

REFERENCE TITLE: hydraulic fracturing; prohibitions

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2574

Introduced by
Representatives Tsosie: Peten, Teller

AN ACT

AMENDING SECTIONS 49-201 AND 49-203, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-211; AMENDING SECTIONS 49-245.01, 49-245.02 AND 49-701, ARIZONA REVISED STATUTES; RELATING TO WATER QUALITY CONTROL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 49-201, Arizona Revised Statutes, is amended to
3 read:

4 49-201. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Administrator" means the administrator of the United States
7 environmental protection agency.

8 2. "Aquifer" means a geologic unit that contains sufficient
9 saturated permeable material to yield usable quantities of water to a well
10 or spring.

11 3. "Best management practices" means those methods, measures or
12 practices to prevent or reduce discharges and includes structural and
13 nonstructural controls and operation and maintenance procedures. Best
14 management practices may be applied before, during and after discharges to
15 reduce or eliminate the introduction of pollutants into receiving waters.
16 Economic, institutional and technical factors shall be considered in
17 developing best management practices.

18 4. "CERCLA" means the comprehensive environmental response,
19 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.
20 2767; 42 United States Code sections 9601 through 9657), commonly known as
21 "superfund".

22 5. "Clean closure" means implementation of all actions specified in
23 an aquifer protection permit, if any, as closure requirements, as well as
24 elimination, to the greatest degree practicable, of any ~~reasonable~~
25 ~~probability of~~ further discharge from the facility **THAT MAY REACH THE**
26 **AQUIFER** and of either exceeding aquifer water quality standards at the
27 applicable point of compliance or, if an aquifer water quality standard is
28 exceeded at the time the permit is issued, causing further degradation of
29 the aquifer at the applicable point of compliance as provided in section
30 49-243, subsection B, paragraph 3. Clean closure also means postclosure
31 monitoring and maintenance are unnecessary to meet the requirements in an
32 aquifer protection permit.

33 6. "Clean water act" means the federal water pollution control act
34 amendments of 1972 (P.L. 92-500; 86 Stat. 816; 33 United States Code
35 sections 1251 through 1376), as amended.

36 7. "Closed facility" means:

37 (a) A facility that ceased operation before January 1, 1986, that
38 is not, on August 13, 1986, engaged in the activity for which the facility
39 was designed and that was previously operated and for which there is no
40 intent to resume operation.

41 (b) A facility that has been approved as a clean closure by the
42 director.

43 (c) A facility at which any postclosure monitoring and maintenance
44 plan, notifications and approvals required in a permit have been
45 completed.

1 8. "Concentrated animal feeding operation" means an animal feeding
2 operation that meets the criteria prescribed in 40 Code of Federal
3 Regulations part 122, appendix B for determining a concentrated animal
4 feeding operation for purposes of 40 Code of Federal Regulations sections
5 122.23 and 122.24, appendix C.

6 9. "Department" means the department of environmental quality.

7 10. "Direct reuse" means the beneficial use of reclaimed water for
8 specific purposes authorized pursuant to section 49-203, subsection A,
9 paragraph 6.

10 11. "Director" means the director of environmental quality or the
11 director's designee.

12 12. "Discharge" means the direct or indirect addition of any
13 pollutant to the waters of the state from a facility. For purposes of the
14 aquifer protection permit program prescribed by article 3 of this chapter,
15 discharge means the addition of a pollutant from a facility either
16 directly to an aquifer or to the land surface or the vadose zone in such a
17 manner that ~~there is a reasonable probability that~~ the pollutant ~~will~~ MAY
18 reach an aquifer.

19 13. "Discharge impact area" means the potential areal extent of
20 pollutant migration, as projected on the land surface, as the result of a
21 discharge from a facility.

22 14. "Discharge limitation" means any restriction, prohibition,
23 limitation or criteria established by the director, through a rule, permit
24 or order, on quantities, rates, concentrations, combinations, toxicity and
25 characteristics of pollutants.

26 15. "Environment" means navigable waters, any other surface waters,
27 groundwater, drinking water supply, land surface or subsurface strata or
28 ambient air, within or bordering on this state.

29 16. "Existing facility" means a facility on which construction
30 began before August 13, 1986 and ~~which~~ THAT is neither a new facility nor
31 a closed facility. For the purposes of this definition, construction on a
32 facility has begun if the facility owner or operator has either:

33 (a) Begun, or caused to begin, as part of a continuous on-site
34 construction program any placement, assembly or installation of a
35 building, structure or equipment.

