five per cent alcohol by volume.

20 (g) An emulsion of water-phased hydrocarbon fuel that contains not
21 less than twenty per cent water by volume and that complies with any of the
22 following:

23 (i) Is used in an engine that is certified to meet at a minimum the
24 United States environmental protection agency low emission vehicle standard
25 pursuant to 40 Code of Federal Regulations section ~~88.104-95~~ 88.104-94 or
26 88.105-94.

27 (ii) Is used in an engine that is certified by the engine modifier to
28 meet the addendum to memorandum 1-A of the United States environmental
29 protection agency.

30 (iii) Is used in an engine that is the subject of a waiver for that
31 specific engine application from the United States environmental protection
32 agency's memorandum 1-A addendum requirements and that waiver is documented
33 to the reasonable satisfaction of the department of commerce energy office.

34 (h) A combination of at least seventy per cent alternative fuel and
35 no more than thirty per cent petroleum based fuel and that operates in an
36 engine that meets the United States environmental protection agency low
37 emission vehicle standard pursuant to 40 Code of Federal Regulations section
38 ~~88.104-95~~ 88.104-94 or 88.105-94 and is certified by the engine manufacturer
39 to consume at least seventy per cent alternative fuel during normal vehicle
40 operations.

41 2. "Alternative fuel vehicle" means a self-propelled vehicle that is
42 registered and titled in this state for operation on the highways and that
43 is primarily propelled by an alternative fuel but does not include such

1 vehicles as a golf cart or implement of husbandry, as defined in section
2 28-101, a motorized wheelchair as defined in section 28-601 or a vehicle,
3 such as a forklift, that is not designed primarily for operation on highways.
4 An alternative fuel vehicle that is powered by electricity may include an on
5 board auxiliary motor that is designed and used to recharge batteries.

6 Sec. 24. Section 43-1174, Arizona Revised Statutes, is amended to
7 read:

8 43-1174. Credit for alternative fuel vehicles and equipment;
9 definitions

10 A. For taxable years beginning after December 31, 1997 and before
11 January 1, 2002, a credit against the taxes imposed by this title is allowed
12 to each taxpayer who purchases or enters into a lease, for a duration of at
13 least three years, one or more new alternative fuel vehicles for use in this
14 state, who incurs expenses during the tax year for converting one or more
15 conventional vehicles for use in this state to operate on an alternative fuel
16 or who purchases an alternative fuel delivery system, including storage
17 tanks, for installation on one or more properties located in this state for
18 the taxpayer's use.

19 B. The amount of the credit is equal to the following:

20 1. If purchased, leased as bi-fuel or converted to bi-fuel operation
21 in taxable years 1998 through 2001, one thousand dollars per purchase, lease
22 or conversion.

23 2. If purchased, leased as dedicated or converted to dedicated
24 operation in taxable years 1998 through 2001, two thousand dollars per
25 purchase, lease as dedicated or conversion.

26 C. For taxable years beginning after December 31, 1997 and before
27 January 1, 2002, a credit against the taxes imposed by this title is allowed
28 to each taxpayer who incurs expenses during the tax year for constructing or
29 operating a fueling station in this state that is capable of dispensing an
30 alternative fuel to an alternative fuel vehicle. The amount of the credit
31 is equal to the following:

32 1. If for a station that is accessible to the general public or if for
33 a station that is dispensing a renewable fuel, fifty per cent of the costs
34 incurred, up to a maximum of four hundred thousand dollars.

35 2. If for a station that does not comply with paragraph 1 of this
36 subsection, twenty-five per cent of the costs incurred, up to a maximum of
37 two hundred thousand dollars.

38 D. A credit under this section is in addition to a subtraction under
39 section 43-1128.01.

40 E. If the allowable credit exceeds the taxes otherwise due under this
41 title on the claimant's income, or if there are no taxes due under this
42 title, the amount of the credit not used to offset taxes under this title may
43 be carried forward to the next five consecutive taxable years as a credit
44 against subsequent years' income tax liability.

1 F. Co-owners of a business, including corporate partners in a
2 partnership, may each claim only the pro rata share of the credit allowed
3 under this section based on the ownership interest. The total of the credits
4 allowed all such owners may not exceed the amount that would have been
5 allowed for a sole owner of the business.

6 G. For purposes of this section:

7 1. "Alternative fuel" means:

8 (a) Liquefied petroleum gas.

9 (b) Natural gas.

10 (c) Hydrogen.

11 (d) Electricity.

12 (e) Solar energy.

13 (f) Only for vehicles that use alcohol fuels before the effective date
14 of this amendment to this section, alcohol fuels that contain not less than
15 eighty-five per cent alcohol by volume.

16 (g) An emulsion of water-phased hydrocarbon fuel that contains not
17 less than twenty per cent water by volume and that complies with any of the
18 following:

19 (i) Is used in an engine that is certified to meet at a minimum the
20 United States environmental protection agency low emission vehicle standard
21 pursuant to 40 Code of Federal Regulations section ~~88.104-95~~ 88.104-94 or
22 88.105-94.

23 (ii) Is used in an engine that is certified by the engine modifier to
24 meet the addendum to memorandum 1-A of the United States environmental
25 protection agency.

26 (iii) Is used in an engine that is the subject of a waiver for that
27 specific engine application from the United States environmental protection
28 agency's memorandum 1-A addendum requirements and that waiver is documented
29 to the reasonable satisfaction of the department of commerce energy office.

30 (h) A combination of at least seventy per cent alternative fuel and
31 no more than thirty per cent petroleum based fuel and that operates in an
32 engine that meets the United States environmental protection agency low
33 emission vehicle standard pursuant to 40 Code of Federal Regulations section
34 ~~88.104-95~~ 88.104-94 or 88.105-94 and is certified by the engine manufacturer
35 to consume at least seventy per cent alternative fuel during normal vehicle
36 operations.

37 2. "Alternative fuel delivery system" means any facility that provides
38 for the fueling of an alternative fuel vehicle.

39 3. "Bi-fuel" or "bi-fuel vehicle" means a vehicle that is capable of
40 operating on both gasoline or an alternative fuel but does not include a
41 vehicle that is capable of operating on a mixture of two or more fuel types.

42 4. "Dedicated vehicle" means a vehicle that is capable of operating
43 only on a single alternative fuel.

1 Sec. 25. Section 43-1174.01, Arizona Revised Statutes, is amended to
2 read:

3 43-1174.01. Credit for alternative fuel vehicles based on
4 emissions levels; definition

5 A. For taxable years beginning from and after December 31, 1998 and
6 before January 1, 2012, a credit against the taxes imposed by this title is
7 allowed to each taxpayer who purchases or leases, for a period of at least
8 three years, one or more original equipment manufactured alternative fuel
9 vehicles for use in this state, in an amount equal to the following:

10 1. Fifty per cent of the incremental cost of a low emission vehicle
11 over and above the cost of a conventionally fueled vehicle.

12 2. Seventy-five per cent of the incremental cost of an ultralow or
13 inherently low emission vehicle over and above the cost of a conventionally
14 fueled vehicle.

15 3. Ninety per cent of the incremental cost of a zero emission vehicle
16 over and above the cost of a conventionally fueled vehicle.

17 B. For taxable years beginning from and after December 31, 2011 and
18 before January 1, 2020, a credit against the taxes imposed by this title is
19 allowed to each taxpayer who purchases or leases, for a period of at least
20 three years, one or more original equipment manufactured alternative fuel
21 vehicles for use in this state, in an amount equal to the following:

22 1. Twenty-five per cent of the incremental cost of a low emission
23 vehicle over and above the cost of a conventionally fueled vehicle.

24 2. Fifty per cent of the incremental cost of an ultralow or inherently
25 low emission vehicle over and above the cost of a conventionally fueled
26 vehicle.

27 3. Seventy-five per cent of the incremental cost of a zero emission
28 vehicle over and above the cost of a conventionally fueled vehicle.

29 C. The tax credit taken pursuant to this section is allowed only if
30 the vehicle is certified to meet the United States environmental protection
31 agency emission standards for the particular type of vehicle for which the
32 credit is claimed as prescribed by 40 Code of Federal Regulations section
33 ~~88.104-95~~ 88.104-94 or 88.105-94.

34 D. The taxpayer is responsible for maintaining the factory or dealer
35 invoice stating the incremental cost difference of the alternative fuel low
36 or ultralow emission vehicle over and above the cost of a conventionally
37 fueled low emission vehicle. For a vehicle that is leased, the lessor may
38 claim the credit and the lessee is not eligible to claim the credit if the
39 credit amount is fully deducted from the manufacturer's base retail price for
40 the life of the vehicle.

41 E. If the allowable credit exceeds the taxes otherwise due under this
42 title on the claimant's income, or if there are no taxes due under this
43 title, the amount of the credit not used to offset taxes under this title may

1 be carried forward to the next five consecutive taxable years as a credit
2 against subsequent years' income tax liability.

3 F. Co-owners of a business, including partners in a partnership and
4 shareholders of an S corporation as defined in section 1361 of the internal
5 revenue code, may each claim only the pro rata share of the credit allowed
6 under this section based on the ownership interest. The total of the credits
7 allowed all such owners may not exceed the amount that would have been
8 allowed for a sole owner of the business.

9 G. For purposes of this section "alternative fuel delivery system" has
10 the same meaning prescribed in section 43-1086.

11 Sec. 26. Section 49-105, Arizona Revised Statutes, is amended to read:

12 49-105. Annual report on violations and enforcement

13 Not later than December 1 of each year the director shall submit to the
14 governor, the speaker of the house of representatives and the president of
15 the senate a report listing the following information for the preceding
16 fiscal year ending June 30:

17 1. The number of site or facility inspections conducted pursuant to
18 chapters 2 and 5 of this title, including information on the reasons for and
19 nature of such inspections.

20 2. The number of permits or approvals issued pursuant to chapters 2
21 and 5 of this title.

22 3. The names of all persons who were ~~found~~ THE SUBJECT OF AN
23 ENFORCEMENT ACTION by THE department ~~inspectors to be in~~ AS A RESULT OF A
24 violation of any provision of chapter 2 or 5 of this title, including any
25 rules, permits, orders or conditions of approval issued under those chapters.

26 4. A brief description of the number and nature of violations
27 committed by each person named under paragraph 3 and a description of any
28 enforcement action taken in response to the violations.

29 5. A summary of all administrative penalties assessed pursuant to
30 enforcement of the federal safe drinking water act and the violations of that
31 act.

32 Sec. 27. Title 49, chapter 2, Arizona Revised Statutes, is amended by
33 adding article 1.1, to read:

34 ARTICLE 1.1. BROWNFIELDS CLEANUP
35 REVOLVING LOAN FUND PROGRAM

36 49-211. Definitions

37 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

38 1. "CERCLA BROWNFIELDS CLEANUP REVOLVING LOAN FUND PROGRAM" MEANS THE
39 PROGRAM ESTABLISHED BY THE ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO THE
40 BROWNFIELDS ECONOMIC REDEVELOPMENT INITIATIVE TO PROVIDE LOAN ASSISTANCE TO
41 ELIGIBLE PERSONS TO REMEDIATE CONTAMINATION AT ELIGIBLE SITES AS PROVIDED IN
42 SECTION 104(d)(1) OF CERCLA, 40 CFR PARTS 31, 35 AND 300 AND APPLICABLE

1 GUIDANCE DOCUMENTS PREPARED BY THE ENVIRONMENTAL PROTECTION AGENCY TO
2 IMPLEMENT THIS PROGRAM.

3 2. "ELIGIBLE ACTIVITIES" MEANS NON-TIME CRITICAL REMOVALS AS DEFINED
4 BY SECTION 101(23) OF CERCLA AND INCLUDE REQUIRED ENGINEERING EVALUATIONS,
5 COST ANALYSIS OF CLEANUP ALTERNATIVES, PUBLIC PARTICIPATION REQUIREMENTS AND
6 REASONABLE AND NECESSARY SITE MONITORING ACTIVITIES DURING THE REMEDIATION.

7 3. "ELIGIBLE BORROWER" MEANS A PERSON ACCEPTED INTO THE DEPARTMENT'S
8 VOLUNTARY REMEDIATION PROGRAM EXCEPT AS OTHERWISE PROVIDED IN SECTION 49-212.

9 4. "ELIGIBLE SITE" MEANS A SITE THAT HAS BEEN ACCEPTED INTO THE
10 DEPARTMENT'S VOLUNTARY REMEDIATION PROGRAM AND THAT IS WITHIN AN AREA
11 DESIGNATED IN A COOPERATIVE AGREEMENT BETWEEN THE DEPARTMENT AND THE
12 ENVIRONMENTAL PROTECTION AGENCY AND THAT IS EITHER:

13 (a) A SITE THAT HAS BEEN DETERMINED BY THE DEPARTMENT TO HAVE AN
14 ACTUAL RELEASE OR SUBSTANTIAL THREAT OF A RELEASE OF A HAZARDOUS SUBSTANCE.

15 (b) A SITE THAT HAS BEEN DETERMINED BY THE DEPARTMENT TO HAVE AN
16 ACTUAL RELEASE OR SUBSTANTIAL THREAT OF A RELEASE OF A POLLUTANT OR
17 CONTAMINANT THAT MAY PRESENT AN IMMINENT AND SUBSTANTIAL DANGER TO THE PUBLIC
18 HEALTH OR WELFARE.

19 49-212. Brownfields cleanup revolving loan fund program;
20 eligibility; program termination

21 A. SUBJECT TO THE DISCRETION OF THE DIRECTOR, THE DEPARTMENT MAY
22 IMPLEMENT A BROWNFIELDS CLEANUP REVOLVING LOAN FUND PROGRAM. IF IMPLEMENTED
23 PURSUANT TO A COOPERATIVE AGREEMENT WITH THE ENVIRONMENTAL PROTECTION AGENCY,
24 THE DIRECTOR SHALL IMPLEMENT THE BROWNFIELDS CLEANUP REVOLVING LOAN FUND
25 PROGRAM PURSUANT TO THE REQUIREMENTS OF THE CERCLA BROWNFIELDS CLEANUP
26 REVOLVING FUND PROGRAM.

