

House Engrossed Senate Bill

~~forfeiture of office; technical correction~~
(now: solid waste; advanced recycling facilities)

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 277
SENATE BILL 1156

AN ACT

AMENDING SECTIONS 49-701, 49-701.01, 49-761 AND 49-837, ARIZONA REVISED
STATUTES; RELATING TO THE ENVIRONMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 49-701, Arizona Revised Statutes, is amended to
3 read:

4 49-701. Definitions

5 In this chapter, unless the context otherwise requires:

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

10 2. "Administrator" means the administrator of the United States
11 environmental protection agency.

12 3. "ADVANCED RECYCLING":

13 (a) MEANS A MANUFACTURING PROCESS FOR THE CONVERSION OF POST-USE
14 POLYMERS AND RECOVERED FEEDSTOCKS INTO BASIC HYDROCARBON RAW MATERIALS,
15 FEEDSTOCKS, CHEMICALS, MONOMERS, OLIGOMERS, PLASTICS, PLASTICS AND
16 CHEMICAL FEEDSTOCKS, BASIC AND UNFINISHED CHEMICALS, CRUDE OIL, NAPHTHA,
17 LIQUID TRANSPORTATION FUELS AND COATINGS AND OTHER PRODUCTS SUCH AS WAXES
18 AND LUBRICANTS THROUGH PROCESSES THAT INCLUDE PYROLYSIS, GASIFICATION,
19 DEPOLYMERIZATION, CATALYTIC CRACKING, REFORMING, HYDROGENATION, SOLVOLYSIS
20 AND OTHER SIMILAR TECHNOLOGIES.

21 (b) DOES NOT INCLUDE SOLID WASTE MANAGEMENT OR PROCESSING,
22 INCINERATION OR TREATMENT.

23 4. "ADVANCED RECYCLING FACILITY":

24 (a) MEANS A FACILITY THAT RECEIVES, STORES AND CONVERTS POST-USE
25 POLYMERS AND RECOVERED FEEDSTOCKS USING ADVANCED RECYCLING.

26 (b) INCLUDES A MANUFACTURING FACILITY THAT IS SUBJECT TO APPLICABLE
27 PROVISIONS OF LAW AND DEPARTMENT RULES FOR AIR QUALITY, WATER QUALITY AND
28 WASTE AND LAND USE.

29 (c) DOES NOT INCLUDE A SOLID WASTE FACILITY, PROCESSING FACILITY,
30 TREATMENT FACILITY, MATERIALS RECOVERY FACILITY, RECYCLING FACILITY OR
31 INCINERATOR.

32 ~~3.~~ 5. "Closed solid waste facility" means any of the following:

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

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

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

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

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

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

1 ~~4.~~ 6. "Conditionally exempt small quantity generator waste" means
2 hazardous waste in quantities as defined by rules adopted pursuant to
3 section 49-922.

4 ~~5.~~ 7. "Construction debris" means solid waste derived from the
5 construction, repair or remodeling of buildings or other structures.

6 ~~6.~~ 8. "County" means:

7 (a) The board of supervisors in the context of the exercise of
8 powers or duties.

9 (b) The unincorporated areas in the context of area of
10 jurisdiction.

11 ~~7.~~ 9. "Demolition debris" means solid waste derived from the
12 demolition of buildings or other structures.

13 10. "DEPOLYMERIZATION" MEANS A MANUFACTURING PROCESS THROUGH WHICH
14 POST-USE POLYMERS ARE BROKEN INTO SMALLER MOLECULES SUCH AS MONOMERS AND
15 OLIGOMERS OR RAW, INTERMEDIATE OR FINAL PRODUCTS, PLASTICS AND CHEMICAL
16 FEEDSTOCKS, BASIC AND UNFINISHED CHEMICALS, CRUDE OIL, NAPHTHA, LIQUID
17 TRANSPORTATION FUELS, WAXES, LUBRICANTS, COATINGS AND OTHER BASIC
18 HYDROCARBONS.

19 ~~8.~~ 11. "Discharge" has the same meaning prescribed in section
20 49-201.

21 ~~9.~~ 12. "Existing solid waste facility" means a solid waste
22 facility that begins construction or is in operation on the effective date
23 of the design and operation rules adopted by the director pursuant to
24 section 49-761 for that type of solid waste facility.