36 (b) Entered a binding contractual obligation to purchase a
37 building, structure or equipment ~~which~~ THAT is intended to be used in its
38 operation within a reasonable time. Options to purchase or contracts
39 ~~which~~ THAT can be terminated or modified without substantial loss, and
40 contracts for feasibility engineering and design studies, do not
41 constitute a contractual obligation for purposes of this definition.

42 17. "Facility" means any land, building, installation, structure,
43 equipment, device, conveyance, area, source, activity or practice from
44 which there is, or ~~with reasonable probability~~ may be, a discharge.

1 18. "Gray water" means wastewater that has been collected
2 separately from a sewage flow and that originates from a clothes washer or
3 a bathroom tub, shower or sink but that does not include wastewater from a
4 kitchen sink, dishwasher or toilet.

5 19. "Hazardous substance" means:

6 (a) Any substance designated pursuant to sections 311(b)(2)(A) and
7 307(a) of the clean water act.

8 (b) Any element, compound, mixture, solution or substance
9 designated pursuant to section 102 of CERCLA.

10 (c) Any hazardous waste having the characteristics identified under
11 or listed pursuant to section 49-922.

12 (d) Any hazardous air pollutant listed under section 112 of the
13 federal clean air act (42 United States Code section 7412).

14 (e) Any imminently hazardous chemical substance or mixture with
15 respect to which the administrator has taken action pursuant to section 7
16 of the federal toxic substances control act (15 United States Code section
17 2606).

18 (f) Any substance ~~which~~ THAT the director, by rule, either
19 designates as a hazardous substance following the designation of the
20 substance by the administrator under the authority described in
21 subdivisions (a) through (e) of this paragraph or designates as a
22 hazardous substance on the basis of a determination that such substance
23 represents an imminent and substantial endangerment to public health.

24 20. "HYDRAULIC FRACTURING" MEANS THE PROCESS OF PUMPING A FLUID
25 INTO OR UNDER THE SURFACE OF THE GROUND IN ORDER TO CREATE FRACTURES OR
26 CAVITIES IN ROCK FOR THE PURPOSE OF THE PRODUCTION OR RECOVERY OF OIL OR
27 GASES.

28 ~~20.~~ 21. "Inert material" means broken concrete, asphaltic
29 pavement, manufactured asbestos-containing products, brick, rock, gravel,
30 sand and soil. Inert material also includes material that when subjected
31 to a water leach test that is designed to approximate natural infiltrating
32 waters will not leach substances in concentrations that exceed numeric
33 aquifer water quality standards established pursuant to section 49-223,
34 including overburden and wall rock that is not acid generating, taking
35 into consideration acid neutralization potential, and that has not and
36 will not be subject to mine leaching operations.

37 ~~21.~~ 22. "Major modification" means a physical change in an
38 existing facility or a change in its method of operation that results in a
39 significant increase or adverse alteration in the characteristics or
40 volume of the pollutants discharged, or the addition of a process or major
41 piece of production equipment, building or structure that is physically
42 separated from the existing operation and that causes a discharge,
43 provided that:

44 (a) A modification to a groundwater protection permit facility as
45 defined in section 49-241.01, subsection C that would qualify for an

1 area-wide permit pursuant to section 49-243 consisting of an activity or
2 structure listed in section 49-241, subsection B ~~shall~~ DOES not constitute
3 a major modification solely because of that listing.

4 (b) For a groundwater protection permit facility as defined in
5 section 49-241.01, subsection C, a physical expansion that is accomplished
6 by lateral accretion or upward expansion within the pollutant management
7 area of the existing facility or group of facilities ~~shall~~ DOES not
8 constitute a major modification if the accretion or expansion is
9 accomplished through sound engineering practice in a manner compatible
10 with existing facility design, taking into account safety, stability and
11 risk of environmental release. For a facility described in section
12 49-241.01, subsection C, paragraph 1, expansion of a facility shall
13 conform with the terms and conditions of the applicable permit. For a
14 facility described in section 49-241.01, subsection C, paragraph 2, if the
15 area of the contemplated expansion is not identified in the notice of
16 disposal, the owner or operator of the facility shall submit to the
17 director the information required by section 49-243, subsection A,
18 paragraphs 1, 2, 3 and 7.

19 ~~22.~~ 23. "Navigable waters" means the waters of the United States
20 as defined by section 502(7) of the clean water act (33 United States Code
21 section 1362(7)).

