

REFERENCE TITLE: biosolids; land application; immunity

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

SB 1212

Introduced by
Senator Dunn

AN ACT

AMENDING TITLE 37, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 37-292; AMENDING SECTIONS 49-255.03 AND 49-457, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-468; RELATING TO BIOSOLIDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 37, chapter 2, article 4, Arizona Revised
3 Statutes, is amended by adding section 37-292, to read:

4 37-292. Agricultural lessees; state lands; accepted
5 practices; lease renewal; immunity

6 A. THE COMMISSIONER SHALL REQUIRE AN AGRICULTURAL LESSEE OF STATE
7 LANDS TO COMPLY WITH ALL APPLICABLE LOCAL ORDINANCES, STATE AND FEDERAL
8 AND GENERALLY ACCEPTED FARMING PRACTICES ON STATE LANDS, INCLUDING RULES
9 AND LAWS USING FERTILIZERS, BIOSOLIDS AND SOIL AMENDMENTS AS PRESCRIBED BY
10 SECTIONS 49-255.03 AND 49-468 AND BY RULES ADOPTED PURSUANT TO THOSE
11 SECTIONS.

12 B. A PERSON'S USE OF FERTILIZERS, BIOSOLIDS AND SOIL AMENDMENTS ON
13 STATE LANDS THAT ARE SUBJECT TO AN AGRICULTURAL LEASE IS PRESUMED
14 REASONABLE PURSUANT TO SECTION 3-112 IF THE USE COMPLIES WITH SECTIONS
15 49-255.03 AND 49-468 AND BY RULES ADOPTED PURSUANT TO THOSE SECTIONS.

16 C. THE COMMISSIONER MAY NOT PROHIBIT THE USE OF FERTILIZERS,
17 BIOSOLIDS OR SOIL AMENDMENTS AS A CONDITION OF RENEWING THE LEASE OF STATE
18 LANDS IF THE DEPARTMENT OF ENVIRONMENTAL QUALITY HAS NOT MADE A FINDING
19 THAT THE LESSEE'S USE OF STATE LAND IS IN VIOLATION OF SECTIONS 49-255.03
20 AND 49-468 AND BY RULES ADOPTED PURSUANT TO THOSE SECTIONS.

21 D. ON WRITTEN REQUEST, AN AGRICULTURAL LESSEE OF STATE LANDS SHALL
22 PROVIDE THE COMMISSIONER A COPY OF ALL APPLICABLE PERMITS AND REGISTRATION
23 FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

24 E. IF THE COMMISSIONER IS IN COMPLIANCE WITH THIS SECTION, THE
25 COMMISSIONER, THE DEPARTMENT, THE STATE LAND TRUST AND THIS STATE ARE
26 IMMUNE FROM ALL LIABILITIES OR DAMAGES ARISING FROM ANY ACTION RELATING TO
27 THE USE OF FERTILIZERS, BIOSOLIDS OR SOIL AMENDMENTS ON STATE LAND.

28 Sec. 2. Section 49-255.03, Arizona Revised Statutes, is amended to
29 read:

30 49-255.03. Sewage sludge program; rules and requirements

31 A. The director shall adopt rules to establish a sewage sludge
32 program that is consistent with the requirements of sections 402 and 405
33 of the clean water act. Except as otherwise required by this article, the
34 director shall not adopt any requirement that is more stringent than any
35 requirements of the clean water act. The director shall not adopt any
36 requirement that conflicts with any requirement of the clean water act.

37 B. The rules adopted by the director shall provide for the
38 regulation of all sewage sludge use or disposal practices used in this
39 state.

40 C. Notwithstanding any other law or rule, the director shall
41 require any land application of a substance that contains sewage or
42 septage to comply with the rules established pursuant to subsection A of
43 this section, including pathogen reduction requirements that ~~is~~ ARE
44 consistent with the clean water act. RULES ADOPTED PURSUANT TO THIS
45 SECTION RELATING TO LAND APPLICATION OF SEWAGE SLUDGE MAY NOT CONFLICT

1 WITH SECTION 49-468 RELATING TO THE APPLICATION OF BIOSOLIDS TO
2 AGRICULTURAL LANDS.

3 D. Notwithstanding any other law or rule, a biosolid combined with
4 a solid waste shall be regulated as a solid waste pursuant to chapter 4 of
5 this title.

