

Public Policy Agenda Number 2.

CONTACT: Bridget Schwartz-Manock
(623) 869-2150
bschwartzmanock@cap-az.com

Jeff Gray
(623) 869-2425
jgray@cap-az.com

MEETING DATE: March 2, 2017

AGENDA ITEM: Report on 2017 State Legislative Session and Possible Consideration of a Recommendation that the Board take Action on State Legislation and Policy Issues that Could Affect CAP, including but not limited to S.B. 1478.

RECOMMENDATION: See attached document and proposed staff recommendations.

FINANCIAL IMPLICATIONS: None.

LINKAGE TO STRATEGIC PLAN, POLICY, STATUTE OR GUIDING PRINCIPLE:

CAWCD 2016 Board of Directors Strategic Plan

- Leadership & Public Trust: Relationships – Improve relationships with customers and stakeholders
- Leadership & Public Trust: CAP Board Leadership – Equip Board members to effectively represent CAP and its positions
- Water Supply: Optimize reliability and sustainability of CAP water supply

PREVIOUS BOARD ACTION/ACTIVITY:

November 3, 2016: Public Policy Committee previewed and discussed the draft proposed 2017 State Legislative Agenda.

December 1, 2016: Board adopted 2017 State Legislative Agenda.

ISSUE SUMMARY/DESCRIPTION:

This report describes CAP's state legislative agenda and provides an update on those issues. In addition, this update reports on and requests guidance on bills being considered by the State Legislature.

See attached documents and issue descriptions.

SUGGESTED MOTION:

I move that the Public Policy Committee recommend that the Board adopt a position on the following pending state legislation of interest to CAP: (staff recommendation in parentheses)

SB 1478 Occupational Safety and Health Omnibus (SUPPORT)

Attachments.

State Legislative Issues Update

February 22, 2017

The 53rd State Legislature's Second Regular Session began on Monday, January 9, 2017. February 22 is the 45th day of the session. 1,055 bills, including memorials and resolutions, have been introduced.

Since the last update, staff made a presentation on CAP before the House Lands, Agriculture and Rural Affairs Committee, which is chaired by Rep. Brenda Barton. A similar presentation was made to the Senate Natural Resources, Energy and Water Committee, chaired by Sen. Gail Griffin, on January 30.

The following State Legislative Issues Update outlines the status of the Board-approved 2017 Legislative Agenda as well as other relevant state legislation and issues.

Protect Lake Mead

Continue to support water conservation and similar efforts that protect the water elevation in Lake Mead and help to avoid Colorado River shortage, including implementation of the Lower Colorado River Basin Drought Contingency Plan, or DCP.

Support legislation as needed to implement multistate agreements relating to the Colorado River, including the DCP.

Continue to promote CAP's Protect Lake Mead campaign to raise awareness and support for cooperative efforts that are aimed at improving water elevations in the reservoir.

Status as of February 22, 2017:

H.J.R. 2002 (lower Colorado basin; forbearance authority), sponsored by Rep. Brenda Barton, authorizes the Director of the Arizona Department of Water Resources (ADWR) to enter into agreements for Arizona's participation in Minute 32x implementation. A companion bill in the Senate, **S.J.R. 1003 (lower Colorado basin; forbearance authority)**, sponsored by Sen. Gail Griffin, is identical to the House resolution.

Update:

H.J.R. 2002 passed the House, 58-0, on February 21. The Senate's companion bill, S.J.R. 1003, passed the Senate Natural Resources, Energy and Water Committee unanimously, on February 16, and awaits floor action.

CAP Position on S.J.R. 1003/H.J.R. 2002: SUPPORT.

State Legislative Issues Update

H.J.R. 2003 (Colorado River allocation; management), sponsored by Rep. Brenda Barton, contains placeholder language that would authorize the ADWR Director to enter into agreements for Arizona's participation in DCP. **S.J.R. 1002 (Colorado River allocation; management)**, sponsored by Sen. Gail Griffin, is identical to the House resolution.

Update: ADWR, which is leading the state's efforts on DCP, indicated that an agreement on DCP may not occur during this legislative session. H.J.R. 2003 and S.J.R. 1002 therefore were not heard in committee.

CAP Position on S.J.R. 1002/H.J.R. 2003: MONITOR.

Arizona Water Resources

Continue to collaborate with various stakeholders on efforts to address in-state and interstate water resources.

Monitor legislative actions that directly impact CAP water supplies and operations.

Monitor legislative efforts that encourage in-state water conservation activities, including the use of residential rainwater harvesting systems.

Status as of February 22, 2017:

H.B. 2330 (water augmentation systems; tax credit), sponsored by Rep. Noel Campbell, establishes an individual income tax credit for installing a residential water augmentation system in tax years 2018 through 2025.

Update:

H.B. 2330 was passed unanimously by the House Ways & Means Committee, 8-0, and awaits floor action.

CAP Recommended Position: MONITOR.

Multi-Species Conservation Program (MSCP) Funding

Support the Arizona Game and Fish Department's efforts to collect and maintain revenues sufficient to continue its annual contribution toward the costs of the MSCP.

State Legislative Issues Update

Monitor legislative and executive proposals that impact dedicated annual state funding of the MSCP.

Status as of February 22, 2017:

No update to report at this time.

Funding of State Water Agencies and Commissions

Support the efforts of the Arizona Department of Water Resources and the Arizona Water Protection Fund Commission to secure sufficient state General Fund appropriations in order to carry out statutory functions.

Monitor legislative actions that propose to use funds available to the Arizona Water Banking Commission for other purposes.

Status as of February 22, 2017:

In his budget released on January 13, Governor Ducey proposed an increase to ADWR's FY 2018 budget of approximately \$2.9 million over FY 2017 levels. As in prior years, the Executive's budget proposes the following transfers from the Arizona Water Banking Fund in FY 2018:

- \$1,211,400 to support ADWR; and
- \$200,000 to help pay for the Arizona Navigable Stream Adjudication Commission's legal fees.

These proposed Water Bank transfers of \$1,411,400 are similar to those enacted in FY 2017.

Update:

CAP staff has begun outreach efforts with Legislators to express the Board's concern about continuing this legislative transfer. CAP staff will continue to meet with Legislators and others as the state's budget is developed.

CAP Position: Oppose the proposed legislative transfers from the Arizona Water Banking Fund that are contained in the Governor's proposed FY 2018 state budget.

State Legislative Issues Update

S.B. 1124 (Arizona water protection fund; appropriation), sponsored by Sen. Gail Griffin, would appropriate \$1,000,000 in General Fund monies to the Arizona Water Protection Fund in FY 2018.

Update:

S.B. 1124 passed the Senate Natural Resources, Energy and Water Committee unanimously, 8-0, on January 30. The bill was amended by the Senate Appropriations Committee on February 14, reducing the FY 2018 appropriation, from \$1,000,000 to \$500,000, which is consistent with the FY 2017 appropriation. The bill awaits floor action.

CAP Position: SUPPORT.

Central Arizona Groundwater Replenishment District (CAGRDR)

Monitor any proposed CAGRDR-related legislation to ensure its operations are not adversely impacted.

Promote awareness of CAGRDR's statutory functions, operations, and funding to inform lawmakers of its critical contribution to Arizona's water management and economic development.

