

House Engrossed

coal combustion residuals program

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

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)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 45-1201, Arizona Revised Statutes, is amended to
3 read:
4 45-1201. Definitions
5 In this article, unless the context otherwise requires:
6 1. "Dam" means any artificial barrier, including appurtenant works
7 for the impounding or diversion of water, twenty-five feet or more in
8 height or the storage capacity of which will be more than fifty acre-feet
9 but does not include:
10 (a) Any barrier that is or will be less than six feet in height,
11 regardless of storage capacity.
12 (b) Any barrier that has or will have a storage capacity of fifteen
13 acre-feet or less, regardless of height.
14 (c) Any barrier for the purpose of controlling liquid-borne
15 material.
16 (d) Any barrier that is a release-contained barrier.
17 (e) Any barrier that is owned, controlled, operated, maintained or
18 managed by the United States government or its agents or instrumentalities
19 if a safety program that is at least as stringent as the state safety
20 program applies and is enforced against the agent or instrumentality.
21 (f) ANY CCR SURFACE IMPOUNDMENT AS DEFINED IN SECTION 49-701 THAT
22 IS REGULATED BY A PERMIT IN EFFECT UNDER THE COAL COMBUSTION RESIDUALS
23 PROGRAM ESTABLISHED PURSUANT TO TITLE 49, CHAPTER 4, ARTICLE 11 AND
24 APPROVED FOR CCR SURFACE IMPOUNDMENT SAFETY BY THE UNITED STATES
25 ENVIRONMENTAL PROTECTION AGENCY IN ACCORDANCE WITH 42 UNITED STATES CODE
26 SECTION 6945(d)(1).
27 2. "Height" means the vertical distance from the lowest elevation
28 of the outside limit of the barrier at its intersection with the natural
29 ground surface to the spillway crest elevation.
30 3. "Owner" includes any person or entity that owns, controls,
31 operates, maintains, manages or proposes to construct or modify a dam.
32 4. "Person" means any person, firm, association, organization,
33 partnership, business trust, corporation, company or district.
34 5. "Release-contained barrier" means any artificial barrier and
35 appurtenant works that comply with both of the following:
36 (a) Has a storage capacity that in the event of failure would be
37 contained within property that the release-contained barrier owner owns,
38 controls, operates, maintains or manages.
39 (b) The property on which the release would be contained is not
40 open to the public.
41 6. "Storage capacity" means the maximum volume of water that can be
42 impounded by the reservoir when there is no discharge of water.

1 Sec. 2. Section 49-250, Arizona Revised Statutes, is amended to
2 read:

3 49-250. Exemptions

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

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

14 1. Household and domestic activities.

15 2. Household gardening, lawn watering, lawn care, landscape
16 maintenance and related activities.

17 3. The noncommercial use of consumer products generally available
18 to and used by the public.

19 4. Ponds used for watering livestock and wildlife.

20 5. Mining overburden returned to the excavation site, including any
21 common material that has been excavated and removed from the excavation
22 site and THAT has not been subjected to any chemical or leaching agent or
23 process of any kind.

24 6. Facilities used solely for surface transportation or storage of
25 groundwater, surface water for beneficial use or reclaimed water that is
26 regulated pursuant to section 49-203, subsection A, paragraph 7 for
27 beneficial use.

28 7. Discharge to a community sewer system.

29 8. Facilities that are required to obtain a permit for the direct
30 reuse of reclaimed water.

31 9. Leachate resulting from the direct, natural infiltration of
32 precipitation through undisturbed regolith or bedrock if pollutants are
33 not added to the leachate as a result of any material or activity placed
34 or conducted by man on the ground surface.

35 10. Surface impoundments used solely to contain storm runoff,
36 except for surface impoundments regulated by the federal clean water act
37 or article 3.1 of this chapter.

38 11. Closed facilities. However, if the facility ever resumes
39 operation the facility shall obtain an aquifer protection permit and the
40 facility shall be treated as a new facility for purposes of section
41 49-243.

42 12. Facilities for the storage of water pursuant to title 45,
43 chapter 3.1 unless reclaimed water is added.

1 13. Facilities using central Arizona project water for underground
2 storage and recovery projects under title 45, chapter 3.1, article 6.