27 B. THE DIRECTOR MAY:

28 1. ENTER INTO LOAN AGREEMENTS, AS DEEMED APPROPRIATE, WITH ELIGIBLE
29 BORROWERS FOR THE PERFORMANCE OF ELIGIBLE ACTIVITIES AT ELIGIBLE SITES.

30 2. APPLY FOR, ACCEPT AND ADMINISTER GRANTS AND OTHER FINANCIAL
31 ASSISTANCE FROM THE FEDERAL GOVERNMENT AND FROM OTHER PUBLIC AND PRIVATE
32 SOURCES FOR THE BROWNFIELDS CLEANUP REVOLVING LOAN FUND PROGRAM.

33 3. ENTER INTO AGREEMENTS TO ADMINISTER THE PROGRAM.

34 4. ENTER INTO AGREEMENTS WITH THE WATER INFRASTRUCTURE FINANCE
35 AUTHORITY PURSUANT TO SECTION 49-1203 TO PERFORM ANY OF THE FUNCTIONS OF THE
36 FUND MANAGER PURSUANT TO THE CERCLA BROWNFIELDS CLEANUP REVOLVING FUND LOAN
37 PROGRAM.

38 5. ASSESS FEES TO ADMINISTER THE PROGRAM CONSISTENT WITH ANY
39 COOPERATIVE AGREEMENT WITH THE ENVIRONMENTAL PROTECTION AGENCY.

40 C. LOAN RECIPIENTS SHALL PERFORM REMOVAL ACTIONS THAT MEET THE
41 REQUIREMENTS OF THE VOLUNTARY REMEDIATION PROGRAM, THE NATIONAL CONTINGENCY
42 PLAN, THE CERCLA BROWNFIELDS CLEANUP REVOLVING LOAN FUND PROGRAM AND THIS

1 ARTICLE. TO THE EXTENT POSSIBLE, THE DEPARTMENT SHALL ELIMINATE DUPLICATIVE
2 REQUIREMENTS AMONG THE PROGRAMS.

3 D. THE FOLLOWING ARE NOT ELIGIBLE FOR THE PROGRAM:

4 1. A SITE LISTED OR PROPOSED FOR LISTING ON THE NATIONAL PRIORITIES
5 LIST.

6 2. A SITE AT WHICH A REMOVAL ACTION MUST BE TAKEN WITHIN SIX MONTHS
7 OF RECEIPT OF THE LOAN APPLICATION.

8 3. A SITE WHERE A FEDERAL OR STATE AGENCY IS PLANNING OR CONDUCTING
9 A RESPONSE OR ENFORCEMENT ACTION.

10 4. A SITE WHICH HAS BEEN TERMINATED FROM OR HAS NOT BEEN ACCEPTED INTO
11 THE DEPARTMENT'S VOLUNTARY REMEDIATION PROGRAM.

12 E. BROWNFIELDS CLEANUP REVOLVING LOAN FUND MONIES MAY BE LOANED TO A
13 PERSON WHO IS AN OWNER OR OPERATOR OF AN ELIGIBLE SITE TO BE REMEDIATED ONLY
14 IF THE DEPARTMENT CAN DETERMINE THAT THE OWNER OR OPERATOR WOULD FALL UNDER
15 A STATUTORY EXEMPTION FROM CERCLA LIABILITY OR THAT THE ENVIRONMENTAL
16 PROTECTION AGENCY WOULD USE ITS ENFORCEMENT DISCRETION AND NOT PURSUE THE
17 OWNER OR OPERATOR UNDER CERCLA AS ALLOWED UNDER THE APPLICABLE ENVIRONMENTAL
18 PROTECTION AGENCY GUIDANCE. THE INITIAL FINDINGS MADE BY THE DEPARTMENT DO
19 NOT LIMIT THE AUTHORITY OF THE FEDERAL GOVERNMENT OR THE DEPARTMENT.

20 F. BROWNFIELDS CLEANUP REVOLVING LOAN FUND MONIES SHALL NOT BE LOANED
21 TO A PERSON WHO IS A GENERATOR OR TRANSPORTER OF CONTAMINATION AT THE SITE
22 SUBJECT TO THE LOAN REQUEST.

23 G. THE DIRECTOR, THROUGH THE ATTORNEY GENERAL, MAY TAKE ACTIONS
24 NECESSARY TO ENFORCE THE LOAN CONTRACT AND ACHIEVE REPAYMENT OF LOANS
25 PROVIDED UNDER THIS ARTICLE.

26 H. THE PROGRAM ESTABLISHED BY THIS ARTICLE ENDS ON JULY 1, 2009
27 PURSUANT TO SECTION 41-3102.

28 49-213. Brownfields cleanup revolving loan fund

29 A. THE BROWNFIELDS CLEANUP REVOLVING LOAN FUND IS ESTABLISHED TO BE
30 ADMINISTERED BY THE DIRECTOR. THE FUND CONSISTS OF MONIES FROM THE FOLLOWING
31 SOURCES:

32 1. MONIES APPROPRIATED BY THE LEGISLATURE.

33 2. MONIES RECEIVED FROM THE FEDERAL GOVERNMENT.

34 3. MONIES RECEIVED FROM LOAN RECIPIENTS AND LOAN REPAYMENTS, INTEREST
35 AND PENALTIES.

36 4. INTEREST AND OTHER INCOME RECEIVED FROM INVESTING MONIES IN THE
37 FUND.

38 5. GIFTS, GRANTS AND DONATIONS RECEIVED FROM ANY PUBLIC OR PRIVATE
39 SOURCE.

40 B. MONIES IN THE FUND MAY BE USED FOR THE PURPOSES PROVIDED IN
41 SECTION 49-212, EXCEPT THAT MONIES SHALL NOT BE USED FOR ANY OF THE
42 FOLLOWING PURPOSES:

1 1. TO CONDUCT ENVIRONMENTAL RESPONSE ACTIVITIES PRELIMINARY TO
2 REMEDIATION INCLUDING SITE ASSESSMENT, SITE IDENTIFICATION AND SITE
3 CHARACTERIZATION.

4 2. TO CLEAN UP PRODUCTS THAT ARE PART OF A BUILDING STRUCTURE.

5 3. TO CLEAN UP SITES CONTAMINATED WITH PETROLEUM PRODUCTS UNLESS THEY
6 ARE BELIEVED TO BE CO-MINGLED WITH A HAZARDOUS SUBSTANCE, POLLUTANT OR
7 CONTAMINANT.

8 4. TO PERFORM DEVELOPMENT OR OTHER ACTIVITIES THAT ARE NOT REMOVAL
9 ACTIONS.

10 C. THE DEPARTMENT MAY USE MONIES IN THE FUND FOR THE DEPARTMENT'S
11 COSTS IN ADMINISTERING THIS PROGRAM.

12 D. DISBURSEMENT OF MONIES FROM THE FUND PURSUANT TO A LOAN AGREEMENT
13 UNDER THIS ARTICLE IS NOT SUBJECT TO TITLE 41, CHAPTER 23.

14 E. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND ARE EXEMPT
15 FROM THE PROVISIONS OF SECTION 35-190, RELATING TO LAPSING OF APPROPRIATIONS.

16 Sec. 28. Section 49-281, Arizona Revised Statutes, is amended to read:
17 49-281. Definitions

18 In this article, unless the context otherwise requires:

19 1. "Applicant" means any individual, employee, officer, managing body,
20 trust, firm, joint stock company, consortium, public or private corporation,
21 including a government corporation, partnership, ~~OR~~ association, this state,
22 a political subdivision of this state, or a commission ~~or~~ OF the United
23 States government or a federal facility, an interstate body or any other
24 entity that applies for a settlement under either section 49-292.01 or
25 49-292.02.

26 2. "Community" means the broad spectrum of persons determined by the
27 director to be within an existing or proposed site placed on the registry
28 pursuant to section 49-287.01.

29 3. "Community involvement area" means the geographical area that is
30 within a site placed on the registry pursuant to section 49-287.01 and
31 additional geographic areas as found appropriate in the director's
32 discretion.

33 4. "Dispose" means the deposit, injection, dumping, spilling, leaking
34 or placing of any pollutant into or on any land or water so that the
35 pollutant or any constituent of the pollutant may enter the environment or
36 be discharged into any waters, including aquifers.

37 5. "Eligible party" means a person who enters into a written agreement
38 with the director to implement and complete a remedial investigation and
39 feasibility study with respect to a site or portion of a site that was on the
40 annual priority list on May 1, 1997.

41 6. "Facility" means any land, building, installation, structure,
42 equipment, device, conveyance, area, source, activity or practice.

1 7. "Fund" means the water quality assurance revolving fund established
2 by section 49-282.

3 8. "Hazardous substance" has the same meaning ~~as~~ prescribed in section
4 49-201, but does not include petroleum as defined in section 49-1001, except
5 to the extent that a constituent of petroleum is subject to the provisions
6 of section 49-283.02.

7 9. "Nonrecoverable costs" means any costs incurred by the director
8 after June 30, 1997:

9 (a) That consist of salaries and benefits paid to state employees,
10 including direct and indirect costs, except as specifically provided in
11 ~~sections~~ SECTION 49-282.05, SECTION 49-285, subsection B, SECTION 49-285.01,
12 SECTION 49-287.01, SECTION 49-287.06, SUBSECTION H and SECTION 49-287.07 and
13 for epidemiological studies conducted by the department of health services.

14 (b) For activities conducted pursuant to section 49-287.02.

15 (c) For water monitoring activities conducted pursuant to section
16 49-225.

17 (d) For well inspections, but not other remedial actions, to determine
18 whether vertical cross-contamination is resulting from a well pursuant to
19 section 45-605 or ~~section~~ 49-282.04.

20 (e) For the advisory board established by section 49-289.04.

21 (f) For rule making.

22 10. "Orphan shares" means the shares of the cost of a remedial action
23 that are allocated to an identified person who is determined to be a
24 responsible party and that are not paid or otherwise satisfied by that
25 responsible party due to any of the following:

26 (a) The party cannot be located or no longer exists.

27 (b) The party has entered into a qualified business settlement
28 pursuant to this article.

29 (c) The party has entered into a settlement pursuant to this article
30 for an amount that is less than its allocated share.

31 (d) The director has determined that the share allocated to the party
32 is uncollectible.

33 11. "Release" means any spilling, leaking, pumping, pouring, emitting,
34 emptying, discharging, injecting, escaping, leaching, dumping or disposing
35 into the environment, but excludes:

36 (a) Any release which results in exposure to persons solely within a
37 workplace, with respect to a claim which such persons may assert against the
38 employer of such persons.

39 (b) Emissions from the engine exhaust of ~~a~~ ANY motor vehicle, rolling
40 stock, aircraft, vessel or pipeline pumping station engine.

41 (c) Release of source, by-product or special nuclear material, as
42 those terms are defined in section 30-651, resulting from the operation of
43 a production or utilization facility as defined in the atomic energy act of

1 1954, ~~as amended~~ (68 Stat. 919; 42 UNITED STATES CODE SECTION 2011 THROUGH
2 2297), which is subject to the regulatory authority of the United States
3 nuclear regulatory commission as specified in that act, and the agreement,
4 dated March 30, 1967, entered into between the governor of this state and the
5 United States atomic energy commission pursuant to section 30-656 and section
6 274 of the atomic energy act of 1954, as amended.

7 (d) The normal application of fertilizer.

8 12. "Remedial actions" means those actions that are reasonable,
9 necessary, cost-effective and technically feasible in the event of the
10 release or threat of release of hazardous substances into the environment,
11 such actions as may be necessary to investigate, monitor, assess and evaluate
12 such release or threat of release, actions of remediation, removal or
13 disposal of hazardous substances or taking such other actions as may be
14 necessary to prevent, minimize or mitigate damage to the public health or
15 welfare or to the environment which may otherwise result from a release or
16 threat of release of a hazardous substance. Remedial actions include the use
17 of biostimulation with indigenous microbes and bioaugmentation using microbes
18 that are nonpathogenic, that are nonopportunistic and that are naturally
19 occurring. Remedial actions may include community information and
20 participation costs and providing an alternative drinking water supply.

21 13. "Remedy" means a remedial action selected in a record of decision
22 issued pursuant to section 49-287.04.

23 14. "Site" means the geographical areal extent of contamination.

24 15. "Vertical cross-contamination" means the vertical migration of
25 released hazardous substances in groundwater through a well from an aquifer
26 or aquifer layer to another aquifer or aquifer layer.

27 Sec. 29. Section 49-282, Arizona Revised Statutes, is amended to read:

28 49-282. Water quality assurance revolving fund

29 A. A water quality assurance revolving fund is established to be
30 administered by the director. The fund consists of monies from the following
31 sources:

32 1. Monies appropriated by the legislature.

33 2. Fertilizer license fees allocated under section 3-272, subsection
34 B, paragraph 2.

35 3. Pesticide registration fees allocated under section 3-351,
36 subsection D, paragraph 2.

37 4. The tax on water use pursuant to section 42-5302.

38 5. Water quality assurance fees collected under section 45-616.

39 6. Industrial discharge registration fees collected under section
40 49-209.

41 7. Manifest resubmittal fees collected under section 49-922.01.

42 8. Hazardous waste facility registration fees collected under section
43 49-929.

1 9. Hazardous waste resource recovery facility registration fees
2 collected under section 49-930.

3 10. Monies recovered from responsible parties as remedial action costs.

4 11. Monies received as costs for a review of remedial actions at the
5 request of a person other than the state.

6 12. Monies received from the collection of corporate income taxes under
7 title 43, chapter 11, article 2 as prescribed by subsection B of this
8 section.

9 13. Prospective purchaser agreement fees collected under section
10 49-285.01.