Status as of February 22, 2017:

An informative slide on the CAGRDR was included in CAP's annual presentations to House and Senate water committees, highlighting the importance of the CAGRDR and its overall contribution to the state's economic development. In addition, a one-page handout on the CAGRDR was distributed to each committee member.

OTHER LEGISLATION OF INTEREST

Status as of February 22, 2017:

H.B. 2112 (multi-county water district; directors; election), sponsored by Representative Mark Finchem, would modify the election structure of the CAP Board of Directors by requiring that candidate's names be included on the general election ballot with party designation. The bill also prohibits a CAP employee or spouse of an employee from serving on the CAP Board.

State Legislative Issues Update

Update:

The House Lands, Agriculture and Rural Affairs Committee passed H.B. 2112 on January 26 by a 5-2 vote. The bill failed on a House floor vote, 27-32, on February 13. However, the bill can be reconsidered by the full House until February 27. At the time of this report, no reconsideration vote has taken place.

CAP Position: OPPOSE.

H.B. 2317 (partisan offices; districts; cities; schools), sponsored by Representative Jay Lawrence, would require that candidate's names for the CAP Board of Directors be included on the general election ballot with party designation, and also requires a primary election for the CAP Board. The bill additionally applies party designation requirements for several other subdivisions. Because CAP currently reimburses Maricopa, Pinal and Pima counties for the administrative costs of conducting the CAP Board's general election every two years, the bill has a fiscal impact to CAP of up to \$1.1 million, depending on the counties involved in the election cycle.

Status as of February 22, 2017:

H.B. 2317 was not heard by the House Government Committee, and is dead.

CAP Position: OPPOSE.

H.B. 2128 (JLAC; auditor general), sponsored by Representative John Allen, makes multiple changes to state statute relating to agency sunset review procedures. In addition, the bill adds the following statutory authorities to the Arizona Auditor General (OAG) that would have applicability to CAP:

- conducting investigations of political subdivisions;
- interviewing employees in the course of official duties and examining records that are protected under attorney-client privilege (The bill specifies that in complying with access to records, it does not waive attorney-client privilege); and,
- attending the Board's executive sessions.

Under current law, the OAG has the authority to examine books and records of political subdivisions, including CAP. The change in the bill gives authority to conduct

State Legislative Issues Update

investigations of alleged impropriety. In doing so, the bill provides access to records and communications protected under attorney-client privilege.

Status as of February 22, 2017:

CAP staff is coordinating with other political subdivisions impacted by the bill to set up a meeting with the OAG's office to discuss mutual concerns.

H.B. 2128 passed the House Government Committee, 8-0, on January 26. The House passed the bill, 59-0, on February 13, and it awaits a hearing in the Senate Government Committee.

CAP Position: MONITOR + Seek Amendment.

S.B. 1210 (state law; violations; political subdivisions), sponsored by Sen. Steve Smith, would require the Attorney General to investigate, at the request of a Legislator, alleged violations of state statute or the Arizona Constitution by a political subdivision, which would include CAP. The bill establishes penalties for violations and, for political subdivisions like CAP, includes the withholding of monies that would otherwise be distributed by a county treasurer or the state treasurer. In 2016, the Legislature enacted these provisions but they only applied to counties, cities and towns.

Each county in CAP's service area collects tax revenue on behalf of CAWCD. With only narrow exceptions, all CAP revenue received must be deposited in a special fund established by the state treasurer to be expended at the direction of the board. Similar requirements apply to funds received by CAWCD in the course of its groundwater replenishment activities.

The bill provides for the withholding of any state or county monies collected for a political subdivision should a legal dispute arise with the Attorney General, but before fully adjudicated by the courts. A bond, equal to monies paid to the political subdivision in the preceding six months, is also required to be posted by a political subdivision should a special action be filed with the courts.

The bill lacks clarity and adequate due process, and its provisions could prevent CAP from directing the state treasurer in the management of its funds.

Status as of February 22, 2017:

Per the Board's direction, CAP staff testified in the Senate Government Committee regarding the bill's applicability to CAP. Prior to committee, staff also met with the bill's

State Legislative Issues Update

sponsor, who agreed to limit the bill's scope to political subdivisions that receive "state monies." Staff will be in coordination with the Senator's office to develop a narrower definition of political subdivision, should the bill progress in the legislative process.

On February 15, S.B. 1210 passed Senate Government Committee by a 4-2 vote, and awaits floor action.

CAP Position: MONITOR + Seek Amendment.

H.B. 2143 (public contracts; procurement), sponsored by Representative Vince Leach, permits tax-levying districts such as the CAP to use its own employees to perform construction for certain activities without advertising for bids, including water works, provided the total cost of the contract does not exceed \$25,000. The bill also expands the provision to include contracts for reconstruction and maintenance activities,

H.B. 2143 would reduce CAP's ability to manage its maintenance scheduling and labor resources by requiring all construction and maintenance activities, including equipment and material costs, that exceed \$25,000 be competitively bid. CAP's current dollar amount trigger, which is based on an inflation index, is \$226,033. This has the practical effect of having to request bids for most canal maintenance work that has historically been performed by CAP employees, resulting in a significant disruption of CAP staffing and scheduling for required maintenance.

Status as February 22, 2017:

H.B. 2143 was not heard by the House Federalism, Property Rights and Public Policy, and is dead.

CAP Position: MONITOR + Seek Amendment.

S.B. 1478 (occupational safety and health omnibus), sponsored by Sen. Steve Smith, makes various changes to occupational safety and health statutes that do not have a direct impact on CAP. The bill also codifies a "model system" to promote effective worksite-based safety and health that corresponds to the state's Voluntary Protection Program (VPP), which CAP has been a participant since 2006.

As part of the CAP Board of Directors' Strategic Plan, the Board has a strategic objective to "maintain a safe and secure working environment." To that end, CAP participates in VPP, including maintaining its status with the Arizona Division of

State Legislative Issues Update

Occupational Safety and Health (ADOSH) and fostering a safety culture commensurate with the VPP's performance-based criteria.

The cooperative effort between CAP and ADOSH, which underlies VPP, has allowed for progress to be made on employee safety in the form of significantly reduced injuries and illnesses and improved workplace morale. Since achieving VPP status, the average number of recordable injuries and illnesses each year has been cut by more than half (from 27 to 12) and continues to improve (6 recorded in 2016).

Status as February 22, 2017:

S.B. 1478 was passed by the Senate Commerce and Public Safety Committee, 7-0, on January 31, and awaits floor action.

CAP Recommended Position: SUPPORT.

If you have any questions or would like more information regarding any of the issues contained in this report, please contact CAP Strategic Initiatives & Public Policy, 623-869-2150.



CAP
CENTRAL ARIZONA PROJECT

YOUR WATER. YOUR FUTURE.

State Legislative Update

Public Policy Committee
March 2, 2017

Jeff Gray
Legislative Affairs Manager



**PROTECT
LAKE MEAD**

Legislative Update

- 1,055 bills have been introduced this legislative session.
- The deadline to hear bills in house of origin has passed, February 17.
- Senate will begin hearing House bills in committee on February 27, and the House will likewise hear Senate bills.
- Last day to hear bills in committee is March 24.



CAP Legislative Presentations

- CAP made its annual presentation to the House Lands, Agriculture and Rural Affairs Committee on February 9.
- A similar presentation was made to the Senate Natural Resources, Energy and Water Committee on January 30.