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

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

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

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

20 18. Facilities used in:

21 (a) Corrective actions taken pursuant to chapter 6, article 1 of
22 this title in response to a release of a regulated substance as defined in
23 section 49-1001 except for those off-site facilities that receive for
24 treatment or disposal materials that are contaminated with a regulated
25 substance and that are received as part of a corrective action.

26 (b) Response or remedial actions undertaken pursuant to article 5
27 of this chapter or pursuant to CERCLA.

28 (c) Corrective actions taken pursuant to the resource conservation
29 and recovery act of 1976, as amended (42 United States Code sections 6901
30 through 6992).

31 (d) Other remedial actions that have been reviewed and approved by
32 the appropriate governmental authority and taken pursuant to applicable
33 federal or state laws.

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

36 20. Storage, treatment or disposal of inert material.

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

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

42 23. Surface impoundments and dry wells that are used to contain
43 storm water in combination with discharges from one or more of the
44 following activities or sources:

45 (a) Firefighting system testing and maintenance.

1 (b) Potable water sources, including waterline flushings.
2 (c) Irrigation drainage and lawn watering.
3 (d) Routine external building wash down without detergents.
4 (e) Pavement wash water if no spills or leaks of toxic or hazardous
5 material have occurred unless all spilled material has first been removed
6 and no detergents have been used.
7 (f) Air conditioning, compressor and steam equipment condensate
8 that has not contacted a hazardous or toxic material.
9 (g) Foundation or footing drains in which flows are not
10 contaminated with process materials.
11 (h) Occupational safety and health administration or mining safety
12 and health administration safety equipment.

13 24. Industrial wastewater treatment facilities designed,
14 constructed and operated as required by section 49-243, subsection B,
15 paragraph 1 and using a treatment system approved by the director to treat
16 wastewater to meet aquifer water quality standards prior to discharge, if
17 that water is stored at a groundwater storage facility pursuant to title
18 45, chapter 3.1.

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

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

28 27. COAL COMBUSTION RESIDUALS UNITS THAT ARE REGULATED UNDER 40 CODE
29 OF FEDERAL REGULATIONS PART 257, SUBPART D OR BY A PERMIT IN EFFECT UNDER
30 THE COAL COMBUSTION RESIDUALS PROGRAM ESTABLISHED PURSUANT TO CHAPTER 4,
31 ARTICLE 11 OF THIS TITLE AND APPROVED BY THE UNITED STATES ENVIRONMENTAL
32 PROTECTION AGENCY AS PRESCRIBED BY 42 UNITED STATE CODE SECTION
33 6945(d)(1).

34 Sec. 3. Section 49-701, Arizona Revised Statutes, is amended to
35 read:
36 49-701. Definitions
37 In this chapter, unless the context otherwise requires:
38 1. "Administratively complete plan" means an application for a
39 solid waste facility plan approval that the department has determined
40 contains each of the components required by statute or rule but that has
41 not undergone technical review or public notice by the department.
42 2. "Administrator" means the administrator of the United States
43 environmental protection agency.

1 3. "Advanced recycling":

2 (a) Means a manufacturing process ~~for the conversion of~~ TO CONVERT
3 post-use polymers and recovered feedstocks into basic hydrocarbon raw
4 materials, feedstocks, chemicals, monomers, oligomers, plastics, plastics
5 and chemical feedstocks, basic and unfinished chemicals, crude oil,
6 naphtha, liquid transportation fuels and coatings and other products such
7 as waxes and lubricants through processes that include pyrolysis,
8 gasification, depolymerization, catalytic cracking, reforming,
9 hydrogenation, solvolysis and other similar technologies.

10 (b) Does not include solid waste management, ~~or~~ processing,
11 incineration or treatment.

12 4. "Advanced recycling facility":

13 (a) Means a facility that receives, stores and converts post-use
14 polymers and recovered feedstocks using advanced recycling.

15 (b) Includes a manufacturing facility that is subject to applicable
16 provisions of law and department rules for air quality, water quality and
17 waste and land use.

18 (c) Does not include a solid waste facility, processing facility,
19 treatment facility, materials recovery facility, recycling facility or
20 incinerator.

21 5. "BENEFICIAL USE OF CCR" MEANS THAT THE CCR MEETS ALL OF THE
22 FOLLOWING CONDITIONS:

23 (a) THE CCR PROVIDES A FUNCTIONAL BENEFIT.

