REFERENCE TITLE: department of environmental quality; omnibus

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2628

Introduced by
Representative Griffin

AN ACT

REPEALING SECTION 49-257, ARIZONA REVISED STATUTES; AMENDING SECTIONS 49-355 AND 49-360, ARIZONA REVISED STATUTES; AMENDING SECTION 49-542, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 27, SECTION 3 AND CHAPTER 116, SECTION 1; AMENDING SECTIONS 49-701 AND 49-891, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Repeal

Section 49-257, Arizona Revised Statutes, is repealed.

Sec. 2. Section 49-355, Arizona Revised Statutes, is amended to read:

49-355. Small drinking water systems fund; exemption; grants; definition

A. The small drinking water systems fund is established in the water infrastructure finance authority of Arizona. The fund consists of monies appropriated by the legislature, FEDERAL MONIES AND PRIVATE GRANTS, GIFTS, CONTRIBUTIONS AND DEVISES TO ASSIST IN CARRYING OUT THE PURPOSE OF THIS SECTION. Monies in the fund are exempt from lapsing under section 35-190. Interest earned on monies in the fund shall be credited to the fund.

B. Monies from the small drinking water systems fund shall be used to provide grants, including emergency grants, to interim operators, interim managers or owners of small drinking water systems to repair, replace or upgrade water infrastructure as required for compliance with title 40, chapter 2, this chapter or any rule adopted under title 40, chapter 2 or this chapter.

C. On recommendation of the department in consultation with the corporation commission, the water infrastructure finance authority of Arizona may approve a grant from the fund to an interim operator, an interim manager or an owner of a small drinking water system pursuant to this section only if the interim operator, the interim manager or the owner demonstrates that it requires financial assistance to replace, make repairs to, rehabilitate or upgrade the drinking water system infrastructure in order to correct or avoid an interruption in water service or to comply with title 40, chapter 2, this chapter or any rule adopted under title 40, chapter 2 or this chapter. The department shall include in its recommendation to the water infrastructure finance authority of Arizona a written statement that is signed by the director and that includes a detailed assessment of the direct public benefit of the grant, a certification that disbursement of monies is in the best interests of this state and, if applicable, a determination that the grant is in response to an emergency.

D. Before disbursing monies to an authorized recipient pursuant to this section, the water infrastructure finance authority of Arizona shall enter into a written grant agreement with the recipient. The terms of the agreement shall include at least the following:

1. Performance targets and target dates for matters associated with the grant as determined by the department.

2. Terms for payment of monies to the recipient and repayment to this state as prescribed by subsection F of this section.

E. The written grant agreement may require that a reasonable percentage of the total amount of the grant be withheld until the recipient meets specified performance targets.

F. The water infrastructure finance authority of Arizona may require repayment to this state of a portion or all of the grant monies with interest at an agreed rate and on agreed terms. The repayment may be required if either of the following applies:

1. The water infrastructure finance authority of Arizona in coordination with the department finds that the grant recipient has not met performance targets specified in the written grant agreement on or before the dates specified in the agreement.

2. The written grant agreement prescribes the repayment.

G. Emergency grants made pursuant to this section are exempt from title 41, chapter 23.

H. For the purposes of this section, "small drinking water system" means a public water system as prescribed in section 49-352 that serves ten thousand or fewer persons.

Sec. 3. Section 49-360, Arizona Revised Statutes, is amended to read:

49-360. Monitoring assistance program for public water systems; rules; fees; monitoring assistance fund; safe drinking water program fund; rules

A. The department shall establish a monitoring assistance program to assist public water systems in complying with monitoring requirements under the federal safe drinking water act (P.L. 93-523; 88 Stat. 1660; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613; 42 United States Code sections 300f through 300j-25), as amended. The program shall provide for the collection, transportation and analysis of baseline samples from public water systems in a frequency sufficient to keep the systems in compliance with the federal safe drinking water act requirements. THE DEPARTMENT MAY ADOPT RULES TO ESTABLISH CRITERIA FOR A PUBLIC WATER SYSTEM TO OPT OUT OF THE MONITORING ASSISTANCE PROGRAM. THE DEPARTMENT MAY CONDUCT ADDITIONAL SAMPLING FOR A SYSTEM THAT TRIGGERS A DETECTION LIMIT SET BY RULE TO COMPLY WITH THE FEDERAL SAFE DRINKING WATER ACT. At a minimum, the program shall include monitoring for the following categories of contaminants:

1. Volatile organic chemicals.

2. Synthetic organic chemicals.

3. Inorganic chemicals except for copper and lead.

4. Radiochemicals.

5. OTHER CONTAMINANTS AS REQUIRED BY THE FEDERAL SAFE DRINKING WATER ACT.

B. The department shall contract with one or more private parties or statewide nonprofit organizations representing water systems to implement the monitoring assistance program subject to available funding.

Contracts shall be awarded for up to three years. Entities with which the department contracts shall:

1. Provide updated monitoring schedules, developed in conjunction with the department, to participating water systems.

2. Take samples for participating water systems, allow for certified operators to take samples and train system personnel to take samples.

3. Assist participating water systems when resampling is required by the federal safe drinking water act.

4. Assist participating water systems to apply for and qualify for available interim monitoring relief and waivers.

5. Provide any other on-site technical assistance necessary to help the participating water systems comply with the monitoring requirements of the federal safe drinking water act.

C. Any public water systems serving more than ten thousand persons may elect to participate in the monitoring assistance program subject to the payment of the fees pursuant to subsection F of this section.

D. The department shall use licensed environmental laboratories as defined in section 36-495 or laboratories certified or designated by the United States environmental protection agency to analyze samples collected under the monitoring assistance program. The department shall establish specific criteria for measuring contractor qualifications and performance.

E. Each environmental laboratory that the department uses pursuant to subsection D of this section shall deliver copies of the analysis results to the water system owner, the monitoring assistance program contractor and the department.

