CHAPTER 178

HOUSE BILL 2411

AN ACT

AMENDING SECTIONS 45-1201, 49-250, 49-701, 49-761, 49-762, 49-762.01, 49-762.02, 49-762.06, 49-762.07, 49-762.08, 49-763.01, 49-769, 49-770, 49-781, 49-783, 49-791, 49-803 AND 49-881, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 11; RELATING TO COAL COMBUSTION RESIDUALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 45-1201, Arizona Revised Statutes, is amended to read:

45-1201. Definitions
In this article, unless the context otherwise requires:

1. "Dam" means any artificial barrier, including appurtenant works for the impounding or diversion of water, twenty-five feet or more in height or the storage capacity of which will be more than fifty acre-feet but does not include:
   (a) Any barrier that is or will be less than six feet in height, regardless of storage capacity.
   (b) Any barrier that has or will have a storage capacity of fifteen acre-feet or less, regardless of height.
   (c) Any barrier for the purpose of controlling liquid-borne material.
   (d) Any barrier that is a release-contained barrier.
   (e) Any barrier that is owned, controlled, operated, maintained or managed by the United States government or its agents or instrumentalities if a safety program that is at least as stringent as the state safety program applies and is enforced against the agent or instrumentality.
   (f) ANY CCR SURFACE IMPOUNDMENT AS DEFINED IN SECTION 49-701 THAT IS REGULATED BY A PERMIT IN EFFECT UNDER THE COAL COMBUSTION RESIDUALS PROGRAM ESTABLISHED PURSUANT TO TITLE 49, CHAPTER 4, ARTICLE 11 AND APPROVED FOR CCR SURFACE IMPOUNDMENT SAFETY BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY IN ACCORDANCE WITH 42 UNITED STATES CODE SECTION 6945(d)(1).

2. "Height" means the vertical distance from the lowest elevation of the outside limit of the barrier at its intersection with the natural ground surface to the spillway crest elevation.

3. "Owner" includes any person or entity that owns, controls, operates, maintains, manages or proposes to construct or modify a dam.

4. "Person" means any person, firm, association, organization, partnership, business trust, corporation, company or district.

5. "Release-contained barrier" means any artificial barrier and appurtenant works that comply with both of the following:
   (a) Has a storage capacity that in the event of failure would be contained within property that the release-contained barrier owner owns, controls, operates, maintains or manages.
   (b) The property on which the release would be contained is not open to the public.

6. "Storage capacity" means the maximum volume of water that can be impounded by the reservoir when there is no discharge of water.
Sec. 2. Section 49-250, Arizona Revised Statutes, is amended to read:

49-250. Exemptions

A. The director, by rule, may exempt specifically described classes or categories of facilities from the aquifer protection permit requirements of this article on a finding either that there is no reasonable probability of degradation of the aquifer or that aquifer water quality will be maintained and protected because the discharges from the facilities are regulated under other federal or state programs that provide the same or greater aquifer water quality protection as provided by this article.

B. The following are exempt from the aquifer protection permit requirement of this article:

1. Household and domestic activities.
2. Household gardening, lawn watering, lawn care, landscape maintenance and related activities.
3. The noncommercial use of consumer products generally available to and used by the public.
4. Ponds used for watering livestock and wildlife.
5. Mining overburden returned to the excavation site, including any common material that has been excavated and removed from the excavation site and THAT has not been subjected to any chemical or leaching agent or process of any kind.
6. Facilities used solely for surface transportation or storage of groundwater, surface water for beneficial use or reclaimed water that is regulated pursuant to section 49-203, subsection A, paragraph 7 for beneficial use.
7. Discharge to a community sewer system.
8. Facilities that are required to obtain a permit for the direct reuse of reclaimed water.
9. Leachate resulting from the direct, natural infiltration of precipitation through undisturbed regolith or bedrock if pollutants are not added to the leachate as a result of any material or activity placed or conducted by man on the ground surface.
10. Surface impoundments used solely to contain storm runoff, except for surface impoundments regulated by the federal clean water act or article 3.1 of this chapter.
11. Closed facilities. However, if the facility ever resumes operation the facility shall obtain an aquifer protection permit and the facility shall be treated as a new facility for purposes of section 49-243.
12. Facilities for the storage of water pursuant to title 45, chapter 3.1 unless reclaimed water is added.
13. Facilities using central Arizona project water for underground storage and recovery projects under title 45, chapter 3.1, article 6.

14. Water storage at a groundwater saving facility that has been permitted under title 45, chapter 3.1.

15. Application of water from any source, including groundwater, surface water or wastewater, to grow agricultural crops or for landscaping purposes, except as provided in section 49-247.

16. Discharges to a facility that is exempt pursuant to paragraph 6 of this subsection if those discharges are regulated pursuant to 33 United States Code section 1342 or article 3.1 of this chapter.

17. Solid waste and special waste facilities if rules addressing aquifer protection are adopted by the director pursuant to section 49-761 or 49-855 and those facilities obtain plan approval pursuant to those rules. This exemption shall apply only if the director determines that aquifer water quality standards will be maintained and protected because the discharges from those facilities are regulated under rules adopted pursuant to section 49-761 or 49-855 that provide aquifer water quality protection that is equal to or greater than aquifer water quality protection provided pursuant to this article.

18. Facilities used in:
   (a) Corrective actions taken pursuant to chapter 6, article 1 of this title in response to a release of a regulated substance as defined in section 49-1001 except for those off-site facilities that receive for treatment or disposal materials that are contaminated with a regulated substance and that are received as part of a corrective action.
   (b) Response or remedial actions undertaken pursuant to article 5 of this chapter or pursuant to CERCLA.
   (c) Corrective actions taken pursuant to the resource conservation and recovery act of 1976, as amended (42 United States Code sections 6901 through 6992).
   (d) Other remedial actions that have been reviewed and approved by the appropriate governmental authority and taken pursuant to applicable federal or state laws.

19. Municipal solid waste landfills as defined in section 49-701 that have solid waste facility plan approval pursuant to section 49-762.

20. Storage, treatment or disposal of inert material.

21. Structures that are designed and constructed not to discharge and that are built on an impermeable barrier that can be visually inspected for leakage.

22. Pipelines and tanks designed, constructed, operated and regularly maintained so as not to discharge.

23. Surface impoundments and dry wells that are used to contain storm water in combination with discharges from one or more of the following activities or sources:
   (a) Firefighting system testing and maintenance.
(b) Potable water sources, including waterline flushings.
(c) Irrigation drainage and lawn watering.
(d) Routine external building wash down without detergents.
(e) Pavement wash water if no spills or leaks of toxic or hazardous material have occurred unless all spilled material has first been removed and no detergents have been used.
(f) Air conditioning, compressor and steam equipment condensate that has not contacted a hazardous or toxic material.
(g) Foundation or footing drains in which flows are not contaminated with process materials.
(h) Occupational safety and health administration or mining safety and health administration safety equipment.

24. Industrial wastewater treatment facilities designed, constructed and operated as required by section 49-243, subsection B, paragraph 1 and using a treatment system approved by the director to treat wastewater to meet aquifer water quality standards prior to discharge, if that water is stored at a groundwater storage facility pursuant to title 45, chapter 3.1.

25. Any point source discharge caused by a storm event and authorized in a permit issued pursuant to section 402 of the clean water act or an Arizona pollutant discharge elimination system permit under article 3.1 of this chapter.

26. Except for class V wells that are operating as prescribed by rules adopted pursuant to article 3.3 of this chapter or 42 United States Code section 300h-1(c), any underground injection well covered by a permit issued under article 3.3 of this chapter or under 42 United States Code section 300h-1(c).

27. COAL COMBUSTION RESIDUALS UNITS THAT ARE REGULATED UNDER 40 CODE OF FEDERAL REGULATIONS PART 257, SUBPART D OR BY A PERMIT IN EFFECT UNDER THE COAL COMBUSTION RESIDUALS PROGRAM ESTABLISHED PURSUANT TO CHAPTER 4, ARTICLE 11 OF THIS TITLE AND APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AS PRESCRIBED BY 42 UNITED STATE CODE SECTION 6945(d)(1).