24 (b) THE CCR SUBSTITUTES FOR THE USE OF A VIRGIN MATERIAL, WHICH
25 CONSERVES NATURAL RESOURCES THAT WOULD OTHERWISE NEED TO BE OBTAINED
26 THROUGH PRACTICES SUCH AS EXTRACTION.

27 (c) THE USE OF THE CCR MEETS RELEVANT PRODUCT SPECIFICATIONS,
28 REGULATORY STANDARDS OR DESIGN STANDARDS WHEN AVAILABLE, AND WHEN THOSE
29 STANDARDS ARE NOT AVAILABLE, THE CCR IS NOT USED IN EXCESS QUANTITIES.

30 (d) WHEN UNENCAPSULATED USE OF CCR INVOLVING PLACEMENT OF TWELVE
31 THOUSAND FOUR HUNDRED TONS OR MORE ON THE LAND IN NON-ROADWAY
32 APPLICATIONS, THE USER DEMONSTRATES, KEEPS RECORDS AND PROVIDES
33 DOCUMENTATION ON REQUEST, THAT ENVIRONMENTAL RELEASES TO GROUNDWATER,
34 SURFACE WATER, SOIL AND AIR ARE COMPARABLE TO OR LOWER THAN THOSE FROM
35 ANALOGOUS PRODUCTS MADE WITHOUT CCR, OR THAT ENVIRONMENTAL RELEASES TO
36 GROUNDWATER, SURFACE WATER, SOIL AND AIR WILL BE AT OR BELOW RELEVANT
37 REGULATORY AND HEALTH-BASED BENCHMARKS FOR HUMAN AND ECOLOGICAL RECEPTORS
38 DURING USE.

39 6. "CCR PILE" OR "PILE":

40 (a) MEANS ANY NON-CONTAINERIZED ACCUMULATION OF SOLID, NON-FLOWING
41 CCR THAT IS PLACED ON THE LAND.

42 (b) DOES NOT INCLUDE A CCR THAT IS BENEFICIALLY USED OFF-SITE.

43 7. "CCR PROGRAM APPROVAL" MEANS UNITED STATES ENVIRONMENTAL
44 PROTECTION AGENCY APPROVAL OF THE ARIZONA COAL COMBUSTION RESIDUALS
45 PROGRAM IN ACCORDANCE WITH 42 UNITED STATES CODE SECTION 6945(d)(1).

1 8. "CCR SURFACE IMPOUNDMENT" OR "IMPOUNDMENT" MEANS A NATURAL
2 TOPOGRAPHIC DEPRESSION, MAN-MADE EXCAVATION OR DIKED AREA, WHICH IS
3 DESIGNED TO HOLD AN ACCUMULATION OF CCR AND LIQUIDS, AND THE CCR UNIT
4 TREATS, STORES OR DISPOSES OF CCR.

5 ~~5-~~ 9. "Closed solid waste facility" means any of the following:

6 (a) A solid waste facility OTHER THAN A CCR UNIT that ceases
7 storing, treating, processing or receiving for disposal solid waste before
8 the effective date of design and operation rules for that type of facility
9 adopted pursuant to section 49-761.

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

12 (i) Ceased receiving solid waste before July 1, 1983.

13 (ii) Ceased receiving solid waste and received at least two feet of
14 cover material before January 1, 1986.

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

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

18 (d) A CCR UNIT WHEN PLACEMENT OF CCR IN A CCR UNIT HAS CEASED AND
19 THE OWNER OR OPERATOR HAS COMPLETED CLOSURE OF THE CCR UNIT AND HAS
20 INITIATED POSTCLOSURE CARE IN ACCORDANCE WITH 40 CODE OF FEDERAL
21 REGULATIONS PART 257, SUBPART D OR IN ACCORDANCE WITH A PROGRAM APPROVED
22 BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 42 UNITED
23 STATES CODE SECTION 6945(d)(1).

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

28 11. "COAL COMBUSTION RESIDUALS LANDFILL" OR "CCR LANDFILL":

29 (a) MEANS AN AREA OF LAND OR AN EXCAVATION THAT RECEIVES CCR AND
30 THAT IS NOT A SURFACE IMPOUNDMENT, AN UNDERGROUND INJECTION WELL, A SALT
31 DOME FORMATION, A SALT BED FORMATION, AN UNDERGROUND OR SURFACE COAL MINE
32 OR A CAVE.