25 ~~10.~~ 13. "Facility plan" means any design or operating plan for a
26 solid waste facility or group of solid waste facilities.

27 ~~11.~~ 14. "40 C.F.R. part 257" means 40 Code of Federal Regulations
28 part 257 in effect on May 1, 2004.

29 ~~12.~~ 15. "40 C.F.R. part 258" means 40 Code of Federal Regulations
30 part 258 in effect on May 1, 2004.

31 16. "GASIFICATION" MEANS A MANUFACTURING PROCESS THROUGH WHICH
32 RECOVERED FEEDSTOCKS ARE HEATED AND CONVERTED INTO A FUEL AND GAS MIXTURE
33 IN AN OXYGEN-DEFICIENT ATMOSPHERE AND THE MIXTURE IS CONVERTED INTO
34 VALUABLE RAW, INTERMEDIATE AND FINAL PRODUCTS, INCLUDING PLASTIC MONOMERS,
35 CHEMICALS, WAXES, LUBRICANTS, CHEMICAL FEEDSTOCKS, CRUDE OIL, DIESEL,
36 GASOLINE, DIESEL AND GASOLINE BLENDSTOCKS, HOME HEATING OIL AND OTHER
37 FUELS, INCLUDING ETHANOL AND TRANSPORTATION FUEL, THAT ARE RETURNED TO
38 ECONOMIC UTILITY IN THE FORM OF RAW MATERIALS, PRODUCTS OR FUELS.

39 ~~13.~~ 17. "Household hazardous waste" means solid waste as described
40 in 40 Code of Federal Regulations section 261.4(b)(1) as incorporated by
41 reference in the rules adopted pursuant to chapter 5 of this title.

42 ~~14.~~ 18. "Household waste":

43 (a) Means any solid waste, including garbage, rubbish and sanitary
44 waste from septic tanks, that is generated from households, including

1 single and ~~multiple-family~~ MULTIPLE-FAMILY residences, hotels and motels,
2 bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds
3 and day use recreation areas. ~~, not including~~

4 (b) DOES NOT INCLUDE construction debris, landscaping rubble or
5 demolition debris.

6 ~~15.~~ 19. "Inert material":

7 (a) Means material that satisfies all of the following conditions:

8 (i) Is not flammable.

9 (ii) Will not decompose.

10 (iii) Will not leach substances in concentrations that exceed
11 applicable aquifer water quality standards prescribed by section 49-201,
12 paragraph 20 when subjected to a water leach test that is designed to
13 approximate natural infiltrating waters.

14 (b) Includes concrete, asphaltic pavement, brick, rock, gravel,
15 sand, soil and metal, if used as reinforcement in concrete, but does not
16 include special waste, hazardous waste, glass or other metal.

17 ~~16.~~ 20. "Land disposal" means placement of solid waste in or on
18 land.

19 ~~17.~~ 21. "Landscaping rubble" means material that is derived from
20 landscaping or reclamation activities and that may contain inert material
21 and ~~no~~ NOT more than ten ~~percent~~ PERCENT by volume of vegetative waste.

22 ~~18.~~ 22. "Management agency" means any person responsible for the
23 day-to-day operation, maintenance and management of a particular public
24 facility or group of public facilities.

25 ~~19.~~ 23. "Medical waste":

26 (a) Means any solid waste ~~which~~ THAT is generated in the diagnosis,
27 treatment or immunization of a human being or animal or in any research
28 relating to that diagnosis, treatment or immunization, or in the
29 production or testing of biologicals. ~~, and~~

30 (b) Includes discarded drugs. ~~but~~

31 (c) Does not include hazardous waste as defined in section 49-921
32 other than conditionally exempt small quantity generator waste.

33 ~~20.~~ 24. "Municipal solid waste landfill" means any solid waste
34 landfill that accepts household waste, household hazardous waste or
35 conditionally exempt small quantity generator waste.

36 ~~21.~~ 25. "New solid waste facility" means a solid waste facility
37 that begins construction or operation after the effective date of design
38 and operating rules that are adopted pursuant to section 49-761 for that
39 type of solid waste facility.