Sec. 3. Section 49-701, Arizona Revised Statutes, is amended to read:

49-701. Definitions
In this chapter, unless the context otherwise requires:
1. "Administratively complete plan" means an application for a solid waste facility plan approval that the department has determined contains each of the components required by statute or rule but that has not undergone technical review or public notice by the department.
2. "Administrator" means the administrator of the United States environmental protection agency.
3. "Advanced recycling":
   (a) Means a manufacturing process for the conversion of post-use polymers and recovered feedstocks into basic hydrocarbon raw materials, feedstocks, chemicals, monomers, plastics, plastics and chemical feedstocks, basic and unfinished chemicals, crude oil, naphtha, liquid transportation fuels and coatings and other products such as waxes and lubricants through processes that include pyrolysis, gasification, depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis and other similar technologies.
   (b) Does not include solid waste management, processing, incineration or treatment.

4. "Advanced recycling facility":
   (a) Means a facility that receives, stores and converts post-use polymers and recovered feedstocks using advanced recycling.
   (b) Includes a manufacturing facility that is subject to applicable provisions of law and department rules for air quality, water quality and waste and land use.
   (c) Does not include a solid waste facility, processing facility, treatment facility, materials recovery facility, recycling facility or incinerator.

5. "BENEFICIAL USE OF CCR" MEANS THAT THE CCR MEETS ALL OF THE FOLLOWING CONDITIONS:
   (a) THE CCR PROVIDES A FUNCTIONAL BENEFIT.
   (b) THE CCR SUBSTITUTES FOR THE USE OF A VIRGIN MATERIAL, WHICH CONSERVES NATURAL RESOURCES THAT WOULD OTHERWISE NEED TO BE OBTAINED THROUGH PRACTICES SUCH AS EXTRACTION.
   (c) THE USE OF THE CCR MEETS RELEVANT PRODUCT SPECIFICATIONS, REGULATORY STANDARDS OR DESIGN STANDARDS WHEN AVAILABLE, AND WHEN THOSE STANDARDS ARE NOT AVAILABLE, THE CCR IS NOT USED IN EXCESS QUANTITIES.
   (d) WHEN UNENCAPSULATED USE OF CCR INVOLVING PLACEMENT OF TWELVE THOUSAND FOUR HUNDRED TONS OR MORE ON THE LAND IN NON-ROADWAY APPLICATIONS, THE USER DEMONSTRATES, KEEPS RECORDS AND PROVIDES DOCUMENTATION ON REQUEST, THAT ENVIRONMENTAL RELEASES TO GROUNDWATER, SURFACE WATER, SOIL AND AIR ARE COMPARABLE TO OR LOWER THAN THOSE FROM ANALOGOUS PRODUCTS MADE WITHOUT CCR, OR THAT ENVIRONMENTAL RELEASES TO GROUNDWATER, SURFACE WATER, SOIL AND AIR WILL BE AT OR BELOW RELEVANT REGULATORY AND HEALTH-BASED BENCHMARKS FOR HUMAN AND ECOLOGICAL RECEPTORS DURING USE.

6. "CCR PILE" OR "PILE":
   (a) MEANS ANY NON-CONTAINERIZED ACCUMULATION OF SOLID, NON-FLOWING CCR THAT IS PLACED ON THE LAND.
   (b) DOES NOT INCLUDE A CCR THAT IS BENEFICIALLY USED OFF-SITE.

7. "CCR PROGRAM APPROVAL" MEANS UNITED STATES ENVIRONMENTAL PROTECTION AGENCY APPROVAL OF THE ARIZONA COAL COMBUSTION RESIDUALS PROGRAM IN ACCORDANCE WITH 42 UNITED STATES CODE SECTION 6945(d)(1).
8. "CCR SURFACE IMPOUNDMENT" OR "IMPOUNDMENT" MEANS A NATURAL TOPOGRAPHIC DEPRESSION, MAN-MADE EXCAVATION OR DIKED AREA, WHICH IS DESIGNED TO HOLD AN ACCUMULATION OF CCR AND LIQUIDS, AND THE CCR UNIT TREATS, STORES OR DISPOSES OF CCR.

9. "Closed solid waste facility" means any of the following:
   (a) A solid waste facility OTHER THAN A CCR UNIT that ceases storing, treating, processing or receiving for disposal solid waste before the effective date of design and operation rules for that type of facility adopted pursuant to section 49-761.
   (b) A public solid waste landfill that meets any of the following criteria:
       (i) Ceased receiving solid waste before July 1, 1983.
       (ii) Ceased receiving solid waste and received at least two feet of cover material before January 1, 1986.
       (iii) Received approval for closure from the department.
   (c) A public composting plant or a public incinerating facility that closed in accordance with an approved plan.
   (d) A CCR UNIT WHEN PLACEMENT OF CCR IN A CCR UNIT HAS CEASED AND THE OWNER OR OPERATOR HAS COMPLETED CLOSURE OF THE CCR UNIT AND HAS INITIATED POSTCLOSURE CARE IN ACCORDANCE WITH 40 CODE OF FEDERAL REGULATIONS PART 257, SUBPART D OR IN ACCORDANCE WITH A PROGRAM APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 42 UNITED STATES CODE SECTION 6945(d)(1).

10. "COAL COMBUSTION RESIDUALS" OR "CCR" MEANS FLY ASH, BOTTOM ASH, BOILER SLAG AND FLUE GAS DESULFURIZATION MATERIALS GENERATED FROM BURNING COAL FOR THE PURPOSE OF GENERATING ELECTRICITY BY ELECTRIC UTILITIES AND INDEPENDENT POWER PRODUCERS.

11. "COAL COMBUSTION RESIDUALS LANDFILL" OR "CCR LANDFILL":
   (a) MEANS AN AREA OF LAND OR AN EXCAVATION THAT RECEIVES CCR AND THAT IS NOT A SURFACE IMPOUNDMENT, AN UNDERGROUND INJECTION WELL, A SALT DOME FORMATION, A SALT BED FORMATION, AN UNDERGROUND OR SURFACE COAL MINE OR A CAVE.
   (b) INCLUDES SAND AND GRAVEL PITS AND QUARRIES THAT RECEIVE CCR OR CCR PILES AND ANY USE OF CCR THAT DOES NOT MEET THE DEFINITION OF A BENEFICIAL USE OF CCR.

12. "COAL COMBUSTION RESIDUALS UNIT" OR "CCR UNIT":
   (a) MEANS ANY CCR LANDFILL, CCR SURFACE IMPOUNDMENT OR LATERAL EXPANSION OF A CCR UNIT OR A COMBINATION OF MORE THAN ONE OF THESE UNITS.
   (b) INCLUDES BOTH NEW AND EXISTING UNITS, UNLESS OTHERWISE SPECIFIED.

