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REFERENCE TITLE: **brownfields program**

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

HB 2088

Introduced by
Representatives Huffman, Gullett: O'Halleran

AN ACT

**AMENDING SECTIONS 49-218, 49-218.01 AND 49-218.02, ARIZONA REVISED STATUTES;
RELATING TO THE BROWNFIELDS CLEANUP REVOLVING LOAN FUND PROGRAM.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 49-218, Arizona Revised Statutes, is amended to
3 read:

4 49-218. Definitions

5 In this article, unless the context otherwise requires:

6 1. "CERCLA brownfields cleanup revolving loan fund program" means the
7 program established by the environmental protection agency ~~pursuant to the~~
8 ~~Brownfields economic redevelopment initiative~~ to provide ~~loan~~ FINANCIAL
9 assistance IN THE FORM OF LOANS OR GRANTS to eligible persons to remediate
10 contamination at eligible sites as provided in section 104(d)(1)(K) of
11 CERCLA, ~~40 CFR parts 31, 35 and 300~~ and applicable guidance documents
12 prepared by the environmental protection agency to implement this program.

13 2. "Eligible activities" means ~~nontime critical removals~~ REMOVAL as
14 defined by section 101(23) of CERCLA and ~~include~~ INCLUDES required
15 engineering evaluations, cost analysis of cleanup alternatives, public
16 participation requirements and reasonable and necessary site monitoring
17 activities during the remediation.

18 3. "Eligible ~~borrower~~ PERSON" means a person ~~accepted into the~~
19 ~~department's voluntary remediation program except as otherwise provided in~~
20 ~~section 49-218.01~~ WHO IS ELIGIBLE TO RECEIVE A LOAN OR GRANT UNDER THE CERCLA
21 BROWNFIELDS CLEANUP REVOLVING LOAN FUND PROGRAM.

22 4. "Eligible site" means a site that ~~has been accepted into~~
23 ~~the department's voluntary remediation program and~~ IS A BROWNFIELDS SITE AS
24 DEFINED BY SECTION 101(39) OF CERCLA, that is within an area designated in a
25 cooperative agreement between the department and the environmental protection
26 agency and that is ~~either~~ ANY ONE OF THE FOLLOWING:

27 ~~(a) A site that has been determined by the department to have an~~
28 ~~actual release or substantial threat of a release of a hazardous substance.~~

29 ~~(b) A site that has been determined by the department to have an~~
30 ~~actual release or substantial threat of a release of a pollutant or~~
31 ~~contaminant that may present an imminent and substantial danger to the public~~
32 ~~health or welfare.~~

33 (a) ACCEPTED INTO THE DEPARTMENT'S VOLUNTARY REMEDIATION PROGRAM.

34 (b) SUBJECT TO A REMEDIATION AGREEMENT WITH THE DEPARTMENT'S WATER
35 QUALITY ASSURANCE REVOLVING FUND PROGRAM.

36 (c) BEING ADDRESSED BY A REMEDIATION SPECIALIST WHO IS CERTIFIED BY
37 THE BOARD OF TECHNICAL REGISTRATION PURSUANT TO SECTION 32-131.

38 (d) BEING ADDRESSED THROUGH ANOTHER PROGRAM OR OVERSIGHT MECHANISM
39 THAT IS APPROVED BY THE DEPARTMENT.

1 ~~E. Brownfields cleanup revolving loan fund monies may be loaned to a~~
2 ~~person who is an owner or operator of an eligible site to be remediated only~~
3 ~~if the department can determine that the owner or operator would fall under a~~
4 ~~statutory exemption from CERCLA liability or that the environmental~~
5 ~~protection agency would use its enforcement discretion and not pursue the~~
6 ~~owner or operator under CERCLA as allowed under the applicable environmental~~
7 ~~protection agency guidance. The initial findings made by the department do~~
8 ~~not limit the authority of the federal government or the department.~~

9 ~~F. Brownfields cleanup revolving loan fund monies shall not be loaned~~
10 ~~to a person who is a generator or transporter of contamination at the site~~
11 ~~subject to the loan request.~~

12 ~~G.~~ E. The director, through the attorney general, may take actions
13 necessary to enforce the loan contract and achieve repayment of loans
14 provided under this article.

15 ~~H. The program established by this article ends on July 1, 2009~~
16 ~~pursuant to section 41-3102.~~

17 Sec. 3. Section 49-218.02, Arizona Revised Statutes, is amended to
18 read:

19 49-218.02. Brownfields cleanup revolving loan fund

20 A. The brownfields cleanup revolving loan fund is established to be
21 administered by the director. The fund consists of monies from the following
22 sources:

- 23 1. Monies appropriated by the legislature.
- 24 2. Monies received from the federal government.
- 25 3. Monies received from loan recipients and loan repayments, interest
26 and penalties.
- 27 4. Interest and other income received from investing monies in the
28 fund.
- 29 5. Gifts, grants and donations received from any public or private
30 source.

31 B. Monies in the fund may be used for the purposes provided in section
32 49-218.01., ~~except that monies shall not be used for any of the following~~
33 ~~purposes:~~

- 34 ~~1. To conduct environmental response activities preliminary to~~
35 ~~remediation including site assessment, site identification and site~~
36 ~~characterization.~~
- 37 ~~2. To clean up products that are part of a building structure.~~
- 38 ~~3. To clean up sites contaminated with petroleum products unless they~~
39 ~~are believed to be commingled with a hazardous substance, pollutant or~~
40 ~~contaminant.~~
- 41 ~~4. To perform development or other activities that are not removal~~
42 ~~actions.~~

43 C. The department may use monies in the fund for the department's
44 costs in administering this program.

1 D. Disbursement of monies from the fund pursuant to a loan agreement
2 under this article is not subject to title 41, chapter 23.

3 E. Monies in the fund are continuously appropriated and are exempt
4 from the provisions of section 35-90, relating to lapsing of appropriations.

5 Sec. 4. Emergency

6 This act is an emergency measure that is necessary to preserve the
7 public peace, health or safety and is operative immediately as provided by
8 law.