11 B. The water quality assurance revolving fund shall be assured of an
12 annual funding amount of eighteen million dollars. Beginning July 1, 1999,
13 as soon as practicable at the beginning of each fiscal year, the state
14 treasurer shall transfer the sum of fifteen million dollars to the water
15 quality assurance revolving fund from the corporate income tax as collected
16 pursuant to title 43, chapter 11, article 2. As custodian of the fund, the
17 director shall certify to the governor, the state treasurer, the president
18 of the senate and the speaker of the house of representatives at the end of
19 that fiscal year the amount of monies deposited in the water quality
20 assurance revolving fund pursuant to subsection A, paragraphs 1 through 9.
21 At the end of the fiscal year the state treasurer shall adjust the fifteen
22 million dollar transfer of corporate income tax so that, when combined with
23 monies deposited in the fund during that fiscal year pursuant to subsection
24 A, paragraphs 1 through 9, the fund receives eighteen million dollars each
25 fiscal year. This adjustment shall occur as part of the year-end book
26 closing process for that fiscal year. If sufficient monies from the
27 corporate income tax are not available to make any necessary upward
28 adjustments as part of the year-end book closing, the state treasurer shall
29 transfer the monies necessary to achieve the eighteen million dollar funding
30 level from the transaction privilege and severance tax clearing account
31 pursuant to section 42-5029, subsection D, to the water quality assurance
32 revolving fund. Any transfers prescribed by this subsection shall not be
33 deducted from the net proceeds distributed pursuant to section 43-206.

34 C. At the beginning of each fiscal year the director shall transfer
35 the sum of eight hundred thousand dollars from the water quality assurance
36 revolving fund to the Arizona water quality fund established by section
37 45-618.

38 D. Monies in the fund are exempt from lapsing under section 35-190.
39 Interest earned on monies in the fund shall be credited to the fund.

40 E. Monies from the water quality assurance revolving fund shall be
41 used for the following purposes:

42 1. To provide state matching monies or to meet such other obligations
43 as are prescribed by section 104 of CERCLA.

1 2. For all reasonable and necessary costs to implement this article,
2 including:

3 (a) Taking remedial actions.

4 (b) Conducting investigations of an area to determine if a release or
5 a threatened release of a hazardous substance exists.

6 (c) Conducting remedial investigations, feasibility studies, health
7 effect studies and risk assessments.

8 (d) Identifying and investigating potentially responsible parties and
9 allocating liability among the responsible parties.

10 (e) Funding orphan shares.

11 (f) Participating in the allocation process, administrative appeals
12 and court actions.

13 (g) Funding the community advisory boards and other community
14 involvement activities and the water quality assurance revolving fund
15 advisory board.

16 (h) Remediating pollutants if necessary to remediate a hazardous
17 substance.

18 3. For the reasonable and necessary costs of monitoring, assessing,
19 identifying, locating and evaluating the degradation, destruction, loss of
20 or threat to the waters of the state resulting from a release of a hazardous
21 substance to the environment.

22 4. For the reasonable and necessary costs of administering the fund.

23 5. For the reasonable and necessary costs of administering the
24 industrial discharge registration program under section 49-209.

25 6. For the costs of the water quality monitoring program described in
26 section 49-225.

27 7. For compliance monitoring, investigation and enforcement activities
28 pertaining to generating, transporting, treating, storing and disposing of
29 hazardous waste. The amount to be used pursuant to chapter 5 of this title
30 is limited to the amount received in the prior fiscal year from the hazardous
31 waste facility registration fee.

32 8. For emergency response use as prescribed in section 49-282.02.

33 9. For all reasonable and necessary costs of the preparation and
34 execution of prospective purchaser agreements.

35 10. For all reasonable and necessary costs of the voluntary remediation
36 program.

37 11. To reimburse a political subdivision of this state for its
38 reasonable, necessary and cost-effective remedial action costs incurred in
39 response to a release or threat of a release of a hazardous substance **OR**
40 **POLLUTANTS** that presents an immediate and substantial endangerment to the
41 public health or the environment. The political subdivision is not eligible
42 for reimbursement until it has taken all reasonable efforts to obtain
43 reimbursement from the responsible party and the federal government. No more

1 than two hundred fifty thousand dollars may be spent from the fund for this
2 purpose in any fiscal year.

3 12. For all reasonable and necessary costs incurred by the department
4 pursuant to section 49-282.04 and the department of water resources pursuant
5 to section 45-605 for well inspections, remedial actions and review and
6 approval of well construction necessary to prevent vertical
7 cross-contamination. The director of environmental quality and the director
8 of water resources shall enter into an agreement for the transfer of these
9 costs.

10 13. For actions that are taken pursuant to section 49-282.03 before the
11 selection of a remedy.

12 14. For the reasonable and necessary costs of the conveyance, use or
13 discharge of water remediated as part of a remedy under this article.

14 15. For the reasonable and necessary costs incurred by the department
15 of health services at the request of the director of environmental quality
16 to assess and evaluate the effect of a release or threatened release of
17 hazardous substances to the public health or welfare and the environment.
18 The director of environmental quality and the director of the department of
19 health services shall enter into an agreement for the transfer of these
20 costs. The assessment and evaluation by the department of health services
21 may include:

22 (a) Performing health effect studies and risk assessments.

23 (b) Evaluating and calculating cleanup standards.

24 (c) Assisting in communicating health and risk issues to the public.

25 16. For the reasonable and necessary costs incurred by the department
26 of law to provide legal services at the request of the director of
27 environmental quality.

28 17. For the reasonable and necessary costs of contracting for the goods
29 and services to enable the director to implement this article.

30 18. For remediation demonstration projects that use bioremediation or
31 other alternative technologies. The department may not use more than five
32 hundred thousand dollars in a fiscal year pursuant to this paragraph.

33 F. Any political subdivision of this state which uses, used or may use
34 waters of the state for drinking water purposes or any state agency,
35 regardless of whether the political subdivision or state agency is a
36 responsible party, may apply to the director for monies from the fund to be
37 used for remedial action. An application to the fund for remedial action
38 costs shall not be treated as an admission that a political subdivision or
39 an agency of the state is a responsible party, but a political subdivision
40 or a state agency that is a responsible party is liable for remedial action
41 costs in the same manner, including reimbursement of the fund, as any other
42 responsible party. The political subdivision shall commit a local matching
43 amount at least equal to the amount sought from the fund.

1 G. The director shall prepare and submit a written report to the
2 speaker of the house of representatives and the president of the senate in
3 December of each year. The report shall describe:

4 1. The accomplishments from expenditures from the fund during the
5 preceding fiscal year in terms of the reduction of contamination in the
6 environment and actions taken to determine the nature and extent of
7 contamination.

8 2. The status of all sites on the registry, including the site
9 locations, the basis for establishing site boundaries and whether remedial
10 actions taken to date would support a modification of the boundaries of the
11 site.

12 3. The number of settlements made with responsible parties and the
13 terms of each settlement.

14 4. The number and types of settlements applied for and made pursuant
15 to sections 49-292.01 and 49-292.02, including:

16 (a) The number of applications submitted under each section.

17 (b) The number of applications denied under each section.

18 (c) The number of applicants who settled based on the formula in
19 section 49-292.01, subsection C, paragraph 1 and the total amount of the
20 settlements.

21 (d) The number of settlements pursuant to section 49-292.02 and the
22 total amount of the settlements.

23 (e) The number of persons who met the definition of qualified business
24 under section 49-292.01, subsection ~~G~~ J but who settled pursuant to section
25 49-292.02, for each such person, the amount of the settlement as a percentage
26 of the person's average annual gross income for the two years preceding the
27 request for settlement, and for all such persons, the total of the difference
28 between the settlement amounts and the amounts that would have been paid
29 based on the formula in section 49-292.01, subsection C, paragraph 1.

30 H. The water quality assurance revolving fund program shall be
31 reviewed pursuant to the program authorization review prescribed in section
32 35-114 in 2002 and every five years thereafter.

33 I. In addition to the report prescribed by subsection H of this
34 section, the director of environmental quality shall prepare and submit a
35 budget for the water quality assurance revolving fund program and the
36 director of water resources shall prepare and submit a budget for the Arizona
37 water quality fund with the departments' budgets that are required pursuant
38 to section 35-111. The committees on appropriations of the house of
39 representatives and the senate shall review the water quality assurance
40 revolving fund budget and the Arizona water quality fund budget and the
41 reports made pursuant to subsection G of this section to ensure that the
42 departments' expenditures are made in accordance with the legislature's

1 intent and that the departments are making adequate progress toward
2 accomplishing that intent.

3 Sec. 30. Section 49-282.03, Arizona Revised Statutes, is amended to
4 read:

5 49-282.03. Interim remedial actions; reimbursement of the fund;
6 rules

7 A. On the request of any person, the director may take interim
8 remedial actions to address the loss or reduction of available water from a
9 well before the selection of a remedy, including making grants from the water
10 quality assurance revolving fund to provide alternative water supplies, well
11 replacement or water treatment if the director determines that both of the
12 following apply:

13 1. The well currently supplies water for municipal, domestic,
14 industrial, irrigation or agricultural uses or is currently part of a public
15 water system.

16 2. The well produces water or, in the reasonably foreseeable future,
17 will produce water that is not fit for its current or reasonably foreseeable
18 end use without treatment due to the release of hazardous substances at or
19 from a site on the registry established pursuant to section 49-287.01,
20 subsection D.

21 B. The interim remedial action taken by the director pursuant to
22 subsection A of this section shall be the minimum necessary to address the
23 loss or reduction of available water until a remedy is selected. The
24 director, to the extent possible, shall consider potential remedies when
25 selecting the interim remedial action pursuant to subsection A of this
26 section. The interim remedial action shall not include the costs of
27 reimbursement for costs already incurred. The director may choose not to
28 take interim remedial action pursuant to subsection A of this section if the
29 director has sufficient information to reasonably establish that the person
30 requesting the remedial action may be responsible under this article for the
31 release of hazardous substances contaminating the well. Notwithstanding this
32 section, the director shall select remedies pursuant to section 49-287.04.

33 C. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, if the director, in
34 the record of decision, determines that the remedial action taken pursuant
35 to subsection A of this section was not necessary, based on the criteria in
36 section ~~49-282~~ 49-282.06 and the rules adopted pursuant to that section, or
37 if the person requesting the remedial action pursuant to subsection A of this
38 section is later determined to be responsible under this article for the
39 release of hazardous substances which contaminated or threatened to
40 contaminate the well, that person shall reimburse the water quality assurance
41 revolving fund for the costs incurred in taking the remedial action. The
42 person requesting the interim remedial action shall make arrangements for
43 financial assurance for the obligation to the satisfaction of the director.

1 The attorney general shall file an action for reimbursement of costs pursuant
2 to this section if requested by the director, ~~and~~ and may file an action on his
3 own initiative.

4 D. The director shall adopt rules governing when interim remedial
5 action may be taken pursuant to subsection A of this section.

6 Sec. 31. Section 49-282.05, Arizona Revised Statutes, is amended to
7 read:

8 49-282.05. Voluntary remediation program

9 A. Any person may apply to the director to undertake a voluntary
10 remedial action at a site or a portion of a site. A person applying to
11 undertake a voluntary remedial action shall reimburse the fund for the
12 reasonable costs incurred by the director to review the proposed voluntary
13 action. Any person voluntarily conducting a remedial action pursuant to this
14 section may obtain approval for all or any portion of its remedial action
15 under the provisions of section 49-285, subsection B by providing a work plan
16 for the remedial action to the director for review before conducting the
17 remedial action.

18 B. The application under subsection A of this section shall contain
19 all of the following:

20 1. The name and address of the person filing the application and the
21 nature of the relationship of the person to the site, if any.

22 2. The boundaries of the site or portion of the site and the nature
23 and extent of the hazardous substance contamination, if known.

24 3. A description of the remedial action the person is proposing to
25 conduct and a schedule for performance of the remedial action.

26 4. A proposal for public notice and comment appropriate to the
27 schedule and scope of work being proposed. The proposal shall include a list
28 of the persons the volunteer believes may be responsible for the release or
29 threatened release of hazardous substances at the site or that have migrated
30 to the site and a summary of the basis for that belief.

31 5. A list of the actions of the director that the volunteer proposes
32 to be suspended by the voluntary remedial action and the procedural
33 requirements the volunteer proposes to be waived under the voluntary remedial
34 action.

35 C. The director shall review the application for voluntary remedial
36 action within ninety days after its receipt and may approve it if it is in
37 substantial compliance with section 49-282.06, may request changes to the
38 ~~proposal~~ APPLICATION or may deny the ~~proposal~~ APPLICATION. If the director
39 approves the application for voluntary remedial action, the person conducting
40 the voluntary remedial action shall reimburse the director for the reasonable
41 and necessary costs incurred in reviewing the remedial action and shall
42 conduct the remedial action as proposed including, if necessary, providing

1 notice to other potentially responsible parties and notice to the public for
2 comment.

3 D. If approved, the voluntary remedial action shall suspend any
4 remedial action by the director at the site to the extent determined by the
5 director to be appropriate. The suspension shall be specifically stated in
6 the director's approval of the remedial action and shall continue as long as
7 the volunteer complies with the approved remedial action and its schedules.

8 E. If the volunteer does not comply with the approved remedial action
9 or its schedules, the director may withdraw the approval to conduct the
10 voluntary remedial action. If the director denies the application to conduct
11 the voluntary remedial action, or if the director withdraws the approval to
12 conduct the voluntary remedial action, the director may continue the remedial
13 action, may conduct other remedial action or may delay conducting any
14 remedial action based on the rules adopted by the director to establish
15 priorities for the use of the fund.

16 F. A person who conducts a voluntary remedial action pursuant to this
17 section may recover the costs incurred for the remedial action pursuant to
18 section 49-285, subsection H.

19 G. Nothing contained in this section shall be construed to abridge or
20 alter any right a person might have to voluntarily engage in remedial action
21 under this title or any other provisions of common or statutory law.

22 Sec. 32. Repeal

23 Section 49-285, Arizona Revised Statutes, as amended by Laws 1997,
24 chapter 233, section 43, is repealed.

25 Sec. 33. Section 49-287, Arizona Revised Statutes, is amended to read:

26 49-287. Enforcement; use of fund; inspections and information
27 gathering; civil penalties

28 A. Except as provided in section 49-286, the provisions of this
29 article are independent of and are not subject to the enforcement remedies
30 of article 4 of this chapter and section 49-264.

31 B. This section does not preclude the director from initiating actions
32 pursuant to section 505 of the clean water act and section 1449 of the safe
33 drinking water act. The director shall not initiate any action under
34 ~~sections~~ SECTION 107(a) or 107(f) of CERCLA or section 7002 of the resource
35 conservation and recovery act to the extent that the action is inconsistent
36 with this article, except under any of the following circumstances:

37 1. In an action initiated by the director filing a complaint
38 contemporaneously with a consent decree or ANY other agreement to provide
39 contribution protection or a covenant not to sue under CERCLA.