40 ~~22.~~ 26. "On site" means the same or geographically contiguous
41 property that may be divided by public or private right-of-way if the
42 entrance and exit between the properties are at a crossroads intersection
43 and access is by crossing the right-of-way and not by traveling along the
44 right-of-way. Noncontiguous properties that are owned by the same person

1 and connected by a right-of-way that is controlled by that person and to
2 which the public does not have access are deemed on site property.
3 Noncontiguous properties that are owned or operated by the same person
4 regardless of right-of-way control are also deemed on site property.

5 ~~23.~~ 27. "Person" means any public or private corporation, company,
6 partnership, firm, association or society of persons, the federal
7 government and any of its departments or agencies, this state or any of
8 its agencies, departments, political subdivisions, counties, towns or
9 municipal corporations, as well as a natural person.

10 28. "POST-USE POLYMER":

11 (a) MEANS A PLASTIC TO WHICH ALL OF THE FOLLOWING APPLY:

12 (i) THE PLASTIC IS DERIVED FROM ANY INDUSTRIAL, COMMERCIAL,
13 AGRICULTURAL OR DOMESTIC ACTIVITIES.

14 (ii) THE PLASTIC IS NOT MIXED WITH SOLID WASTE OR HAZARDOUS WASTE ON
15 SITE OR DURING PROCESSING AT THE ADVANCED RECYCLING FACILITY.

16 (iii) THE PLASTIC'S USE OR INTENDED USE IS AS A FEEDSTOCK FOR THE
17 MANUFACTURING OF CRUDE OIL, FUELS, FEEDSTOCKS, BLENDSTOCKS, RAW MATERIALS
18 OR OTHER INTERMEDIATE PRODUCTS OR FINAL PRODUCTS USING ADVANCED RECYCLING.

19 (iv) THE PLASTIC HAS BEEN SORTED FROM SOLID WASTE AND OTHER
20 REGULATED WASTE BUT MAY CONTAIN RESIDUAL AMOUNTS OF SOLID WASTE SUCH AS
21 ORGANIC MATERIAL AND INCIDENTAL CONTAMINANTS OR IMPURITIES SUCH AS PAPER
22 LABELS AND METAL RINGS.

23 (v) THE PLASTIC IS PROCESSED AT AN ADVANCED RECYCLING FACILITY OR
24 HELD AT SUCH FACILITY BEFORE PROCESSING.

25 (b) DOES NOT INCLUDE SOLID WASTE OR MUNICIPAL WASTE.

26 ~~24.~~ 29. "Process" or "processing" means the reduction, separation,
27 recovery, conversion or recycling of solid waste.

28 ~~25.~~ 30. "Public solid waste facility" means a transfer facility and
29 any site owned, operated or ~~utilized~~ USED by any person for the storage,
30 processing, treatment or disposal of solid waste that is not generated on
31 site.

32 31. "PYROLYSIS" MEANS A MANUFACTURING PROCESS THROUGH WHICH POST-USE
33 POLYMERS ARE HEATED IN THE ABSENCE OF OXYGEN UNTIL MELTED, ARE THERMALLY
34 DECOMPOSED AND ARE THEN COOLED, CONDENSED AND CONVERTED INTO VALUABLE RAW,
35 INTERMEDIATE AND FINAL PRODUCTS, INCLUDING PLASTIC MONOMERS, CHEMICALS,
36 WAXES, LUBRICANTS, CHEMICAL FEEDSTOCKS, CRUDE OIL, DIESEL, GASOLINE,
37 DIESEL AND GASOLINE BLENDSTOCKS, HOME HEATING OIL AND OTHER FUELS,
38 INCLUDING ETHANOL AND TRANSPORTATION FUEL, THAT ARE RETURNED TO ECONOMIC
39 UTILITY IN THE FORM OF RAW MATERIALS, PRODUCTS OR FUELS.

40 32. "RECOVERED FEEDSTOCKS":

41 (a) MEANS ONE OR MORE OF THE FOLLOWING MATERIALS THAT HAS BEEN
42 PROCESSED SO THAT IT MAY BE USED AS FEEDSTOCK IN AN ADVANCED RECYCLING
43 FACILITY:

44 (i) POST-USE POLYMERS.

1 (ii) MATERIALS FOR WHICH THE UNITED STATES ENVIRONMENTAL PROTECTION
2 AGENCY HAS MADE A NONWASTE DETERMINATION PURSUANT TO 40 CODE OF FEDERAL
3 REGULATIONS SECTION 241.3(c) OR HAS OTHERWISE DETERMINED ARE FEEDSTOCKS
4 AND NOT SOLID WASTE.

