



# ARIZONA HOUSE OF REPRESENTATIVES

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House: NREW DPA 12-0-0-0

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## **HB 2410: environmental programs; amendments**

**Sponsor: Representative Griffin, LD 14**

**House Engrossed**

### **Overview**

Makes various changes to several programs administered by the Arizona Department of Environmental Quality (ADEQ).

### **History**

#### ***Dry Wells and the Underground Injection Control Program***

Dry wells dispose of storm water but do not include class 1-4 injection wells, which are regulated under the federal Underground Injection Control Program. Owners must register dry wells with ADEQ. Additionally, ADEQ can establish standards in rule for these wells which involve aspects such as design, location and inspection. ADEQ can also take action against those violating applicable statute or rule ([A.R.S. § 49-331 et seq.](#)).

A 2018 law gave ADEQ the authority to develop rules to administer the federal underground injection control program, which regulates injection wells used for underground discharges of different types of hazardous and non-hazardous liquid and gas ([Laws 2018, Chapter 170](#)).

#### ***Clean Air Act***

Under the Clean Air Act, the Environmental Protection Agency (EPA) has established National Ambient Air Quality Standards for six common pollutants, including ozone and particulate pollution ([42 U.S.C. § 7409](#)). Each state must adopt state implementation plans with measures to control emissions from all major sources in areas that do not comply with these standards. The EPA must approve these plans ([42 U.S.C. § 7410](#)). Unless specifically authorized, Arizona Revised Statute requires that all state laws, rules and standards are consistent with but not more stringent than corresponding federal laws and regulations ([A.R.S. § 49-104](#)).

The EPA adopted emissions standards for nonroad vehicles and engines based on horsepower which became effective in the mid-1990s and became increasingly stringent in subsequent years ([40 Code of Federal Regulations Part 1039, Appendix I](#)). As part of a 1997 air quality omnibus, the Legislature directed ADEQ to adopt emission standards for off road vehicles and engines marketed in Arizona beginning with the 1999 model year. ADEQ was also required to adopt emission standards for golf cart engines in Maricopa County ([Laws 1997, Chapter 269, § 13](#)).

A 2017 law removed iso-butanol from the list of oxygenates that cannot collectively contribute to more than 0.10% oxygen by weight in gasoline sold for fueling motor vehicles. It also allowed a gasoline blend other than a gasoline-ethanol blend to be sold for motor vehicles in the Phoenix metropolitan area between November 1 and March 31 of each year. However, to become effective, the EPA needed to approve these proposed changes as part of the state implementation plan by July 1, 2022 ([Laws 2017, Chapter 295](#)). This plan has yet to be approved.

#### ***Hazardous Waste Disposal Site***

A 1980 law instructed ADEQ to acquire a site in Maricopa County for a hazardous waste disposal facility and authorized the Arizona Department of Administration (ADOA) to contract for the

development of this facility ([Laws 1980, Chapter 119](#)). However, this facility was never created and the statutes involving this site were repealed in 2021, including provisions that gave ADOA authority to manage the site as a state-owned property ([Laws 2021, Chapter 88, § 17](#)).

#### ***Hazardous Waste Management Fee Fund***

A 1991 law expanded ADEQ's responsibilities for regulating pollution prevention efforts. It also appropriated \$834,400 to ADEQ from the state General Fund for FY 1992 and required the agency to remit certain amounts to the State Treasurer in subsequent fiscal years ([Laws 1991, Chapter 315](#)).

The State Board of Technical Registration had a special committee to help investigate and review drug laboratory remediation complaints. A 2016 law removed these responsibilities from the board and transferred unencumbered monies from assessments on drug offenses in its fund to the Hazardous Waste Management Fund. It directed ADEQ to use these monies to remediate several properties that had been reported to the board before the law's August 6, 2016 effective date ([Laws 2016, Chapter 352](#)).

#### ***Miscellaneous Air Quality Programs***

The 1996 Arizona Clean Air Act required ADEQ to establish the Technical Assistance Review Program with the state's universities and the then-Department of Commerce's Energy Office. This program was designed to help develop innovative technologies that improve air quality by reducing vehicle emissions. It also created a board to assist with emission certification processes of the California Air Resources Board and the EPA ([Laws 1996, 7<sup>th</sup> Special Session, Chapter 6](#)). When the Arizona Commerce Authority was created to assume many of the Department of Commerce's responsibilities, this program was transferred to the Governor's Energy Office ([Laws 2011, 2<sup>nd</sup> Special Section, Chapter 1, § 125](#)). This office was disbanded in 2015.