Protect Lake Mead

- ▶ Continue to support water conservation and similar efforts that protect the water elevation in Lake Mead and help to avoid Colorado River shortage, including implementation of the Lower Colorado River Basin Drought Contingency Plan, or DCP.
- ▶ Support legislation as needed to implement multistate agreements relating to the Colorado River, including the DCP.
- ▶ Continue to promote CAP's Protect Lake Mead campaign to raise awareness and support for cooperative efforts that are aimed at improving water elevations in the reservoir.

S.J.R. 1003 lower Colorado basin; forbearance authority

H.J.R. 2002 lower Colorado basin; forbearance authority

- S.J.R. 1003 and its identical House companion bill, H.J.R. 2002, authorize the ADWR Director to enter into agreements on behalf of Arizona to implement Minute 32x.
- H.J.R. 2002 passed the House, 58-0, on February 21.
- Senate resolution passed committee unanimously on February 16, and awaits a floor vote.
- **CAP Position: SUPPORT**



Arizona Water Resources

- ▶ Continue to collaborate with various stakeholders on efforts to address in-state and interstate water resources.
- ▶ Monitor legislative actions that directly impact CAP water supplies and operations.
- ▶ Monitor legislative efforts that encourage in-state water conservation activities, including the use of residential rainwater harvesting systems.

H.B. 2330 water augmentation systems; tax credit

- H.B. 2330, sponsored by Rep. Noel Campbell, establishes up to a \$1,000 individual income tax credit for installing a residential water augmentation system in tax years 2018 - 2025.
- House Ways & Means Committee passed the bill, 8-0, February 15.
- Bill awaits floor action.
- **CAP Position: MONITOR**



Funding of State Water Agencies and Commissions

- ▶ Support the efforts of the Arizona Department of Water Resources and the Arizona Water Protection Fund Commission to secure sufficient state General Fund appropriations in order to carry out statutory functions.
- ▶ Monitor legislative actions that propose to use funds available to the Arizona Water Banking Commission for other purposes.

- The Governor's FY2018 budget proposes to move a total of \$1,411,400 from the Arizona Water Banking Fund to support ADWR funding and the Arizona Navigable Streams Adjudication Commission.
- Outreach by CAP staff to educate Legislators about the proposed transfer and express the Board's position.
- **CAP Position: OPPOSE the proposed transfers.**



Funding of State Water Agencies and Commissions

- ▶ Support the efforts of the Arizona Department of Water Resources and the Arizona Water Protection Fund Commission to secure sufficient state General Fund appropriations in order to carry out statutory functions.
- ▶ Monitor legislative actions that propose to use funds available to the Arizona Water Banking Commission for other purposes.

S.B. 1124 Arizona water protection fund; appropriation

- Sponsored by Sen. Gail Griffin, S.B. 1124 as introduced would have appropriated \$1,000,000 to the Fund.
- The bill was amended to reduce the appropriation to \$500,000, consistent with the enacted FY 2017 appropriation.
- S.B. 1124 awaits floor action.
- **CAP Position: SUPPORT**



Legislation of Interest

H.B. 2112 multi-county water district; directors; election

- H.B. 2112 requires that the general election ballot carry CAP Board candidate names *with* party designation.
- It also prohibits a CAP employee or their spouse from serving on the board.
- The bill failed in vote by the full House, 27-32, on Feb. 13.
- Bill can be reconsidered by the House until February 27.
- **CAP Position: OPPOSE**



Legislation of Interest

H.B. 2317 partisan offices; districts; cities; schools

- H.B. 2317 also requires candidate names for the CAP Board to include a party designation on the general election ballot. Also requires a primary election for the CAP Board.
- Fiscal impact to CAP as much as \$1.1 million (cost of primary).
- Bill was not heard in committee by the deadline and is dead.
- **CAP Position: OPPOSE**



Legislation of Interest

H.B. 2128 JLAC; auditor general

- H.B. 2128 would allow the Auditor General's office to:
 - conduct investigations of political subdivisions (CAP);
 - examine records protected under attorney-client privilege;
 - attend executive sessions.
- Concern with access to privileged records and the Auditor General's unspecified use of that information.
- Staff is coordinating with other political subdivisions impacted by the bill to work with the Auditor General's office.
- H.B. 2128 passed the House, 59-0, on February 13.
- **CAP Position: MONITOR + Seek Amendment**



Legislation of Interest

S.B. 1210 *state law; violations; political subdivisions*

- S.B. 1210 allows the Attorney General's office to investigate alleged violations of statute or the Constitution by political subdivisions at the request of a legislator, and establishes penalties that include withholding of monies.
- Concern with clarity and adequate due process, should a legal dispute arise.
- Staff has discussed CAP's concerns with the bill's sponsor, Sen. Steve Smith, and is working with him to narrow the bill's scope.
- S.B. 1210 passed committee, 4-2, on February 15 and awaits floor action.
- **CAP Position: MONITOR + Seek Amendment**



Legislation of Interest

H.B. 2143 *public contracts; procurement*

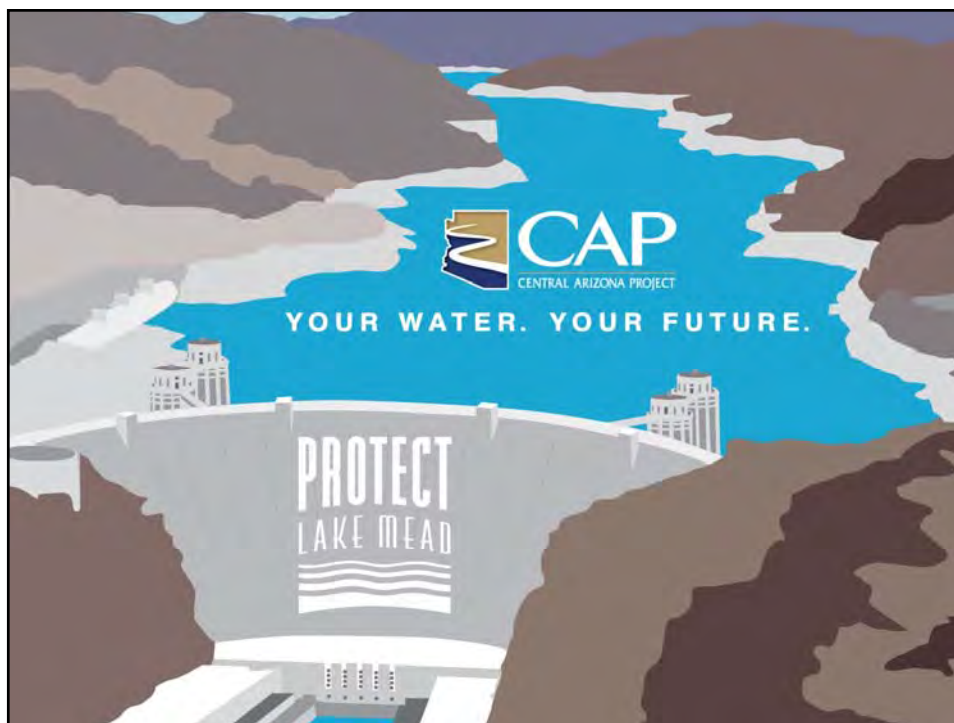
- H.B. 2143 requires certain public construction activities to go out to bid if the total cost of a project exceeds \$25,000, including materials & equipment.
- CAP would have to request bids for most canal maintenance work historically performed by CAP employees, resulting in significant disruption of staffing and maintenance scheduling.
- H.B. 2143 was not heard in committee and is dead.
- **CAP Position: MONITOR + Seek Amendment**