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

14. "Construction debris" means solid waste derived from the construction, repair or remodeling of buildings or other structures.
8.  "County" means:
   (a) The board of supervisors in the context of the exercise of powers or duties.
   (b) The unincorporated areas in the context of area of jurisdiction.
9.  "Demolition debris" means solid waste derived from the demolition of buildings or other structures.
10. "Depolymerization" means a manufacturing process through which post-use polymers are broken into smaller molecules such as monomers and oligomers or raw, intermediate or final products, plastics and chemical feedstocks, basic and unfinished chemicals, crude oil, naphtha, liquid transportation fuels, waxes, lubricants, coatings and other basic hydrocarbons.
11. "Discharge" has the same meaning prescribed in section 49-201.
13. "EXISTING CCR SURFACE IMPOUNDMENT" MEANS A CCR SURFACE IMPOUNDMENT THAT MEETS ONE OF THE FOLLOWING CONDITIONS:
   (a) RECEIVES CCR BOTH BEFORE AND AFTER OCTOBER 19, 2015.
   (b) FOR WHICH CONSTRUCTION COMMENCED BEFORE OCTOBER 19, 2015 AND THAT RECEIVES CCR ON OR AFTER OCTOBER 19, 2015. FOR THE PURPOSES OF THIS PARAGRAPH, "COMMENCED CONSTRUCTION" MEANS THE OWNER OR OPERATOR OF A CCR SURFACE IMPOUNDMENT HAS OBTAINED THE FEDERAL, STATE, AND LOCAL APPROVALS OR PERMITS NECESSARY TO BEGIN PHYSICAL CONSTRUCTION AND A CONTINUOUS ON SITE, PHYSICAL CONSTRUCTION PROGRAM HAD BEGUN PRIOR TO OCTOBER 19, 2015.
14. "Existing solid waste facility" means a solid waste facility OTHER THAN A CCR UNIT that begins construction or is in operation on the effective date of the design and operation rules adopted by the director pursuant to section 49-761 for that type of solid waste facility.
15. "Facility plan" means any design or operating plan for a solid waste facility or group of solid waste facilities OTHER THAN A PERMIT ISSUED UNDER ARTICLE 11 OF THIS CHAPTER.
25. "Gasification" means a manufacturing process through which recovered feedstocks are heated and converted into a fuel and gas mixture in an oxygen-deficient atmosphere and the mixture is converted into valuable raw, intermediate and final products, including plastic monomers, chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel, gasoline, diesel and gasoline blendstocks, home heating oil and other fuels, including ethanol and transportation fuel, that are returned to economic utility in the form of raw materials, products or fuels.


27. "Household waste":
   (a) Means any solid waste, including garbage, rubbish and sanitary waste from septic tanks, that is generated from households, including single and multiple-family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas.
   (b) Does not include construction debris, landscaping rubble or demolition debris.

28. "Inert material":
   (a) Means material that satisfies all of the following conditions:
      (i) Is not flammable.
      (ii) Will not decompose.
      (iii) Will not leach substances in concentrations that exceed applicable aquifer water quality standards prescribed by section 49-201, paragraph 22 when subjected to a water leach test that is designed to approximate natural infiltrating waters.
   (b) Includes concrete, asphaltic pavement, brick, rock, gravel, sand, soil and metal, if used as reinforcement in concrete.
   (c) Does not include special waste, hazardous waste, glass or other metal.

29. "Land disposal" means placement of solid waste in or on land.

30. "Landscaping rubble" means material that is derived from landscaping or reclamation activities and that may contain inert material and not more than ten percent by volume of vegetative waste.


32. "Management agency" means any person responsible for the day-to-day operation, maintenance and management of a particular public facility or group of public facilities.
33. "Medical waste":
   (a) Means any solid waste that is generated in the diagnosis, treatment or
   immunization of a human being or animal or in any research related to that
   diagnosis, treatment or immunization, or in the production or testing of biologicals.
   (b) Includes discarded drugs.
   (c) Does not include hazardous waste as defined in section 49-921 other than conditionally exempt small quantity generator waste.

34. "Municipal solid waste landfill" means any solid waste landfill that accepts household waste, household hazardous waste or conditionally exempt small quantity generator waste.

35. "New solid waste facility" means a solid waste facility that begins construction or operation after the effective date of design and operating rules that are adopted pursuant to section 49-761 OR ARTICLE 11 OF THIS CHAPTER for that type of solid waste facility.

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

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

38. "Post-use polymer":
   (a) Means a plastic to which all of the following apply:
      (i) The plastic is derived from any industrial, commercial, agricultural or domestic activities.
      (ii) The plastic is not mixed with solid waste or hazardous waste on site or during processing at the advanced recycling facility.
      (iii) The plastic's use or intended use is as a feedstock for the manufacturing of crude oil, fuels, feedstocks, blendstocks, raw materials or other intermediate products or final products using advanced recycling.
      (iv) The plastic has been sorted from solid waste and other regulated waste but may contain residual amounts of solid waste such as organic material and incidental contaminants or impurities such as paper labels and metal rings.
      (v) The plastic is processed at an advanced recycling facility or held at such AN ADVANCED RECYCLING facility before processing.
   (b) Does not include solid waste or municipal waste.
29. "Process" or "processing" means the reduction, separation, recovery, conversion or recycling of solid waste.

30. "Public solid waste facility" means a transfer facility and any site owned, operated or used by any person for the storage, processing, treatment or disposal of solid waste that is not generated on site.

31. "Pyrolysis" means a manufacturing process through which post-use polymers are heated in the absence of oxygen until melted, are thermally decomposed and are then cooled, condensed and converted into valuable raw, intermediate and final products, including plastic monomers, chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel, gasoline, diesel and gasoline blendstocks, home heating oil and other fuels, including ethanol and transportation fuel, that are returned to economic utility in the form of raw materials, products or fuels.

32. "Recovered feedstocks":

(a) Means one or more of the following materials that have been processed so that they may be used as feedstock in an advanced recycling facility:

(i) Post-use polymers.

(ii) Materials for which the United States environmental protection agency has made a nonwaste determination pursuant to 40 Code of Federal Regulations section 241.3(c) or has otherwise determined are feedstocks and not solid waste.

(b) Does not include:

(i) Unprocessed municipal solid waste.

(ii) Materials that are mixed with solid waste or hazardous waste on site or during processing at an advanced recycling facility.

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

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

35. "Scavenging" means the unauthorized removal of solid waste from a solid waste facility.

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

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

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

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

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

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

(f) A closed solid waste facility.

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

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

(i) A site where solid waste generated in street sweeping
activities is stored, processed or treated before disposal at a solid
waste facility authorized under this chapter.

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

(k) A closed solid waste landfill where development activities
occur on the property or where excavation or removal of solid waste is
performed for maintenance and repair if the following conditions are met:

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

(ii) When the project is completed the concentration of methane gas
will not exceed twenty-five percent of the lower explosive limit in
on-site structures, or the concentration of methane gas will not exceed
the lower explosive limit at the property line.

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

(iv) The operator provides a notice to the department containing
the information required by section 49-762.07, subsection A, paragraphs 1,
2 and 5 and a brief description of the project.
(l) Agricultural on-site disposal as provided in section 49-766.
(m) The use, storage, treatment or disposal of by-products of regulated agricultural activities as defined in section 49-201 and that are subject to best management practices pursuant to section 49-247 or by-products of livestock, range livestock and poultry as defined in section 3-1201, pesticide containers that are regulated pursuant to title 3, chapter 2, article 6 or other agricultural crop residues.
(n) Household hazardous waste collection events held at a temporary site for not more than six days in any calendar quarter.
(o) Wastewater treatment facilities as defined in section 49-1201.
(p) An on-site single-family household waste composting facility.
(q) A site at which five hundred or fewer waste tires are stored.
(r) A site at which mining industry off-road waste tires are stored or are disposed of as prescribed by rules in effect on February 1, 1996, until the director by rule determines that on-site recycling methods exist that are technically feasible and economically practical.
(s) A site at which underground piping, conduit, pipe covering or similar structures are abandoned in place in accordance with applicable state and federal laws.
(t) An advanced recycling facility that converts recovered feedstocks to manufacture raw materials and intermediate and final products.

47. "Solid waste landfill":
   (a) Means a facility, area of land or excavation in which solid wastes are placed for permanent disposal.
   (b) Does not include a land application unit, surface impoundment, injection well, COAL COMBUSTION RESIDUALS LANDFILL, compost pile or waste pile or an area containing ash from the on-site combustion of coal that does not contain household waste, household hazardous waste or conditionally exempt small quantity generator waste.

48. "Solid waste management" means the systematic administration of activities that provide for the collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste in a manner that protects public health and safety and the environment and prevents and abates environmental nuisances.