5 (b) DOES NOT INCLUDE:

6 (i) UNPROCESSED MUNICIPAL SOLID WASTE.

7 (ii) MATERIALS THAT ARE MIXED WITH SOLID WASTE OR HAZARDOUS WASTE ON
8 SITE OR DURING PROCESSING AT AN ADVANCED RECYCLING FACILITY.

9 ~~26.~~ 33. "Recycling facility" means a solid waste facility that is
10 owned, operated or used for the storage, treatment or processing of
11 recyclable solid waste and that handles wastes that have a significant
12 adverse effect on the environment.

13 ~~27.~~ 34. "Salvaging" means the removal of solid waste from a solid
14 waste facility with the permission and in accordance with rules or
15 ordinances of the management agency for purposes of productive reuse.

16 ~~28.~~ 35. "Scavenging" means the unauthorized removal of solid waste
17 from a solid waste facility.

18 ~~29.~~ 36. "Solid waste facility" means a transfer facility and any
19 site owned, operated or ~~utilized~~ USED by any person for the storage,
20 processing, treatment or disposal of solid waste, conditionally exempt
21 small quantity generator waste or household hazardous waste but does not
22 include the following:

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

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

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

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

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

41 (f) A closed solid waste facility.

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

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

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

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

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

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

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

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

25 (iv) The operator provides a notice to the department containing
26 the information required by section 49-762.07, subsection A, paragraphs 1,
27 2 and 5 and a brief description of the project.

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

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

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

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

38 (p) An on-site ~~single family~~ SINGLE-FAMILY household waste
39 composting facility.

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

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

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

4 (t) AN ADVANCED RECYCLING FACILITY THAT CONVERTS RECOVERED
5 FEEDSTOCKS TO MANUFACTURE RAW MATERIALS AND INTERMEDIATE AND FINAL
6 PRODUCTS.

7 ~~30:~~ 37. "Solid waste landfill":

8 (a) Means a facility, area of land or excavation in which solid
9 wastes are placed for permanent disposal. ~~Solid waste landfill~~

10 (b) Does not include a land application unit, surface impoundment,
11 injection well, compost pile or waste pile or an area containing ash from
12 the on-site combustion of coal that does not contain household waste,
13 household hazardous waste or conditionally exempt small quantity generator
14 waste.

15 ~~31:~~ 38. "Solid waste management" means the systematic
16 administration of activities ~~which~~ THAT provide for the collection, source
17 separation, storage, transportation, transfer, processing, treatment or
18 disposal of solid waste in a manner that protects public health and safety
19 and the environment and prevents and abates environmental nuisances.

20 ~~32:~~ 39. "Solid waste management plan" means the plan ~~which~~ THAT is
21 adopted pursuant to section 49-721 and ~~which~~ THAT provides guidelines for
22 the collection, source separation, storage, transportation, processing,
23 treatment, reclamation and disposal of solid waste in a manner that
24 protects public health and safety and the environment and prevents and
25 abates environmental nuisances.

26 40. "SOLVOLYSIS":

27 (a) MEANS A MANUFACTURING PROCESS THROUGH WHICH POST-USE POLYMERS
28 ARE PURIFIED WITH THE AID OF SOLVENTS, ALLOWING ADDITIVES AND CONTAMINANTS
29 TO BE REMOVED AND PRODUCING POLYMERS CAPABLE OF BEING RECYCLED OR REUSED
30 WITHOUT FIRST BEING REVERTED TO A MONOMER.

31 (b) INCLUDES HYDROLYSIS, AMINOLYSIS, AMMONOLOYSIS, METHANOLYSIS AND
32 GLYCOLYSIS.

33 ~~33:~~ 41. "Storage" means the holding of solid waste.

34 ~~34:~~ 42. "Transfer facility":

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

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

42 ~~35:~~ 43. "Treatment" means any method, technique or process used to
43 change the physical, chemical or biological character of solid waste so as

1 to render that waste safer for transport, amenable for processing,
2 amenable for storage or reduced in volume.

3 ~~36.~~ 44. "Vegetative waste":

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

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

9 ~~37.~~ 45. "Waste pile" means any noncontainerized accumulation of
10 solid, nonflowing waste that is used for treatment or storage.