New Legislation

S.B. 1478 occupational safety and health omnibus

- S.B. 1478, sponsored by Sen. Steve Smith, codifies the state's Voluntary Protection Program (VPP) to promote effective worksite safety and health.
- CAP has been a VPP participant since 2006.
- Board strategic objective in the Strategic Plan: "maintain a safe and secure working environment."
- Since achieving VPP status, CAP injuries and illnesses have decreased by more than half.
- S.B. 1478 passed committee, 7-0, on January 31, and awaits floor action.
- **CAP Recommended Position: SUPPORT**



REFERENCE TITLE: occupational safety and health omnibus

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SB 1478

Introduced by
Senator Smith

AN ACT

AMENDING SECTIONS 23-401, 23-408 AND 23-422, ARIZONA REVISED STATUTES;
AMENDING TITLE 23, CHAPTER 2, ARTICLE 10, ARIZONA REVISED STATUTES, BY
ADDING SECTION 23-432; AMENDING SECTIONS 23-471, 23-473, 23-475, 23-478,
23-485, 23-486, 23-488, 23-491 AND 23-491.06, ARIZONA REVISED STATUTES;
RELATING TO OCCUPATIONAL SAFETY AND HEALTH.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 23-401, Arizona Revised Statutes, is amended to
3 read:

4 23-401. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Board" means a review board established pursuant to section
7 23-422.

8 2. "Commission" means the industrial commission of Arizona.

9 3. "De minimis violation" means a condition or practice ~~which~~ THAT,
10 although undesirable, has no direct or immediate relationship to safety or
11 health.

12 4. "Director" means the director of the division.

13 5. "Division" means the division of occupational safety and health
14 within the commission.

15 6. "Employee" means any person performing services for an employer,
16 including any person defined as an employee pursuant to section 23-901,
17 except employees engaged in household domestic labor.

18 7. "Employer" means any individual or type of organization,
19 including ~~the~~ THIS state and all ~~its~~ political subdivisions OF THIS STATE,
20 ~~which~~ THAT has in its employ one or more individuals performing services
21 for it in employment and includes self-employed persons, but does not
22 include employers of household domestic labor.

23 8. "Interested party" means the commission and ~~its~~ THE COMMISSION'S
24 agents, the employer and the affected employees of such employer.

25 9. "MODEL SYSTEM" MEANS AN EXEMPLARY AND VOLUNTARY IMPLEMENTED
26 WORKER SAFETY AND HEALTH MANAGEMENT SYSTEM THAT:

27 (a) EXCEEDS BASIC COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH
28 LAWS AND REGULATIONS.

29 (b) MEETS THE STANDARDS ADOPTED BY THE DIVISION PURSUANT TO SECTION
30 23-432.

31 ~~9.~~ 10. "Non-serious violation" means a condition or practice in a
32 place of employment ~~which~~ THAT does not constitute a serious violation but
33 ~~which~~ THAT violates a standard or regulation and has a direct or immediate
34 relationship to safety or health, unless the employer did not, and could
35 not with the exercise of reasonable diligence, know of the presence of
36 such condition or practice.

37 11. "PROGRAM" MEANS THE VOLUNTARY PROTECTION PROGRAM OR ANY OTHER
38 PROGRAM UNDER WHICH THE DIRECTOR RECOGNIZES AND PARTNERS WITH WORKPLACES
39 THAT HAVE IMPLEMENTED A MODEL SYSTEM.

40 ~~10.~~ 12. "Recognized hazard" means an unsafe or unhealthful
41 condition or practice recognized as such with respect to the standard of
42 knowledge in the industry.

43 ~~11.~~ 13. "Regulation" means any written regulation of occupational
44 safety and health governing places of employment formulated pursuant to

1 section 23-410, exclusive of standards, and shall have the same meaning as
2 and include the term "rule".

3 ~~12.~~ 14. "Serious violation" means a condition or practice in a
4 place of employment ~~which~~ THAT violates a standard, regulation or section
5 23-403, subsection A and produces a substantial probability that death or
6 serious physical harm could result, unless the employer did not, and could
7 not with the exercise of reasonable diligence, know of the presence of
8 such condition or practice.

9 ~~13.~~ 15. "Standard" means any occupational safety and health
10 standard ~~which~~ THAT has been adopted and promulgated by a nationally
11 recognized standards-producing organization or the federal government and
12 shall have the same meaning as, and include the term "code".

13 ~~14.~~ 16. "Trade secret" means a plan or process, tool, mechanism, or
14 compound not patented, known only to its owner and those of ~~his~~ THE
15 OWNER'S employees to whom it is necessary to confide it, or other
16 information that the employer treats as confidential and has a reasonable
17 basis for doing so.

18 ~~15.~~ 17. "Workplace" means a location or site wherein work, either
19 temporary or permanent, is being conducted in connection with an industry,
20 trade or business.

21 Sec. 2. Section 23-408, Arizona Revised Statutes, is amended to
22 read:

23 23-408. Inspection of places and practices of employment;
24 closing conference; prohibitions; employee
25 initiation of investigation; violation;
26 classification; injunction

27 A. EXCEPT AS PRESCRIBED IN SECTION 23-432, SUBSECTION E, the
28 director of the division of occupational safety and health, or the
29 director's authorized representative, on presentation of credentials,
30 shall be permitted to inspect places of employment, question employees and
31 investigate conditions, practices or matters in connection with employment
32 subject to this article at reasonable times, as the director or the
33 director's authorized representative may deem appropriate to determine
34 whether any person has violated any provision of this article or any rule
35 or regulation issued pursuant to this article or that may aid in the
36 enforcement of ~~the provisions of~~ this article. An employer or other
37 person shall not refuse to admit the director or the director's authorized
38 representatives to any place or refuse to permit the inspection if the
39 proper credentials are presented and the inspection is made at a
40 reasonable time.

41 B. IN MAKING INSPECTIONS AND INVESTIGATIONS, THE DIRECTOR OR THE
42 DIRECTOR'S AUTHORIZED REPRESENTATIVE MAY REQUIRE THE ATTENDANCE AND
43 TESTIMONY OF WITNESSES AND THE PRODUCTION OF EVIDENCE UNDER OATH.
44 WITNESSES SHALL BE PAID THE SAME FEES AND MILEAGE PAID TO WITNESSES IN THE
45 COURTS OF THIS STATE. IF ANY PERSON FAILS OR REFUSES TO OBEY SUCH AN

1 ORDER, THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED REPRESENTATIVE MAY APPLY
2 TO ANY SUPERIOR COURT IN ANY COUNTY WHERE THE PERSON IS FOUND, RESIDES OR
3 TRANSACTS BUSINESS FOR AN ORDER REQUIRING THE PERSON TO PRODUCE EVIDENCE
4 AND TO GIVE TESTIMONY AS ORDERED. FAILURE TO OBEY SUCH AN ORDER IS
5 CONTEMPT OF COURT.