49. "Solid waste management plan" means the plan that is adopted pursuant to section 49-721 and that provides guidelines for the collection, source separation, storage, transportation, processing, treatment, reclamation and disposal of solid waste in a manner that protects public health and safety and the environment and prevents and abates environmental nuisances.

50. "Solvolysis":
   (a) Means a manufacturing process through which post-use polymers are purified with the aid of solvents, allowing additives and contaminants
to be removed and producing polymers capable of being recycled or reused
without first being reverted to a monomer.

(b) Includes hydrolysis, aminolysis, ammonolysis, methanolysis and
glycolysis.

41.  "Storage" means the holding of solid waste.

42.  "Transfer facility":

(a) Means a site that is owned, operated or used by any person for
the rehandling or storage for ninety days or less of solid waste that was
generated off site for the primary purpose of transporting that solid
waste.

(b) Includes those facilities that include significant solid waste
transfer activities that warrant the facility's regulation as a transfer
facility.

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

44.  "Vegetative waste":

(a) Means waste derived from plants, including tree limbs and
branches, stumps, grass clippings and other waste plant material.

(b) Does not include processed lumber, paper, cardboard and other
manufactured products that are derived from plant material.

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

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

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

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

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

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

Sec. 4.  Section 49-761, Arizona Revised Statutes, is amended to
read:

49-761.  Rulemaking authority for solid waste facilities;
exemption; financial assurance; recycling
facilities

A. The department shall adopt rules regarding the storage,
processing, treatment and disposal of solid waste as prescribed by
subsections B through M of this section. In adopting rules, the
department shall consider the nature of the waste streams at the
facilities to be regulated. The department shall also consider other applicable federal and state laws and rules in an effort to avoid practices or requirements that duplicate, are inconsistent with or will result in dual regulation with other applicable rules and laws. Facilities that obtain and maintain coverage under a general permit established by the department pursuant to section 49-706 are exempt from rules adopted pursuant to this section. In adopting rules for solid waste facilities, the director may include requirements for corrective actions in response to a release, as defined in section 49-281, from a solid waste facility that violates or results in a violation of any provision of this chapter, rule adopted pursuant to this chapter or solid waste facility plan approved pursuant to this chapter. These rules shall be consistent with section 49-762.08, subsection B, subsection C, paragraphs 1 and 2 and subsections D and E.

B. For purposes of administering 42 United States Code section 6945, as amended November 8, 1984, 40 C.F.R. part 258 is adopted by reference except as prescribed by paragraph 2 of this subsection. This subsection, as it applies to municipal solid waste landfills, governs if there is any conflict between this subsection and any other statute relating to solid waste. Municipal solid waste landfill facility plans submitted pursuant to section 49-762 shall comply with this subsection. In administering this subsection or in adopting or administering any rules adopted pursuant to this subsection, the department shall ensure that any discretion allowed to a director of an approved state pursuant to the federal regulations is maintained. The following apply to the department's administration of 42 United States Code section 6945 and to the department's adoption of rules for municipal solid waste landfills:

1. The department may adopt rules for municipal solid waste landfills. Rules adopted pursuant to this paragraph shall not be more stringent than or conflict with 40 C.F.R. part 258 for nonprocedural standards, except that the department may adopt aquifer protection standards that are more stringent than 40 C.F.R. part 258 if those standards are consistent with and not more stringent than standards developed pursuant to chapter 2, article 3 of this title, or if the standards are adopted pursuant to article 9 of this chapter. Rules adopted pursuant to this paragraph are effective on the concurrence of the administrator with this state's municipal solid waste landfill program.

2. 40 C.F.R. part 258, table I is not adopted in its entirety. The department shall use aquifer water quality standards that have been adopted by the department pursuant to section 49-223 and shall use those portions of table I that are more restrictive than the standards adopted pursuant to section 49-223.
C. The department shall adopt rules for those solid waste land disposal facilities that are not municipal solid waste landfills AND THAT ARE NOT REGULATED BY THE COAL COMBUSTION RESIDUALS PROGRAM ESTABLISHED PURSUANT TO ARTICLE 11 OF THIS CHAPTER. Rules adopted pursuant to this subsection shall not be more stringent than or conflict with 40 C.F.R. part 257, SUBPARTS A AND B for nonprocedural standards, except that the department may adopt aquifer protection standards that are more stringent than 40 C.F.R. part 257, SUBPARTS A AND B if these standards are consistent with and not more stringent than standards developed pursuant to chapter 2, article 3 of this title, or if the standards are adopted pursuant to article 9 of this chapter. In administering this subsection, the department shall ensure that any discretion allowed to a director of an approved state pursuant to the federal regulations is maintained in the department's rules. Aquifer protection provisions adopted pursuant to this subsection do not apply to an owner or operator of a solid waste facility if the owner or operator submits an administratively complete application for an aquifer protection permit pursuant to chapter 2, article 3 of this title before the date that the owner or operator is required to submit a solid waste facility plan.

D. The department shall adopt rules to define biohazardous medical waste and to regulate biohazardous medical waste and medical sharps to include all of the following:

1. A definition for biohazardous medical waste that includes wastes that contain material that is likely to transmit etiologic agents that have been shown to cause or contribute to increased human morbidity or mortality of epidemiologic significance. The department shall consult with the department of health services in making this determination.

2. Reasonably necessary rules regarding the storage, collection, transportation, treatment and disposal of biohazardous medical waste and medical sharps, beginning with the placement by the generator of the waste in containers for the purpose of waste collection. The department may require payment of a fee for the licensure of a transporter of biohazardous medical waste. After July 20, 2011, the department shall establish by rule a fee for the licensure of a transporter of biohazardous medical waste, including a maximum fee. As part of the rulemaking process, there must be public notice and comment and a review of the rule by the joint legislative budget committee. After September 30, 2013, the department shall not increase that fee by rule without specific statutory authority for the increase. The fees shall be deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee fund established by section 49-881. In the case of self-hauling of waste by the generator, all storage facilities under the generator's control and all waste handling practices including storage, treatment and transportation shall be in accordance with these rules. The department shall also adopt...
reasonably necessary rules regarding the tracking of biohazardous medical waste and medical sharps.

E. The department may adopt reasonably necessary rules regarding the storage, collection, transportation, treatment and disposal of nonbiohazardous medical waste beginning with the placement by the generator of the waste in containers for the purpose of waste collection. In the case of self-hauling of the waste by the generator, all storage facilities under the generator's control and all waste handling practices including storage, treatment and transportation shall be in accordance with these rules.

F. The department shall adopt rules for the application of sludge from a wastewater treatment facility to land for use as fertilizer or beneficial soil amendment. For the purposes of this subsection, "sludge" has the same meaning as sewage sludge as defined in 40 Code of Federal Regulations section 122.2 in effect on January 1, 1998.

G. The department shall adopt rules regarding the storage, processing, treatment or disposal of solid waste at solid waste facilities that are identified in section 49-762.01. The rules shall allow the owner or operator to certify compliance with the department's statutes and rules instead of obtaining a solid waste facility plan approval. The rules shall provide that the applicant at its option may request approval of a solid waste facility plan rather than certifying compliance.

H. The department shall issue by rule best management practices for the classes of solid waste facilities set forth in section 49-762.02.

I. The department shall adopt reasonably necessary rules establishing minimum standards for storing, collecting, transporting, disposing and reclaiming solid waste, including garbage, trash, rubbish, manure and other objectionable wastes. These rules shall provide for inspecting premises, containers, processes, equipment and vehicles, and for abating as environmental nuisances any premises, containers, processes, equipment or vehicles that do not comply with the minimum standards of these rules. The rules adopted pursuant to this subsection do not apply to sites that are either regulated by section 49-762, 49-762.01 or 49-762.02 or exempted from the definition of solid waste facility in section 49-701 or from the definition of solid waste in section 49-701.01. Notwithstanding any other provision of this subsection, rules adopted pursuant to this subsection shall apply to defining environmental nuisances pursuant to section 49-141.