6 Sec. 3. Section 49-457, Arizona Revised Statutes, is amended to
7 read:

8 49-457. Agricultural best management practices committee;
9 members; powers; permits; enforcement; preemption;
10 definitions

11 A. ~~A~~ THE AGRICULTURAL best management practices committee ~~for~~
12 ~~regulated agricultural activities~~ is established.

13 B. The committee shall consist of:

14 1. The director of environmental quality or the director's
15 designee.

16 2. The director of the Arizona department of agriculture or the
17 director's designee.

18 3. The dean of the college of agriculture of the university of
19 Arizona or the dean's designee.

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

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

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

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

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

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

27 10. One soil taxonomist from the university of Arizona college of
28 agriculture.

29 11. One person actively engaged in the operation of a beef cattle
30 feed lot.

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

32 13. One person actively engaged in the operation of a poultry
33 facility.

34 14. One person actively engaged in the operation of a swine
35 facility.

36 15. One person who is employed by a county air quality department or
37 agency.

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

43 D. The committee shall elect a chairperson from the appointed
44 members to serve a two-year term.

1 E. The committee shall meet at the call of the chairperson or at
2 the request of a majority of the appointed members.

3 F. The department of environmental quality, the Arizona department
4 of agriculture and the college of agriculture of the university of Arizona
5 shall cooperate with and provide technical assistance and any necessary
6 information to the committee. The department of environmental quality
7 shall provide the necessary staff support and meeting facilities for the
8 committee.

9 G. A person who commences a regulated agricultural activity that is
10 subject to an agricultural general permit adopted pursuant to this section
11 shall immediately comply with the general permit.

12 H. The committee shall adopt and, as necessary and appropriate,
13 amend by rule an agricultural general permit specifying best management
14 practices, including recordkeeping and reporting requirements, for
15 regulated agricultural activities to reduce fugitive PM-10 emissions. The
16 committee shall adopt by rule a list of best management practices, at
17 least one of which shall be used in areas designated as moderate
18 nonattainment for PM-10 and at least two of which shall be used in areas
19 designated as serious nonattainment for PM-10, to demonstrate compliance
20 with applicable provisions of the general permit. Best management
21 practices may vary within the regulated area, according to regional or
22 geographical conditions or cropping patterns. **RULES ADOPTED PURSUANT TO
23 THIS SUBSECTION MUST INCLUDE THE REQUIREMENTS FOR THE APPLICATION OF
24 BIOSOLIDS TO AGRICULTURAL LAND.**

25 I. Fugitive PM-10 emissions from regulated agricultural activities
26 that are subject to an agricultural general permit pursuant to this
27 section are not subject to a permit issued pursuant to section 49-426
28 except as follows:

29 1. If the fugitive PM-10 emissions are from regulated agricultural
30 activities at a stationary source that is otherwise required to obtain a
31 permit pursuant to section 49-426, the permit issued pursuant to section
32 49-426 shall be subject to conditions as necessary to ensure compliance
33 with federal, state and county regulations approved as a part of the state
34 implementation plan, including regulations adopted under section
35 110(a)(2)(c) of the clean air act.

36 2. A person for whom an agricultural general permit has been
37 revoked under subsection L of this section must obtain a permit pursuant
38 to section 49-426 that includes enforceable conditions that impose best
39 management practices on fugitive PM-10 emissions from regulated
40 agricultural activities.

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

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

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

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

28 M. The committee shall develop and commence an education
29 program. The education program shall be conducted by the director or the
30 director's designee or designees.

31 N. The regulation of fugitive PM-10 emissions produced by regulated
32 agricultural activities is a matter of statewide concern. Accordingly,
33 except for rules incorporated into the applicable implementation plan,
34 this section preempts further regulation of fugitive PM-10 emissions from
35 regulated agricultural activities by a county, city, town or other
36 political subdivision of this state.