33 (b) INCLUDES SAND AND GRAVEL PITS AND QUARRIES THAT RECEIVE CCR OR
34 CCR PILES AND ANY USE OF CCR THAT DOES NOT MEET THE DEFINITION OF A
35 BENEFICIAL USE OF CCR.

36 12. "COAL COMBUSTION RESIDUALS UNIT" OR "CCR UNIT":

37 (a) MEANS ANY CCR LANDFILL, CCR SURFACE IMPOUNDMENT OR LATERAL
38 EXPANSION OF A CCR UNIT OR A COMBINATION OF MORE THAN ONE OF THESE UNITS.

39 (b) INCLUDES BOTH NEW AND EXISTING UNITS, UNLESS OTHERWISE
40 SPECIFIED.

41 ~~6-~~ 13. "Conditionally exempt small quantity generator waste" means
42 hazardous waste in quantities as defined by rules adopted pursuant to
43 section 49-922.

44 ~~7-~~ 14. "Construction debris" means solid waste derived from the
45 construction, repair or remodeling of buildings or other structures.

1 ~~8.~~ 15. "County" means:
2 (a) The board of supervisors in the context of the exercise of
3 powers or duties.
4 (b) The unincorporated areas in the context of area of
5 jurisdiction.
6 ~~9.~~ 16. "Demolition debris" means solid waste derived from the
7 demolition of buildings or other structures.
8 ~~10.~~ 17. "Depolymerization" means a manufacturing process through
9 which post-use polymers are broken into smaller molecules such as monomers
10 and oligomers or raw, intermediate or final products, plastics and
11 chemical feedstocks, basic and unfinished chemicals, crude oil, naphtha,
12 liquid transportation fuels, waxes, lubricants, coatings and other basic
13 hydrocarbons.
14 ~~11.~~ 18. "Discharge" has the same meaning prescribed in section
15 49-201.
16 19. "EXISTING CCR LANDFILL" MEANS A CCR LANDFILL THAT RECEIVES CCR
17 BOTH BEFORE AND AFTER OCTOBER 19, 2015, OR FOR WHICH CONSTRUCTION
18 COMMENCED BEFORE OCTOBER 19, 2015 AND THAT RECEIVES CCR ON OR AFTER
19 OCTOBER 19, 2015. FOR THE PURPOSES OF THIS PARAGRAPH, "COMMENCED
20 CONSTRUCTION" MEANS THE OWNER OR OPERATOR OF A CCR LANDFILL HAS OBTAINED
21 THE FEDERAL STATE, AND LOCAL APPROVALS OR PERMITS NECESSARY TO BEGIN
22 PHYSICAL CONSTRUCTION AND A CONTINUOUS ON SITE, PHYSICAL CONSTRUCTION
23 PROGRAM HAD BEGUN BEFORE OCTOBER 19, 2015.
24 20. "EXISTING CCR SURFACE IMPOUNDMENT" MEANS A CCR SURFACE
25 IMPOUNDMENT THAT MEETS ONE OF THE FOLLOWING CONDITIONS:
26 (a) RECEIVES CCR BOTH BEFORE AND AFTER OCTOBER 19, 2015.
27 (b) FOR WHICH CONSTRUCTION COMMENCED BEFORE OCTOBER 19, 2015 AND
28 THAT RECEIVES CCR ON OR AFTER OCTOBER 19, 2015. FOR THE PURPOSES OF THIS
29 PARAGRAPH, "COMMENCED CONSTRUCTION" MEANS THE OWNER OR OPERATOR OF A CCR
30 SURFACE IMPOUNDMENT HAS OBTAINED THE FEDERAL, STATE, AND LOCAL APPROVALS
31 OR PERMITS NECESSARY TO BEGIN PHYSICAL CONSTRUCTION AND A CONTINUOUS ON
32 SITE, PHYSICAL CONSTRUCTION PROGRAM HAD BEGUN PRIOR TO OCTOBER 19, 2015.
33 ~~12.~~ 21. "Existing solid waste facility" means a solid waste
34 facility OTHER THAN A CCR UNIT that begins construction or is in operation
35 on the effective date of the design and operation rules adopted by the
36 director pursuant to section 49-761 for that type of solid waste facility.
37 ~~13.~~ 22. "Facility plan" means any design or operating plan for a
38 solid waste facility or group of solid waste facilities OTHER THAN A
39 PERMIT ISSUED UNDER ARTICLE 11 OF THIS CHAPTER.
40 ~~14.~~ 23. "40 C.F.R. part 257, SUBPARTS A AND B" means 40 Code of
41 Federal Regulations part 257, SUBPARTS A AND B in effect on May 1, 2004.
42 ~~15.~~ 24. "40 C.F.R. part 258" means 40 Code of Federal Regulations
43 part 258 in effect on May 1, 2004.