6 ~~B.~~ C. The director or the director's authorized representative
7 shall inspect at least every six months any operation that mixes rock,
8 sand, gravel or similar materials with water and cement or with asphalt
9 and that is not included in the definition of mine in section 27-301. The
10 director or the director's authorized representative shall monitor and
11 work with the mine inspector only to the extent necessary to ensure this
12 state's compliance with federal occupational safety and health act
13 standards, (P.L. 91-596).

14 ~~C.~~ D. Notice of an intended inspection shall not be given to an
15 employer before the time of actual entry on the workplace, except by
16 specific authorization by the director.

17 ~~D.~~ E. A representative of the employer and a representative
18 authorized by the employer's employees shall be given an opportunity to
19 accompany the director or the director's authorized representative during
20 the physical inspection of any workplace for the purpose of aiding the
21 inspection. Where there is no authorized employee representative, the
22 director or the director's authorized representative shall consult a
23 reasonable number of employees concerning matters of safety and health in
24 the workplace.

25 ~~E.~~ F. Except as provided in section 23-426, information and facts
26 developed by the commission, the director or any employee of the
27 commission or division in the course of any inspection or investigation
28 are public records subject to inspection pursuant to title 39, chapter 1,
29 article 2, if, pursuant to section 23-415, subsection D, the inspection or
30 investigation has been closed or a citation has been issued. Such
31 information and facts shall not be admissible in any court or before any
32 administrative body except pursuant to this article. Notwithstanding this
33 subsection, the director or any commission employee is not required to
34 appear at any deposition, trial or hearing concerning a division
35 inspection or investigation unless the appearance is related to a hearing
36 held pursuant to this article. Hearings held pursuant to this article are
37 open to the public.

38 ~~F.~~ G. During the inspection or investigation and in deciding
39 whether to recommend and issue a citation, the director or the director's
40 authorized representative and the commission may consider whether an
41 employee has committed misconduct by violating the employer's policies, if
42 any, regarding substance abuse while working, as evidenced by the results
43 of testing for substance abuse or other evidence of impairment while
44 working.

1 ~~H~~. H. An employee of the division or the commission may not:

2 1. Before, during or after an inspection or investigation,
3 communicate to an employer that the employer should not be represented by
4 an attorney or that the employer may be treated more favorably by the
5 division or the commission if the employer is not represented by an
6 attorney.

7 2. Conduct an audio recording of an oral statement provided during
8 an interview without the knowledge and consent of the person being
9 interviewed. The employee of the division or the commission shall inform
10 the person being interviewed of the person's right to receive a copy of
11 the recorded oral statement within a reasonable time.

12 3. Obtain a written statement during an interview without informing
13 the person of the person's right to receive a copy of the written
14 statement within a reasonable time.

15 ~~H~~. I. An employee or a representative of employees who believes
16 that a violation of a safety or health standard or regulation exists that
17 threatens physical harm or that an imminent danger exists may request an
18 investigation by giving notice to the director or the director's
19 authorized representative of the violation or danger. Any notice shall be
20 in writing, set forth with reasonable particularity the grounds for the
21 notice and be signed by the employees or representative of the employees.
22 On the request of the employee giving the notice, the employee's name and
23 the names of other employees referred to in the notice shall not appear on
24 any copy of the notice or any record published, released or made
25 available. If on receipt of the notice the director determines that there
26 are reasonable grounds to believe that the violation or danger exists, the
27 director shall make an investigation in accordance with ~~the provisions of~~
28 this article as soon as practicable to determine if the violation or
29 danger exists. If the director determines there are no reasonable grounds
30 to believe that a violation or danger exists, the director shall notify
31 the employees or representative of the employees in writing of the
32 determination.

33 ~~I~~. J. Any person who violates any provision of this section is
34 guilty of a class 2 misdemeanor.

35 ~~J~~. K. The commission, or the commission's authorized
36 representative, in addition to initiating an action under subsection ~~H~~ I
37 of this section, may file in the superior court in the county where the
38 inspection was refused a verified complaint against an employer who
39 violates subsection A of this section and request an injunction against
40 continued refusal to permit an inspection.

41 Sec. 3. Section 23-422, Arizona Revised Statutes, is amended to
42 read:

43 23-422. Review board

44 A. A review board is established within the commission to hear and
45 rule on appeals of administrative law judge decisions generated in this

1 article. The board shall consist of five members WHO ARE appointed by the
2 governor. ~~The occupational safety and health advisory committee shall~~
3 ~~submit to the governor a list of names of persons to be considered for~~
4 ~~appointment to the board~~ AND who by reason of training, education or
5 experience are qualified to carry out the powers and duties of the board.
6 ~~One member shall be a representative of management, one member shall be a~~
7 ~~representative of labor and three members shall be representatives of the~~
8 ~~general public.~~ The board shall elect a chairman from the board's
9 membership.

10 B. Members of the board shall be appointed to five-year terms,
11 except that of the members first appointed, one each shall serve for a
12 term of one, two, three, four and five years. A vacancy occurring on the
13 board other than by expiration of a term shall be filled in the manner
14 original appointments were made, for the unexpired portion of the term.
15 Members of the board may be removed by the governor for inefficiency,
16 neglect of duty, malfeasance or nonfeasance in office. The board shall
17 meet as often as necessary to hold review hearings as provided in section
18 23-423, at times and places as the chairman may determine. ~~One member~~
19 ~~from management, one member from labor and one member from the general~~
20 ~~public~~ A QUORUM OF THE BOARD shall be present in order to conduct review
21 hearings or other business. All decisions of the board shall be
22 determined by a majority decision.

23 C. The commission shall employ a staff necessary for the efficient
24 administration of the board's activities. All personnel of the board
25 shall be under the supervision of the director of the commission and shall
26 be paid from the general fund, subject to legislative appropriation.

27 D. Board members shall receive compensation pursuant to section
28 38-611, which shall be paid from the general fund, subject to legislative
29 appropriation.

30 E. The monies appropriated to carry out the purposes of subsections
31 C and D of this section shall be appropriated to the commission, shall not
32 exceed twenty thousand dollars per year and are exempt from the provisions
33 of section 35-190 relating to lapsing of appropriations. The monies shall
34 be kept separate and apart from other monies of the commission and shall
35 be available only to the board.

36 F. A member of the board shall not participate on a matter with
37 which the member is personally associated. If a member is disqualified
38 pursuant to this subsection or is unable to participate for any other
39 reason on a particular matter, the governor shall appoint a person as a
40 temporary member to participate in the hearing. ~~The occupational safety~~
41 ~~and health advisory committee shall submit to the governor a list of names~~
42 ~~of persons to be considered for a temporary appointment.~~ The person shall
43 meet the qualifications of subsection A of this section, ~~and shall be~~
44 ~~representative of the same area as that of the member for whom the person~~
45 ~~is serving as alternate.~~

1 Sec. 4. Title 23, chapter 2, article 10, Arizona Revised Statutes,
2 is amended by adding section 23-432, to read:

3 23-432. Voluntary protection and other model system
4 implementation programs; program termination

5 A. THE DIVISION SHALL ADOPT DEFINITIONS, REGULATIONS AND STANDARDS
6 NECESSARY FOR THE OPERATION OF THE PROGRAM IN A MANNER THAT WILL PROMOTE
7 SAFE AND HEALTHY WORKPLACES THROUGHOUT THIS STATE. STANDARDS FOR THE
8 PROGRAM SHALL INCLUDE THE FOLLOWING REQUIREMENTS FOR PARTICIPATION:

9 1. UPPER MANAGEMENT LEADERSHIP AND ACTIVE AND MEANINGFUL EMPLOYEE
10 INVOLVEMENT.