37 O. For the purposes of this section, unless the context otherwise
38 requires:

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

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

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

1 (c) Reduce fugitive PM-10 emissions from those areas of a
2 commercial farm that are normally in crop production including prior to
3 plant emergence and when the land is not in crop production.

4 (d) Reduce fugitive PM-10 emissions from those areas of a
5 commercial farm undergoing significant agricultural earthmoving
6 activities.

7 (e) Reduce fugitive PM-10 emissions from the activities of a dairy,
8 a beef cattle feed lot, a poultry facility or a swine facility, including
9 practices relating to the following:

10 (i) Unpaved access connections.

11 (ii) Unpaved roads and feed lanes.

12 (iii) Animal waste and feed handling and transporting.

13 (iv) Arenas, corrals and pens.

14 (f) Only in those regulated areas that are established after June
15 1, 2009, as prescribed in paragraph 6, subdivision (c) of this subsection,
16 reduce fugitive PM-10 emissions from the activities of an irrigation
17 district governed by title 48, chapter 19 and affecting those lands and
18 facilities that are under the jurisdiction and control of the district,
19 including practices relating to the following:

20 (i) Unpaved operation and maintenance roads.

21 (ii) Canals.

22 (iii) Unpaved utility access roads.

23 2. "Applicable implementation plan" means that term as defined in
24 42 United States Code section 7601(q).

25 3. "Best management practices" means techniques that are verified
26 by scientific research and that on a case-by-case basis are practical,
27 economically feasible and effective in reducing fugitive PM-10 emissions
28 from a regulated agricultural activity.

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

31 5. "Regulated agricultural activities" means:

32 (a) Commercial farming practices that may produce fugitive PM-10
33 emissions within the regulated area, including activities of a dairy, a
34 beef cattle feed lot, a poultry facility and a swine facility.

35 (b) Only in those regulated areas that are established after June
36 1, 2009, as prescribed in paragraph 6, subdivision (c) of this subsection,
37 activities of an irrigation district that is governed by title 48,
38 chapter 19.

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

40 (a) The Maricopa PM-10 nonattainment area.

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

43 (c) Any other PM-10 nonattainment area established in this state on
44 or after June 1, 2009.

1 Sec. 4. Title 49, chapter 3, article 2, Arizona Revised Statutes,
2 is amended by adding section 49-468, to read:

3 49-468. Application of biosolids to agricultural lands; rules

4 A. THE DIRECTOR SHALL ADOPT RULES FOR THE APPLICATION OF BIOSOLIDS
5 TO AGRICULTURAL LANDS THAT CONSIDER THE FOLLOWING:

- 6 1. THE AIR QUALITY IMPACT TO THE SURROUNDING AREA.
- 7 2. APPLICATION CONDITIONS.
- 8 3. MOISTURE CONTENT.

9 B. RULES ADOPTED PURSUANT TO SUBSECTION A OF THIS SECTION MUST
10 ENSURE THE APPLICATION OF BIOSOLIDS TO AGRICULTURAL LANDS DOES NOT
11 CONFLICT WITH THE WATER QUALITY REQUIREMENTS OF SECTION 49-255.03.

12 Sec. 5. Agricultural best management practices committee;
13 rules; in-person visits; delayed repeal

14 A. The agricultural best management practices committee established
15 by section 49-457, Arizona Revised Statutes, as amended by this act, shall
16 update the rules adopted pursuant to section 45-457, Arizona Revised
17 Statutes, within one year after the effective date of this act.

18 B. Before the department of environmental quality adopts any
19 updated rules pursuant to section 49-457, Arizona Revised Statutes, as
20 amended by this act, the director of environmental quality or the
21 director's designee who serves on the agricultural best management
22 practices committee established by section 49-457, Arizona Revised
23 Statutes, as amended by this act, shall visit in person an agricultural
24 operation that will be affected by the updated rules not less than two
25 times during the time period in which the agricultural operation is
26 actively applying biosolids to the agricultural operation's lands.

27 C. This section is repealed from and after December 31, 2026.