11 ~~38.~~ 46. ~~"Waste tire"~~ does not include tires used for agricultural
12 purposes as bumpers on agricultural equipment or as ballast to maintain
13 covers at an agricultural site, or any tire disposed of using any of the
14 methods in section 44-1304, subsection D, paragraphs 1, 2, 3, 5 through 8
15 and 11 and means any of the following:

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

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

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

21 ~~39.~~ 47. "Waste tire facility" means a solid waste facility at which
22 five thousand or more waste tires are stored outdoors on any day.

23 Sec. 2. Section 49-701.01, Arizona Revised Statutes, is amended to
24 read:

25 49-701.01. Definition of solid waste; exemptions

26 A. "Solid waste" means any garbage, trash, rubbish, waste tire,
27 refuse, sludge from a waste treatment plant, water supply treatment plant
28 or pollution control facility and other discarded material, including
29 solid, liquid, semisolid or contained gaseous material.

30 B. The following are exempt from the definition of solid waste:

31 1. Hazardous waste regulated pursuant to chapter 5 of this title.

32 2. Waste that contains radioactive materials subject to the atomic
33 energy act of 1954 (42 United States Code sections 2011 through 2297;
34 ~~;~~ 68 Stat. 919) or title 30, chapter 4.

35 3. Any discharge from a facility regulated pursuant to chapter 2,
36 article 3 of this title.

37 4. Any discharge regulated pursuant to section 402 or 404 of the
38 clean water act (33 United States Code sections 1342 and 1344).

39 5. Domestic sewage.

40 6. Discharges into a publicly or privately owned treatment works
41 including the treatment works and the sewer collection system.

42 7. Irrigation waters.

43 8. Irrigation return flows.

44 9. Reclaimed wastewater from wastewater reuse facilities.

- 1 10. Leachate resulting from the direct natural infiltration of
2 precipitation through undisturbed regolith or bedrock, if pollutants are
3 not added by man.
- 4 11. Storm water.
- 5 12. Substances and materials that remain on site as specifically
6 approved in a work plan or other approval by the department in the course
7 of remedial or corrective actions undertaken pursuant to any of the
8 following:
- 9 (a) Chapter 2, articles 3 and 5 of this title.
10 (b) Chapters 5 and 6 of this title.
11 (c) The comprehensive environmental response, compensation, and
12 liability act of 1980 (P.L. 96-510; 94 Stat. 2767; 42 United States Code
13 sections 9601 through 9675).
14 (d) The federal water pollution control act amendments of 1972
15 (P.L. 92-500; 86 Stat. 816; 33 United States Code sections 1251 through
16 1387).
17 (e) The resource conservation and recovery act of 1976 (P.L. 94-
18 580; 90 Stat. 2795; 42 United States Code sections 6901 through 6992).
19 (f) Chapter 1, article 5 of this title.
- 20 13. Water used in gardening, lawn care, landscape maintenance and
21 related activities.
- 22 14. Discharges from ponds used for watering livestock and wildlife.
23 15. Landscaping rubble used to reclaim land.
24 16. Mining industry off-road waste tires that are larger than three
25 feet in outside diameter and that are buried at the site and rock, copper
26 concentrate, leachate material, tailing and slag that are either of the
27 following:
- 28 (a) Produced and maintained at the site of the mining or
29 metallurgical operation.
30 (b) Not maintained at the site of a mining or metallurgical
31 operation and that are consolidated at the site of a mining or
32 metallurgical operation that is both of the following:
- 33 (i) Located within fifty miles of the materials' current off-site
34 location, or, on written approval of the director, located at a site that
35 is farther than fifty miles of the materials' current off-site location.
36 (ii) Regulated by a permit issued pursuant to chapter 2, article 3
37 of this title or by an approved work plan pursuant to chapter 1, article 5
38 of this title.
- 39 17. Inert material.
40 18. Effluent as defined in section 45-101.
41 19. Return flows from irrigated agriculture.
42 20. Materials that are generated on site and that are processed or
43 reused on site if the following conditions are met:

1 (a) On-site processing or reuse of the materials is technically
2 feasible.

3 (b) At least seventy-five ~~per cent~~ PERCENT by weight or volume of
4 the materials that are accumulated on site for processing or reuse each
5 year are processed or reused in that same year.