40 2. In an action involving a facility at a site listed on the national
41 priorities list on ~~the effective date of this amendment to this section~~ APRIL
42 29, 1997. In an action involving a facility at a site on the national
43 priorities list that is listed after ~~the effective date of this amendment to~~

1 ~~this section~~ APRIL 29, 1997, the director may initiate an action if the
2 facility is not being remediated pursuant to this article or any other
3 provision of THIS title 49.

4 3. In a counterclaim action when the state is sued under section 107
5 (a) of CERCLA, but only against the party asserting the claim. For purposes
6 of this paragraph, "state" does not include political subdivisions of the
7 state.

8 C. The director may initiate an action to recover natural resource
9 damages under section 107(f) of CERCLA, but may recover only the
10 proportionate share of these damages from a defendant who is also a
11 responsible party under this article.

12 D. Judicial actions initiated pursuant to this section have precedence
13 over all other civil proceedings.

14 E. If there is a release or the threat of a release of a hazardous
15 substance which may present an imminent and substantial danger to the public
16 health or welfare or the environment:

17 1. The director may take such remedial action as he deems necessary
18 to protect the public health or welfare or the environment.

19 2. The attorney general may request a temporary restraining order, a
20 preliminary injunction, a permanent injunction or any other relief necessary
21 to protect the public health or welfare or the environment from the release.

22 3. The director may issue an order requiring abatement of such release
23 or threat of a release and appropriate remedial action if the action is
24 consistent with the criteria listed in and rules adopted pursuant to section
25 49-282.06 and before taking such action the director provides written notice
26 to the responsible party, if known, and the owner of the real property where
27 the facility is located if the owner is not a responsible party. The notice
28 shall include:

29 (a) The reasons for the remedial action.

30 (b) A reasonable time for beginning and completing the actions, taking
31 into account the urgency of the actions for protecting public health or
32 welfare or the environment.

33 (c) The steps taken to comply with the criteria listed in and rules
34 adopted pursuant to section 49-282.06.

35 (d) The intention of this state or a political subdivision to take
36 remedial action and the possible liability of the responsible party for the
37 costs of such actions if that action is not taken by the responsible party.

38 4. The director may take action pursuant to sections 49-287.01 through
39 49-287.07, or enter into a settlement under section 49-292 or any other
40 applicable provision of this article. ACTIONS TAKEN BY THE DIRECTOR PURSUANT
41 TO SECTIONS 49-287.01 THROUGH 49-287.07 MAY SUBSTANTIALLY AFFECT THE RIGHTS
42 AND OBLIGATIONS OF PERSONS WHO MAY BE LIABLE UNDER THIS ARTICLE FOR THE
43 RELEASE OR THREATENED RELEASE OF A HAZARDOUS SUBSTANCE AT A SITE OR PORTION

1 OF A SITE FOR PURPOSES OF DETERMINING INSURANCE COVERAGE. ANY ACTION TAKEN
2 BY THE DIRECTOR PURSUANT TO SECTIONS 49-287.01 THROUGH 49-287.07 IS NOT
3 APPEALABLE UNLESS OTHERWISE PROVIDED IN THIS ARTICLE.

4 F. A remedial action order issued under subsection E of this section
5 becomes final and enforceable in the superior court for purposes of
6 subsections I and J of this section unless, within thirty days after the
7 receipt of the order, the recipient moves to quash or modify the order in the
8 superior court. If the motion to quash or modify the order raises issues of
9 fact, the recipient of the order and the state are entitled to conduct
10 expedited discovery on application to the court and are entitled to a
11 priority for trial. A party who undertakes the actions prescribed in a
12 remedial action order issued pursuant to this section may obtain a court
13 order to recover from the fund the reasonable and necessary costs of the
14 actions if the party demonstrates to the court that the actions required by
15 the order were arbitrary and capricious or otherwise were not in accordance
16 with law, that the party is not a responsible party as prescribed by section
17 49-283 or for the amount of costs incurred that exceeded the party's share
18 of liability pursuant to section 49-285.

19 G. If there is a release or the threat of a release of any pollutant
20 which may present an imminent and substantial danger to the public health or
21 welfare, the director may take such remedial action as he deems necessary to
22 protect the public health or welfare or the environment.

23 H. Any remedial action costs, other than nonrecoverable costs,
24 incurred by the director pursuant to the procedures in subsection E of this
25 section may be recovered in a civil action brought by the attorney general
26 against any responsible party pursuant to section 49-287.07.

27 I. A responsible party who wilfully violates or fails or refuses to
28 comply with any order of the director under subsection E, paragraph 3 of this
29 section may, in an action brought in the superior court in the appropriate
30 county to enforce such order, be assessed a civil penalty of not more than
31 five thousand dollars for each day in which the violation occurs or the
32 failure to comply continues. All civil penalties assessed pursuant to this
33 subsection shall be transmitted to the state treasurer for deposit in the
34 state general fund.

35 J. A responsible party who fails, without sufficient cause, to
36 properly provide remedial action on order of the director pursuant to
37 subsection E, paragraph 3 of this section may be liable to this state for
38 punitive damages in an amount up to three times the amount of any costs
39 incurred by the director as a result of the failure to take proper action.
40 The attorney general may commence a civil action against the responsible
41 party to recover the remedial action costs and the punitive damages. Any
42 punitive damages received by this state pursuant to this subsection shall be
43 deposited in the state general fund. The director's failure to comply with
44 the requirements of section 49-282.06 or the director's order to take a

1 remedial action that causes the responsible party to incur costs that exceed
2 the responsible party's proportionate share of liability pursuant to section
3 49-285 is a defense to an action for punitive damages and the amount of the
4 punitive damages requested may be reduced, in full or in part.

5 K. If the director may act pursuant to this section, he may undertake
6 such investigations, monitoring, surveys, testing and other information
7 gathering as he may deem necessary or appropriate to identify the existence
8 and extent of the release or threat of a release, the source and nature of
9 the hazardous substances and the extent of danger to the public health or
10 welfare or to the environment. In addition, the director may undertake such
11 planning, legal, fiscal, economic, engineering, architectural and other
12 studies or investigations as he may deem necessary or appropriate to plan and
13 direct remedial actions, to recover the costs of remedial actions, other than
14 nonrecoverable costs, and to enforce this article.

15 Sec. 34. Section 49-287.03, Arizona Revised Statutes, is amended to
16 read:

17 49-287.03. Remedial investigation and feasibility study

18 A. The department may conduct a remedial investigation and feasibility
19 study of a scored site or portion of the site to assess conditions on the
20 site or portion of the site and to evaluate alternative potential remedies
21 to the extent necessary to select a final remedy in a manner consistent with
22 the rules and procedures adopted pursuant to section 49-282.06.

23 B. Unless the director determines that the necessary remedial action
24 can be completed within one hundred eighty days, before the department begins
25 a remedial investigation and feasibility study for a site or a portion of a
26 site, the department shall prepare a scope of work, a fact sheet and an
27 outline of a community involvement plan. The scope of work shall generally
28 describe the proposed scope of the remedial investigation and feasibility
29 study. The outline of the community involvement plan shall address all of
30 the elements of the community involvement plan requirements of section
31 49-289.03.

32 C. The department shall provide written notice to each person ~~for whom~~
33 ~~WHO, ACCORDING TO INFORMATION AVAILABLE TO~~ the department ~~has information,~~
34 may be liable under this article ~~of the availability of THAT~~ the scope of
35 work ~~IS AVAILABLE~~ for inspection and that any person by agreement with the
36 department may ~~volunteer to~~ develop and implement a work plan for the
37 remedial investigation and the feasibility study. The department shall
38 publish in a newspaper of general circulation in the county where the site
39 is located a notice of the availability of the scope of work, fact sheet and
40 outline of a community involvement plan for public comment. The notice shall
41 provide an opportunity for a public meeting.

42 D. The department shall prepare a responsiveness summary before
43 implementing the scope of work. Before the director implements a remedial

1 investigation, unless the director determines that the necessary remedial
2 action can be completed within one hundred eighty days, the department shall
3 prepare and implement the community involvement plan based upon the outline
4 and after considering the public comments, consistent with the requirements
5 of section 49-289.03. The department shall annually update the community
6 involvement plan.

7 E. The remedial investigation shall collect the data necessary to
8 adequately characterize the site or the portion of the site for the purpose
9 of developing and evaluating effective remediation alternatives pursuant to
10 the feasibility study requirements prescribed by subsection F of this
11 section.

12 F. The feasibility study shall be fully integrated with the results
13 of the remedial investigation and shall include an alternative screening step
14 to select a reasonable number of alternatives in a manner consistent with the
15 rules and procedures adopted pursuant to section 49-282.06.

16 Sec. 35. Section 49-287.06, Arizona Revised Statutes, is amended to
17 read:

18 49-287.06. Allocation hearing

19 A. Ninety days after the issuance of notice pursuant to section
20 49-287.05, subsection A, the director shall issue a notice to each person who
21 has not settled its liability with the department of the start of an
22 allocation proceeding. The director shall propose the names of at least
23 three allocators taken from a list maintained by the director. The director
24 shall be entitled to be represented in the allocation proceeding but may
25 waive this right. If all parties have settled, the director's notice shall
26 advise all persons notified pursuant to section 49-287.05 that no allocation
27 hearing will be held pursuant to this section.

28 B. Within fifteen days of receipt, each person receiving the notice
29 of allocation proceeding shall respond to the director regarding the
30 acceptability of any of the allocators on the director's list. If all of the
31 parties cannot agree on one of the allocators proposed by the director, each
32 party may provide the names of up to three other proposed allocators. If the
33 director and all of the parties cannot agree on a proposed allocator within
34 thirty days after the issuance of the director's notice pursuant to this
35 section, the director shall request the presiding civil judge of the superior
36 court in the county where the site is located to select an allocator. Within
37 thirty days after the request, the presiding civil judge shall select an
38 allocator and advise the director of the selection.

39 C. The director shall give all parties written notice of the selection
40 of the allocator. The allocator shall set the date for hearing at least
41 sixty and not more than one hundred twenty days after the date of the notice
42 of selection of the allocator pursuant to this section. The allocator may
43 continue the date of the hearing for good cause. Ex parte contact with the

1 allocator regarding any of the evidence or issues in the allocation is
2 prohibited.

3 D. The allocator shall conduct an allocation hearing and, on request
4 of one or more of the parties, may conduct a mediation or settlement
5 conference before the allocation hearing. The allocator has the power to
6 administer oaths or affirmations to witnesses. In conducting the allocation
7 hearing, the allocator has discretion to determine the procedures to be
8 followed, except that:

9 1. Each party shall provide the allocator, the director and all
10 parties with a disclosure statement at least thirty days before the date of
11 the first scheduled hearing. The disclosure statement shall comply with rule
12 26.1, Arizona rules of civil procedure, and shall include a statement of the
13 method of allocation proposed, a description of evidence supporting the
14 factors listed in section 49-285, subsections E and F intended to be
15 presented at the hearing and a description of any other relevant evidence
16 known to the party, including information regarding the responsibility of any
17 other person. Copies of any documentary evidence shall be included with the
18 disclosure statement unless already in the department's public file on the
19 site or a disclosure statement previously filed pursuant to this paragraph.
20 Evidence that is not disclosed in a party's disclosure statement is
21 inadmissible by that party at the hearing. Evidence that a party failed to
22 provide the director pursuant to a request under section 49-288 is
23 inadmissible by that party at the hearing. The liability allocation notice
24 issued by the director pursuant to section 49-287.05, subsection A and the
25 public record on file at the department may serve as the disclosure statement
26 of the director and any persons who have settled their liability with the
27 director. The director may supplement the liability allocation notice up to
28 thirty days prior to the first scheduled hearing date. The allocator shall
29 resolve disputes regarding the adequacy of disclosure statements.

30 2. The director has the burden of proving that all other parties are
31 responsible parties under this article. The allocator shall allow each party
32 to present evidence relevant to the liability and proportionate share of
33 liability of any person, except as provided in paragraphs 8 and 9 of this
34 subsection. There is no burden of proof as to the proportionate share of any
35 person. The allocator shall hear all of the evidence and assign the
36 proportionate shares in accordance with the considerations as specified in
37 section 49-285, subsections E and F.

38 3. The allocator shall allow each party to cross-examine any other
39 party's witnesses, except that the allocator may limit cross-examination to
40 avoid needless delay or a needless presentation of cumulative evidence or to
41 expedite the hearing.

42 4. The allocator may issue subpoenas to compel the attendance of
43 witnesses and the production of documents. The subpoenas shall be served
44 and, on application to the superior court, enforced in the manner provided

1 by law for the service and enforcement of subpoenas in civil actions. Service
2 of the subpoena is the responsibility of the person requesting the subpoena.
3 Discovery shall not be permitted except on a showing of good cause and due
4 diligence as determined by the allocator.

5 5. The allocator may request any additional information from any party
6 if the allocator believes that this information is necessary to assist in
7 making a determination regarding liability or the share of any person.

8 6. If, during the hearing or at its conclusion, the allocator believes
9 that additional information is necessary to issue a report, the allocator may
10 order the parties to exchange additional information and submit posthearing
11 evidence for a period of not more than sixty days.

12 7. The allocator shall use the Arizona rules of civil procedure as
13 guidance for hearing procedures, but may depart from these rules as prompt
14 and fair resolution of the issues demand, and shall honor all privileges
15 recognized under Arizona law. The allocator may allow any relevant evidence,
16 including hearsay evidence, to be admitted and shall give appropriate weight
17 to all of the evidence. The allocator may impose time limits on individual
18 presentations and may require the consolidation of presentations or
19 cross-examination if this consolidation can be justified by commonality of
20 interests. The disclosure statements and the liability allocation notice
21 sent by the director pursuant to section 49-287.05 shall be admitted as
22 evidence. The proceeding shall be recorded by a court reporter upon request
23 by any party who agrees to pay the costs.

24 8. Except on a showing of good cause and due diligence as determined
25 by the allocator, a party may not allege that a person is responsible for a
26 share of liability unless that person was named in the director's list of
27 liable persons issued pursuant to section 49-287.05 or was identified as a
28 potentially liable person pursuant to section 49-287.04.