A 2001 law required ADEQ to establish a daily visibility index for evaluating and reporting on current visibility conditions and progress towards visibility improvement goals in the Phoenix metropolitan area ([Laws 2001, Chapter 371, § 20](#)). This same law allowed an individual to use ultra low sulfur fuel in vehicles retrofitted with oxidation catalysts and particulate filters in the Phoenix and Tucson metropolitan areas. It also directed ADEQ to cooperate with manufacturers, distributors and sellers of this fuel and equipment to determine availability and use of these technologies in these metropolitan areas ([Laws 2001, Chapter 371, § 15](#)).

A 2007 law directed ADEQ to create the Dust-Free Developments Program, which was intended to recognize entities that have made efforts to reduce airborne dust in Maricopa County and in the PM-10 non-attainment area containing Apache Junction ([Laws 2007, Chapter 292, § 15](#)).

### **Provisions**

#### ***Aquifer Protection Permits and Underground Injection Wells***

1. Specifies that a general aquifer protection permit for disposing stormwater mixed with other water from certain man-made water bodies using vadose zone injection wells must have these wells inventoried consistent with the Underground Injection Control Program under either state rules approved by the EPA or federal regulations adopted by the EPA. (Sec. 3)
2. Specifies that underground injection well permits are not subject to A.R.S. § 49-224(B), which requires all aquifers to be classified for drinking water protected use unless that classification is changed. (Sec. 4)

#### ***EPA Approval of Changes to Gasoline Formulation Requirements***

3. Delays the deadline for:

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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- a) EPA approval of proposed modifications to the gasoline fuel formulation requirements from July 1, 2022 to July 1, 2024 so that the state statute making these changes can become effective; and
  - b) ADEQ to notify Legislative Council on the EPA approval from October 1, 2022 to October 1, 2024. (Sec. 12)
4. Makes Laws 2017, Chapter 295, Sec. 3 as amended by this act retroactive from June 29, 2022. (Sec. 14)

**Engine Standards (Sec. 6)**

5. Allows, instead of requires, ADEQ to adopt rules for air pollution emission standards for:
- a) off-road vehicles and engines marketed in Arizona starting in the 1999 model year; and
  - b) golf cart engines in Maricopa County.

**Diesel Vehicle Low Emissions Incentive Grants (Sec. 7)**

6. Removes statutory cross references for the definitions of *alternative fuel* and *cleaning burning fuel*.

**Technical Assistance Review (Sec. 8)**

7. Allows, instead of requires, ADEQ to develop a program with state's universities to quicken testing and certification of technologies that reduce vehicle emissions, develop incentives for technologies that reduce vehicle emissions and create a board to help developers of these technologies with the emission certification processes.
8. Removes the Governor's Energy Office from the list of entities ADEQ can collaborate with in developing this program.

**Hazardous Waste Management Fee Fund (Sec. 10)**

9. No longer allows Hazardous Waste Management Fee Fund monies to be used for:
- a) reimbursing appropriations received in FY 1992 to the state General Fund as provided by law; or
  - b) remediating properties that have been reported to the State Board of Technical Registration before August 6, 2016 if there is evidence the property owner did not comply with state law for removing gross contamination on the property.

**Transferring Land to ADOA (Sec. 13)**

10. Conveys title to one square mile of property from ADEQ to ADOA on this act's effective date.
11. Directs ADEQ and ADOA to take actions necessary to complete this conveyance of real property.
12. Exempts this transaction from Title 37, Chapter 4 relating to acquiring real property.

**Soil Remediation (Sec. 1)**

13. Clarifies that the owner of a property with contaminated soil is required to record a declaration of environmental use restriction when the owner chooses to leave contamination on the property which exceeds the applicable residential standards for the property at a site remediated under programs, settlements or orders administered by ADEQ.

**Program Repeals**

14. Repeals:
- a) Title 49, Chapter 2, Article 8, which regulates dry wells; (Sec. 5)
  - b) the Dust-Free Developments Program; (Sec. 5)
  - c) a statute allowing ultra low sulfur diesel fuel in vehicles retrofitted with oxidation catalysts and particulate filters in the Phoenix and Tucson metropolitan areas; and (Sec. 9)

d) the requirement that ADEQ establish a daily visibility index. (Sec. 11)

***Miscellaneous***

15. Makes technical and conforming changes. (Sec. 2, 3 and 5)