22 ~~23.~~ 24. "New facility" means a previously closed facility that
23 resumes operation or a facility on which construction was begun after
24 August 13, 1986 on a site at which no other facility is located or to
25 totally replace the process or production equipment that causes the
26 discharge from an existing facility. A major modification to an existing
27 facility is deemed a new facility to the extent that the criteria in
28 section 49-243, subsection B, paragraph 1 can be practicably applied to
29 such modification. For the purposes of this definition, construction on a
30 facility has begun if the facility owner or operator has either:

31 (a) Begun, or caused to begin as part of a continuous on-site
32 construction program, any placement, assembly or installation of a
33 building, structure or equipment.

34 (b) Entered a binding contractual obligation to purchase a
35 building, structure or equipment ~~which~~ THAT is intended to be used in its
36 operation within a reasonable time. Options to purchase or contracts
37 ~~which~~ THAT can be terminated or modified without substantial loss, and
38 contracts for feasibility engineering and design studies, do not
39 constitute a contractual obligation for purposes of this definition.

40 ~~24.~~ 25. "Nonpoint source" means any conveyance ~~which~~ THAT is not a
41 point source from which pollutants are or may be discharged to navigable
42 waters.

43 ~~25.~~ 26. "On-site wastewater treatment facility" means a
44 conventional septic tank system or alternative system that is installed at

1 a site to treat and dispose of wastewater of predominantly human origin
2 that is generated at that site.

3 ~~26.~~ 27. "Permit" means a written authorization issued by the
4 director or prescribed by this chapter or in a rule adopted under this
5 chapter stating the conditions and restrictions governing a discharge or
6 governing the construction, operation or modification of a facility.

7 ~~27.~~ 28. "Person" means an individual, employee, officer, managing
8 body, trust, firm, joint stock company, consortium, public or private
9 corporation, including a government corporation, partnership, association
10 or state, a political subdivision of this state, a commission, the United
11 States government or any federal facility, interstate body or other
12 entity.

13 ~~28.~~ 29. "Point source" means any discernible, confined and
14 discrete conveyance, including, ~~but not limited to,~~ any pipe, ditch,
15 channel, tunnel, conduit, well, discrete fissure, container, rolling
16 stock, concentrated animal feeding operation or vessel or other floating
17 craft from which pollutants are or may be discharged to navigable waters.
18 Point source does not include return flows from irrigated agriculture.

19 ~~29.~~ 30. "Pollutant" means fluids, contaminants, toxic wastes,
20 toxic pollutants, dredged spoil, solid waste, substances and chemicals,
21 pesticides, herbicides, fertilizers and other agricultural chemicals,
22 incinerator residue, sewage, garbage, sewage sludge, munitions, petroleum
23 products, chemical wastes, biological materials, radioactive materials,
24 heat, wrecked or discarded equipment, rock, sand, cellar dirt and mining,
25 industrial, municipal and agricultural wastes or any other liquid, solid,
26 gaseous or hazardous substances.

27 ~~30.~~ 31. "Postclosure monitoring and maintenance" means those
28 activities that are conducted after closure notification and that are
29 necessary to:

30 (a) Keep the facility in compliance with either the aquifer water
31 quality standards at the applicable point of compliance or, for any
32 aquifer water quality standard that is exceeded at the time the aquifer
33 protection permit is issued, the requirement to prevent the facility from
34 further degrading the aquifer at the applicable point of compliance as
35 provided under section 49-243, subsection B, paragraph 3.

36 (b) Verify that the actions or controls specified as closure
37 requirements in an approved closure plan or strategy are routinely
38 inspected and maintained.

39 (c) Perform any remedial, mitigative or corrective actions or
40 controls as specified in the aquifer protection permit or perform
41 corrective action as necessary to comply with this paragraph and article 3
42 of this chapter.

43 (d) Meet property use restrictions.

44 ~~31.~~ 32. "Practicably" means able to be reasonably done from the
45 standpoint of technical practicability and, except for pollutants

1 addressed in section 49-243, subsection I, economically achievable on an
2 industry-wide basis.

3 ~~32.~~ 33. "Reclaimed water" means water that has been treated or
4 processed by a wastewater treatment plant or an on-site wastewater
5 treatment facility.

6 ~~33.~~ 34. "Regulated agricultural activity" means the application of
7 nitrogen fertilizer or a concentrated animal feeding operation.

8 ~~34.~~ 35. "Safe drinking water act" means the federal safe drinking
9 water act OF 1974, as amended (P.L. 93-523; 88 Stat. 1660; 95-190; 91
10 Stat. 1393).

11 ~~35.~~ 36. "Standards" means water quality standards, pretreatment
12 standards and toxicity standards established pursuant to this chapter.