F. The director shall establish fees for the monitoring assistance program to be collected from all public water systems serving up to ten thousand persons. The participating water systems shall remit these fees to the department for deposit in the monitoring assistance fund.

G. The monitoring assistance fund is established consisting of fees collected from participating public water systems pursuant to subsection F of this section, FEDERAL MONIES AND PRIVATE GRANTS, GIFTS, CONTRIBUTIONS AND DEVISES TO ASSIST IN CARRYING OUT THE PURPOSE OF THIS SECTION. The director shall administer the fund. If the fund has a surplus after execution of the previous year's contract, any surplus ~~in excess~~ of ~~$200,000~~ MORE THAN THE AVERAGE ANNUAL OPERATION COSTS AS MEASURED BY THE THREE PRECEEDING FISCAL YEARS, in any year shall be used to reduce the fee for the subsequent year in a manner consistent with the program invoicing system. Monies in the fund shall be used to pay the monitoring assistance program contractors, the environmental laboratories used for the purposes of this section and administrative costs incurred by the department. Monies in the fund are exempt from lapsing pursuant to section 35-190. Interest earned on monies in the fund shall be credited to the fund. The allowable administrative costs of the department are

limited to not more than fifteen percent of monies deposited in the fund annually or ~~one hundred eighty-four thousand dollars~~ $184,000, whichever is less. For the purposes of this subsection, "administrative costs" includes only those costs necessary to do the following:

1. Ensure contractor performance and quality control.

2. Administer the contracts.

3. Collect fees as provided in subsection F of this section.

4. Provide direct technical assistance related to the implementation of the monitoring assistance program only to the extent the department's assistance is required by this section.

H. The safe drinking water program fund is established consisting of monies deposited in the fund pursuant to section 42-5304. The director shall administer the fund. Subject to legislative appropriation, monies in the fund shall be used to pay for the costs of programs required by this article incurred by the department. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations. Interest earned on monies in the fund shall be credited to the fund.

I. The department shall adopt rules for the monitoring assistance program.

J. Any site visit made pursuant to this section by a monitoring assistance program contractor shall not be regarded as an inspection or investigation. Enforcement actions shall not be taken as a result of these site visits, except that this section does not affect the authority of the department to enforce this article pursuant to section 49-354.

Sec. 4. Section 49-542, Arizona Revised Statutes, as amended by Laws 2021, chapter 27, section 3 and chapter 116, section 1, is amended to read:

49-542. Emissions inspection program; powers and duties of director; administration; periodic inspection; minimum standards and rules; exceptions; definition

A. The director shall administer a comprehensive annual or biennial emissions inspection program that shall require the inspection of vehicles in this state pursuant to this article and applicable administrative rules. Such inspection is required for vehicles that are registered in area A and area B, for those vehicles owned by a person who is subject to section 15-1444 or 15-1627 and for those vehicles registered outside of area A or area B but used to commute to the driver's principal place of employment located within area A or area B. Inspection in other counties of ~~the~~ THIS state shall commence on the director's approval of an application by a county board of supervisors for participation in such inspection program. In all counties with a population of three hundred fifty thousand or fewer persons, except for the portion of counties that contain any portion of area A, the director shall as conditions dictate provide for testing to determine the effect of vehicle-related pollution

on ambient air quality in all communities with a metropolitan area population of twenty thousand persons or more. If such testing detects the violation of state ambient air quality standards by vehicle-related pollution, the director shall forward a full report of such violation to the president of the senate, the speaker of the house of representatives and the governor.

B. The state's annual or biennial emissions inspection program shall provide for vehicle inspections at official emissions inspection stations or at fleet emissions inspection stations or may provide for remote vehicle inspection. Each official inspection station in area A shall employ at least one technical assistant who is available during the station's hours of operation to provide assistance for persons who fail the emissions test. An official or fleet emissions inspection station permit shall not be sold, assigned, transferred, conveyed or removed to another location except on such terms and conditions as the director may prescribe. The director shall establish a pilot program to provide for remote vehicle inspections in area A and area B. The director shall operate the pilot program for at least three consecutive years and shall complete the pilot program before July 1, 2025. On completion of the pilot program, the director shall submit to the joint legislative budget committee and the office of the governor a report summarizing the results of the pilot program. The director shall submit the report before the department implements any ~~full scale~~ FULL-SCALE remote vehicle inspection program and shall include in the report a summary of the data collected during the pilot program and a certification by the director that, based on the data collected during the pilot program, a full scale implementation of a remote vehicle inspection program will increase the efficiency and reduce the costs of the vehicle emissions inspection program.

C. Vehicles required to be inspected and registered in this state, except those provided for in section 49-546, shall be inspected, for the purpose of complying with the registration requirement pursuant to subsection D of this section, in accordance with ~~the provisions of~~ this article not more than ninety days before each registration expiration date. A vehicle may be submitted voluntarily for inspection more than ninety days before the registration expiration date on payment of the prescribed inspection fee. That voluntary inspection may be considered as compliance with the registration requirement pursuant to subsection D of this section only on conditions prescribed by the director.

D. A vehicle shall not be registered until such vehicle has passed the emissions inspection and the tampering inspection prescribed in subsection G of this section or has been issued a certificate of waiver. A certificate of waiver shall only be issued one time to a vehicle after January 1, 1997. If any vehicle to be registered is being sold by a dealer licensed to sell motor vehicles pursuant to title 28, the cost of

any inspection and any repairs necessary to pass the inspection shall be borne by the dealer. A dealer who is licensed to sell motor vehicles pursuant to title 28 and whose place of business is located in area A or area B shall not deliver any vehicle to the retail purchaser until the vehicle passes any inspection required by this article, except if the vehicle is a collectible vehicle and the retail purchaser obtains collectible vehicle or classic automobile insurance coverage as prescribed in subsection Z of this section before delivery or the vehicle is otherwise exempt under subsection J of this section.