11 2. SYSTEMATIC ASSESSMENT OF OCCUPATIONAL HAZARDS.

12 3. COMPREHENSIVE HAZARD PREVENTION, MITIGATION AND CONTROL
13 PROGRAMS.

14 4. EMPLOYEE SAFETY AND HEALTH TRAINING.

15 5. SAFETY AND HEALTH PROGRAM EVALUATION BY THE DIVISION TO ENSURE
16 THAT A WORKPLACE CONTINUOUSLY MEETS THE STANDARDS AND REGULATIONS.

17 B. APPLICATIONS FOR PARTICIPATION IN THE PROGRAM SHALL BE SUBMITTED
18 BY THE WORKPLACE'S MANAGEMENT. APPLICATIONS SHALL INCLUDE DOCUMENTATION
19 ESTABLISHING TO THE SATISFACTION OF THE DIVISION THAT THE EMPLOYER MEETS
20 ALL REQUIREMENTS FOR PROGRAM PARTICIPATION.

21 C. THE DIVISION SHALL PROVIDE FOR ON-SITE EVALUATIONS BY THE
22 DIVISION'S CONSULTATION SECTION OF EACH WORKPLACE THAT HAS APPLIED TO
23 PARTICIPATE IN THE PROGRAM TO DETERMINE THAT THE APPLICANT'S WORKPLACE
24 COMPLIES WITH THE REQUIREMENTS FOR PROGRAM PARTICIPATION.

25 D. A WORKPLACE'S CONTINUED PARTICIPATION IN THE PROGRAM IS
26 CONDITIONED ON COMPLIANCE WITH THE REQUIREMENTS FOR PROGRAM PARTICIPATION,
27 AS DETERMINED BY PERIODIC, PLANNED ON-SITE EVALUATIONS BY THE DIVISION.

28 E. DURING PERIODS IN WHICH A WORKPLACE IS A PROGRAM PARTICIPANT,
29 THE WORKPLACE IS EXEMPT FROM INSPECTIONS OR INVESTIGATIONS UNDER SECTION
30 23-408. THIS EXCEPTION DOES NOT APPLY TO INSPECTIONS OR INVESTIGATIONS OF
31 THE WORKPLACE ARISING FROM COMPLAINTS, REFERRALS, FATALITIES,
32 CATASTROPHES, NONFATAL ACCIDENTS OR SIGNIFICANT TOXIC CHEMICAL RELEASES.

33 F. ANY WORKPLACE THAT WAS A PARTICIPANT IN THE UNCODIFIED VOLUNTARY
34 PROTECTION PROGRAM OR ANY OTHER PROGRAM THAT IMPLEMENTS A MODEL SYSTEM
35 CONDUCTED BY THE DIVISION BEFORE THE EFFECTIVE DATE OF THIS SECTION MAY
36 CONTINUE AS A PARTICIPANT IN THE PROGRAM ESTABLISHED PURSUANT TO THIS
37 SECTION. BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION, THE CONTINUED
38 PARTICIPATION BY SUCH A WORKPLACE IN THE PROGRAM IS CONDITIONED ON THE
39 WORKPLACE'S COMPLIANCE WITH THE REQUIREMENTS FOR PROGRAM PARTICIPATION
40 ADOPTED BY THE DIVISION.

41 G. THE PROGRAM ESTABLISHED BY THIS SECTION ENDS ON JULY 1, 2027
42 PURSUANT TO SECTION 41-3102.

1 Sec. 5. Heading change

2 The article heading of title 23, chapter 2, article 11, Arizona
3 Revised Statutes, is changed from "SAFETY CONDITIONS FOR BOILERS AND LINED
4 HOT WATER STORAGE HEATERS" to "SAFETY CONDITIONS FOR BOILERS, PRESSURE
5 VESSELS AND LINED HOT WATER HEATERS".

6 Sec. 6. Section 23-471, Arizona Revised Statutes, is amended to
7 read:

8 23-471. Definitions

9 In this article, unless the context otherwise requires:

10 1. "Authorized representative" means the boiler chief and boiler
11 inspector employed by the division.

12 2. "BOILER" MEANS A CLOSED VESSEL IN WHICH WATER OR OTHER LIQUID IS
13 HEATED, STEAM OR VAPOR IS GENERATED OR STEAM OR VAPOR IS SUPERHEATED, OR
14 ANY COMBINATION THEREOF, UNDER PRESSURE OR VACUUM FOR A USE THAT IS
15 EXTERNAL TO ITSELF, BY THE DIRECT APPLICATION OF HEAT FROM THE COMBUSTION
16 OF FUELS OR FROM ELECTRICITY.

17 ~~2.~~ 3. "Certificate" means a certificate of competency.

18 ~~3.~~ 4. "Certificate inspection" means an internal inspection, when
19 construction permits, otherwise it means as complete an inspection as
20 possible.

21 ~~4.~~ 5. "Commission" means the industrial commission of Arizona.

22 ~~5.~~ 6. "Director" means the director of the division of
23 occupational safety and health.

24 ~~6.~~ 7. "Division" means the division of occupational safety and
25 health of the commission.

26 ~~7.~~ 8. "Heating boilers" means a steam or vapor boiler operating at
27 a pressure not exceeding fifteen pounds per square inch or a hot water
28 boiler operating at a pressure not exceeding one hundred sixty pounds per
29 square inch or a temperature not exceeding two hundred fifty degrees
30 Fahrenheit.

31 ~~8.~~ 9. "High temperature water boiler" means a water boiler
32 intended for operation at pressures in excess of one hundred sixty pounds
33 per square inch or temperatures in excess of two hundred fifty degrees
34 Fahrenheit.

35 ~~9.~~ 10. "Interested party" means the commission, agents of the
36 commission and any owner or operator who has been issued a notice of
37 violation.

38 ~~10.~~ 11. "Lined hot water ~~storage~~ heater" means a fired lined water
39 heater with linings providing corrosion resistance for supplying potable
40 hot water for commercial purposes. Lined hot water ~~storage~~ heaters are
41 exempted when none of the following limitations are exceeded:

42 (a) Heat input of two hundred thousand British thermal units per
43 hour.

44 (b) Water temperature of two hundred ten degrees Fahrenheit.

1 (c) Nominal water-containing capacity of one hundred twenty
2 gallons.

3 ~~11.~~ 12. "Owner" or "Operator" means any individual or type of
4 organization, including this state and all political subdivisions of this
5 state, ~~who~~ THAT has title to or controls, or has the duty to control, the
6 operation of one or more boilers, PRESSURE VESSELS or lined hot water
7 ~~storage~~ heaters.

8 ~~12.~~ 13. "Power boiler" means a boiler in which steam or other vapor
9 is generated at a pressure more than fifteen pounds per square inch.

10 14. "PRESSURE VESSEL" MEANS A CONTAINER FOR THE CONTAINMENT OF
11 PRESSURE, EITHER INTERNAL OR EXTERNAL. THE PRESSURE MAY BE OBTAINED FROM
12 AN EXTERNAL SOURCE, OR BY THE APPLICATION OF HEAT FROM A DIRECT OR
13 INDIRECT SOURCE, OR ANY COMBINATION THEREOF.