13 ~~36.~~ 37. "Standards of performance" means performance standards,
14 design standards, best management practices, technologically based
15 standards and other standards, limitations or restrictions established by
16 the director by rule or by permit condition.

17 ~~37.~~ 38. "Tank" means a stationary device, including a sump, that
18 is constructed of concrete, steel, plastic, fiberglass, or other
19 non-earthen material that provides substantial structural support, and
20 that is designed to contain an accumulation of solid, liquid or gaseous
21 materials.

22 ~~38.~~ 39. "Toxic pollutant" means a substance that will cause
23 significant adverse reactions if ingested in drinking water. Significant
24 adverse reactions are reactions that may indicate a tendency of a
25 substance or mixture to cause long lasting or irreversible damage to human
26 health.

27 ~~39.~~ 40. "Trade secret" means information to which all of the
28 following apply:

29 (a) A person has taken reasonable measures to protect from
30 disclosure and the person intends to continue to take such measures.

31 (b) The information is not, and has not been, reasonably obtainable
32 without the person's consent by other persons, other than governmental
33 bodies, by use of legitimate means, other than discovery based on a
34 showing of special need in a judicial or quasi-judicial proceeding.

35 (c) No statute specifically requires disclosure of the information
36 to the public.

37 (d) The person has satisfactorily shown that disclosure of the
38 information is likely to cause substantial harm to the business's
39 competitive position.

40 ~~40.~~ 41. "Vadose zone" means the zone between the ground surface
41 and any aquifer.

42 ~~41.~~ 42. "Waters of the state" means all waters within the
43 jurisdiction of this state including all perennial or intermittent
44 streams, lakes, ponds, impounding reservoirs, marshes, watercourses,
45 waterways, wells, aquifers, springs, irrigation systems, drainage systems

1 and other bodies or accumulations of surface, underground, natural,
2 artificial, public or private water situated wholly or partly in or
3 bordering on the state.

4 ~~42-~~ 43. "Well" means a bored, drilled or driven shaft, pit or hole
5 whose depth is greater than its largest surface dimension.

6 Sec. 2. Section 49-203, Arizona Revised Statutes, is amended to
7 read:

8 49-203. Powers and duties of the director and department

9 A. The director shall:

10 1. Adopt, by rule, water quality standards in the form and subject
11 to the considerations prescribed by article 2 of this chapter.

12 2. Adopt, by rule, a permit program that is consistent with but ~~no~~
13 **NOT** more stringent than the requirements of the clean water act for the
14 point source discharge of any pollutant or combination of pollutants into
15 navigable waters. The program and the rules shall be sufficient to enable
16 this state to administer the permit program identified in section 402(b)
17 of the clean water act including the sewage sludge requirements of section
18 405 of the clean water act and as prescribed by article 3.1 of this
19 chapter.

20 3. Adopt, by rule, a program to control nonpoint source discharges
21 of any pollutant or combination of pollutants into navigable waters.

22 4. Adopt, by rule, an aquifer protection permit program to control
23 discharges of any pollutant or combination of pollutants that are reaching
24 or may ~~with a reasonable probability~~ reach an aquifer. The permit program
25 shall be as prescribed by article 3 of this chapter.

26 5. Adopt, by rule, the permit program for underground injection
27 control described in the safe drinking water act.

28 6. Adopt, by rule, technical standards for conveyances of reclaimed
29 water and a permit program for the direct reuse of reclaimed water.

30 7. Adopt, by rule or as permit conditions, discharge limitations,
31 best management practice standards, new source performance standards,
32 toxic and pretreatment standards and other standards and conditions as
33 reasonable and necessary to carry out the permit programs and regulatory
34 duties described in paragraphs 2 through 5 of this subsection.

35 8. Assess and collect fees to revoke, issue, deny, modify or
36 suspend permits issued pursuant to this chapter and to process permit
37 applications. The director may also assess and collect costs reasonably
38 necessary if the director must conduct sampling or monitoring relating to
39 a facility because the owner or operator of the facility has refused or
40 failed to do so on order by the director. The director shall set fees
41 that are reasonably related to the department's costs of providing the
42 service for which the fee is charged. Monies collected from aquifer
43 protection permit fees and from Arizona pollutant discharge elimination
44 system permit fees shall be deposited, pursuant to sections 35-146 and
45 35-147, in the water quality fee fund established by section 49-210.