E. On the registration of a vehicle that has complied with the minimum emissions standards pursuant to this section or is otherwise exempt under this section, the registering officer shall issue an air quality compliance sticker to the registered owner that shall be placed on the vehicle as prescribed by rule adopted by the department of transportation or issue a modified year validating tab as prescribed by rule adopted by the department of transportation. Those persons who reside outside of area A or area B but who elect to test their vehicle or are required to test their vehicle pursuant to this section and who comply with the minimum emissions standards pursuant to this section or are otherwise exempt under this section shall remit a compliance form, as prescribed by the department of transportation, and proof of compliance issued at an official emissions inspection station to the department of transportation along with the appropriate fees. The department of transportation shall then issue the person an air quality compliance sticker that shall be placed on the vehicle as prescribed by rule adopted by the department of transportation. The registering officer or the department of transportation shall collect an air quality compliance fee of $.25. The registering officer or the department of transportation shall deposit, pursuant to sections 35-146 and 35-147, the air quality compliance fee in the state highway fund established by section 28-6991. The department of transportation shall deposit, pursuant to sections 35-146 and 35-147, any emissions inspection fee in the emissions inspection fund. ~~The provisions of~~ This subsection ~~do~~ DOES not apply to those vehicles registered pursuant to title 28, chapter 7, article 7 or 8, the sale of vehicles between motor vehicle dealers or vehicles leased to a person residing outside of area A or area B by a leasing company whose place of business is in area A or area B.

F. The director shall adopt minimum emissions standards pursuant to section 49-447 with which the various classes of vehicles shall be required to comply as follows:

1. For the purpose of determining compliance with minimum emissions standards in area B for motor vehicles other than diesel powered vehicles or constant four-wheel drive vehicles:

(a) A motor vehicle that is equipped with an onboard diagnostic system required by section 202(m) of the clean air act shall be required

to take and pass an onboard diagnostic test or a steady state loaded test and curb idle test as approved by the director.

(b) A motor vehicle with a model year of 1981 or later, other than a vehicle covered by subdivision (a) of this paragraph, shall be required to take and pass a steady state loaded test and curb idle test.

(c) A motor vehicle, other than a vehicle covered by subdivision (a) or (b) of this paragraph, shall be required to take and pass a curb idle test.

2. For the purposes of determining compliance with minimum emissions standards and functional tests in area A for motor vehicles other than diesel powered vehicles or constant four-wheel drive vehicles:

(a) A motor vehicle that is equipped with an onboard diagnostic system required by section 202(m) of the clean air act shall be required to take and pass an onboard diagnostic test or a transient loaded test as approved by the director.

(b) A motor vehicle with a model year of 1981 or later, WITH A GROSS VEHICLE WEIGHT RATING OF LESS THAN EIGHT THOUSAND FIVE HUNDRED ONE POUNDS, other than a vehicle covered by subdivision (a) of this paragraph, shall be required to take and pass a transient loaded test. A MOTOR VEHICLE WITH A MODEL YEAR OF 1981 OR LATER, WITH A GROSS VEHICLE WEIGHT RATING OF MORE THAN EIGHT THOUSAND FIVE HUNDRED ONE POUNDS, OTHER THAN A VEHICLE COVERED BY SUBDIVISION (a) OF THIS PARAGRAPH, SHALL BE REQUIRED TO TAKE AND PASS A STEADY STATE LOADED TEST, A CURB IDLE TEST OR ANOTHER TEST APPROVED UNDER THE FEDERAL CLEAN AIR ACT.

(c) A motor vehicle, other than a vehicle covered by subdivision (a) or (b) of this paragraph, shall be required to take and pass a steady state loaded test and curb idle test.

(d) Motor vehicles by specific class or model year shall be required to take and pass any of the following tests:

(i) An evaporative system purge test.

(ii) An evaporative system integrity test.

3. For the purpose of determining compliance with minimum emissions standards in area A or area B for diesel powered motor vehicles:

(a) A diesel powered motor vehicle that is equipped with an onboard diagnostic system required by section 202(m) of the clean air act shall be required to take and pass an onboard diagnostic test or an opacity test as approved by the director.

(b) A diesel powered motor vehicle, other than a vehicle covered by subdivision (a) of this paragraph, shall be required to take and pass an emissions test as follows:

(i) A loaded, transient or any other form of test as provided for in rules adopted by the director for vehicles with a gross vehicle weight rating of eight thousand five hundred pounds or less.

(ii) A test that conforms with the society for automotive engineers standard J1667 for vehicles with a gross vehicle weight rating of more than eight thousand five hundred pounds.

4. A constant four-wheel drive vehicle shall be required to take and pass a curb idle test or an onboard diagnostic test.

5. Fleet operators must comply with this section, except that used vehicles, other than diesel powered vehicles, sold by a motor vehicle dealer who is a fleet operator and who has been issued a permit under section 49-546 shall be tested as follows:

(a) A motor vehicle with a model year of 1980 or earlier shall take and pass a curb idle test.

(b) A motor vehicle with a model year of 1981 or later, other than a vehicle that is equipped with an onboard diagnostic system that is required by section 202(m) of the clean air act, shall take and pass a curb idle test and a twenty-five hundred revolutions per minute unloaded test.

6. Vehicles owned or operated by the United States, this state or a political subdivision of this state shall comply with this subsection without regard to whether those vehicles are required to be registered in this state, except that alternative fuel vehicles of a school district that is located in area A, other than vehicles equipped with an onboard diagnostic system required by section 202(m) of the clean air act, shall be required to take and pass the curb idle test and the loaded test.

7. A diesel powered motor vehicle with a gross vehicle weight of more than twenty-six thousand pounds and for which gross weight fees are paid pursuant to title 28, chapter 15, article 2 in area A shall not be allowed to operate in area A unless it was manufactured in or after the 1988 model year or is powered by an engine that is certified to meet or surpass emissions standards contained in 40 Code of Federal Regulations section 86.088-11 in effect on July 1, 1995. This paragraph does not apply to vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.

G. In addition to an emissions inspection, a vehicle is subject to a tampering inspection as prescribed by rules adopted by the director if the vehicle was manufactured after the 1974 model year.