6 (c) Materials that are accumulated on site for processing or reuse
7 are managed in a manner that:

8 (i) Controls wind dispersion and other surface dispersion of the
9 materials so that the materials do not create a public nuisance or pose an
10 imminent and substantial endangerment to public health or the environment.
11 Visible materials that are dispersed beyond the boundaries of the site
12 shall be collected on a regular basis by the operator of the site.

13 (ii) Does not discharge hazardous substances as defined in section
14 49-281 to surface water, groundwater or subsurface soils in a manner that
15 creates a public nuisance or poses an imminent and substantial
16 endangerment to public health or the environment.

17 (iii) Controls vector breeding and fire hazards.

18 (iv) Controls public access to the materials by the use of
19 reasonable measures.

20 21. RECOVERED FEEDSTOCKS IF THOSE MATERIALS ARE PROCESSED THROUGH
21 ADVANCED RECYCLING AND IF THE ADVANCED RECYCLING FACILITIES ARE OPERATED
22 IN A MANNER THAT:

23 (a) CONTROLS WIND DISPERSION AND OTHER SURFACE DISPERSION OF
24 RECOVERED FEEDSTOCK FROM THE ADVANCED RECYCLING FACILITY SO THAT THE
25 RECOVERED FEEDSTOCK DOES NOT CREATE A PUBLIC NUISANCE OR POSE AN IMMINENT
26 AND SUBSTANTIAL ENDANGERMENT TO PUBLIC HEALTH OR THE ENVIRONMENT,
27 INCLUDING REQUIRING THE OPERATOR OF THE ADVANCED RECYCLING FACILITY TO
28 RECOVER ON A REGULAR BASIS ANY VISIBLE RECOVERED FEEDSTOCK THAT IS
29 DISPERSED BEYOND THE BOUNDARIES OF THE ADVANCED RECYCLING FACILITY.

30 (b) DOES NOT DISCHARGE HAZARDOUS SUBSTANCES AS DEFINED IN SECTION
31 49-281 TO SURFACE WATER, GROUNDWATER OR SUBSURFACE SOIL IN A MANNER THAT
32 CREATES A PUBLIC NUISANCE OR POSES AN IMMINENT AND SUBSTANTIAL
33 ENDANGERMENT TO PUBLIC HEALTH OR THE ENVIRONMENT.

34 (c) DOES NOT CAUSE A NUISANCE, VECTOR BREEDING OR FIRE HAZARD BY
35 STORING RECOVERABLE FEEDSTOCKS OR POST-USE POLYMERS.

36 (d) REQUIRES RECOVERABLE FEEDSTOCKS OR POST-USE POLYMER TO BE
37 CONVERTED USING AN ADVANCED RECYCLING PROCESS AFTER STORAGE OF LESS THAN
38 NINETY DAYS OR, FOR ADVANCED RECYCLING OPERATIONS ON GOVERNMENT PROPERTY
39 AND IF ALLOWED PURSUANT TO ANY CONTRACTUAL AGREEMENTS WITH THIS STATE OR
40 LOCAL GOVERNMENT, THE STORAGE PERIOD MAY BE EXTENDED TO ONE HUNDRED TWENTY
41 DAYS.

42 C. Any person may petition the director to exempt a substance as
43 solid waste by submitting a written request to the director. The request
44 may be for a statewide or site-specific exemption. Within ninety days

1 after receipt of a written request, the director shall determine whether
2 to exempt the substance. The director's determination shall be based on a
3 demonstration that the substance is unlikely to cause or substantially
4 contribute to a threat to the public health or the environment. The
5 procedure is as follows:

6 1. Within thirty days after the director's determination to add a
7 substance on a site-specific basis, a notice of that determination shall
8 be published in the Arizona administrative register. A site-specific
9 determination is effective on the date of the director's determination.

10 2. Within thirty days after the director's determination to add a
11 substance on a statewide basis, the director shall initiate ~~rule-making~~
12 RULEMAKING to add the substance to the list of exemptions. This ~~rule~~
13 ~~making~~ RULEMAKING is exempt from the requirements of title 41, chapter 6,
14 except for the requirements regarding public notice. The effective date
15 for the final rule is the effective date for the exemption.