1 Monies from other permit fees shall be deposited, pursuant to sections
2 35-146 and 35-147, in the water quality fee fund unless otherwise provided
3 by law. Monies paid by an applicant for review by consultants for the
4 department pursuant to section 49-241.02, subsection D shall be deposited,
5 pursuant to sections 35-146 and 35-147, in the water quality fee fund
6 established by section 49-210. State agencies are exempt from all fees
7 imposed pursuant to this chapter except for those fees associated with the
8 dredge and fill permit program established pursuant to article 3.2 of this
9 chapter. For services provided under the dredge and fill permit program,
10 a state agency shall pay either:

11 (a) The fees established by the department under the dredge and
12 fill permit program.

13 (b) The reasonable cost of services provided by the department
14 pursuant to an interagency service agreement.

15 9. Adopt, modify, repeal and enforce other rules that are
16 reasonably necessary to carry out the director's functions under this
17 chapter.

18 10. Require monitoring at an appropriate point of compliance for
19 any organic or inorganic pollutant listed under section 49-243, subsection
20 I if the director has reason to suspect the presence of the pollutant in a
21 discharge.

22 11. Adopt rules establishing what constitutes a significant
23 increase or adverse alteration in the characteristics or volume of
24 pollutants discharged for purposes of determining what constitutes a major
25 modification to an existing facility under the definition of new facility
26 pursuant to section 49-201. Before the adoption of these rules, the
27 director shall determine whether a change at a particular facility results
28 in a significant increase or adverse alteration in the characteristics or
29 volume of pollutants discharged on a case-by-case basis, taking into
30 account site conditions and operational factors.

31 B. The director may:

32 1. On presentation of credentials, enter into, on or through any
33 public or private property from which a discharge has occurred, is
34 occurring or may occur or on which any disposal, land application of
35 sludge or treatment regulated by this chapter has occurred, is occurring
36 or may be occurring and any public or private property where records
37 relating to a discharge or records that are otherwise required to be
38 maintained as prescribed by this chapter are kept, as reasonably necessary
39 to ensure compliance with this chapter. The director or a department
40 employee may take samples, inspect and copy records required to be
41 maintained pursuant to this chapter, inspect equipment, activities,
42 facilities and monitoring equipment or methods of monitoring, take
43 photographs and take other action reasonably necessary to determine the
44 application of, or compliance with, this chapter. The owner or managing
45 agent of the property shall be afforded the opportunity to accompany the

1 director or department employee during inspections and investigations, but
2 prior notice of entry to the owner or managing agent is not required if
3 reasonable grounds exist to believe that notice would frustrate the
4 enforcement of this chapter. If the director or department employee
5 obtains any samples before leaving the premises, the director or
6 department employee shall give the owner or managing agent a receipt
7 describing the samples obtained and a portion of each sample equal in
8 volume or weight to the portion retained. If an analysis is made of
9 samples, or monitoring and testing are performed, a copy of the results
10 shall be furnished promptly to the owner or managing agent.

11 2. Require any person who has discharged, is discharging or may
12 discharge into the waters of ~~the~~ THIS state under article 3, 3.1, ~~or~~ 3.2
13 or 3.3 of this chapter and any person who is subject to pretreatment
14 standards and requirements or sewage sludge use or disposal requirements
15 under article 3.1 of this chapter to collect samples, to establish and
16 maintain records, including photographs, and to install, use and maintain
17 sampling and monitoring equipment to determine the absence or presence and
18 nature of the discharge or indirect discharge or sewage sludge use or
19 disposal.

20 3. Administer state or federal grants, including grants to
21 political subdivisions of this state, for the construction and
22 installation of publicly and privately owned pollutant treatment works and
23 pollutant control devices and establish grant application priorities.

24 4. Develop, implement and administer a water quality planning
25 process, including a ranking system for applicant eligibility, wherein
26 appropriated state monies and available federal monies are awarded to
27 political subdivisions of this state to support or assist regional water
28 quality planning programs and activities.

29 5. Enter into contracts and agreements with the federal government
30 to implement federal environmental statutes and programs.

31 6. Enter into intergovernmental agreements pursuant to title 11,
32 chapter 7, article 3 if the agreement is necessary to more effectively
33 administer the powers and duties described in this chapter.

34 7. Participate in, conduct and contract for studies,
35 investigations, research and demonstrations relating to the causes,
36 minimization, prevention, correction, abatement, mitigation, elimination,
37 control and remedy of discharges and collect and disseminate information
38 relating to discharges.

39 8. File bonds or other security as required by a court in any
40 enforcement actions under article 4 of this chapter.

41 9. Adopt by rule a permit program for the discharge of dredged or
42 fill material into navigable waters for purposes of implementing the
43 permit program established by 33 United States Code section 1344.