H. Vehicles required to be inspected shall undergo a functional test of the gas cap to determine if the cap holds pressure within limits prescribed by the director. This subsection does not apply to any diesel powered vehicle.

I. Motor vehicles failing the initial or subsequent test are not subject to a penalty fee for late registration renewal if the original testing was accomplished before the expiration date and if the registration renewal is received by the motor vehicle division or the county assessor within thirty days after the original test.

J. The director may adopt rules for purposes of implementation, administration, regulation and enforcement of ~~the provisions of~~ this article including:

1. The submission of records relating to the emissions inspection of vehicles inspected by another jurisdiction in accordance with another inspection law and the acceptance of such inspection for compliance with the provisions of this article.

2. The exemption from inspection of:

(a) Except as otherwise provided in this subdivision, a motor vehicle manufactured in or before the 1966 model year. If the United States environmental protection agency issues a vehicle emissions testing exemption for motor vehicles manufactured in or before the 1974 model year for purposes of the state implementation or maintenance plan for air quality, a motor vehicle manufactured in or before the 1974 model year is exempt from inspection.

(b) New vehicles originally registered at the time of initial retail sale and titling in this state pursuant to section 28-2153 or 28-2154.

(c) Vehicles registered pursuant to title 28, chapter 7, article 7 or 8.

(d) New vehicles before the sixth registration year after initial purchase or lease.

(e) Vehicles that are outside of this state at the time of registration, except the director by rule may require testing of those vehicles within a reasonable period of time after those vehicles return to this state.

(f) Golf carts.

(g) ~~Electrically-powered~~ ELECTRICALLY POWERED vehicles.

(h) Vehicles with an engine displacement of less than ninety cubic centimeters.

(i) The sale of vehicles between motor vehicle dealers.

(j) Vehicles leased to a person residing outside of area A or area B by a leasing company whose place of business is in area A or area B.

(k) Collectible vehicles.

(l) Motorcycles.

(m) Cranes and oversize vehicles that require permits pursuant to section ~~28-1100,~~ 28-1103 or 28-1144.

(n) Vehicles that are not in use and that are owned by residents of this state while on active military duty outside of this state.

3. Compiling and maintaining records of emissions test results after servicing.

4. A procedure that allows the vehicle service and repair industry to compare the calibration accuracy of its emissions testing equipment with the department's calibration standards.

5. Training requirements for automotive repair personnel using emissions measuring equipment whose calibration accuracy has been compared with the department's calibration standards.

6. Any other rule that may be required to accomplish ~~the provisions of~~ this article.

K. The director, after consultation with automobile manufacturers and the vehicle service and repair industry, shall establish by rule a definition of "vehicle maintenance and repairs" for motor vehicles subject to inspection under this article. The definition shall specify repair procedures that, when implemented, will reduce vehicle emissions.

L. The director shall adopt rules that specify that the estimated retail cost of all recommended maintenance and repairs shall not exceed the amounts prescribed in this subsection, except that if a vehicle fails a tampering inspection there is no limit on the cost of recommended maintenance and repairs. The director shall issue a certificate of waiver for a vehicle if the director has determined that all recommended maintenance and repairs have been performed and that the vehicle has failed any reinspection that may be required by rule. If the director has determined that the vehicle is in compliance with minimum emissions standards or that all recommended maintenance and repairs for compliance with minimum emissions standards have been performed, but that tampering discovered at a tampering inspection has not been repaired, the director may issue a certificate of waiver if the owner of the vehicle provides to the director a written statement from an automobile parts or repair business that an emissions control device that is necessary to repair the tampering is not available and cannot be obtained from any usual source of supply before the vehicle's current registration expires. Rules adopted by the director for the purpose of establishing the estimated retail cost of all recommended maintenance and repairs pursuant to this subsection shall specify that:

1. In area A the cost shall not exceed:

(a) $500 for a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds.

(b) $500 for a diesel powered vehicle with tandem axles.

(c) For a vehicle other than a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds and other than a diesel powered vehicle with tandem axles:

(i) $200 for such a vehicle manufactured in or before the 1974 model year.

(ii) $300 for such a vehicle manufactured in the 1975 through 1979 model years.

(iii) $450 for such a vehicle manufactured in or after the 1980 model year.

2. In area B the cost shall not exceed:

(a) $300 for a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds.

(b) $300 for a diesel powered vehicle with tandem axles.

3. For a vehicle other than a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds and other than a diesel powered vehicle with tandem axles:

(a) $50 for such a vehicle manufactured in or before the 1974 model year.

(b) $200 for such a vehicle manufactured in the 1975 through 1979 model years.

(c) $300 for such a vehicle manufactured in or after the 1980 model year.

M. Each person whose vehicle has failed an emissions inspection shall be provided a list of those general recommended repair and maintenance procedures for vehicles that are designed to reduce vehicle emissions levels.

N. Notwithstanding any other provisions of this article, the director may adopt rules allowing exemptions from the requirement that all vehicles must meet the minimum standards for registration.

O. The director of environmental quality shall establish, in cooperation with the assistant director for the motor vehicle division of the department of transportation:

1. An adequate method for identifying bona fide residents residing outside of area A or area B to ensure that such residents are exempt from compliance with the inspection program established by this article and rules adopted under this article.

2. A written notice that shall accompany the vehicle registration application forms that are sent to vehicle owners pursuant to section 28-2151 and that shall accompany or be included as part of the vehicle emissions test results that are provided to vehicle owners at the time of the vehicle emissions test. This written notice shall describe at least the following:

(a) The restriction of the waiver program to one time per vehicle and a brief description of the implications of this limit.

(b) The availability and a brief description of the vehicle repair and retrofit program established pursuant to section 49-558.02.

(c) Notice that many vehicles carry extended warranties for vehicle emissions systems, and those warranties are described in the vehicle's owner's manual or other literature.