J. The department shall adopt rules relating to financial assurance requirements. The rules shall indicate the types of financial assurance mechanisms to be required and the content, terms and conditions of each financial mechanism, including circumstances under which the department may take action on the financial assurance mechanism for facility closure, postclosure care if necessary and corrective action for known releases. The financial assurance mechanisms shall include all of the following:
1. Surety bond.
2. Certificate of deposit.
3. Trust fund with pay-in period.
4. Letter of credit.
5. Insurance policy.
7. Deposit with the state treasurer.
8. Evidence of ability to meet any of the following:
   (a) Corporate financial test.
   (b) Local government financial test.
   (c) Corporate guarantee test.
   (d) Local government guarantee test.
   (e) Political subdivision financial test that shall require the department to consider the entity's bond rating, income stream, assets, liabilities and assessed valuation of taxable property.
9. Multiple financial assurance mechanisms.
10. Additional financial assurance mechanisms that may be acceptable to the director.

K. The department shall adopt rules that prescribe standards to be used in determining if a site is a recycling facility.

L. The director may adopt rules that prescribe standards to be used in determining if a solid waste facility includes significant solid waste transfer activities that warrant the facility's regulation as a transfer facility.

M. The department shall adopt facility design, construction, operation, closure and postclosure maintenance rules for biosolids processing facilities and household waste composting facilities that must obtain plan approval pursuant to section 49-762.

Sec. 5. Section 49-762, Arizona Revised Statutes, is amended to read:

49-762. Facilities requiring solid waste facility plans; exemption

A. The owner or operator of the following solid waste facilities shall obtain approval of a solid waste facility plan in accordance with sections 49-762.03 and 49-762.04:

1. Solid waste land disposal facilities EXCEPT THOSE FACILITIES REGULATED BY 40 CODE OF FEDERAL REGULATIONS PART 257, SUBPART D OR THE COAL COMBUSTION RESIDUALS PROGRAM ESTABLISHED PURSUANT TO ARTICLE 11 OF THIS CHAPTER AND APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY IN ACCORDANCE WITH 42 UNITED STATES CODE SECTION 6945(d)(1).
2. Biosolids processing facilities.
3. Medical waste facilities.
4. Special waste facilities.
5. Municipal solid waste landfills.
6. Commercial or government-owned household waste composting facilities.

7. A site at which at least five hundred waste tires are stored on any day and any tire is stored for more than twelve months unless the site is a waste tire collection site owned by a municipality or a county.

B. Facilities that obtain and maintain coverage under a general permit established by the department pursuant to section 49-706 are exempt from submitting a solid waste facility plan pursuant to this section.

Sec. 6. Section 49-762.01, Arizona Revised Statutes, is amended to read:

49-762.01. Facilities requiring self-certification

The owner or operator of all solid waste facilities that are not listed in either section 49-762 or 49-762.02 or are not regulated under 40 Code of Federal Regulations Part 257, Subpart D or under Article 11 of this chapter in a program approved by the United States Environmental Protection Agency shall comply with self-certification procedures prescribed by section 49-762.05. A waste tire facility that is not required to obtain solid waste facility plan approval pursuant to section 49-762, paragraph 7 must comply with self-certification procedures as prescribed in section 49-762.05.

Sec. 7. Section 49-762.02, Arizona Revised Statutes, is amended to read:

49-762.02. Facilities subject to best management practices; rules

The following solid waste facilities are subject to best management practices adopted in accordance with section 49-761, subsection H:

1. Transfer facilities that have a daily solid waste throughput of one hundred eighty cubic yards or less.

2. Recycling facilities that are located off site, that are used for the collection of recyclable material, that have a storage capacity of one hundred eighty cubic yards or less and that store the recyclable material for less than ninety days.

3. Recycling facilities that are located on site and that are used solely for the collection and storage of recyclable material for less than one hundred eighty days.

4. Closed loop recycling facilities that are located at the site of waste generation.

5. A site at which more than five hundred and fewer than five thousand waste tires are stored on any day and that is not required to obtain solid waste facility plan approval pursuant to section 49-762, subsection A, paragraph 7.

6. A solid waste facility where only asbestos-containing waste materials from manufactured products are stored, processed, treated or disposed. The best management practices for these facilities that shall apply are as follows:
(a) For solid waste facilities handling asbestos-containing waste materials that are regulated under the national emission standards for hazardous air pollutants in 40 Code of Federal Regulations part 61, subpart M:
   (i) The national emission standards for hazardous air pollutants that are incorporated by reference in the rules adopted pursuant to chapter 3 of this title.
   (ii) For solid waste land disposal facilities that are not municipal solid waste landfills, 40 Code of Federal Regulations part 257, SUBPARTS A AND B.
   (iii) For solid waste land disposal facilities, financial assurance pursuant to the requirements and time frames of section 49-770.
   (iv) Solid waste facility notification pursuant to section 49-762.05, subsection B, paragraph 5.
   (v) Compliance with local zoning laws or section 49-767, if applicable.
   (b) For solid waste facilities handling asbestos-containing waste materials that are not regulated under the national emission standards for hazardous air pollutants in 40 Code of Federal Regulations part 61, subpart M:
   (i) Compliance with section 49-762.07.
   (ii) Compliance with local zoning laws or section 49-767, if applicable.

7. Any other solid waste facility that the director determines by rule should be subject to best management practices.

Sec. 8. Section 49-762.06, Arizona Revised Statutes, is amended to read:

49-762.06. Changes to solid waste facilities and amended plans

A. The department shall adopt rules that establish the criteria to be used in determining the category type of a proposed change to a solid waste facility IDENTIFIED IN SECTION 49-762. The categories are as follows:

1. A type I change is an insignificant modification that does not require notification to the department. This includes changes to a facility that are not directly related to the physical management of solid waste or the replacement of equipment or structures with similar items.

2. A type II change is a minor modification that requires notification to the department. This includes changes to a facility that are directly related to the physical management of solid waste and that do not require detailed review by the department.

3. A type III change is a substantial change that does not require public notice. This includes changes that are significant, that require detailed review by the department and that are equally or more protective
of the public health and environment, changes that are required by statute
or regulation or other substantial changes that are not type IV changes.

4. A type IV change is a substantial change that requires public
notice. This includes significant changes in the total storage, process,
treatment or disposal capacity of the solid waste facility. A type IV
change also includes a lateral expansion of an existing solid waste
landfill or the addition of a process or a major piece of equipment for
which the net effect of the change will be an increase in discharges.

B. Before implementation, the director shall approve a type III or
Type IV change to the design or operation of an approved solid waste
facility identified in section 49-762.

C. The owner or operator of an approved solid waste facility
identified in section 49-762 shall submit a notice of any type II, type
III or type IV change to the director. The notice shall describe the
purpose and scope of the proposed change and shall state what category of
change is requested. The director shall make the final determination of
the category of change that is requested and whether an amended facility
plan shall be submitted for a type III or type IV change. The director
may request that additional information be submitted to assist in making
the determination.

D. The determination required by subsection C of this section shall
be made within the time limits prescribed by this subsection. If the
director fails to make a determination within those time limits, the
proposed change shall be deemed to be a type II change and in accordance
with the facility's approved plan and may be implemented by the owner or
operator without further review by the department. The time limits
prescribed by this subsection do not apply if the proposed change
conflicts with or is inconsistent with the requirements of 40 C.F.R. part
257, SUBPARTS A AND B or 40 C.F.R. part 258. The time limits are as
follows:

1. Fifteen days for solid waste facilities that are not landfills.
2. Thirty days for landfills that are not municipal solid waste
landfills.
3. Sixty days for municipal solid waste landfills.