44 C. Subject to section 38-503 and other applicable statutes and
45 rules, the department may contract with a private consultant for the

1 purposes of assisting the department in reviewing aquifer protection
2 permit applications and on-site wastewater treatment facilities to
3 determine whether a facility meets the criteria and requirements of this
4 chapter and the rules adopted by the director. Except as provided in
5 section 49-241.02, subsection D, the department shall not use a private
6 consultant if the fee charged for that service would be greater than the
7 fee the department would charge to provide that service. The department
8 shall pay the consultant for the services rendered by the consultant from
9 fees paid by the applicant or facility to the department pursuant to
10 subsection A, paragraph 8 of this section.

11 D. The director shall integrate all of the programs authorized in
12 this section and other programs affording water quality protection that
13 are administered by the department for purposes of administration and
14 enforcement and shall avoid duplication and dual permitting to the maximum
15 extent practicable.

16 Sec. 3. Title 49, chapter 2, article 1, Arizona Revised Statutes,
17 is amended by adding section 49-211, to read:

18 49-211. Hydraulic fracturing prohibited

19 NOTWITHSTANDING ARTICLE 3.3 OF THIS CHAPTER, A PERSON MAY NOT ENGAGE
20 IN HYDRAULIC FRACTURING IN THIS STATE AND MAY NOT COLLECT, STORE OR TREAT
21 WATER IN THIS STATE IF THAT WATER IS USED IN, GENERATED BY OR RESULTING
22 FROM THE PROCESS OF HYDRAULIC FRACTURING.

23 Sec. 4. Section 49-245.01, Arizona Revised Statutes, is amended to
24 read:

25 49-245.01. Storm water general permit

26 A. A general permit is issued for facilities used solely for the
27 management of storm water and that are regulated by the clean water act,
28 including catchments, impoundments and sumps, provided the following
29 conditions are met:

30 1. The owner or operator of the facility has obtained a national
31 pollutant discharge elimination system permit issued pursuant to the clean
32 water act for any storm water discharges at the facility, or that the
33 facility has applied, and not been denied coverage, for this type of
34 permit for any storm water discharges at the facility.

35 2. The owner or operator notifies the director that the facility
36 has met the requirements of paragraph 1 of this subsection.

37 3. The owner or operator of the facility has in place any required
38 storm water pollution prevention plan.

39 B. If the director determines that discharges of storm water from a
40 facility or facilities covered by this general permit are causing a
41 violation of aquifer water quality standards at the applicable point of
42 compliance, the director may revoke the general permit of the facility or
43 facilities or may require that an individual permit be obtained pursuant
44 to section 49-243. If the director determines that discharges of storm
45 water from a facility or facilities covered by this general permit, ~~with~~

1 ~~reasonable probability,~~ may cause a violation of aquifer water quality
2 standards at the applicable point of compliance, the director may require
3 a facility or facilities covered by the general permit to obtain an
4 individual permit pursuant to section 49-243.

5 Sec. 5. Section 49-245.02, Arizona Revised Statutes, is amended to
6 read:

7 49-245.02. General permit for certain discharges associated
8 with man-made bodies of water

9 A. A general permit is issued for the following discharges:

10 1. Disposal in vadose zone injection wells of storm water mixed
11 with reclaimed wastewater or groundwater, or both, from man-made bodies of
12 water associated with golf courses, parks and residential common areas,
13 provided that:

14 (a) The vadose zone injection wells are registered pursuant to
15 section 49-332.

16 (b) The discharge occurs only in response to storm events.

17 (c) With the exception of the aquifer water quality standard for
18 microbiological contaminants, the reclaimed wastewater meets aquifer water
19 quality standards before being placed into the body of water, as
20 documented by a water quality analysis submitted with the vadose zone
21 injection well registration. The owner or operator of the vadose zone
22 injection wells shall demonstrate continued compliance with this
23 subdivision by submitting to the department the results of any monitoring
24 required as part of an aquifer protection permit or wastewater reuse
25 permit for any facility providing reclaimed wastewater to the man-made
26 body of water. For purposes of this general permit, monitoring shall be
27 conducted at least semiannually. The monitoring results shall be
28 submitted to the department semiannually beginning six months after
29 registration made PURSUANT to subdivision (a) of this paragraph.

30 (d) The vadose zone injection wells shall be located at least one
31 hundred feet from any water supply well.

32 (e) A vertical separation of forty feet shall be provided between
33 the bottom of the vadose zone injection wells and the water table to allow
34 the aquifer water quality standard for microbiological contaminants to be
35 met in the uppermost aquifer.