P. Notwithstanding any other law, if area A or area B is reclassified as an attainment area, emissions testing conducted pursuant to this article shall continue for vehicles registered inside that reclassified area, vehicles owned by a person who is subject to section 15-1444 or 15-1627 and vehicles registered outside of that reclassified

area but used to commute to the driver's principal place of employment located within that reclassified area.

Q. A fleet operator who is issued a permit pursuant to section 49-546 may electronically transmit emissions inspection data to the department of transportation pursuant to rules adopted by the director of the department of transportation in consultation with the director of environmental quality.

R. The director shall prohibit a certificate of waiver pursuant to subsection L of this section for any vehicle that has failed inspection in area A or area B due to the catalytic converter system.

S. The director shall establish provisions for rapid testing of certain vehicles and to allow fleet operators, singly or in combination, to contract directly for vehicle emissions testing.

T. Each vehicle emissions inspection station in area A shall have a sign posted to be visible to persons who are having their vehicles tested. This sign shall state that enhanced testing procedures are a direct result of federal law.

U. The initial adoption of rules pursuant to this section shall be deemed emergency rules pursuant to section 41-1026.

V. The director of environmental quality and the director of the department of transportation shall implement a system to exchange information relating to the waiver program, including information relating to vehicle emissions test results and vehicle registration information.

W. Any person who sells a vehicle that has been issued a certificate of waiver pursuant to this section after January 1, 1997 and who knows that a certificate of waiver has been issued after January 1, 1997 for that vehicle shall disclose to the buyer before completion of the sale that a certificate of waiver has been issued for that vehicle.

X. Vehicles that fail the emissions test at emission levels higher than twice the standard established for that vehicle class by the department pursuant to section 49-447 are not eligible for a certificate of waiver pursuant to this section unless the vehicle is repaired sufficiently to achieve an emissions level below twice the standard for that class of vehicle.

Y. If an insurer notifies the department of transportation of the cancellation or nonrenewal of collectible vehicle or classic automobile insurance coverage for a collectible vehicle, the department of transportation shall cancel the registration of the vehicle and the vehicle's exemption from emissions testing pursuant to this section unless evidence of coverage is presented to the department of transportation within sixty days.

Z. For the purposes of this section, "collectible vehicle" means a vehicle that complies with both of the following:

1. Either:

(a) Bears a model year date of original manufacture that is at least fifteen years old.

(b) Is of unique or rare design, of limited production and an object of curiosity.

2. Meets both of the following criteria:

(a) Is maintained primarily for use in car club activities, exhibitions, parades or other functions of public interest or for a private collection and is used only infrequently for other purposes.

(b) Has a collectible vehicle or classic automobile insurance coverage that restricts the collectible vehicle mileage or use, or both, and requires the owner to have another vehicle for personal use.

Sec. 5. Section 49-701, Arizona Revised Statutes, is amended to read:

49-701. Definitions

In this chapter, unless the context otherwise requires:

1. "Administratively complete plan" means an application for a solid waste facility plan approval that the department has determined contains each of the components required by statute or rule but that has not undergone technical review or public notice by the department.

2. "Administrator" means the administrator of the United States environmental protection agency.

3. "Advanced recycling":

(a) Means a manufacturing process to convert post-use polymers and recovered feedstocks into basic hydrocarbon raw materials, feedstocks, chemicals, monomers, oligomers, plastics, plastics and chemical feedstocks, basic and unfinished chemicals, crude oil, naphtha, liquid transportation fuels and coatings and other products such as waxes and lubricants through processes that include pyrolysis, gasification, depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis and other similar technologies.

(b) Does not include solid waste management, processing, incineration or treatment.

4. "Advanced recycling facility":

(a) Means a facility that receives, stores and converts post-use polymers and recovered feedstocks using advanced recycling.

(b) Includes a manufacturing facility that is subject to applicable provisions of law and department rules for air quality, water quality and waste and land use.

(c) Does not include a solid waste facility, processing facility, treatment facility, materials recovery facility, recycling facility or incinerator.

5. "Beneficial use of CCR" means that ~~the CCR meets~~ all of the following conditions APPLY:

(a) The CCR provides a functional benefit.

(b) The CCR substitutes for the use of a virgin material, which conserves natural resources that would otherwise need to be obtained through practices such as extraction.

(c) The use of the CCR meets relevant product specifications, regulatory standards or design standards when available, and when those standards are not available, the CCR is not used in excess quantities.

(d) ~~When~~ FOR unencapsulated use of CCR involving placement of twelve thousand four hundred tons or more on the land in nonroadway applications, the user demonstrates, keeps records and provides documentation on request, that environmental releases to groundwater, surface water, soil and air are comparable to or lower than those from analogous products made without CCR, or that environmental releases to groundwater, surface water, soil and air will be at or below relevant regulatory and health-based benchmarks for human and ecological receptors during use.

6. "CCR pile" ~~or "pile"~~:

(a) Means any noncontainerized accumulation of solid, nonflowing CCR that is placed on the land.

(b) Does not include a CCR that is beneficially used off-site.

7. "CCR program approval" means United States environmental protection agency approval of the Arizona coal combustion residuals program in accordance with 42 United States Code section 6945(d)(1).

8. "CCR surface impoundment" or "impoundment" means a natural topographic depression, man-made excavation or diked area, which is designed to hold an accumulation of CCR and liquids, and the CCR unit treats, stores or disposes of CCR.

9. "Closed solid waste facility" means any of the following:

(a) A solid waste facility other than a CCR unit that ceases storing, treating, processing or receiving for disposal solid waste before the effective date of design and operation rules for that type of facility adopted pursuant to section 49-761.

(b) A public solid waste landfill that meets any of the following criteria:

(i) Ceased receiving solid waste before July 1, 1983.

(ii) Ceased receiving solid waste and received at least two feet of cover material before January 1, 1986.

(iii) Received approval for closure from the department AFTER COMPLETING A POST CLOSURE CARE AND MONITORING PLAN AS REQUIRED BY PERMIT OR PLAN APPROVAL.