29 9. A party may not introduce evidence at the hearing regarding the
30 liability or share of liability of any person under this article unless the
31 director was notified of the existence of the information pursuant to section
32 49-287.04. The allocator may allow the introduction of that evidence if the
33 party acquired the information after that time and if the party shows good
34 cause and due diligence as determined by the allocator, if the party provided
35 the evidence to the director promptly after it was acquired.

36 E. Within sixty days after the hearing or, if applicable, the end of
37 the period for submitting posthearing evidence, the allocator shall issue a
38 written allocation report identifying the persons who are liable and the
39 proportionate share of liability of each person in accordance with section
40 49-285, subsections E and F in percentages adding up to one hundred per cent.
41 The allocator shall send a copy of the report to each party.

42 F. All parties to the allocation shall bear an equal share of the
43 allocator's fees and costs, which shall be specified in the allocator's
44 report.

1 G. The director shall serve notice of the issuance of the allocator's
2 report on all persons notified pursuant to subsection A of this section and
3 on the persons who filed an appeal of the record of decision pursuant to
4 section 49-287.04. The notice shall state that there shall be a period of
5 ninety days after service of the notice for settlement discussions, that the
6 allocator's findings are final unless a challenge is filed pursuant to
7 section 49-287.07 and the period for challenging the allocator's findings as
8 provided in section 49-287.07, subsection B.

9 H. The findings regarding liability and the proportionate share of
10 liability for each person as set forth in the allocator's report are final
11 unless a timely challenge regarding a person's liability or proportionate
12 share is filed as provided in section 49-287.07, subsection B. The director
13 or any other person with a claim for recovery of remedial action costs
14 against a responsible party whose proportionate share as found by the
15 allocator has become final pursuant to this subsection may obtain a judgment
16 based on the proportionate share determined in the allocator's report. In
17 any action to obtain such a judgment, the responsible party whose allocated
18 share has become final may not dispute its proportionate share of liability
19 as determined by the allocator, and the plaintiff may recover its costs and
20 attorney fees incurred in obtaining and enforcing the judgment. The
21 liability of any person that has become final pursuant to this subsection is
22 not affected by any subsequent determination by a court in any action.

23 I. If all parties settle during a proceeding pursuant to this section
24 ~~or~~, THE DIRECTOR SHALL TERMINATE THE PROCEEDINGS. If all parties, not
25 including the director, fail or refuse to participate, THE DIRECTOR MAY
26 PROCEED WITH THE ALLOCATION HEARING OR MAY TERMINATE THE PROCEEDINGS. IF THE
27 DIRECTOR TERMINATES THE PROCEEDINGS, the director shall provide written
28 notice within thirty days of termination of proceedings pursuant to this
29 section to all persons who received notice pursuant to section 49-287.05.

30 Sec. 36. Section 49-289.03, Arizona Revised Statutes, is amended to
31 read:

32 49-289.03. Community involvement plan; community advisory
33 boards; rules

34 A. The public shall receive notice and be provided an opportunity to
35 comment to the director regarding the following actions taken by the
36 director:

37 1. The placement of a site on the registry as provided in section
38 49-287.01.

39 2. The selection of a remedy as provided in section 49-287.04.

40 3. Entering into a prospective purchaser agreement with a person
41 pursuant to section 49-285.01.

42 4. Entering into a settlement with a responsible party pursuant to
43 section 49-292, 49-292.01 or 49-292.02.

1 B. The director shall adopt rules to implement this section and to
2 govern the provision of information to communities and community involvement
3 areas that include how to disseminate information, the location of public
4 information repositories and notice requirements.

5 C. Before it implements a remedial investigation as provided in
6 section 49-287.03, subsection D the department shall develop a community
7 involvement plan for each site that does all of the following:

8 1. Establishes a community advisory board.

9 2. Designates a spokesperson to inform the public and to act as a
10 liaison between the department, the local government and the responsible
11 party.

12 3. Provides for newsletters with current information about the status
13 of remedial action at the site and other pertinent information to be
14 distributed to residents within the site.

15 4. Schedules community advisory board meetings and participates in the
16 scheduling of public meetings pursuant to section 49-287.01, subsection E.

17 D. A selection committee shall be established for each site that is
18 required to have a community involvement plan pursuant to section 49-287.03,
19 subsection D. The selection committee shall consist of the following
20 members:

21 1. One representative of the department.

22 2. One REPRESENTATIVE OF A POTENTIALLY responsible party
23 ~~representative~~, AN OWNER OR OPERATOR OF A FACILITY WITHIN THE SITE OR AN
24 AFFECTED BUSINESS OR INDUSTRY.

25 3. One local elected official.

26 4. Two community members who are not employees of any responsible
27 party, the department or the local government.

28 E. Each community advisory board shall advise the department, the
29 public and the responsible parties of issues, concerns and opportunities
30 related to the expeditious cleanup of the site. Each community advisory
31 board shall be composed of at least five but not more than twenty members.
32 The members of the community advisory board shall be chosen to represent a
33 diversified cross section of the community with an appropriate balance of
34 interested parties and affected groups. Applications for membership on the
35 community advisory board and the names of the applicants shall be publicly
36 available. Community advisory board members may serve on more than one
37 community advisory board and multiple sites may share a community advisory
38 board to avoid unnecessary multiple boards.

39 F. Each community advisory board shall:

40 1. Within ninety days after appointment of members by the selection
41 committee, ~~the members shall~~ elect cochairpersons and other officers if
42 needed and shall develop a charter defining at a minimum operating
43 procedures, membership terms and obligations, goals for developing issues,

1 concerns and opportunities related to expeditious cleanup of the site, and
2 any other anticipated activities of the board for identifying and improving
3 the public's access and understanding of information regarding the
4 remediation processes at the site.

5 2. Meet at least four times each year with the department and any
6 identified responsible parties to receive site briefings, progress reports
7 and other pertinent information.

8 3. Coordinate with the department to establish local repositories for
9 the dissemination of information about the site.

10 G. Each community advisory board may:

11 1. Make site visits and participate in public meetings related to
12 cleanup opportunities and remedy selection decisions.

13 2. Participate in an annual meeting held by the department in each
14 county that has a site undergoing a remedial investigation and feasibility
15 study under section 49-287.03 or in the process of selecting or implementing
16 a remedy for the purpose of facilitating public involvement and identifying
17 funding priorities for site cleanups.

18 Sec. 37. Section 49-289.04, Arizona Revised Statutes, is amended to
19 read:

1 49-289.04. Water quality assurance revolving fund advisory
2 board; definitions

3 A. The water quality assurance revolving fund advisory board is
4 established to provide recommendations to improve the functioning of the
5 program established pursuant to this article.

6 B. The board consists of the following members:

7 1. A representative from a qualified business as defined in section
8 49-292.01.

9 2. A representative of a water provider.

10 3. A representative of an agricultural improvement district.

11 4. One representative of a municipal government of a municipality with
12 a population of two hundred fifty thousand persons or more and one
13 representative of a municipal government of a municipality with a population
14 of less than two hundred fifty thousand persons ~~according to the most recent~~
15 ~~United States decennial census.~~

16 5. Two persons residing within the boundaries of a site located in a
17 city or town with a population of one hundred thousand persons or more
18 ~~according to the most recent United States decennial census.~~ These
19 individuals may be members of a community advisory board formed pursuant to
20 section 49-289.03.

21 6. One person residing within or in close proximity to the boundaries
22 of a site located in a city or town with a population of less than one
23 hundred thousand persons ~~according to the most recent United States decennial~~
24 ~~census~~ or an unincorporated area. This person may be a member of a community
25 advisory board formed pursuant to section 49-289.03.

26 7. Two representatives of businesses.

27 8. A person with an academic appointment at a college or university
28 **AND** who has technical expertise in groundwater remediation.

29 9. A representative of a mining entity.

30 10. A representative of the agricultural industry.

31 11. A representative of the governor's office.

32 12. The director of environmental quality or the director's designee.

33 13. The director of water resources or the director's designee.

34 14. The director of the department of health services or the director's
35 designee.

36 15. The attorney general or the attorney general's designee.

37 C. Members prescribed by subsection ~~A~~ B, paragraphs 1 through 11 of
38 this section shall be appointed by the governor for three year terms pursuant
39 to section 38-211 and shall have technical expertise related to or personal
40 knowledge of or experience in remedial actions conducted pursuant to this
41 article or CERCLA.

42 D. The board shall:

43 1. Select a chairperson and vice-chairperson from among its members.

1 2. Meet at least quarterly, pursuant to subsection F of this section.
2 3. Evaluate the overall effectiveness of the program established
3 pursuant to this article, including:
4 (a) The prioritization of sites.
5 (b) The selection of remedies and their effectiveness.
6 (c) The allocation process.
7 (d) The pace of remedial actions.
8 (e) The adequacy of funding provided for remedial actions and agency
9 responsibilities at current and future sites, including the need for
10 additional funding to account for inflation.
11 (f) The criteria and processes for settlements.
12 (g) The effectiveness of early settlement incentives.
13 (h) The effectiveness of disincentives for parties not willing to
14 participate in the allocation process.
15 (i) The level of coordination between the department of environmental
16 quality and the department of water resources.
17 (j) The effectiveness of incentives to encourage beneficial use of
18 remediated water.
19 (k) The well inspection and cross-contamination prevention program.
20 (l) The pace of rule making by the department of environmental
21 quality.
22 (m) The participation of the department of water resources and other
23 state agencies.
24 (n) Any other aspects of the program deemed relevant by the board.
25 4. At least once every five years, submit a comprehensive report to
26 the director, the legislature and the governor summarizing the board's
27 evaluation of the effectiveness of the program established pursuant to this
28 article and containing any recommendations for improving the effectiveness
29 of that program.
30 E. The board may:
31 1. Meet more often than quarterly to conduct its business.
32 2. Form subcommittees to consider specific issues.
33 3. Transmit specific recommendations for improving the effectiveness
34 of the program established pursuant to this article to the director, the
35 legislature and the governor at any time.
36 4. Solicit or accept comments from any person on any topic within the
37 scope of the board's authority pursuant to this subsection and subsection D
38 of this section.
39 F. Meetings of the board or any subcommittee shall be open to the
40 public. An opportunity for public comments shall be provided. Meetings of
41 the board or a subcommittee may be held in any county in which a site is
42 located. ~~In addition~~ MEETINGS OF THE BOARD AND ANY SUBCOMMITTEES OF THE
43 BOARD ARE SUBJECT to the requirements of title 38, chapter 3, article 3.1,.

1 Public notice of all meetings of the board ~~shall~~ MAY be provided by notice
2 in the Arizona administrative register BY EXISTING AVAILABLE ELECTRONIC MEDIA
3 MAINTAINED BY THE DEPARTMENT, BY RECORDED INCLUSION IN TOLL-FREE TELEPHONIC
4 RECORDINGS ACCESSIBLE TO ALL PERSONS AND BY OTHER APPROPRIATE MEANS, if
5 feasible, ~~and in all cases by notice in a newspaper of statewide circulation.~~
6 Notice also may be provided through the community advisory boards established
7 pursuant to section 49-289.03. Meetings of the board or a subcommittee may
8 be coordinated with meetings of a community advisory board established
9 pursuant to section 49-289.03.

10 G. Members of the board shall serve without compensation but are
11 eligible for reimbursement for travel and expenses as provided in title 38,
12 chapter 4, article 2.

13 H. State agencies shall cooperate in providing information and other
14 assistance to the board. The director of environmental quality and the
15 director of water resources shall consider the recommendations of the board
16 in administering the requirements of this article.

17 I. Members of the board are subject to title 38, chapter 3, article
18 8. NOTWITHSTANDING TITLE 38, CHAPTER 3, ARTICLE 8, UNLESS A MEMBER HAS A
19 DIRECT PECUNIARY OR PROPRIETARY INTEREST, A MEMBER'S DISCUSSION OR VOTE ON
20 AN ISSUE OF GENERAL APPLICABILITY TO THE PROGRAM ESTABLISHED PURSUANT TO THIS
21 ARTICLE IS NOT AN INDIRECT CONFLICT OF INTEREST. A member of the board shall
22 not vote on or otherwise participate in any manner on a specific
23 recommendation of the board relating to a particular site if the member is
24 identified as a responsible party in a notice of liability allocation issued
25 by the department of environmental quality pursuant to section 49-287.05
26 relating to that site, or if the member receives a significant portion of
27 income directly or indirectly from a person identified as a responsible
28 party.

29 J. For purposes of this ~~subsection,~~ SECTION:

30 1. "AN ISSUE OF GENERAL APPLICABILITY" MEANS AN ISSUE THAT AFFECTS A
31 SUBSTANTIAL NUMBER OF PERSONS AFFECTED BY THIS ARTICLE AND THEREFORE
32 QUALIFIES AS A REMOTE INTEREST AS DEFINED IN SECTION 38-502 AND APPLIED IN
33 SECTION 38-503.

34 2. "Significant portion of income" has the same meaning prescribed in
35 section 49-322, subsection B.

36 Sec. 38. Section 49-292.01, Arizona Revised Statutes, is amended to
37 read:

38 49-292.01. Qualified business settlements; definition

39 A. The director shall enter into a settlement under this article and
40 section 107 of CERCLA with a person that qualifies pursuant to this section
41 without regard to the extent of its liability except for a person whose
42 liability under this article arose from criminal acts.

1 B. An applicant seeking settlement under this section shall HAVE
2 IDENTIFIABLE GROSS INCOME AS DEFINED IN SECTION 61 OF THE INTERNAL REVENUE
3 CODE GREATER THAN ONE DOLLAR IN EACH OF THE TWO YEARS PRIOR TO THE
4 APPLICATION AND IN EACH OF THE TWO YEARS PRECEDING THE YEAR THAT AN
5 INVESTIGATION OF THE APPLICANT'S SHARE WAS INITIATED BY EITHER THE DEPARTMENT
6 OR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. THE APPLICANT SHALL
7 submit a letter to the director requesting a qualified business settlement
8 on a form provided by the director. The request letter shall include the
9 applicant's tax returns for the time periods provided in subsection ~~G~~ J of
10 this section. The director may require additional information to verify the
11 applicant's eligibility for a settlement under this section. Financial
12 information submitted by the applicant pursuant to this section and marked
13 "confidential" shall be kept confidential by the director.