1 ~~16.~~ 25. "Gasification" means a manufacturing process through which
2 recovered feedstocks are heated and converted into a fuel and gas mixture
3 in an oxygen-deficient atmosphere and the mixture is converted into
4 valuable raw, intermediate and final products, including plastic monomers,
5 chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel,
6 gasoline, diesel and gasoline blendstocks, home heating oil and other
7 fuels, including ethanol and transportation fuel, that are returned to
8 economic utility in the form of raw materials, products or fuels.

9 ~~17.~~ 26. "Household hazardous waste" means solid waste as described
10 in 40 Code of Federal Regulations section 261.4(b)(1) as incorporated by
11 reference in the rules adopted pursuant to chapter 5 of this title.

12 ~~18.~~ 27. "Household waste":

13 (a) Means any solid waste, including garbage, rubbish and sanitary
14 waste from septic tanks, that is generated from households, including
15 single and multiple-family residences, hotels and motels, bunkhouses,
16 ranger stations, crew quarters, campgrounds, picnic grounds and day use
17 recreation areas.

18 (b) Does not include construction debris, landscaping rubble or
19 demolition debris.

20 ~~19.~~ 28. "Inert material":

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

22 (i) Is not flammable.

23 (ii) Will not decompose.

24 (iii) Will not leach substances in concentrations that exceed
25 applicable aquifer water quality standards prescribed by section 49-201,
26 paragraph 22 when subjected to a water leach test that is designed to
27 approximate natural infiltrating waters.

28 (b) Includes concrete, asphaltic pavement, brick, rock, gravel,
29 sand, soil and metal, if used as reinforcement in concrete. ~~, but~~

30 (c) Does not include special waste, hazardous waste, glass or other
31 metal.

32 ~~20.~~ 29. "Land disposal" means placement of solid waste in or on
33 land.

34 ~~21.~~ 30. "Landscaping rubble" means material that is derived from
35 landscaping or reclamation activities and that may contain inert material
36 and not more than ten percent by volume of vegetative waste.

37 31. "LATERAL EXPANSION" MEANS, FOR THE PURPOSES OF THE COAL
38 COMBUSTION RESIDUALS PROGRAM ESTABLISHED PURSUANT TO ARTICLE 11 OF THIS
39 CHAPTER, A HORIZONTAL EXPANSION OF THE WASTE BOUNDARIES OF AN EXISTING CCR
40 LANDFILL OR EXISTING CCR SURFACE IMPOUNDMENT MADE AFTER OCTOBER 19, 2015.

41 ~~22.~~ 32. "Management agency" means any person responsible for the
42 day-to-day operation, maintenance and management of a particular public
43 facility or group of public facilities.

1 ~~23.~~ 33. "Medical waste":

2 (a) Means any solid waste that is generated in the diagnosis,
3 treatment or immunization of a human being or animal or in any research
4 relating to that diagnosis, treatment or immunization, or in the
5 production or testing of biologicals.

6 (b) Includes discarded drugs.

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

9 ~~24.~~ 34. "Municipal solid waste landfill" means any solid waste
10 landfill that accepts household waste, household hazardous waste or
11 conditionally exempt small quantity generator waste.

12 ~~25.~~ 35. "New solid waste facility" means a solid waste facility
13 that begins construction or operation after the effective date of design
14 and operating rules that are adopted pursuant to section 49-761 OR ARTICLE
15 11 OF THIS CHAPTER for that type of solid waste facility.