E. If the director determines that the change is a type IV change
that requires a public notice, within thirty days after receipt of the
amended plan the director shall give public notice of the substantial
change as prescribed by section 49-762.04, subsection A, paragraph 2. If
there is sufficient public interest as evidenced by written comments
submitted pursuant to section 49-762.04, subsection A, paragraph 2 in
opposition to the substantial change to the solid waste facility, the
department shall hold a public hearing in accordance with the procedures
in section 49-762.04, subsection A, paragraph 6. Testimony at a public
hearing shall be limited to whether the substantial change to the plan
meets the criteria prescribed in section 49-762.04, subsection A,
paragraph 5. Testimony on the substantial change shall include the name
and address of the person presenting the testimony and, if in writing, the
signature of that person. The director shall issue a notice of any
technical deficiencies and a responsiveness summary in accordance with
section 49-762.04, subsection A, paragraph 8.

F. The director shall approve or deny the amended plan within
ninety days after receipt of the amended plan. During the ninety-day
review period, the department shall comply with the procedures
prescribed by section 49-762.04, subsection A, paragraph 3 for new solid
waste facilities. If a public hearing is to be held, the director has an
additional thirty days to hold the public hearing, issue a responsiveness
summary and approve or disapprove the amended plan. A person who has
submitted a type II, III or IV change to a solid waste facility plan for
department approval may extend these time limits for an additional thirty
days on a written request from the department that changes to the solid
waste facility plan or additional information is needed before the
department can make a decision to approve or deny the plan.

Sec. 9. Section 49-762.07, Arizona Revised Statutes, is amended to
read:

49-762.07. Notices; exemptions; extensions; enforcement;
operating standards
A. Except as provided in subsection B of this section, owners or
operators of solid waste facilities in operation on September 1, 1996
shall submit to the director by September 1, 1996 a notice that contains
the following information:

1. Facility name and mailing address.
2. Legal description by township, range and section and county
assessor’s book, map and parcel number.
3. Description of waste storage and treatment equipment and methods
of waste management, including types and volumes of waste handled and time
the waste remains on site.
4. Description of waste management practices used at the facility
including measures taken to protect the environment and to protect the
public health.
5. A diagram of the property showing the location of the solid
waste facility or facilities.
B. Notices filed with the department before September 1, 1996 are
deemed to satisfy the notice requirement of subsection A of this section
unless there has been a substantial change to the solid waste facility
before the notice deadline. A solid waste facility that has obtained a
plan approval or that has filed an application for plan approval before
September 1, 1996 is exempt from the notice requirement of subsection A of
this section. Owners or operators of solid waste facilities that begin
operations after September 1, 1996 shall submit a notice to the director
containing the information specified in subsection A of this section.
NOT later than thirty days before beginning operation of a solid waste facility. Owners and operators of recycling facilities shall not be required to submit a notice pursuant to subsection A of this section or this subsection until rules for recycling facilities are adopted pursuant to section 49-761, subsection K.

C. The department may grant an extension of up to sixty days beyond the September 1, 1996 deadline on receipt of a written request from the owner or operator of a solid waste facility.

D. A solid waste facility that does not submit a notice as prescribed by subsection A or B of this section is subject to the enforcement provisions of article 5 of this chapter.

E. In the absence of design and operating rules adopted by the director pursuant to section 49-761 for solid waste landfills that are not municipal solid waste landfills, owners and operators of solid waste landfills that are not municipal solid waste landfills and that do not have coverage under an applicable general permit established by the department pursuant to section 49-706 shall comply with the provisions of 40 C.F.R. part 257, SUBPARTS A AND B.

F. In the absence of design and operating rules adopted by the director pursuant to section 49-761 for solid waste facilities other than solid waste landfills, owners and operators shall operate those facilities in a manner that:

1. Controls wind dispersion and other surface dispersion of solid waste from the facility so that the solid waste does not create a public nuisance or pose an imminent and substantial endangerment to public health or the environment. Visible solid waste that is dispersed beyond the boundaries of the solid waste facility shall be collected on a regular basis by the operator of the solid waste facility.

2. Does not discharge hazardous substances as defined in section 49-281 to surface water, groundwater, or subsurface soil in a manner that creates a public nuisance or poses an imminent and substantial endangerment to public health or the environment.

3. Controls vector breeding and fire hazards.

4. Utilizes reasonable measures to control public access to:
   (a) Medical waste generated by health care facilities.
   (b) Special waste as defined in section 49-851, subsection A.

Sec. 10. Section 49-762.08, Arizona Revised Statutes, is amended to read:

49-762.08. Corrective actions; application
A. Beginning July 1, 1998. The director, in the absence of applicable corrective action rules adopted pursuant to section 49-761 for solid waste facilities other than solid waste landfills, may require the owner or operator of a solid waste facility to conduct corrective action in response to a release, as defined in section 49-281, from a facility, if the release violates or results from a violation of section 49-762.07,
subsection F or causes or threatens to cause a significant adverse effect
on human health or the environment.

B. Corrective action taken pursuant to this section shall be
conducted in accordance with standards described in section 49-282.06,
subsection A, subsection B, paragraph 4, subdivisions (a) and (b) and
subsections C, D and F.

C. This section shall not apply to the following:
1. Corrective or remedial action of groundwater that has been
   impacted by an off-site source.
2. A release subject to a corrective action pursuant to chapter 6
   of this title relating to underground storage tanks.
3. A release from a facility subject to the provisions of 40 Code
   of Federal Regulations part 257, SUBPART A AND B, or part 258.

D. The department shall avoid practices or requirements that
duplicate or are inconsistent with other applicable laws and rules, to the
maximum extent practicable, for releases subject to corrective actions
pursuant to any of the following:
1. Chapter 2, article 3 of this title relating to aquifer
   protection permits.
2. Chapter 5 of this title relating to hazardous waste.
3. The federal water pollution control act amendments of 1972
   (P.L. 92-500; 86 Stat. 2795; 42 United States Code sections 6901 through
   6992).

E. For a release from a solid waste facility that was caused or
contribution to by more than one responsible party, as defined PRESCRIBED
in section 49-283, the director's authority to require corrective action
under this section is limited to releases that occur after July 1, 1998,
and when the owner or operator of the solid waste facility was subject to
regulation pursuant to this chapter. Nothing in This subsection DOES NOT
extend or limits LIMIT the application of chapter 2, article 5 of
this title.

F. For a release from a solid waste facility subject to the
provisions of 40 Code of Federal Regulations part 257, SUBPARTS A AND B,
or part 258, the corrective action shall be conducted in accordance with
the provisions of those regulations.

Sec. 11. Section 49-763.01, Arizona Revised Statutes, is amended to
read:

49-763.01. Variances

Within ninety days after receipt of a written request for a variance
from a solid waste facility owner, operator or management agency, the
department may grant a variance from solid waste management rules and
standards if the department concludes that no violation of health
standards will occur. The department may consider whether an
environmental nuisance will result. If the request is denied, the
department shall prepare and make available to the management agency or
facility owner or operator a written decision including relevant data and
a technical analysis supporting the denial. The department shall not
grant any variance or temporary authorization to operate under
the provisions of this chapter if the proposed variance conflicts or is
inconsistent with the requirements of 40 C.F.R. part 257, SUBPARTS A AND
B, 40 C.F.R. CODE OF FEDERAL REGULATIONS PART 257, SUBPART D or 40 C.F.R.
part 258.

Sec. 12. Section 49-769, Arizona Revised Statutes, is amended to
read:

49-769. Agency orders; appeal
Except as provided in section 41-1092.08, subsection H, any final
agency order issued pursuant to this article OR ARTICLE 11 OF THIS CHAPTER
is subject to judicial review pursuant to title 12, chapter 7, article 6.