14 C. If the director verifies that the applicant meets the definition
15 of a qualified business, the director shall enter into a settlement within
16 ninety days after receipt of the request letter and other information
17 required under this section. The settlement shall meet the requirements of
18 section 49-292, but without regard to the extent of its liability, and shall
19 require that:

20 1. The QUALIFIED business pay ten per cent of its average annual gross
21 income for the two years preceding the year that a request was submitted by
22 the applicant INCLUDING THE INCOME FROM MONEY OR ASSETS TRANSFERRED BY THE
23 APPLICANT WITHIN THE TWO YEARS PRECEDING THE APPLICATION. The director shall
24 allow the settlement amount to be paid over time, up to a maximum of ten
25 years, subject to payment of interest at the rate of six per cent per year.
26 If the settlement amount is paid in full within the first five years, the
27 payments shall not be subject to the payment of interest. An applicant may
28 file a petition with the director to modify the payment schedule.

29 2. The qualified business shall cooperate with the director in
30 providing reasonable access and information necessary for the director to
31 carry out the requirements of this article.

32 D. Notice of the settlement shall be published as provided in section
33 49-292. The notice shall provide a general description of the contents of
34 the agreement. Any interested person may comment on whether the applicant
35 is a qualified business in writing to the director. The director may
36 withdraw from a settlement after considering the comments.

37 E. If the director determines that the business does not qualify for
38 the qualified business settlement pursuant to this section, the director
39 shall notify the applicant in writing within ninety days of the receipt of
40 all information required under subsection B of this section stating the
41 reasons for denial. If the director does not notify the applicant within
42 ninety days, the application is deemed denied. A denial of a settlement
43 under this section may be appealed to the office of administrative hearings

1 pursuant to section 49-298. In any appeal made pursuant to section 49-298,
2 the documents submitted by the applicant under subsection B of this section
3 are not confidential.

4 F. In reviewing a proposed settlement, the United States district
5 court or superior court shall give deference to the department's
6 determination that the settlement is in the public interest and meets
7 applicable legal standards for court approval. Any person who challenges a
8 proposed settlement bears the burden of proving that the proposed settlement
9 does not meet applicable legal standards for court approval. If a settlement
10 is reached with an applicant, the confidential information supplied to the
11 director under this section may be submitted under seal to the court for in
12 camera review.

13 G. In determining the applicant's gross income **FOR PURPOSES OF**
14 **DETERMINING ELIGIBILITY PURSUANT TO SUBSECTION J OF THIS SECTION**, the income
15 of all concerns in which the applicant maintains ownership, control or
16 management may be considered by the director. **ANY TRANSFER OF MONEY OR**
17 **ASSETS BY THE APPLICANT WITHIN THE TWO YEARS PRECEDING THE APPLICATION SHALL**
18 **BE PRESUMED VOID FOR PURPOSES OF DETERMINING ELIGIBILITY UNDER THIS SECTION.**
19 **THIS PRESUMPTION MAY BE REBUTTED BY THE APPLICANT IF THE APPLICANT SUBMITS**
20 **A WRITTEN PRESUMPTION REBUTTAL STATEMENT THAT INCLUDES THE REASONS WHY THE**
21 **TRANSFER OF MONEY OR ASSETS WITHIN THIS TIME PERIOD SHOULD NOT BE PRESUMED**
22 **VOID FOR PURPOSES OF DETERMINING ELIGIBILITY. THE DEPARTMENT SHALL CONSIDER**
23 **THIS STATEMENT AND PROVIDE A WRITTEN RECORD OF DECISION TO THE APPLICANT THAT**
24 **EITHER AFFIRMS OR DENIES THE APPLICANT'S REASONS PROVIDED IN THE PRESUMPTION**
25 **REBUTTAL STATEMENT.**

26 H. The director may adopt rules to implement this section. A
27 settlement under this section applies only to the applicant and does not
28 release or affect in any way the liability of any other person.

29 ~~H.~~ I. If a settlement is made pursuant to this section, the director
30 shall not file a lien pursuant to section 49-295 for an amount greater than
31 the settlement.

32 ~~I.~~ J. For purposes of this section, "qualified business" means an
33 applicant whose gross income as defined by section 61 of the internal revenue
34 service code is less than two million dollars per year **AND GREATER THAN ONE**
35 **DOLLAR PER YEAR.** An applicant under this section is required to comply with
36 the definition for the average of the two years preceding the year that an
37 investigation of the applicant's share was initiated by either the department
38 or the United States environmental protection agency, and for each of the two
39 years preceding the year that a request was submitted by the applicant
40 pursuant to subsection B of this section. If a person does not qualify as
41 a qualified business under this section, the person is eligible to settle its
42 liability under this article and section 107 of CERCLA for less than its

1 proportionate share under section 49-285 on a demonstration of financial
2 hardship under section 49-292.02.

3 Sec. 39. Section 49-292.02, Arizona Revised Statutes, is amended to
4 read:

5 49-292.02. Financial hardship settlement

6 A. The director shall consider any offer by a person who is
7 potentially liable for remedial action costs under this article or section
8 107(a) of CERCLA without regard to the extent of that person's liability, if
9 the person is unable to pay the allocated share proposed by the director
10 under section 49-287.05 or the share allocated under section 49-287.06~~,--~~.
11 If the person participated in the allocation process, a person whose
12 liability under this article arose from criminal acts is not eligible to
13 request a settlement under this section. In considering a person's ability
14 to pay, the director shall consider all of the following:

15 1. The financial resources of the person, including available
16 insurance.

17 2. The person's ability to continue in business after payment of the
18 allocated amount.

19 3. Whether liability for the allocated amount would require the person
20 to seek protection under federal bankruptcy law.

21 B. An applicant seeking settlement under this section shall submit a
22 letter to the director requesting a financial hardship settlement on a form
23 provided by the director. The request letter shall include the applicant's
24 tax returns and all schedules, financial statements, balance statements and
25 other information concerning the person's gross income and net worth for the
26 five years preceding the date of the application on a form provided by the
27 director. Within ninety days of the application, the director may require
28 additional information to verify the applicant's eligibility for settlement
29 under this section. The applicant may provide any additional information the
30 applicant believes to be relevant. Financial information submitted by the
31 applicant pursuant to this section and marked "confidential" shall be kept
32 confidential by the director. If the director or the attorney general
33 disputes a claim of confidentiality, written notice shall be provided to the
34 person claiming the confidentiality that the claim is disputed. If the
35 person claiming the confidentiality does not file an action for declaratory
36 relief in superior court within thirty days after receiving this notice, the
37 information shall be made available to the public.

38 C. If the director verifies that the applicant is unable to pay the
39 allocated share, the director shall enter into a settlement within ninety
40 days after receipt of the request letter and other information required under
41 this section. The settlement shall meet the requirements of section 49-292,
42 but without regard to the extent of the person's liability, and shall be made
43 pursuant to subsection A of this section. The director shall allow the

1 settlement amount to be paid over time, up to a maximum of ten years, subject
2 to payment of interest at the rate of six per cent per year. If the
3 settlement amount is paid in full within the first five years, the payments
4 shall not be subject to the payment of interest. ~~Failure to make two~~
5 ~~consecutive timely payments shall be a breach of the settlement agreement.~~
6 An applicant may file a petition with the director to modify the payment
7 schedule.

8 D. The applicant shall cooperate with the director in providing
9 reasonable access and information necessary for the director to carry out the
10 requirements of this article.

11 E. Notice of the settlement shall be published as provided in section
12 49-292. The notice shall provide a general description of the contents of
13 the agreement. Any interested person may comment on whether the applicant
14 qualifies for a settlement pursuant to this section in writing to the
15 director. The director may withdraw from a settlement after considering the
16 comments.

17 F. If the director determines that the applicant does not qualify for
18 a settlement pursuant to this section, the director shall notify the
19 applicant in writing within ninety days of the receipt of all information
20 required under subsection B of this section stating the reasons. If the
21 director does not notify the applicant within ninety days, the application
22 is deemed denied. A denial of settlement under this section may be appealed
23 to the office of administrative hearings pursuant to section 49-298. In any
24 appeal made pursuant to section 49-298, the documents submitted by the
25 applicant under subsection B of this section are not confidential. If an
26 applicant agrees not to contest the allocated share assigned by the director
27 under section 49-287.05, the appeal shall include a determination of the
28 amount the applicant is able to pay. All other appeals shall include only
29 a determination of the applicant's ability to pay its allocated share.

30 G. In reviewing a proposed settlement, the federal district court or
31 superior court shall give deference to the director's determination that the
32 settlement is in the public interest and meets applicable legal standards for
33 court approval. Any person challenging a proposed settlement shall bear the
34 burden of proving that the proposed settlement does not meet the applicable
35 legal standards for court approval. If a settlement is reached with an
36 applicant, the confidential information supplied to the director under this
37 section may be submitted under seal to the court for in camera review.

38 H. In determining the applicant's financial resources, the financial
39 resources of all concerns in which the applicant maintains ownership, control
40 or management may be considered by the director. A settlement under this
41 section applies only to the applicant and does not release or affect in any
42 way the liability of any other person. The director may adopt rules to
43 implement this section.

1 I. If a settlement is made pursuant to this section, the director
2 shall not file a lien pursuant to section 49-295 for an amount greater than
3 the settlement.

4 Sec. 40. Section 49-401.01, Arizona Revised Statutes, is amended to
5 read:

6 49-401.01. Definitions

7 In this chapter, unless the context otherwise requires:

8 1. "Administrator" means the administrator of the United States
9 environmental protection agency.

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

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

21 4. "Attainment area" means any area in this state that has been
22 identified in regulations promulgated by the administrator as being in
23 compliance with national ambient air quality standards.

24 5. "Begin actual construction" means initiation of physical on-site
25 construction activities on an emissions unit that are of a permanent nature.
26 For purposes of title I, parts C and D and section 112 of the clean air act,
27 these activities include installation of building supports and foundations,
28 laying of underground pipework and construction of permanent storage
29 structures. For purposes other than title I, parts C and D and section 112
30 of the clean air act, these activities do not include installation of
31 building supports and foundations, laying of underground pipework and
32 construction of permanent storage structures.

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

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

44 8. "Commence" means, as applied to construction of a source:

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

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

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

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

15 9. "Construction" means any physical change in a source or change in
16 the method of operation of a source including fabrication, erection,
17 installation or demolition of a source that would result in a change in
18 actual emissions.

19 10. "Conventional air pollutant" means any pollutant for which the
20 administrator has promulgated a primary or secondary national ambient air
21 quality standard.

22 11. "Federally listed hazardous air pollutant" means any air pollutant
23 adopted pursuant to section 49-426.03, subsection A and not deleted pursuant
24 to that subsection.

25 12. "Hazardous air pollutant" means any federally listed hazardous air
26 pollutant and any air pollutant that the director has designated as a
27 hazardous air pollutant pursuant to section 49-426.04, subsection A and has
28 not deleted pursuant to section 49-426.04, subsection B.

29 13. "Hazardous air pollutant reasonably available control technology"
30 means an emissions standard for hazardous air pollutants which the director,
31 acting pursuant to section 49-426.06, subsection C, or the control officer,
32 acting pursuant to section 49-480.04, subsection C, determines is reasonably
33 available for a source. In making the foregoing determination the director
34 or control officer shall take into consideration the estimated actual air
35 quality impact of the standard, the cost of complying with the standard, the
36 demonstrated reliability and widespread use of the technology required to
37 meet the standard and any non-air quality health and environmental impacts
38 and energy requirements. For purposes of this definition an emissions
39 standard may be expressed as a numeric emissions limitation or as a design,
40 equipment, work practice or operational standard.

41 14. "Maintenance area" means any nonattainment area that has been
42 redesignated by the administrator to attainment status.

43 15. "Major source" means a stationary source or a group of stationary
44 sources that is located within a contiguous area, that is under common

1 control and that is defined as a major source in section 501(2) of the clean
2 air act or that is a major emitting facility as defined in title 1, part C
3 of the clean air act or that is defined in department rules as a major source
4 consistent with the clean air act.

5 16. "Maximum achievable control technology" means an emission standard
6 that requires the maximum degree of reduction in emissions of the hazardous
7 air pollutants subject to this chapter, including a prohibition on such
8 emissions where achievable, and that the director, after considering the cost
9 of achieving such emission reduction and any non-air quality health and
10 environmental impacts and energy requirements, determines to be achievable
11 by an affected source to which such standard applies, through application of
12 measures, processes, methods, systems or techniques including measures which:

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

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

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

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

20 (e) Are a combination of the above.

21 17. "Minor source" means any stationary or portable source that is not
22 a major source.

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

26 19. "Modification" or "modify" means a physical change in or change in
27 the method of operation of a source which increases the actual emissions of
28 any regulated air pollutant emitted by such source by more than any relevant
29 de minimis amount or which results in the emission of any regulated air
30 pollutant not previously emitted by more than such de minimis amount.

31 20. "National ambient air quality standard" means the ambient air
32 pollutant concentration limits established by the administrator pursuant to
33 42 United States Code section 7409.

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

37 22. "Nonattainment area plan" means an air pollution control plan
38 developed in accordance with 42 United States Code sections 7501 through
39 7515.

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

1 24. "Planning agency" means ~~the AN~~ organization designated by the
2 governor pursuant to 42 United States Code section 7504 ~~as having the~~
3 ~~authority and responsibility of preparing nonattainment area plans.~~

4 25. "Portable source" means any stationary source that is capable of
5 being transported and operated in more than one county of this state.

6 26. "Potential to emit" means ~~—~~:

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

11 (b) For purposes other than section 112 of the clean air act,
12 ~~"potential to emit" means~~ the maximum capacity of a stationary source to emit
13 a pollutant, excluding secondary emissions, taking into account controls that
14 are enforceable under any federal, state or local law, rule or regulation or
15 that are inherent in the design of the source.

16 27. "Primary standard attainment date" means the date defined within
17 a nonattainment area plan in accordance with 42 United States Code sections
18 7401 through 7515 ~~OR APPLICABLE REGULATIONS ADOPTED BY THE UNITED STATES~~
19 ~~ENVIRONMENTAL PROTECTION AGENCY BY JANUARY 1, 1999~~ and after which date
20 primary national ambient air quality standards may not be violated.