(c) A public composting plant or a public incinerating facility that closed in accordance with an approved plan.

~~(d) A CCR unit when placement of CCR in a CCR unit has ceased and the owner or operator has completed closure of the CCR unit and has initiated postclosure care in accordance with 40 Code of Federal Regulations part 257, subpart D or in accordance with a program approved~~

~~by the United States environmental protection agency under 42 United States Code section 6945(d)(1).~~

10. "Coal combustion residuals" or "CCR" means fly ash, bottom ash, boiler slag and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by electric utilities and independent power producers.

11. "Coal combustion residuals landfill" or "CCR landfill":

(a) Means an area of land or an excavation that receives CCR and that is not a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground or surface coal mine or a cave.

(b) Includes sand and gravel pits and quarries that receive CCR or CCR piles and any use of CCR that does not meet the definition of a beneficial use of CCR.

12. "Coal combustion residuals unit" or "CCR unit":

(a) Means any CCR landfill, CCR surface impoundment or lateral expansion of a CCR unit or a combination of more than one of these units.

(b) Includes both new and existing units, unless otherwise specified.

13. "Conditionally exempt small quantity generator waste" means hazardous waste in quantities as defined by rules adopted pursuant to section 49-922.

14. "Construction debris" means solid waste derived from the construction, repair or remodeling of buildings or other structures.

15. "County" means:

(a) The board of supervisors in the context of the exercise of powers or duties.

(b) The unincorporated areas in the context of area of jurisdiction.

16. "Demolition debris" means solid waste derived from the demolition of buildings or other structures.

17. "Depolymerization" means a manufacturing process through which post-use polymers are broken into smaller molecules such as monomers and oligomers or raw, intermediate or final products, plastics and chemical feedstocks, basic and unfinished chemicals, crude oil, naphtha, liquid transportation fuels, waxes, lubricants, coatings and other basic hydrocarbons.

18. "Discharge" has the same meaning prescribed in section 49-201.

19. "Existing CCR landfill" means a CCR landfill that receives CCR both before and after October 19, 2015, or for which construction commenced before October 19, 2015 and that receives CCR on or after October 19, 2015. For the purposes of this paragraph, "commenced construction" means the owner or operator of a CCR landfill has obtained the federal, state and local approvals or permits necessary to begin

physical construction and a continuous on site, physical construction program had begun before October 19, 2015.

20. "Existing CCR surface impoundment" means a CCR surface impoundment that meets one of the following conditions:

(a) Receives CCR both before and after October 19, 2015.

(b) For which construction commenced before October 19, 2015 and that receives CCR on or after October 19, 2015. For the purposes of this paragraph, "commenced construction" means the owner or operator of a CCR surface impoundment has obtained the federal, state~~,~~ and local approvals or permits necessary to begin physical construction and a continuous on site, physical construction program had begun ~~prior to~~ BEFORE October 19, 2015.

21. "Existing solid waste facility" means a solid waste facility other than a CCR unit that begins construction or is in operation on the effective date of the design and operation rules adopted by the director pursuant to section 49-761 for that type of solid waste facility.

22. "Facility plan" means any design or operating plan for a solid waste facility or group of solid waste facilities other than a permit issued under article 11 of this chapter.

23. "40 C.F.R. part 257, subparts A and B" means 40 Code of Federal Regulations part 257, subparts A and B in effect on May 1, 2004.

24. "40 C.F.R. part 258" means 40 Code of Federal Regulations part 258 in effect on May 1, 2004.

25. "Gasification" means a manufacturing process through which recovered feedstocks are heated and converted into a fuel and gas mixture in an oxygen-deficient atmosphere and the mixture is converted into valuable raw, intermediate and final products, including plastic monomers, chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel, gasoline, diesel and gasoline blendstocks, home heating oil and other fuels, including ethanol and transportation fuel, that are returned to economic utility in the form of raw materials, products or fuels.

26. "Household hazardous waste" means solid waste as described in 40 Code of Federal Regulations section 261.4(b)(1) as incorporated by reference in the rules adopted pursuant to chapter 5 of this title.

27. "Household waste":

(a) Means any solid waste, including garbage, rubbish and sanitary waste from septic tanks, that is generated from households, including single and multiple-family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas.

(b) Does not include construction debris, landscaping rubble or demolition debris.

28. "Inert material":

(a) Means material that satisfies all of the following conditions:

(i) Is not flammable.

(ii) Will not decompose.

(iii) Will not leach substances in concentrations that exceed applicable aquifer water quality standards prescribed by section 49-201, paragraph 22 when subjected to a water leach test that is designed to approximate natural infiltrating waters.

(b) Includes concrete, asphaltic pavement, brick, rock, gravel, sand, soil and metal, if used as reinforcement in concrete.

(c) Does not include special waste, hazardous waste, glass or other metal.

29. "Land disposal" means placement of solid waste in or on land.

30. "Landscaping rubble" means material that is derived from landscaping or reclamation activities and that may contain inert material and not more than ten percent by volume of vegetative waste.

31. "Lateral expansion" means, for the purposes of the coal combustion residuals program established pursuant to article 11 of this chapter, a horizontal expansion of the waste boundaries of an existing CCR landfill or existing CCR surface impoundment made after October 19, 2015.

32. "Management agency" means any person responsible for the day-to-day operation, maintenance and management of a particular public facility or group of public facilities.

33. "Medical waste":

(a) Means any solid waste that is generated in the diagnosis, treatment or immunization of a human being or animal or in any research relating to that diagnosis, treatment or immunization, or in the production or testing of biologicals.

(b) Includes discarded drugs.

(c) Does not include hazardous waste as defined in section 49-921 other than conditionally exempt small quantity generator waste.

34. "Municipal solid waste landfill" means any solid waste landfill that accepts household waste, household hazardous waste or conditionally exempt small quantity generator waste.

35. "New solid waste facility" means a solid waste facility that begins construction or operation after the effective date of design and operating rules that are adopted pursuant to section 49-761 or article 11 of this chapter for that type of solid waste facility.