Sec. 13. Section 49-770, Arizona Revised Statutes, is amended to
read:

49-770. Financial assurance requirements for solid waste
facilities
A. Beginning one hundred eighty days after the effective date of
the design and operation rules adopted by the director for that type of
solid waste facility pursuant to section 49-761 OR ARTICLE 11 OF THIS
CHAPTER OR AFTER CCR PROGRAM APPROVAL, WHICHER IS LATER, a solid waste
facility may not be operated unless financial responsibility has been
demonstrated for the costs of closure, postclosure care, if necessary, and
any corrective action as a result of known releases from the facility.
Financial assurance for municipal solid waste landfills shall be required
pursuant to section 49-761, subsection B. This subsection applies to
small municipal solid waste landfills BEGINNING on October 9, 1997. For
all other municipal solid waste landfills, this subsection shall apply
BEGINNING on September 1, 1997 unless the director establishes an
alternative date pursuant to section 49-761, subsection B on a facility
specific FACILITY-SPECIFIC basis.

B. Within one hundred eighty days after the effective date of the
design and operation rules adopted by the director for that type of solid
waste facility pursuant to section 49-761, existing solid waste facilities
shall modify and submit existing facility plans to the department to
demonstrate the financial responsibility required by this section. A
solid waste facility in operation before the effective date of the design
and operation rules adopted by the director for that type of solid waste
facility pursuant to section 49-761 may continue to operate while the
department reviews the modified plan.

C. WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE EFFECTIVE DATE OF
DESIGN AND OPERATION RULES ADOPTED BY THE DIRECTOR FOR THAT TYPE OF SOLID
WASTE FACILITY PURSUANT TO ARTICLE 11 OF THIS CHAPTER, EXISTING SOLID
WASTE FACILITIES REGULATED UNDER ARTICLE 11 OF THIS CHAPTER MAY SUBMIT TO
THE DEPARTMENT THE FINANCIAL RESPONSIBILITY REQUIRED BY THIS SECTION.
WITHIN ONE HUNDRED EIGHTY DAYS AFTER CCR PROGRAM APPROVAL, EXISTING SOLID WASTE FACILITIES REGULATED UNDER ARTICLE 11 OF THIS CHAPTER SHALL SUBMIT TO THE DEPARTMENT THE FINANCIAL RESPONSIBILITY REQUIRED BY THIS SECTION. A SOLID WASTE FACILITY IN OPERATION BEFORE THE EFFECTIVE DATE OF CCR PROGRAM APPROVAL MAY CONTINUE TO OPERATE WHILE THE DEPARTMENT REVIEWS THE SUBMISSION.

D. A demonstration of financial responsibility made for a solid waste facility under chapter 2, article 3 of this title shall suffice, in whole or in part, for any demonstration of financial responsibility prescribed by this section. A demonstration of financial assurance or competence required under this section or under chapter 2, article 3 of this title for a solid waste facility shall not be required prior to BEFORE completion of construction but shall be required before the department issues approval to operate.

E. The terms and conditions adopted by the director for each financial assurance mechanism shall provide:

1. The amount in current dollars equal to the cost of hiring a third party to complete site closure and, if necessary, continued postclosure monitoring and maintenance consistent with the plan and any factor to be applied for inflation. Amounts shall be updated annually for SOLID WASTE landfills and every three years for all other solid waste facilities to adjust for inflation or as necessary to reflect increased costs resulting from changes to the facility plan or facility conditions.

2. The period after closure for which financial assurance is required.

F. The approved financial assurance mechanism shall not be released unless the plan-specified PLAN-SPECIFIED closure and postclosure requirements have been completed or unless new financial assurance has been submitted by a new owner or operator of the solid waste facility and approved by the director. The owner or operator of the solid waste facility:

1. Shall receive any accrued interest on financial assurance instruments retained by the department.

2. May request a reduction in financial assurance requirements on completion of closure or portions of postclosure monitoring and maintenance that are approved by the director.

3. Shall justify any reduction in closure or postclosure cost estimates in the facility plan.

4. Shall assure that the period of coverage of the financial assurance instrument exceeds by a minimum of ninety days the applicable one ONE-YEAR or three-year THREE-YEAR time period required in subsection E of this section.

5. Shall be released from closure or postclosure financial responsibility on certification by a registered professional engineer or other environmental professional deemed acceptable by the director that
the specific activities of closure or postclosure have been completed in accordance with the approved facility plan and placed in the operating record of the facility plan.

G. FOR A LOCAL GOVERNMENTAL AGENCY WITH CCR UNITS, THE DEMONSTRATION REQUIRED BY THIS SECTION MAY CONTAIN THE DETAILS OF THE FINANCIAL ARRANGEMENTS USED TO MEET THE ESTIMATED CLOSURE AND POSTCLOSURE COSTS WITHOUT SPECIFYING A SPECIFIC FINANCIAL ASSURANCE MECHANISM.

Sec. 14. Section 49-781, Arizona Revised Statutes, is amended to read:

49-781. Compliance orders; appeal; enforcement
A. If the director determines that a person is in violation of any provision of article 3 or 4 of this chapter, a rule adopted pursuant to article 4 or 11 of this chapter or any condition of a COAL COMBUSTION RESIDUALS PERMIT OR solid waste facility plan approval issued pursuant to this chapter or is creating an imminent and substantial endangerment to the public health or the environment, the director may issue an order requiring compliance immediately or within a specified period of time.
B. A compliance order shall state with reasonable specificity the nature of the violation, a time for compliance, if applicable, and the right to a hearing.
C. A compliance order shall be transmitted to the alleged violator by certified mail, return receipt requested, or by hand delivery.
D. At the request of the director, the attorney general may file an action in superior court to enforce orders issued pursuant to this section after the order becomes final.
E. THIS SECTION DOES NOT APPLY TO CCR UNITS UNTIL AFTER CCR PROGRAM APPROVAL.

Sec. 15. Section 49-783, Arizona Revised Statutes, is amended to read:

49-783. Injunctive relief; civil penalties; costs
A. If the director has reason to believe that a person is in violation of any provision of articles ARTICLE 3, or 4 OR 11 of this chapter, a rule adopted pursuant to article 4 OR 11 of this chapter, any condition of A COAL COMBUSTION RESIDUALS PERMIT OR an approved solid waste facility plan issued pursuant to article 4 of this chapter or that a person is creating an imminent and substantial endangerment to the public health or the environment, the director through the attorney general may request a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief necessary to protect the public health or the environment, without regard to whether the person has requested a hearing.
B. A person who violates any provision of articles ARTICLE 3, or 4 OR 11 of this chapter, a rule adopted pursuant to article 4 OR 11 of this chapter, an order issued pursuant to this article, A COAL COMBUSTION RESIDUALS PERMIT or an approved solid waste facility plan issued pursuant
to THIS chapter 4 is subject to a civil penalty of not more than one
thousand dollars $1,000 for each day not to exceed fifteen thousand
dollars $15,000 for each violation. At the request of the director, the
attorney general shall file an action in superior court to recover civil
penalties as prescribed by this section.

C. THIS SECTION DOES NOT APPLY TO CCR UNITS UNTIL AFTER CCR PROGRAM
APPROVAL.

Sec. 16. Section 49-791, Arizona Revised Statutes, is amended to
read:

49-791. Violation; classification; penalties
A. A person shall not:
1. Practice open burning at a solid waste facility without a
   variance approval issued by the director.
2. Scavenge at a solid waste facility.
3. Damage or destroy signs posted at a solid waste facility.
4. Dump or dispose of solid waste in violation of any provision of
   this chapter or any applicable rule adopted pursuant to article 4 OR 11 of
   this chapter.
5. Operate a solid waste facility in a manner inconsistent with the
   solid waste facility plan after it has been approved or any rule adopted
   pursuant to article 4 OR 11 of this chapter.

B. A violation of subsection A of this section is a class 2
misdemeanor.

C. In addition to the penalties prescribed by subsection B of this
section or section 13-1603, subsection B, a person who violates this
section or section 13-1603 shall be subject to a civil penalty in an
amount prescribed by section 49-783.