14 ~~13.~~ 15. "Process boiler" means a heating boiler or a power boiler
15 used for processing purposes where the ~~make-up~~ MAKE-UP water exceeds ten
16 ~~percent~~ PERCENT.

17 Sec. 7. Section 23-473, Arizona Revised Statutes, is amended to
18 read:

19 23-473. Owner's and operator's duty

20 Every owner or operator of any boiler, PRESSURE VESSEL or lined hot
21 water ~~storage~~ heater shall:

22 1. Furnish, maintain and provide safe and adequate boilers,
23 PRESSURE VESSELS or lined hot water ~~storage~~ heaters.

24 2. Comply with all standards and regulations issued pursuant to
25 this article.

26 Sec. 8. Section 23-475, Arizona Revised Statutes, is amended to
27 read:

28 23-475. Duties of division

29 The division shall:

30 1. Certify special inspectors as provided in section 23-485.

31 2. Inspect boilers, PRESSURE VESSELS and lined hot water ~~storage~~
32 heaters under this article, except that beginning on July 1, 2017 the
33 division may not inspect boilers, PRESSURE VESSELS and lined hot water
34 ~~storage~~ heaters.

35 3. Establish a schedule to require regular boiler, PRESSURE VESSEL
36 and lined hot water ~~storage~~ heater inspections.

37 4. Recommend standards, regulations and amendments to the standards
38 and regulations to the commission for approval or disapproval.

39 5. Enforce, under section 23-478, all standards and regulations
40 adopted by the commission.

41 Sec. 9. Section 23-478, Arizona Revised Statutes, is amended to
42 read:

43 23-478. Enforcement

44 A. If the division, following an inspection or investigation
45 determines that there is reasonable cause to believe that there exists a

1 violation of a standard or regulation the division shall issue a notice of
2 violation directing any repairs, improvements, changes or additions
3 necessary to eliminate the hazard. Each notice of violation shall be in
4 writing, delivered either by mail or in person and shall contain the
5 following:

6 1. A particular description of the nature of the violation,
7 including a reference to the provision of this article or of any standard
8 or regulation alleged to have been violated.

9 2. A reasonable time for the abatement of the violation.

10 B. Each notice of violation issued pursuant to this section or a
11 copy or copies of such notice of violation shall be prominently posted at
12 or near each place a violation referred to in the notice of violation
13 existed.

14 C. If in the opinion of the director or the director's authorized
15 representative the continued operation of the defective boiler, **PRESSURE**
16 **VESSEL** or lined hot water ~~storage~~ heater constitutes an immediate danger
17 to the safety of the occupants of the establishment or the persons
18 operating such boiler, **PRESSURE VESSEL** or lined hot water ~~storage~~ heater
19 the director or director's authorized representative may condemn such
20 device and require ~~it~~ **THE BOILER, PRESSURE VESSEL OR LINED HOT WATER**
21 **HEATER** to be returned to a condition allowing safe operation before ~~its~~
22 **use OF THE BOILER, PRESSURE VESSEL OR LINED HOT WATER HEATER** is resumed.

23 D. ~~Upon~~ **ON** failure of an owner or operator to comply with either
24 the requirements of a notice of violation issued pursuant to subsection A
25 **OF THIS SECTION** or condemnation pursuant to this subsection, the
26 commission may file an action in the superior court ~~of~~ **IN** the county where
27 the violation occurred to enjoin the owner or operator from engaging in
28 further acts in violation of the requirements of ~~this~~ **THE** notice of
29 violation or the condemnation. Any person found to be in contempt of an
30 injunctive order of the court shall be fined not less than fifty nor more
31 than three hundred dollars with each day of violation constituting a
32 separate contempt.

33 Sec. 10. Section 23-485, Arizona Revised Statutes, is amended to
34 read:

35 23-485. Special inspectors: civil liability

36 A. The division, ~~upon~~ **ON** the request of any company ~~authorized to~~
37 ~~insure against loss from explosion of boilers or lined hot water storage~~
38 ~~heaters in this state~~ **THAT HAS RECEIVED A CERTIFICATE OF ACCREDITATION**
39 **FROM EITHER THE NATIONAL BOARD OF BOILER AND PRESSURE VESSEL INSPECTORS OR**
40 **THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS AS AN AUTHORIZED INSPECTION**
41 **AGENCY OR AN OWNER-USER INSPECTION ORGANIZATION**, may issue to any
42 inspector of that company a certificate as a special inspector. ~~The~~
43 ~~division may also, upon the request of any company operating boilers or~~
44 ~~lined hot water storage heaters in this state, issue to any inspector of~~
45 ~~the company a certificate as a special inspector.~~ Before receiving a

1 certificate, the inspector must ~~satisfactorily pass a written examination~~
2 ~~given by the division~~ DEMONSTRATE THAT THE INSPECTOR HOLDS A CURRENT
3 COMMISSION ISSUED BY THE NATIONAL BOARD OF BOILER AND PRESSURE VESSEL
4 INSPECTORS.

5 ~~B. A certificate as a special inspector in this state shall be~~
6 ~~issued, in lieu of such examination, if the inspector holds a certificate~~
7 ~~of competency as an inspector of boilers or lined hot water storage~~
8 ~~heaters for a state that has a standard of examination substantially equal~~
9 ~~to that of this state or a commission as an inspector of boilers and~~
10 ~~pressure vessels issued by the national board of boiler and pressure~~
11 ~~vessel inspectors.~~

12 ~~C.~~ B. A certificate as a special inspector for a company operating
13 boilers, PRESSURE VESSELS or lined hot water storage heaters in this state
14 shall be issued only if, in addition to meeting the requirements of this
15 section, the inspector is employed full time by such company and the
16 inspector's duties include making inspections of boilers, PRESSURE VESSELS
17 or lined hot water storage heaters to be used by such company and not for
18 resale.

19 ~~D.~~ C. Each company employing such special inspectors, within sixty
20 days following AFTER each boiler certificate, PRESSURE VESSEL OR LINED HOT
21 WATER HEATER inspection made by the inspectors, shall file a report of the
22 inspection with the division upon ON appropriate forms OR MAKE ENTRY INTO
23 THE DIVISION'S COMPUTER DATABASE. ~~Reports of external inspections shall~~
24 ~~not be required except when such inspections disclose that the boiler or~~
25 ~~lined hot water storage heater is in a dangerous condition.~~

26 ~~E.~~ D. All insurance companies shall notify the division of all
27 boilers, PRESSURE VESSELS or lined hot water storage heaters upon ON which
28 insurance is written. All insurance companies shall also notify the
29 division of all boilers, PRESSURE VESSELS or hot water storage heaters
30 upon ON which insurance is cancelled, not renewed or suspended because of
31 unsafe conditions.

32 ~~F.~~ E. The furnishing of boiler A certificate inspections
33 INSPECTION, as authorized by the commission pursuant to section 23-475,
34 that are IS conducted incidental to the issuance or renewal of boiler and
35 machinery insurance OR A CONTRACTUAL CERTIFICATE INSPECTION when performed
36 in accordance with the standards and regulations adopted by the commission
37 shall not subject an insurer, A NONINSURER, whether domestic or foreign,
38 OR A CONTRACTED INSPECTION ORGANIZATION, its agents or its employees to
39 liability for damages for any act or omission in the course of performing
40 inspections as provided by this section. This section SUBSECTION does not
41 apply if the gross negligence of the insurer, NONINSURER OR CONTRACTED
42 INSPECTION ORGANIZATION, its agent or its employee created the condition
43 that was the proximate cause of the injury, death or loss.