16 D. AN ADVANCED RECYCLING FACILITY IS SUBJECT TO ROUTINE INSPECTION
17 BY THE DEPARTMENT TO ENSURE COMPLIANCE WITH THIS CHAPTER AND SHALL PROVIDE
18 A ONETIME NOTICE TO THE DEPARTMENT OF THE FACILITY'S LOCATION ON THE
19 OPENING OF A NEW ADVANCED RECYCLING FACILITY.

20 ~~D. E. Nothing in~~ This section ~~shall~~ DOES NOT affect the
21 department's authority to require abatement of any environmental nuisance
22 pursuant to chapter 1, article 3 of this title.

23 Sec. 3. Section 49-761, Arizona Revised Statutes, is amended to
24 read:

25 49-761. Rulemaking authority for solid waste facilities;
26 exemption; financial assurance; recycling
27 facilities

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

1 with section 49-762.08, subsection B, subsection C, paragraphs 1 and 2 and
2 subsections D and E.

3 B. For purposes of administering 42 United States Code section
4 6945, as amended November 8, 1984, 40 C.F.R. part 258 is adopted by
5 reference except as prescribed by paragraph 2 of this subsection. This
6 subsection, as it applies to municipal solid waste landfills, governs if
7 there is any conflict between this subsection and any other statute
8 relating to solid waste. Municipal solid waste landfill facility plans
9 submitted pursuant to section 49-762 shall comply with this subsection.
10 In administering this subsection or in adopting or administering any rules
11 adopted pursuant to this subsection, the department shall ensure that any
12 discretion allowed to a director of an approved state pursuant to the
13 federal regulations is maintained. The following apply to the
14 department's administration of 42 United States Code section 6945 and to
15 the department's adoption of rules for municipal solid waste landfills:

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

26 2. 40 C.F.R. part 258, table I is not adopted in its entirety. The
27 department shall use aquifer water quality standards that have been
28 adopted by the department pursuant to section 49-223 and shall use those
29 portions of table I that are more restrictive than the standards adopted
30 pursuant to section 49-223.

31 C. The department shall adopt rules for those solid waste land
32 disposal facilities that are not municipal solid waste landfills. Rules
33 adopted pursuant to this subsection shall not be more stringent than or
34 conflict with 40 C.F.R. part 257 for nonprocedural standards, except that
35 the department may adopt aquifer protection standards that are more
36 stringent than 40 C.F.R. part 257 if these standards are consistent with
37 and ~~are~~ NOT more stringent than standards developed pursuant to chapter 2,
38 article 3 of this title, or if the standards are adopted pursuant to
39 article 9 of this chapter. In administering this subsection, the
40 department shall ensure that any discretion allowed to a director of an
41 approved state pursuant to the federal regulations is maintained in the
42 department's rules. Aquifer protection provisions adopted pursuant to
43 this subsection do not apply to an owner or operator of a solid waste
44 facility if the owner or operator submits an administratively complete

1 application for an aquifer protection permit pursuant to chapter 2,
2 article 3 of this title before the date that the owner or operator is
3 required to submit a solid waste facility plan.

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

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

12 2. Reasonably necessary rules regarding the storage, collection,
13 transportation, treatment and disposal of biohazardous medical waste and
14 medical sharps, beginning with the placement by the generator of the waste
15 in containers for the purpose of waste collection. The department may
16 require payment of a fee for the licensure of a transporter of
17 biohazardous medical waste. After July 20, 2011, the department shall
18 establish by rule a fee for the licensure of a transporter of biohazardous
19 medical waste, including a maximum fee. As part of the ~~rule making~~
20 RULEMAKING process, there must be public notice and comment and a review
21 of the rule by the joint legislative budget committee. After September
22 30, 2013, the department shall not increase that fee by rule without
23 specific statutory authority for the increase. The fees shall be
24 deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee
25 fund established by section 49-881. In the case of self-hauling of waste
26 by the generator, all storage facilities under the generator's control and
27 all waste handling practices including storage, treatment and
28 transportation shall be in accordance with these rules. The department
29 shall also adopt reasonably necessary rules regarding the tracking of
30 biohazardous medical waste and medical sharps.