Sec. 17. Section 49-803, Arizona Revised Statutes, is amended to
read:

49-803. Prohibited practices
A. Used oil shall not be used or disposed of by any of the
following methods:
1. Discharge into sewers or waters of the state as defined in
   section 49-201 except pursuant to a permit issued by appropriate
   regulatory authorities.
2. Incineration except at a facility authorized to incinerate
   hazardous waste under section 49-922 or the federal act. Burning for
   energy recovery is not considered incineration for THE purposes of this
   section, unless the director determines pursuant to rule that the purpose
   of the burning is for destruction of listed or characteristic hazardous
   waste rather than energy recovery.
3. Disposal on land unless the used oil is disposed of in a
   landfill that is subject to 40 Code of Federal Regulations part 257, SUBPARTS A AND B, or PART 258 and that has an approved solid waste
facility plan. This prohibition does not apply to used oil that is used
as an ingredient in an explosive material.

4. Dispersal as a dust suppressant or contact herbicide.

B. For the purposes of subsection A, paragraph 3 of this section,
normal minimal leakage from properly maintained vehicles and equipment
shall not be considered disposal on land.

Sec. 18. Section 49-881, Arizona Revised Statutes, is amended to
read:

49-881. Solid waste fee fund; uses; exemption
A. The solid waste fee fund is established. The director shall
administer the fund. The fund consists of legislative appropriations,
donations, gifts, grants, registration fees collected pursuant to sections
44-1303 and 44-1304.01, waste tire administrative monies distributed
pursuant to section 44-1305, subsection B, paragraph 1, licensure fees
collected pursuant to section 49-104, subsection B, paragraph 14,
subdivision (b), solid waste general permit fees collected pursuant to
section 49-706, solid waste landfill registration fees from section
49-747, licensure fees collected pursuant to section 49-761, subsection D,
paragraph 2, solid waste fees collected pursuant to section 49-762.03,
subsection F, special waste management plan fees collected pursuant to
section 49-857, special waste management fees collected pursuant to
section 49-863, private consultants expedited plan review fees collected
pursuant to section 49-762.03, subsection G, self-certification filing
fees collected pursuant to section 49-762.05, subsection H, solid waste
landfill disposal fees collected pursuant to section 49-836, and special
waste fees collected pursuant to section 49-855, subsection C, paragraph 2
AND COAL COMBUSTION RESIDUALS PERMIT PROCESSING FEES AND ANNUAL FEES
COLLECTED PURSUANT TO SECTION 49-891.

B. Monies in the fund are subject to legislative appropriation for
solid waste control programs established in the funding sources pursuant
to subsection A of this section and as determined by the director.

C. On notice from the director, the state treasurer shall invest
and divest monies in the fund as provided in section 35-313, and monies
earned from investment shall be credited to the fund. Monies deposited in
the fund are exempt from the provisions of section 35-190 relating to
lapses of appropriations.

Sec. 19. Title 49, chapter 4, Arizona Revised Statutes, is amended
by adding article 11, to read:

ARTICLE 11. MANAGEMENT OF COAL COMBUSTION RESIDUALS
49-891. Coal combustion residuals program; rules;
incorporation by reference

A. THE DIRECTOR MAY ADOPT RULES TO ESTABLISH AND OPERATE A COAL
COMBUSTION RESIDUALS PROGRAM EQUIVALENT TO OR AT LEAST AS PROTECTIVE AS
THE FEDERAL COAL COMBUSTION RESIDUALS PROGRAM UNDER 40 CODE OF FEDERAL
REGULATIONS PART 257, SUBPART D FOR THE PURPOSE OF OBTAINING APPROVAL TO
OPERATE THE FEDERAL CCR PROGRAM. FEDERAL COAL COMBUSTION RESIDUALS REGULATIONS MAY BE ADOPTED BY REFERENCE. RULES ADOPTED PURSUANT TO THIS SUBSECTION SHALL NOT BE MORE OR LESS STRINGENT THAN OR CONFLICT WITH 40 CODE OF FEDERAL REGULATIONS PART 257, SUBPART D FOR NONPROCEDURAL STANDARDS, EXCEPT THAT THE DEPARTMENT MAY ADOPT AQUIFER PROTECTION STANDARDS THAT ARE MORE STRINGENT THAN 40 CODE OF FEDERAL REGULATIONS PART 257, SUBPART D IF THESE STANDARDS ARE DEVELOPED PURSUANT TO CHAPTER 2, ARTICLE 3 OF THIS TITLE.

B. RULES ADOPTED PURSUANT TO SUBSECTION A OF THIS SECTION SHALL NOT BE MORE OR LESS STRINGENT THAN OR CONFLICT WITH 40 CODE OF FEDERAL REGULATIONS PART 257, SUBPART D FOR NONPROCEDURAL STANDARDS, EXCEPT THAT THE DEPARTMENT SHALL ADOPT THOSE PORTIONS OF THE DAM SAFETY STANDARDS DEVELOPED PURSUANT TO TITLE 45, CHAPTER 6, ARTICLE 1 AND ARE IN EXISTENCE FOR CCR SURFACE IMPOUNDMENTS ON THE EFFECTIVE DATE OF THIS SECTION THAT ARE MORE STRINGENT THAN 40 CODE OF FEDERAL REGULATIONS PART 257, SUBPART D.

C. THE RULES AUTHORIZED BY SUBSECTION A OF THIS SECTION SHALL PROVIDE REQUIREMENTS FOR ISSUING, DENYING, SUSPENDING OR MODIFYING INDIVIDUAL CCR PERMITS, INCLUDING:
   1. REQUIREMENTS FOR SUBMITTING NOTICES, PERMIT APPLICATIONS AND ANY ADDITIONAL INFORMATION NECESSARY TO DETERMINE WHETHER A PERMIT SHOULD BE ISSUED.
   2. RECORDKEEPING, REPORTING AND COMPLIANCE SCHEDULE REQUIREMENTS IN THE PERMIT.
   3. A PERMIT LIFE OF TEN YEARS, AFTER WHICH THE PERMIT SHALL BE RENEWED.
   4. ADEQUATE OPPORTUNITIES FOR PUBLIC PARTICIPATION DURING CCR PERMIT PROCESSING.
   5. OTHER TERMS AND CONDITIONS AS THE DIRECTOR DEEMS NECESSARY TO ENSURE COMPLIANCE WITH THIS ARTICLE.

D. THE RULES FOR CCR PERMITS SHALL INCLUDE:
   1. PERMIT PROCESSING FEES FROM THE APPLICANT TO COVER THE COST OF ADMINISTRATIVE SERVICES AND OTHER EXPENSES ASSOCIATED WITH EVALUATING THE APPLICATION AND ISSUING OR DENYING THE PERMIT, BEGINNING WHEN AN APPLICATION IS SUBMITTED.
   2. ANNUAL FEES FOR THE PROGRAM APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEGINNING AFTER CCR PROGRAM APPROVAL.

E. THE FEES AUTHORIZED BY THIS SECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE FUND ESTABLISHED BY SECTION 49-881.

F. WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE EFFECTIVE DATE OF DESIGN AND OPERATION RULES ADOPTED BY THE DIRECTOR FOR COAL COMBUSTION RESIDUALS FACILITIES PURSUANT TO THIS SECTION, FACILITIES WITH CCR UNITS MAY SUBMIT TO THE DEPARTMENT A PERMIT APPLICATION COVERING EACH CCR UNIT AT THE FACILITY. FACILITIES WITH CCR UNITS SHALL SUBMIT TO THE DEPARTMENT
H.B. 2411

A PERMIT APPLICATION COVERING EACH CCR UNIT AT THE FACILITY WITHIN ONE HUNDRED EIGHTY DAYS OF CCR PROGRAM APPROVAL.

49-891.01. Powers of the director

AFTER CCR PROGRAM APPROVAL, THE DIRECTOR MAY COMPEL PRODUCTION OF DOCUMENTS OR INFORMATION FROM OWNERS AND OPERATORS OF COAL COMBUSTION RESIDUALS UNITS IN ORDER TO EVALUATE COMPLIANCE WITH APPLICABLE STATUTES, RULES AND PERMITS.

APPROVED BY THE GOVERNOR APRIL 25, 2022.