36. "On site" means the same or geographically contiguous property that may be divided by public or private right-of-way if the entrance and exit between the properties are at a crossroads intersection and access is by crossing the right-of-way and not by traveling along the right-of-way. Noncontiguous properties that are owned by the same person and connected by a right-of-way that is controlled by that person and to which the public does not have access are deemed on site property. Noncontiguous properties that are owned or operated by the same person regardless of right-of-way control are also deemed on site property.

37. "Person" means any public or private corporation, company, partnership, firm, association or society of persons, the federal government and any of its departments or agencies, this state or any of its agencies, departments, political subdivisions, counties, towns or municipal corporations, as well as a natural person.

38. "Post-use polymer":

(a) Means a plastic to which all of the following apply:

(i) The plastic is derived from any industrial, commercial, agricultural or domestic activities.

(ii) The plastic is not mixed with solid waste or hazardous waste on site or during processing at the advanced recycling facility.

(iii) The plastic's use or intended use is as a feedstock for manufacturing crude oil, fuels, feedstocks, blendstocks, raw materials or other intermediate products or final products using advanced recycling.

(iv) The plastic has been sorted from solid waste and other regulated waste but may contain residual amounts of solid waste such as organic material and incidental contaminants or impurities such as paper labels and metal rings.

(v) The plastic is processed at an advanced recycling facility or held at an advanced recycling facility before processing.

(b) Does not include solid waste or municipal waste.

39. "Process" or "processing" means the reduction, separation, recovery, conversion or recycling of solid waste.

40. "Public solid waste facility" means a transfer facility and any site owned, operated or used by any person for the storage, processing, treatment or disposal of solid waste that is not generated on site.

41. "Pyrolysis" means a manufacturing process through which post-use polymers are heated in the absence of oxygen until melted, are thermally decomposed and are then cooled, condensed and converted into valuable raw, intermediate and final products, including plastic monomers, chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel, gasoline, diesel and gasoline blendstocks, home heating oil and other fuels, including ethanol and transportation fuel, that are returned to economic utility in the form of raw materials, products or fuels.

42. "Recovered feedstocks":

(a) Means one or more of the following materials that have been processed so that they may be used as feedstock in an advanced recycling facility:

(i) Post-use polymers.

(ii) Materials for which the United States environmental protection agency has made a nonwaste determination pursuant to 40 Code of Federal Regulations section 241.3(c) or has otherwise determined are feedstocks and not solid waste.

(b) Does not include:

(i) Unprocessed municipal solid waste.

(ii) Materials that are mixed with solid waste or hazardous waste on site or during processing at an advanced recycling facility.

43. "Recycling facility" means a solid waste facility that is owned, operated or used for the storage, treatment or processing of recyclable solid waste ~~and that handles wastes that have a significant adverse effect on the environment~~.

44. "Salvaging" means the removal of solid waste from a solid waste facility with the permission and in accordance with rules or ordinances of the management agency for purposes of productive reuse.

45. "Scavenging" means the unauthorized removal of solid waste from a solid waste facility.

46. "Solid waste facility" means a transfer facility and any site owned, operated or used by any person for the storage, processing, treatment or disposal of solid waste, ~~conditionally exempt~~ VERY small quantity generator waste or household hazardous waste but does not include the following:

(a) A site at which less than one ton of solid waste that is not household waste, household hazardous waste, conditionally exempt small quantity generator waste, medical waste or special waste and that was generated on site is stored, processed, treated or disposed in compliance with section 49-762.07, subsection F.

(b) A site at which solid waste that was generated on site is stored for ninety days or less.

(c) A site at which nonputrescible solid waste that was generated on site in amounts of less than one thousand kilograms per month per type of nonputrescible solid waste is stored and contained for one hundred eighty days or less.

(d) A site that stores, treats or processes paper, glass, wood, cardboard, household textiles, scrap metal, plastic, vegetative waste, aluminum, steel or other recyclable material and that is not a waste tire facility, a transfer facility or a recycling facility.

(e) A site where sludge from a wastewater treatment facility is applied to the land as a fertilizer or beneficial soil amendment in accordance with sludge application requirements.

(f) A closed solid waste facility.

(g) A solid waste landfill that is performing or has completed postclosure care before July 1, 1996 in accordance with an approved postclosure plan.

(h) A closed solid waste landfill performing a onetime removal of solid waste from the closed solid waste landfill, if the operator provides a written notice that describes the removal project to the department within thirty days after completion of the removal project.

(i) A site where solid waste generated in street sweeping activities is stored, processed or treated before disposal at a solid waste facility authorized under this chapter.

(j) A site where solid waste generated at either a drinking water treatment facility or a wastewater treatment facility is stored, processed, or treated on site before disposal at a solid waste facility authorized under this chapter, and any discharge is regulated pursuant to chapter 2, article 3 of this title.

(k) A closed solid waste landfill where development activities occur on the property or where excavation or removal of solid waste is performed for maintenance and repair if the following conditions are met:

(i) When the project is completed there will not be an increase in leachate that would result in a discharge.

(ii) When the project is completed the concentration of methane gas will not exceed twenty-five percent of the lower explosive limit in on-site structures, or the concentration of methane gas will not exceed the lower explosive limit at the property line.

(iii) Protection has been provided to prevent remaining waste from causing any vector, odor, litter or other environmental nuisance.

(iv) The operator provides a notice to the department containing the information required by section 49-762.07, subsection A, paragraphs 1, 2 and 5 and a brief description of the project.

(l) Agricultural on-site disposal as provided in section 49-766.

(m) The use, storage, treatment or disposal of by-products of regulated agricultural activities as defined in section 49-201 and that are subject to best management practices pursuant to section 49-247 or by-products of livestock, range livestock and poultry as defined in section 3-1201, pesticide containers that are regulated pursuant to title 3, chapter 2, article 6 or other agricultural crop residues.