36 (f) The vadose zone injection wells are not used for any other
37 purpose.

38 2. Subsurface discharges from man-made bodies of water associated
39 with golf courses, parks and residential common areas, provided that:

40 (a) The body of water contains only groundwater, storm water or
41 reclaimed wastewater, or a combination thereof.

42 (b) The reclaimed wastewater complies with the terms of a
43 wastewater reuse permit before being placed into the body of water.

44 (c) The body of water is lined and maintained to achieve a
45 hydraulic conductivity of 10⁻⁷ cm/sec or less.

1 3. Point source discharges to waters of the United States from man-
2 made bodies of water associated with golf courses, parks and residential
3 common areas that contain only groundwater, storm water or reclaimed
4 wastewater, or a combination thereof, provided that:

5 (a) The discharges are subject to a valid national pollutant
6 discharge elimination system permit.

7 (b) The discharges occur only in response to storm events.

8 (c) With the exception of the aquifer water quality standard for
9 microbiological contaminants, the reclaimed wastewater meets aquifer water
10 quality standards before being placed into the body of water.

11 B. If the director determines that discharges from a facility
12 covered by this general permit are causing a violation of aquifer water
13 quality standards, the director may revoke the general permit of the
14 facility or may require that an individual permit be obtained pursuant to
15 section 49-243. If the director determines that discharges from a
16 facility covered by this general permit may cause, ~~with reasonable~~
17 ~~probability~~, a violation of aquifer water quality standards, the director
18 may require the facility to obtain an individual permit pursuant to
19 section 49-243.

20 Sec. 6. Section 49-701, Arizona Revised Statutes, is amended to
21 read:

22 49-701. Definitions

23 In this chapter, unless the context otherwise requires:

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

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

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

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

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

37 (i) Ceased receiving solid waste ~~prior to~~ BEFORE July 1, 1983.

38 (ii) Ceased receiving solid waste and received at least two feet of
39 cover material ~~prior to~~ BEFORE January 1, 1986.

40 (iii) Received approval for closure from the department.

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

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

- 1 5. "Construction debris" means solid waste derived from the
2 construction, repair or remodeling of buildings or other structures.
- 3 6. "County" means:
- 4 (a) The board of supervisors in the context of the exercise of
5 powers or duties.
- 6 (b) The unincorporated areas in the context of area of
7 jurisdiction.
- 8 7. "Demolition debris" means solid waste derived from the
9 demolition of buildings or other structures.
- 10 8. "Discharge" has the same meaning prescribed in section 49-201.
- 11 9. "Existing solid waste facility" means a solid waste facility
12 that begins construction or is in operation on the effective date of the
13 design and operation rules adopted by the director pursuant to section
14 49-761 for that type of solid waste facility.
- 15 10. "Facility plan" means any design or operating plan for a solid
16 waste facility or group of solid waste facilities.
- 17 11. "40 C.F.R. part 257" means 40 Code of Federal Regulations part
18 257 in effect on May 1, 2004.
- 19 12. "40 C.F.R. part 258" means 40 Code of Federal Regulations part
20 258 in effect on May 1, 2004.
- 21 13. "Household hazardous waste" means solid waste as described in
22 40 Code of Federal Regulations section 261.4(b)(1) as incorporated by
23 reference in the rules adopted pursuant to chapter 5 of this title.
- 24 14. "Household waste" means any solid waste including garbage,
25 rubbish and sanitary waste from septic tanks that is generated from
26 households including single and multiple family residences, hotels and
27 motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic
28 grounds and ~~day use~~ DAY-USE recreation areas, not including construction
29 debris, landscaping rubble or demolition debris.
- 30 15. "Inert material":
- 31 (a) Means material that satisfies all of the following conditions:
- 32 (i) Is not flammable.
- 33 (ii) Will not decompose.
- 34 (iii) Will not leach substances in concentrations that exceed
35 applicable aquifer water quality standards prescribed by section
36 49-201, ~~paragraph 20~~ FOR INERT MATERIAL when subjected to a water leach
37 test that is designed to approximate natural infiltrating waters.
- 38 (b) Includes concrete, asphaltic pavement, brick, rock, gravel,
39 sand, soil and metal, if used as reinforcement in concrete, but does not
40 include special waste, hazardous waste, glass or other metal.
- 41 16. "Land disposal" means placement of solid waste in or on land.
- 42 17. "Landscaping rubble" means material that is derived from
43 landscaping or reclamation activities and that may contain inert material
44 and no more than ten ~~percent~~ PERCENT by volume of vegetative waste.