1 Sec. 11. Section 23-486, Arizona Revised Statutes, is amended to
2 read:

3 23-486. Boiler advisory board; members; terms; meetings

4 A. The boiler advisory board is established to assist the
5 commission in drafting standards and regulations for boilers, PRESSURE
6 VESSELS and lined hot water storage heaters. The boiler advisory board
7 consists of the following members who are appointed by the commission:

8 1. One member who represents the boiler, PRESSURE VESSEL or lined
9 hot water storage heater manufacturer industry.

10 2. One member who represents a public utility.

11 3. One member who represents the insurance industry.

12 4. One member who is an owner or operator of a boiler, PRESSURE
13 VESSEL or lined hot water storage heater.

14 5. One member who is a licensed contractor.

15 B. The initial members of the boiler advisory board shall assign
16 themselves by lot to terms of one or two years in office. All subsequent
17 members serve three-year terms of office. The chairperson shall notify
18 the commission of these appointments.

19 C. The boiler advisory board shall annually elect a chairperson
20 from its members.

21 D. The boiler advisory board shall meet at least annually and on
22 the call of the commission. The commission shall determine the time and
23 place of boiler advisory board meetings.

24 Sec. 12. Section 23-488, Arizona Revised Statutes, is amended to
25 read:

26 23-488. Division inspection service

27 A. The division may enter into agreements to provide inspection
28 services during the manufacture, assembly, erection, or repair of boilers,
29 PRESSURE VESSELS, lined hot water storage heaters or any appurtenant
30 components to such boilers, PRESSURE VESSELS or heaters whenever such
31 inspections are requested by holders of authorized symbols of American
32 society of mechanical engineers or the national board of boiler and
33 pressure vessel inspectors.

34 B. The commission, through the division, may fix and collect
35 inspection fees ~~which~~ THAT shall be determined on the basis of an hourly
36 rate for inspection plus reimbursement for actual expenses incurred,
37 provided that no hourly rate for inspection shall exceed thirty dollars
38 per hour.

39 C. The commission shall deposit, pursuant to sections 35-146 and
40 35-147, all fees received in the state general fund.

41 Sec. 13. Section 23-491, Arizona Revised Statutes, is amended to
42 read:

43 23-491. Definitions

44 In this article, unless the context otherwise requires:

1 1. "Authorized representative" means the elevator chief and
2 elevator inspector employed by the division.

3 ~~2. "Board" means the elevator advisory board established to assist~~
4 ~~the commission in drafting standards and regulations.~~

5 ~~3.~~ 2. "Certificate" means a certificate of inspection issued by
6 the division.

7 ~~4.~~ 3. "Commission" means the industrial commission of Arizona.

8 ~~5.~~ 4. "Conveyance" means an elevator, dumbwaiter, escalator,
9 moving walk, manlift, personnel hoist, material hoist, stage lift and
10 special purpose personnel elevator, excluding conveyances located at mines
11 and subject to regulation and inspection by the state mine inspector
12 pursuant to title 27, chapter 3.

13 ~~6.~~ 5. "Director" means the director of the division of
14 occupational safety and health.

15 ~~7.~~ 6. "Division" means the division of occupational safety and
16 health of the industrial commission.

17 ~~8.~~ 7. "Dumbwaiter" means a hoisting and lowering mechanism with a
18 car of limited capacity and size that moves in guides in a substantially
19 vertical direction and that is used exclusively for carrying material.

20 ~~9.~~ 8. "Elevator" means a hoisting and lowering mechanism equipped
21 with a car or platform that moves in guides in substantially vertical
22 direction and that serves two or more floors of a building or structure.

23 ~~10.~~ 9. "Elevator company" means a person that is engaged in the
24 business of erecting, constructing, installing, altering, servicing,
25 repairing or maintaining conveyances.

26 ~~11.~~ 10. "Escalator" means a power driven, inclined, continuous
27 stairway used for raising or lowering passengers.

28 ~~12.~~ 11. "Interested party" means the commission and its agents and
29 the owner or operator who has been issued a correction order.

30 ~~13.~~ 12. "Manlift" means a device consisting of a power driven
31 endless belt moving in one direction only and provided with steps or
32 platforms and attached handholds for the transportation of personnel from
33 floor to floor.

34 ~~14.~~ 13. "Material hoist" means a hoist for raising and lowering
35 materials only and prohibiting the hoisting of persons.

36 ~~15.~~ 14. "Moving walk" means a type of passenger carrying device on
37 which passengers stand or walk and in which the passenger carrying surface
38 remains parallel to its direction of motion and is uninterrupted.

39 ~~16.~~ 15. "Owner" or "operator" means an individual or organization
40 including this state and all political subdivisions of this state who has
41 title to, controls or has the duty to control the operation of one or more
42 conveyances, but shall not include an individual or organization engaged
43 in mining or metallurgical operations whose operation is subject to
44 regulation and inspection by the state mine inspector pursuant to title
45 27, chapter 3.

1 ~~17:~~ 16. "Personnel hoist" means a mechanism for use in connection
2 with the construction, alteration, maintenance or demolition of a
3 building, structure or other work, used for hoisting and lowering workers
4 and materials and equipped with a car that moves on guide members during
5 its vertical movement. The term includes a hoistway of a personnel hoist.

6 ~~18:~~ 17. "Private elevator inspector" means an individual who is
7 authorized by the commission under section 23-491.16 to conduct
8 inspections under this article.

9 ~~19:~~ 18. "Special purpose personnel elevator" means a passenger,
10 hand powered, counterweighted device or an electric powered device that
11 travels vertically in guides and that serves two or more landings.

12 ~~20:~~ 19. "Stage lift" means a hoisting and lowering mechanism
13 equipped with a platform that moves in guides in a substantially vertical
14 direction and that serves one or more landings.

15 Sec. 14. Section 23-491.06, Arizona Revised Statutes, is amended to
16 read:

17 23-491.06. Development of standards and regulations

18 A. Safety standards and regulations shall be formulated in the
19 following manner:

20 1. The division shall either propose adoption of national ~~consensus~~
21 **CONSENSUS** standards or federal standards or draft such regulations as it
22 considers necessary after conducting sufficient investigations through the
23 division's employees and through consultation with the **ELEVATOR ADVISORY**
24 board and other persons knowledgeable in the business for which the
25 standards or regulations are being formulated.

26 2. Proposed standards or regulations, or both, shall be submitted
27 to the commission for ~~its~~ approval.

28 B. Any person who may be adversely affected by a standard or
29 regulation issued under this article may, at any time within sixty days
30 after such standard or regulation is promulgated by the commission, file a
31 complaint challenging the validity of such standard or regulation with the
32 superior court ~~of~~ **IN** the county in which the person resides or has ~~his~~ **THE**
33 **PERSON'S** principal place of business, for a judicial review of such
34 standard or regulation. The filing of ~~such~~ a complaint shall not, unless
35 otherwise ordered by the court, operate as a stay of the standard or
36 regulation. The determinations of the commission shall be conclusive if
37 supported by substantial evidence in the record considered as a whole.

38 C. In case of conflict between standards and regulations, the
39 regulations shall take precedence.