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

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

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

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

10 I. The department shall adopt reasonably necessary rules
11 establishing minimum standards for storing, collecting, transporting,
12 disposing and reclaiming solid waste, including garbage, trash, rubbish,
13 manure and other objectionable wastes. These rules shall provide for
14 inspecting premises, containers, processes, equipment and vehicles, and
15 for abating as environmental nuisances any premises, containers,
16 processes, equipment or vehicles that do not comply with the minimum
17 standards of these rules. The rules adopted pursuant to this subsection
18 do not apply to sites that are either regulated by section 49-762,
19 49-762.01 or 49-762.02 or exempted FROM THE DEFINITION OF SOLID WASTE
20 FACILITY by IN section 49-701, ~~paragraph 29~~ or FROM THE DEFINITION OF
21 SOLID WASTE IN section 49-701.01. Notwithstanding any other provision of
22 this subsection, rules adopted pursuant to this subsection shall apply to
23 defining environmental nuisances pursuant to section 49-141.

24 J. The department shall adopt rules relating to financial assurance
25 requirements. The rules shall indicate the types of financial assurance
26 mechanisms to be required and the content, terms and conditions of each
27 financial mechanism, including circumstances under which the department
28 may take action on the financial assurance mechanism for facility closure,
29 postclosure care if necessary and corrective action for known releases.
30 The financial assurance mechanisms shall include all of the following:

- 31 1. Surety bond.
- 32 2. Certificate of deposit.
- 33 3. Trust fund with pay-in period.
- 34 4. Letter of credit.
- 35 5. Insurance policy.
- 36 6. Certificate of self-insurance.
- 37 7. Deposit with the state treasurer.
- 38 8. Evidence of ability to meet any of the following:
 - 39 (a) Corporate financial test.
 - 40 (b) Local government financial test.
 - 41 (c) Corporate guarantee test.
 - 42 (d) Local government guarantee test.

1 (e) Political subdivision financial test that shall require the
2 department to consider the entity's bond rating, income stream, assets,
3 liabilities and assessed valuation of taxable property.

4 9. Multiple financial assurance mechanisms.

5 10. Additional financial assurance mechanisms that may be acceptable
6 to the director.

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

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

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

17 Sec. 4. Section 49-837, Arizona Revised Statutes, is amended to
18 read:

19 49-837. Recycling fund; use; advisory committee

20 A. A recycling fund is established to be administered by the
21 director. The fund consists of monies appropriated by the legislature,
22 gifts, grants, donations and monies derived from the landfill disposal
23 fees in section 49-836. Monies derived from landfill disposal fees are
24 subject to legislative appropriation. Monies in the fund are exempt from
25 lapsing under section 35-190. On notice from the director, the state
26 treasurer shall invest and divest monies in the fund as provided by
27 section 35-313, and monies earned from investment shall be credited to the
28 fund.

29 B. Monies from the recycling fund shall be used for the following
30 purposes:

31 1. Grants to or contracts with political subdivisions, nonprofit
32 organizations or private enterprise for research, demonstration projects,
33 **NEW TECHNOLOGIES**, market development and source reduction studies and
34 implementation of the recommendations or reports prepared pursuant to this
35 article.

36 2. Public information, public education and technical assistance
37 programs concerning litter control, recycling and source reduction.

38 3. The collection and administration of monies in the fund.

39 4. The administration of this article.

40 5. The administration of the Arizona commerce authority's recycled
41 market development program. At the end of each fiscal year, any funds not
42 spent by the authority for this purpose shall be returned to the fund.

43 6. The department's solid waste control program activities
44 prescribed in this chapter and in title 44.

1 C. In making expenditures pursuant to subsection B, paragraph 2 of
2 this section, the director shall ensure that counties having a population
3 of less than five hundred thousand persons ~~according to the most recent~~
4 ~~United States decennial census~~ receive benefits in proportion to their
5 contributions to the fund.

6 D. The director shall appoint an advisory committee to advise the
7 director on the use of monies in the recycling fund. The advisory
8 committee shall consist of two representatives from private solid waste
9 collection businesses, two representatives from private solid waste
10 recycling businesses, four representatives from political subdivisions
11 ~~which~~ THAT have implemented recycling and source reduction programs, at
12 least one of whom resides in a county having a population of fewer than
13 five hundred thousand persons, and one representative of the general
14 public. The members of the committee serve at the pleasure of the
15 director and are not eligible to receive compensation, and the committee
16 is an advisory committee for purposes of title 38, chapter 3, article 3.1.

APPROVED BY THE GOVERNOR APRIL 23, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2021.