(n) Household hazardous waste collection events held at a temporary site for not more than six days in any calendar quarter.

(o) Wastewater treatment facilities as defined in section 49-1201.

(p) An on-site single-family household waste composting facility.

(q) A site at which five hundred or fewer waste tires are stored.

(r) A site at which mining industry off-road waste tires are stored or are disposed of as prescribed by rules in effect on February 1, 1996, until the director by rule determines that on-site recycling methods exist that are technically feasible and economically practical.

(s) A site at which underground piping, conduit, pipe covering or similar structures are abandoned in place in accordance with applicable state and federal laws.

(t) An advanced recycling facility that converts recovered feedstocks to manufacture raw materials and intermediate and final products.

47. "Solid waste landfill":

(a) Means a facility, area of land or excavation in which solid wastes are placed for permanent disposal.

(b) Does not include a land application unit, surface impoundment, injection well, coal combustion residuals landfill, compost pile or waste pile or an area containing ash from the on-site combustion of coal that does not contain household waste, household hazardous waste or conditionally exempt small quantity generator waste.

48. "Solid waste management" means the systematic administration of activities that provide for the collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste in a manner that protects public health and safety and the environment and prevents and abates environmental nuisances.

49. "Solid waste management plan" means the plan that is adopted pursuant to section 49-721 and that provides guidelines for the collection, source separation, storage, transportation, processing, treatment, reclamation and disposal of solid waste in a manner that protects public health and safety and the environment and prevents and abates environmental nuisances.

50. "Solvolysis":

(a) Means a manufacturing process through which post-use polymers are purified with the aid of solvents, allowing additives and contaminants to be removed and producing polymers capable of being recycled or reused without first being reverted to a monomer.

(b) Includes hydrolysis, aminolysis, ammonoloysis, methanolysis and glycolysis.

51. "Storage" means the holding of solid waste.

52. "Transfer facility":

(a) Means a site that is owned, operated or used by any person for the rehandling or storage for ninety days or less of solid waste that was generated off site for the primary purpose of transporting that solid waste.

(b) Includes those facilities that include significant solid waste transfer activities that warrant the facility's regulation as a transfer facility.

53. "Treatment" means any method, technique or process used to change the physical, chemical or biological character of solid waste so as to render that waste safer for transport, amenable for processing, amenable for storage or reduced in volume.

54. "Vegetative waste":

(a) Means waste derived from plants, including tree limbs and branches, stumps, grass clippings and other waste plant material.

(b) Does not include processed lumber, paper, cardboard and other manufactured products that are derived from plant material.

55. "Waste pile" means any noncontainerized accumulation of solid, nonflowing waste that is used for treatment or storage.

56. Waste tire does not include tires used for agricultural purposes as bumpers on agricultural equipment or as ballast to maintain

covers at an agricultural site, or any tire disposed of using any of the methods in section 44-1304, subsection D, paragraphs 1, 2, 3, 5 through 8 and 11 and means any of the following:

(a) A tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

(b) A tire that is removed from a motor vehicle and is retained for further use.

(c) A tire that has been chopped or shredded.

57. "Waste tire facility" means a solid waste facility at which five thousand or more waste tires are stored outdoors on any day.

Sec. 6. Section 49-891, Arizona Revised Statutes, is amended to read:

49-891. Coal combustion residuals program; rules; incorporation by reference

A. The director may adopt rules to establish and operate a coal combustion residuals program equivalent to or at least as protective as the federal coal combustion residuals program under 40 Code of Federal Regulations part 257, subpart D for the purpose of obtaining approval to operate the federal CCR program. Federal coal combustion residuals regulations may be adopted by reference. Rules adopted pursuant to this subsection shall not be more or less stringent than or conflict with 40 Code of Federal regulations part 257, subpart D for nonprocedural standards, except that the department may adopt aquifer protection standards that are more stringent than 40 Code of Federal regulations part 257, subpart D if these standards are developed pursuant to chapter 2, article 3 of this title.

B. Rules adopted pursuant to subsection A of this section shall not be more or less stringent than or conflict with 40 Code of Federal Regulations part 257, subpart D for nonprocedural standards, except that the department shall adopt those portions of the dam safety standards THAT ARE developed pursuant to title 45, chapter 6, article 1, ~~and~~ THAT are in existence for CCR surface impoundments on September 24, 2022 AND that are more stringent than 40 Code of Federal Regulations part 257, subpart D.

C. The rules authorized by subsection A of this section shall provide requirements for issuing, denying, suspending or modifying individual CCR permits, including:

1. Requirements for submitting notices, permit applications and any additional information necessary to determine whether a permit should be issued.

2. Recordkeeping, reporting and compliance schedule requirements in the permit.

3. A permit life of ten years, after which the permit shall be renewed.

4. Adequate opportunities for public participation during CCR permit processing.

5. Other terms and conditions as the director deems necessary to ensure compliance with this article.

D. The rules for CCR permits shall include:

1. Permit processing fees from the applicant to cover the cost of administrative services and other expenses associated with evaluating the application and issuing or denying the permit, beginning when an application is submitted.

2. Annual fees for the program approved by the United States environmental protection agency beginning after CCR program approval.

E. The fees authorized by this section shall be deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee fund established by section 49-881.

F. ~~Within one hundred eighty days~~ After the effective date of design and operation rules adopted by the director for coal combustion residuals facilities pursuant to this section, facilities with CCR units may submit to the department a permit application covering each CCR unit at the facility. Facilities with CCR units shall submit to the department a permit application covering each CCR unit at the facility within one hundred eighty days of CCR program approval.

Sec. 7. Conditional enactment

Section 49-542, Arizona Revised Statutes, as amended by Laws 2021, chapter 27, section 3 and chapter 116, section 1 and this act, becomes effective on the date prescribed by Laws 2021, chapter 27, section 9, as amended by Laws 2023, chapter 78, section 1, but only on the occurrence of the condition prescribed by Laws 2021, chapter 27, section 9, as amended by Laws 2023, chapter 78, section 1.