21 28. "Reasonable further progress" means the schedule of emission
22 reductions defined within a nonattainment area plan as being necessary to
23 come into compliance with a national ambient air quality standard by the
24 primary standard attainment date.

25 29. "Source" means any building, structure, facility or installation
26 that may cause or contribute to air pollution or the use of which may
27 eliminate, reduce or control the emission of air pollution.

28 30. "State implementation plan" means the accumulated record of
29 enforceable air pollution control measures, programs and plans adopted by the
30 director and submitted to the administrator pursuant to 42 United States Code
31 section 7410.

32 31. "Stationary source" means any facility, building, equipment, device
33 or machine that operates at a fixed location and that emits or generates air
34 contaminants.

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

38 Sec. 41. Section 49-402, Arizona Revised Statutes, is amended to read:
39 49-402. State and county control

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

1 1. Major sources in any county that has not received approval from the
2 administrator for new source review under the clean air act and prevention
3 of significant deterioration under the clean air act.

4 2. Smelting of metal ore.

5 3. Petroleum refineries.

6 4. Coal fired electrical generating stations.

7 5. Portland cement plants.

8 6. Air pollution by portable sources.

9 7. Air pollution by mobile sources for the purpose of regulating those
10 sources as prescribed by article 5 of this chapter and consistent with the
11 clean air act.

12 8. ~~After November 15, 1993,~~ Sources that are located in either a
13 county that has not submitted a permit program as required under title V of
14 the clean air act or in a county for which the administrator has disapproved
15 that permit program.

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

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

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

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

- 8 1. Mandatory employee parking fees.
- 9 2. Park and ride programs.
- 10 3. Removal of on-street parking.
- 11 4. Ride share programs.
- 12 5. Mass transit alternatives.
- 13 6. Expansion of public transportation systems.
- 14 7. Optimizing freeway ramp metering.
- 15 8. Coordinating traffic signal systems.
- 16 9. Reduction of traffic congestion at major intersections.
- 17 10. Site specific transportation control measures.
- 18 11. Reversible lanes.
- 19 12. Fixed lanes for buses and ~~car-pools~~ CARPOOLS.
- 20 13. Encouragement of pedestrian travel.
- 21 14. Encouragement of bicycle travel.
- 22 15. Development of bicycle travel facilities.
- 23 16. Employer incentives regarding ride share programs.
- 24 17. Modification of work schedules.
- 25 18. Strategies for controlling the generation of air pollution by
26 nonresidents of nonattainment **OR MAINTENANCE** areas.
- 27 19. Use of alternative fuels.
- 28 20. Use of emission control devices on public diesel powered vehicles.
- 29 21. Paving of roads.
- 30 22. Restricting off-road vehicle travel.
- 31 23. Construction site air pollution control.
- 32 24. Other air quality control measures.

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

37 Sec. 42. Section 49-404, Arizona Revised Statutes, is amended to read:
38 **49-404. State implementation plan**

39 A. The director shall maintain a state implementation plan that
40 provides for implementation, maintenance and enforcement of national ambient
41 air quality standards and protection of visibility as required by the clean
42 air act.

1 B. The director may adopt rules that describe procedures for adoption
2 of revisions to the state implementation plan.

3 C. The state implementation plan and all revisions adopted before ~~the~~
4 ~~effective date of this section~~ SEPTEMBER 30, 1992 remain in effect according
5 to their terms, except to the extent otherwise provided by the clean air act,
6 inconsistent with any provision of the clean air act, or revised by the
7 administrator. No control requirement in effect, or required to be adopted
8 by an order, settlement agreement, ~~or plan in effect,~~ before the enactment
9 of the clean air act in any area which is a nonattainment OR MAINTENANCE area
10 for any air pollutant may be modified after enactment in any manner unless
11 the modification insures equivalent or greater emission reductions of the air
12 pollutant. The director shall evaluate and adopt revisions to the plan in
13 conformity with federal regulations and guidelines promulgated by the
14 administrator for those purposes until the rules required by subsection B are
15 effective.

16 Sec. 43. Section 49-454, Arizona Revised Statutes, is amended to read:
17 49-454. Adjusted work hours

18 A. A business which has five hundred or more employees at one site in
19 ~~a nonattainment~~ area A OR AREA B as defined in section 49-541 shall submit
20 a schedule prior to October 1 of each year to the director which shows an
21 adjusted work hour proposal that will reduce the level of carbon monoxide
22 concentrations caused by vehicular travel.

23 B. A business which has one hundred or more employees at one site
24 working in ~~a nonattainment~~ area A OR AREA B as defined in section 49-541 may
25 implement an adjusted work hour schedule in order to reduce the level of
26 carbon monoxide concentrations caused by vehicular travel.

27 C. The director shall transmit the reports received pursuant to
28 subsection A of this section to the ADVISORY committee on air quality
29 compliance on or before December 1 of each year.

30 Sec. 44. Section 49-541, Arizona Revised Statutes, is amended to read:
31 49-541. Definitions

32 In this article, unless the context otherwise requires:

33 1. "Area A" means the area delineated as follows:

34 (a) In Maricopa county:

35 Township 8 north, range 2 east and range 3 east

36 Township 7 north, range 2 west through range 5 east

37 Township 6 north, range 2 west through range 6 east

38 Township 5 north, range 2 west through range 7 east

39 Township 4 north, range 2 west through range 8 east

40 Township 3 north, range 2 west through range 8 east

41 Township 2 north, range 2 west through range 8 east

42 Township 1 north, range 2 west through range 7 east

43 Township 1 south, range 2 west through range 7 east

1 Township 2 south, range 2 west through range 7 east

2 (b) In Pinal county:

3 Township 1 north, range 8 east and range 9 east

4 Township 1 south, range 8 east and range 9 east

5 Township 2 south, range 8 east and range 9 east

6 Township 3 south, range 7 east through range 9 east

7 (c) In Yavapai county:

8 Township 7 north, range 1 east and range 1 west through range 2 west.

9 2. "Area B" means ~~a carbon monoxide nonattainment area in a county~~
10 ~~with a population in excess of four hundred thousand but fewer than one~~
11 ~~million two hundred thousand persons as determined by the most recent United~~
12 ~~States decennial census~~ THE AREA DELINEATED IN PIMA COUNTY AS TOWNSHIP 11 AND
13 12 SOUTH, RANGE 12 THROUGH 14 EAST; TOWNSHIP 13 THROUGH 15 SOUTH, RANGE 11
14 THROUGH 16 EAST; TOWNSHIP 16 SOUTH, RANGE 12 THROUGH 16 EAST, EXCLUDING ANY
15 PORTION OF THE CORONADO NATIONAL FOREST AND THE SAGUARO NATIONAL PARK.

16 3. "Certificate of inspection" means a serially numbered device or
17 symbol, as may be prescribed by the director, indicating that a vehicle has
18 been inspected pursuant to the provisions of section 49-546 and has passed
19 inspection.

20 4. "Certificate of waiver" means a serially numbered device or symbol,
21 as may be prescribed by the director, indicating that the requirement of
22 passing reinspection has been waived for a vehicle pursuant to the provisions
23 of this article.

24 5. "Conditioning mode" means either a fast idle test condition or a
25 loaded test condition.

26 6. "Curb idle test condition" means an exhaust emissions test
27 conducted with the engine of a vehicle running at the manufacturer's
28 specified idle speed plus or minus one hundred revolutions per minute but
29 without pressure exerted on the accelerator.

30 7. "Emissions inspection station permit" means a certificate issued
31 by the director authorizing the holder to perform vehicular inspections
32 pursuant to this article.

33 8. "Fast idle test condition" means an exhaust emissions test
34 conducted with the engine of the vehicle running under an accelerated
35 condition to an extent prescribed by the director.

36 9. "Fleet emissions inspection station" means any inspection facility
37 operated under a permit issued to a qualified fleet owner or lessee as
38 determined by the director.

39 10. "Golf cart" means a motor vehicle which has not less than three
40 wheels in contact with the ground, has an unladen weight of less than
41 thirteen hundred pounds, is designed to be and is operated at not more than
42 fifteen miles an hour and is designed to carry golf equipment and persons.

43 11. "Gross weight" has the meaning prescribed in section 28-5431.

1 12. "Independent contractor" means any person, business, firm,
2 partnership or corporation with which the director may enter into an
3 agreement providing for the construction, equipment, maintenance, personnel,
4 management and operation of official emissions inspection stations pursuant
5 to section 49-545.

6 13. "Loaded test condition" means an exhaust emissions test conducted
7 at cruise or transient conditions as prescribed by the director.

8 14. "Official emissions inspection station" means an inspection
9 facility, other than a fleet emissions inspection station, whether placed in
10 a permanent structure or in a mobile unit for conveyance among various
11 locations within this state, for the purpose of conducting emissions
12 inspections of all vehicles required to be inspected pursuant to this
13 article.

14 15. "Tampering" means removing, defeating or altering an emissions
15 control device which was installed at the time a vehicle was manufactured.

16 16. "Vehicle" means any automobile, truck, truck tractor, motor bus or
17 self-propelled or motor-driven vehicle registered or to be registered in this
18 state and used upon the public highways of this state for the purpose of
19 transporting persons or property, except implements of husbandry, road
20 rollers or road machinery temporarily operated upon the highway.

21 17. "Vehicle emissions control area" means ~~an area which has been
22 designated by the administrator of the environmental protection agency,
23 acting pursuant to section 107 of the clean air act (42 United States Code
24 section 7401 et seq.) as exceeding national primary or secondary ambient air
25 standards for the pollutant of carbon monoxide or ozone and designated as
26 such in the state implementation plan submitted to the environmental
27 protection agency, except that vehicle emissions control area does not
28 include the one thousand two hundred eighty-eight square mile area which the
29 environmental protection agency determined should be redesignated as an
30 attainment area as printed in the federal register, volume 48, number 216,
31 Monday, November 7, 1983, page 51161~~ AREA A OR AREA B.

32 Sec. 45. Section 49-516, Arizona Revised Statutes, is amended to read:
33 49-516. Preservation of rights

34 It is the purpose of this article to provide additional and cumulative
35 remedies to prevent, abate, and control air pollution in the state. **EXCEPT**
36 **AS PRESCRIBED BY SECTION 49-402, SUBSECTION C**, nothing contained in this
37 article shall be construed to abridge or alter rights of action or remedies
38 in equity under the common law or statutory law, criminal or civil, nor shall
39 any provisions of this article, or any act done by virtue thereof, be
40 construed as estopping the state or any municipality, or owners of land from
41 the exercise of their rights in equity or under the common law or statutory
42 law to suppress nuisances or to abate pollution.

43 Sec. 46. Section 49-571, Arizona Revised Statutes, is amended to read:

1 49-571. Clean burning alternative fuel requirements for new
2 buses; definition

3 A. A city, town or county which purchases buses for use in a county
4 with a population of more than five hundred thousand persons ~~according to the~~
5 ~~most recent United States decennial census~~ shall only purchase buses which
6 operate on clean burning alternative fuel.

7 B. If a city, town or county is unable to purchase a sufficient number
8 of buses which operate on clean burning alternative fuel to meet the
9 requirements of subsection A due to the unavailability of those types of
10 buses, the city, town or county shall convert a sufficient number of buses
11 in their present fleet which operate on any fuel listed in subsection C so
12 that the number of the converted buses along with the buses operating on
13 clean burning alternative fuel equals or exceeds the amount required pursuant
14 to subsection A.

15 C. In this section, "clean burning alternative fuel" means:

- 16 1. Natural gas.
- 17 2. Liquefied petroleum gas.
- 18 3. A blend of unleaded gasoline that contains at minimum eighty-five
19 per cent ethanol by volume or eighty-five per cent methanol by volume.
- 20 4. Neat methanol.
- 21 5. Neat ethanol.
- 22 6. Diesel fuel if combined with compressed natural gas or liquefied
23 petroleum gas or alcohol.
- 24 7. Hydrogen.
- 25 8. Electricity.
- 26 9. Solar energy.
- 27 10. Liquefied natural gas.
- 28 11. An emulsion of water-phased hydrocarbon fuel that contains not less
29 than twenty per cent water by volume and that complies with any of the
30 following:
 - 31 (a) Is used in an engine that is certified to meet at a minimum the
32 United States environmental protection agency low emission vehicle standard
33 pursuant to 40 Code of Federal Regulations section ~~88.104-95~~ 88.104-94 or
34 88.105-94.
 - 35 (b) Is used in an engine that is certified by the engine modifier to
36 meet the addendum to memorandum 1-A of the United States environmental
37 protection agency.
 - 38 (c) Is used in an engine that is the subject of a waiver for that
39 specific engine application from the United States environmental protection
40 agency's memorandum 1-A addendum requirements and that waiver is documented
41 to the reasonable satisfaction of the department of commerce energy office.
 - 42 12. A combination of at least seventy per cent alternative fuel and no
43 more than thirty per cent petroleum based fuel and that operates in an engine

1 that meets the United States environmental protection agency low emission
2 vehicle standard pursuant to 40 Code of Federal Regulations section ~~88.104-95~~
3 ~~88.104-94~~ or 88.105-94 and is certified by the engine manufacturer to consume
4 at least seventy per cent alternative fuel during normal vehicle operations.

5 D. Any fuels or combination of fuels listed in subsection C shall
6 qualify as clean burning in new or converted buses by demonstrating levels
7 of emission requirements pursuant to title II of the clean air act.

8 Sec. 47. Section 49-1091, Arizona Revised Statutes, as added by Laws
9 1998, chapter 298, section 15, is amended to read:

10 49-1091. Underground storage tank informal appeals

11 A. A person who undertakes corrective action pursuant to section
12 49-1052, subsection I or an owner or operator may informally appeal the
13 following decisions or determinations pursuant to this section:

14 1. A written interim decision from the underground storage tank
15 program of the department.

16 2. A written interim determination from the department on matters
17 relating to owner or operator status.

18 3. A written interim determination from the department on matters
19 relating to preapproval, direct payment or reimbursement from the underground
20 storage tank assurance account.

21 B. The department's failure to respond with a written interim decision
22 to the owner's or operator's submission to the department of any documents
23 identified in subsection G of this section within one hundred twenty days of
24 receipt is a basis for an informal appeal.