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

4 19. "Medical waste" means any solid waste ~~which~~ THAT is generated
5 in the diagnosis, treatment or immunization of a human being or animal or
6 in any research relating to that diagnosis, treatment or immunization, or
7 in the production or testing of biologicals, and includes discarded drugs
8 but does not include hazardous waste as defined in section 49-921 other
9 than conditionally exempt small quantity generator waste.

10 20. "Municipal solid waste landfill" means any solid waste landfill
11 that accepts household waste, household hazardous waste or conditionally
12 exempt small quantity generator waste.

13 21. "New solid waste facility" means a solid waste facility that
14 begins construction or operation after the effective date of design and
15 operating rules that are adopted pursuant to section 49-761 for that type
16 of solid waste facility.

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

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

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

33 25. "Public solid waste facility" means a transfer facility and any
34 site owned, operated or utilized by any person for the storage,
35 processing, treatment or disposal of solid waste that is not generated on
36 site.

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

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

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

1 29. "Solid waste facility" means a transfer facility and any site
2 owned, operated or utilized by any person for the storage, processing,
3 treatment or disposal of solid waste, conditionally exempt small quantity
4 generator waste or household hazardous waste but does not include the
5 following:

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

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

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

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

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

24 (f) A closed solid waste facility.

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

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

32 (i) A site where solid waste generated in street sweeping
33 activities is stored, processed or treated ~~prior to~~ BEFORE disposal at a
34 solid waste facility authorized under this chapter.

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

40 (k) A closed solid waste landfill where development activities
41 occur on the property or where excavation or removal of solid waste is
42 performed for maintenance and repair ~~provided~~ IF the following conditions
43 are met:

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

1 (ii) When the project is completed the concentration of methane gas
2 will not exceed twenty-five ~~per cent~~ PERCENT of the lower explosive limit
3 in on-site structures, or the concentration of methane gas will not exceed
4 the lower explosive limit at the property line.

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

7 (iv) The operator provides a notice to the department containing
8 the information required by section 49-762.07, subsection A, paragraphs 1,
9 2 and 5 and a brief description of the project.

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

11 (m) The use, storage, treatment or disposal of by-products of
12 regulated agricultural activities as defined in section 49-201 and that
13 are subject to best management practices pursuant to section 49-247 or
14 by-products of livestock, range livestock and poultry as defined in
15 section 3-1201, pesticide containers that are regulated pursuant to title
16 3, chapter 2, article 6 or other agricultural crop residues.

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

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

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

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

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

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

29 30. "Solid waste landfill" means a facility, area of land or
30 excavation in which solid wastes are placed for permanent disposal. Solid
31 waste landfill does not include a land application unit, surface
32 impoundment, injection well, compost pile or waste pile or an area
33 containing ash from the on-site combustion of coal that does not contain
34 household waste, household hazardous waste or conditionally exempt small
35 quantity generator waste.

36 31. "Solid waste management" means the systematic administration of
37 activities ~~which~~ THAT provide for the collection, source separation,
38 storage, transportation, transfer, processing, treatment or disposal of
39 solid waste in a manner that protects public health and safety and the
40 environment and prevents and abates environmental nuisances.

41 32. "Solid waste management plan" means the plan ~~which~~ THAT is
42 adopted pursuant to section 49-721 and ~~which~~ THAT provides guidelines for
43 the collection, source separation, storage, transportation, processing,
44 treatment, reclamation and disposal of solid waste in a manner that

1 protects public health and safety and the environment and prevents and
2 abates environmental nuisances.

3 33. "Storage" means the holding of solid waste.

4 34. "Transfer facility" means a site that is owned, operated or
5 used by any person for the rehandling or storage for ninety days or less
6 of solid waste that was generated off site for the primary purpose of
7 transporting that solid waste. Transfer facility includes those
8 facilities that include significant solid waste transfer activities that
9 warrant the facility's regulation as a transfer facility.

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

14 36. "Vegetative waste" means waste derived from plants, including
15 tree limbs and branches, stumps, grass clippings and other waste plant
16 material. Vegetative waste does not include processed lumber, paper,
17 cardboard and other manufactured products that are derived from plant
18 material.

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

21 38. "Waste tire" does not include tires used for agricultural
22 purposes as bumpers on agricultural equipment or as ballast to maintain
23 covers at an agricultural site, or any tire disposed of using any of the
24 methods in section 44-1304, subsection D, paragraphs 1, 2, 3, 5 through 8
25 and 11 and means any of the following:

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

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

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

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