25 C. A person who undertakes corrective action pursuant to section
26 49-1052, subsection I or an owner or operator who is subject to an interim
27 decision or determination described in subsections A and B of this section,
28 and who disagrees with the interim decision or determination, may file a
29 written notice of disagreement with the department within thirty days of
30 receiving the department's interim decision or determination. The notice
31 shall include a description of the specific portions of the interim decision
32 or determination with which the person, owner or operator ~~disagree~~ DISAGREES
33 and may include a request to meet with the department to resolve the
34 disagreement. The department shall schedule a meeting within thirty days
35 after receiving the request.

36 D. A person who requests a meeting pursuant to subsection C of this
37 section or an authorized representative of the person designated in writing
38 may attend the meeting with any individuals who may be helpful in discussing
39 the matter with the department.

40 E. The department shall issue a final written decision or
41 determination within forty-five days of receiving the notice of disagreement
42 or within fifteen days of a meeting pursuant to subsection ~~D~~ C of this
43 section, whichever is later. If the department fails to issue a final

1 written decision or determination within the time specified in this
2 subsection, the department's written interim decision or determination
3 becomes the final written decision or determination. The final written
4 decision or determination shall address the notice of disagreement received
5 pursuant to subsection C of this section. The final written decision or
6 determination is the only decision or determination that is appealable as an
7 appealable agency action as defined in section 41-1092 or a contested case
8 AS defined in section 41-1001.

9 F. The period of time for compliance with corrective actions
10 associated with the subject matter of a notice of disagreement is tolled from
11 the date that a person who undertakes corrective action pursuant to section
12 49-1052, subsection I or an owner or operator files a written notice of
13 disagreement with the department until the date the final decision or
14 determination is rendered by the department and any appeals are completed.

15 G. A written interim decision ~~addresses~~ SHALL ADDRESS one of the
16 following technical issues:

17 1. The department's approval, disapproval or notice of deficiency of
18 site characterization reports.

19 2. The department's approval, disapproval or notice of deficiency of
20 corrective action plans for soil, ~~OR~~ OR groundwater, or both.

21 3. The department's approval, disapproval or notice of deficiency of
22 a work plan.

23 4. The department's determination or confirmation of a release.

24 5. The department's approval, disapproval or notice of deficiency of
25 requests for closing a case file corresponding to a release from a leaking
26 underground storage tank.

27 Sec. 48. Section 49-1203, Arizona Revised Statutes, is amended to
28 read:

29 49-1203. Powers and duties of authority; definition

30 A. The authority is a corporate and politic body and shall have an
31 official seal that shall be judicially noticed. The authority may sue and
32 be sued, contract and acquire, hold, operate and dispose of property.

33 B. The authority, through its board, may:

34 1. Issue negotiable water quality bonds pursuant to section 49-1261
35 for the following purposes:

36 (a) To generate the state match required by the clean water act for
37 the clean water revolving fund and to generate the match required by the safe
38 drinking water act for the drinking water revolving fund.

39 (b) To provide financial assistance to political subdivisions, Indian
40 tribes and eligible drinking water facilities for constructing, acquiring or
41 improving wastewater treatment facilities, drinking water facilities,
42 nonpoint source projects and other related water quality facilities and
43 projects.

1 2. Provide financial assistance to political subdivisions and Indian
2 tribes from monies in the clean water revolving fund to finance wastewater
3 treatment projects.

4 3. Provide financial assistance to drinking water facilities from
5 monies in the drinking water revolving fund to finance these facilities.

6 4. Guarantee debt obligations of, and provide linked deposit
7 guarantees through third party lenders to:

8 (a) Political subdivisions that are issued to finance wastewater
9 treatment projects.

10 (b) Drinking water facilities that are issued to finance these
11 facilities.

12 5. Provide linked deposit guarantees through third party lenders to
13 political subdivisions and drinking water facilities.

14 6. Apply for, accept and administer grants and other financial
15 assistance from the United States government and from other public and
16 private sources.

17 7. Enter into capitalization grant agreements with the United States
18 environmental protection agency.

19 8. Adopt rules pursuant to title 41, chapter 6 governing the
20 application for and awarding of wastewater treatment facility, drinking water
21 facility and nonpoint source project financial assistance under this article,
22 the administration of the clean water revolving fund and the drinking water
23 revolving fund and the issuance of water quality bonds.

24 9. Contract for the services of outside advisors, attorneys,
25 consultants and aides reasonably necessary or desirable to allow the
26 authority to adequately perform its duties.

27 10. Contract and incur obligations as reasonably necessary or desirable
28 within the general scope of authority activities and operations to allow the
29 authority to adequately perform its duties.

30 11. Assess financial assistance origination fees and annual fees to
31 cover the reasonable costs of administering the authority and the monies
32 administered by the authority. Any fees collected pursuant to this paragraph
33 constitute governmental revenue and may be used for any purpose consistent
34 with the mission and objectives of the authority.

35 12. PERFORM ANY FUNCTION OF A FUND MANAGER UNDER THE CERCLA BROWNFIELDS
36 CLEANUP REVOLVING LOAN FUND PROGRAM AS REQUESTED BY THE DEPARTMENT. THE
37 BOARD SHALL PERFORM ANY ACTION AUTHORIZED UNDER THIS ARTICLE ON BEHALF OF THE
38 BROWNFIELDS CLEANUP REVOLVING LOAN FUND PROGRAM ESTABLISHED PURSUANT TO
39 CHAPTER 2, ARTICLE 1.1 OF THIS TITLE AT THE REQUEST OF THE DEPARTMENT. IN
40 ORDER TO PERFORM THESE FUNCTIONS, THE BOARD SHALL ENTER INTO A WRITTEN
41 AGREEMENT WITH THE DEPARTMENT.

42 C. The board shall transmit any monies received pursuant to subsection
43 B, paragraph 6 of this section to the state treasurer for deposit in the

1 appropriate fund as prescribed by the grant or other financial assistance
2 agreement.

3 D. Disbursements of monies by the water infrastructure finance
4 authority pursuant to a financial assistance agreement are not subject to
5 title 41, chapter 23.

6 E. FOR PURPOSES OF THIS SECTION, "CERCLA" HAS THE SAME MEANING
7 PRESCRIBED IN SECTION 49-201.

8 Sec. 49. Laws 1997, chapter 287, section 51 is amended to read:

9 Sec. 51. Encouraging beneficial use of groundwater withdrawn
10 and used pursuant to CERCLA or the water quality
11 assurance revolving fund program; definition

12 A. The department of water resources shall include in its management
13 plans developed pursuant to sections 45-565, 45-566, 45-567 and 45-568,
14 Arizona Revised Statutes, provisions to encourage the beneficial use of
15 groundwater that is withdrawn pursuant to approved remedial action projects
16 under CERCLA or title 49, Arizona Revised Statutes.

17 B. In determining compliance with applicable conservation requirements
18 adopted pursuant to sections 45-565, 45-566, 45-567 and 45-568, Arizona
19 Revised Statutes, the department of water resources shall account for
20 groundwater withdrawn pursuant to approved remedial action projects under
21 CERCLA or title 49, Arizona Revised Statutes, EXCEPT FOR GROUNDWATER
22 WITHDRAWN TO PROVIDE AN ALTERNATIVE WATER SUPPLY PURSUANT TO SECTION
23 49-282.03, ARIZONA REVISED STATUTES, consistent with the accounting for
24 surface water.

25 C. For purposes of this section, "CERCLA" has the same meaning
26 prescribed in section 49-201, Arizona Revised Statutes.

27 Sec. 50. Laws 1997, chapter 287, section 52 is amended to read:

28 Sec. 52. Amendment of assured water supply rules; definition

29 A. For each calendar year until 2025, the use of up to an aggregate
30 of sixty-five thousand acre-feet of groundwater withdrawn within all active
31 management areas pursuant to approved remedial action projects under CERCLA
32 or title 49, Arizona Revised Statutes, EXCEPT FOR GROUNDWATER WITHDRAWN TO
33 PROVIDE AN ALTERNATIVE WATER SUPPLY PURSUANT TO SECTION 49-282.03, ARIZONA
34 REVISED STATUTES, shall be considered consistent with the management goal of
35 the active management area as prescribed in section 45-576, subsection I,
36 paragraph 2, Arizona Revised Statutes.

37 B. The use of an amount of groundwater withdrawn pursuant to approved
38 remedial action projects under CERCLA or title 49, Arizona Revised Statutes,
39 EXCEPT FOR GROUNDWATER WITHDRAWN TO PROVIDE AN ALTERNATIVE WATER SUPPLY
40 PURSUANT TO SECTION 49-282.03, ARIZONA REVISED STATUTES, in excess of the
41 aggregate volume of sixty-five thousand acre-feet of groundwater authorized
42 in subsections A and C of this section shall be considered consistent with
43 the management goal of the active management area as prescribed in section

1 45-576, subsection I, paragraph 2, Arizona Revised Statutes, in the following
2 amounts:

3 1. If the groundwater is withdrawn in the second management period,
4 seventy-five per cent of the total volume withdrawn in excess of the
5 aggregate volume of sixty-five thousand acre-feet of groundwater authorized
6 in subsections A and C of this section.

7 2. If the groundwater is withdrawn in the third management period,
8 fifty per cent of the total volume withdrawn in excess of the aggregate
9 volume of sixty-five thousand acre-feet of groundwater authorized in
10 subsections A and C of this section.

11 3. If the groundwater is withdrawn in the fourth management period,
12 twenty-five per cent of the total volume withdrawn in excess of the aggregate
13 volume of sixty-five thousand acre-feet of groundwater authorized in
14 subsections A and C of this section.

15 4. If the groundwater is withdrawn in the fifth management period, ten
16 per cent of the total volume withdrawn in excess of the aggregate volume of
17 sixty-five thousand acre-feet of groundwater authorized in subsections A and
18 C of this section.

19 5. If the groundwater is withdrawn after 2025, zero per cent of the
20 total volume withdrawn in excess of the aggregate volume of sixty-five
21 thousand acre-feet of groundwater authorized in subsections A and C of this
22 section.

23 C. A municipal water provider who proposes to use groundwater
24 withdrawn pursuant to an approved remedial action project under CERCLA or
25 title 49, Arizona Revised Statutes, and who wishes to have the director of
26 water resources determine that the use of some or all of the municipal
27 provider's projected groundwater withdrawals are consistent with the
28 management goal pursuant to subsection A or B of this section shall apply for
29 this determination prior to January 1, 2010. The amount of groundwater for
30 which the use is determined to be consistent with the management goal
31 pursuant to this section shall not exceed the amount that the municipal
32 provider is legally obligated to withdraw or use and shall not extend beyond
33 2025. The aggregate volume authorized by the director pursuant to subsection
34 A of this section shall not exceed sixty-five thousand acre-feet in any
35 calendar year.

36 D. Not later than January 1, 2001, the director of water resources
37 shall amend the rules adopted pursuant to section 45-576, subsection H,
38 Arizona Revised Statutes, to carry out the purpose of this section. Prior to
39 the amendment of these rules, the director of water resources shall treat any
40 groundwater withdrawn pursuant to an approved remedial action project under
41 CERCLA or title 49, Arizona Revised Statutes, as consistent with the
42 management goal as provided in subsections A, B and C of this section.

43 E. For annual remediated groundwater withdrawals of 250 acre-feet or
44 less that are withdrawn pursuant to an approved remedial action under CERCLA,

1 the water quality assurance revolving fund program or other applicable
2 federal or state law, EXCEPT FOR GROUNDWATER WITHDRAWN TO PROVIDE AN
3 ALTERNATIVE WATER SUPPLY PURSUANT TO SECTION 49-282.03, ARIZONA REVISED
4 STATUTES, the amount OF GROUNDWATER withdrawn shall not be debited against
5 the water provider's assured water supply mined groundwater account and shall
6 not be subject to a replenishment obligation. An annual user of 250
7 acre-feet or less of remediated groundwater shall notify the department of
8 water resources of compliance with the exemption and these uses shall not
9 apply in calculating the 65,000 acre-feet per year total prescribed by
10 ~~paragraph 1~~ SUBSECTION A of this section.

11 F. For purposes of this section, "CERCLA" has the same meaning
12 prescribed in section 49-201, Arizona Revised Statutes.

1 Sec. 51. Laws 1998, chapter 217, section 42 is amended to read:

2 Sec. 42. Area A expansion; compliance dates; air quality
3 programs; Pinal county

4 A. Notwithstanding section 41 as added by this act, and section
5 49-541, paragraph 1, Arizona Revised Statutes, as amended by this act,
6 relating to the geographical definition of area A, all air quality measures
7 and programs added or modified by this act which are not listed in subsection
8 B of this section, shall be effective from and after December 31, 2000 in the
9 portion of area A which includes Pinal county.

10 B. Cities, counties and school districts ~~which~~ **THAT ARE LOCATED IN**
11 **PINAL COUNTY AND THAT** have been included within the boundaries of area A
12 shall comply with the provisions of section 9-500.04, subsections C through
13 G, section 15-349 and section 49-474.01, subsections C through E, Arizona
14 Revised Statutes, relating to the conversions of fleet vehicles to
15 alternative fuels according to the following schedule:

16 1. At least eighteen per cent of the total fleet by December 31, 2000.

17 2. At least twenty-five per cent of the total fleet by December 31,
18 2001.

19 3. At least fifty per cent of the total fleet by December 31, 2003.

20 4. At least seventy-five per cent of the total fleet by December 31,
21 2005.

22 Sec. 52. Repeal

23 A. Section 49-1052, Arizona Revised Statutes, as amended by Laws 1998,
24 chapter 181, section 7, is repealed.

25 B. Section 49-1091, Arizona Revised Statutes, as added by Laws 1998,
26 chapter 181, section 9, is repealed.

27 C. Laws 1998, chapter 181, section 11 is repealed.

28 Sec. 53. Retroactivity

29 A. Section 12 of this act is effective retroactively to August 21,
30 1998.

31 B. Section 32 of this act is effective retroactively to from and after
32 July 31, 1997.

33 C. Section 52 of this act is effective retroactively to May 27, 1998.

34 Sec. 54. Brownfields cleanup revolving loan fund program

35 On the effective date of this act, the department of environmental
36 quality is authorized to immediately implement the brownfields cleanup
37 revolving loan fund program established in title 49, chapter 2, article 1.1,
38 Arizona Revised Statutes, as added by this act.