16 ~~26.~~ 36. "On site" means the same or geographically contiguous
17 property that may be divided by public or private right-of-way if the
18 entrance and exit between the properties are at a crossroads intersection
19 and access is by crossing the right-of-way and not by traveling along the
20 right-of-way. Noncontiguous properties that are owned by the same person
21 and connected by a right-of-way that is controlled by that person and to
22 which the public does not have access are deemed on site property.
23 Noncontiguous properties that are owned or operated by the same person
24 regardless of right-of-way control are also deemed on site property.

25 ~~27.~~ 37. "Person" means any public or private corporation, company,
26 partnership, firm, association or society of persons, the federal
27 government and any of its departments or agencies, this state or any of
28 its agencies, departments, political subdivisions, counties, towns or
29 municipal corporations, as well as a natural person.

30 ~~28.~~ 38. "Post-use polymer":

31 (a) Means a plastic to which all of the following apply:

32 (i) The plastic is derived from any industrial, commercial,
33 agricultural or domestic activities.

34 (ii) The plastic is not mixed with solid waste or hazardous waste
35 on site or during processing at the advanced recycling facility.

36 (iii) The plastic's use or intended use is as a feedstock for ~~the~~
37 manufacturing ~~of~~ crude oil, fuels, feedstocks, blendstocks, raw materials
38 or other intermediate products or final products using advanced recycling.

39 (iv) The plastic has been sorted from solid waste and other
40 regulated waste but may contain residual amounts of solid waste such as
41 organic material and incidental contaminants or impurities such as paper
42 labels and metal rings.

43 (v) The plastic is processed at an advanced recycling facility or
44 held at ~~such~~ AN ADVANCED RECYCLING facility before processing.

45 (b) Does not include solid waste or municipal waste.

1 ~~29.~~ 39. "Process" or "processing" means the reduction, separation,
2 recovery, conversion or recycling of solid waste.
3 ~~30.~~ 40. "Public solid waste facility" means a transfer facility
4 and any site owned, operated or used by any person for the storage,
5 processing, treatment or disposal of solid waste that is not generated on
6 site.
7 ~~31.~~ 41. "Pyrolysis" means a manufacturing process through which
8 post-use polymers are heated in the absence of oxygen until melted, are
9 thermally decomposed and are then cooled, condensed and converted into
10 valuable raw, intermediate and final products, including plastic monomers,
11 chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel,
12 gasoline, diesel and gasoline blendstocks, home heating oil and other
13 fuels, including ethanol and transportation fuel, that are returned to
14 economic utility in the form of raw materials, products or fuels.
15 ~~32.~~ 42. "Recovered feedstocks":
16 (a) Means one or more of the following materials that ~~has~~ HAVE been
17 processed so that ~~it~~ THEY may be used as feedstock in an advanced
18 recycling facility:
19 (i) Post-use polymers.
20 (ii) Materials for which the United States environmental protection
21 agency has made a nonwaste determination pursuant to 40 Code of Federal
22 Regulations section 241.3(c) or has otherwise determined are feedstocks
23 and not solid waste.
24 (b) Does not include:
25 (i) Unprocessed municipal solid waste.
26 (ii) Materials that are mixed with solid waste or hazardous waste
27 on site or during processing at an advanced recycling facility.
28 ~~33.~~ 43. "Recycling facility" means a solid waste facility that is
29 owned, operated or used for the storage, treatment or processing of
30 recyclable solid waste and that handles wastes that have a significant
31 adverse effect on the environment.
32 ~~34.~~ 44. "Salvaging" means the removal of solid waste from a solid
33 waste facility with the permission and in accordance with rules or
34 ordinances of the management agency for purposes of productive reuse.
35 ~~35.~~ 45. "Scavenging" means the unauthorized removal of solid waste
36 from a solid waste facility.
37 ~~36.~~ 46. "Solid waste facility" means a transfer facility and any
38 site owned, operated or used by any person for the storage, processing,
39 treatment or disposal of solid waste, conditionally exempt small quantity
40 generator waste or household hazardous waste but does not include the
41 following:
42 (a) A site at which less than one ton of solid waste that is not
43 household waste, household hazardous waste, conditionally exempt small
44 quantity generator waste, medical waste or special waste and that was

1 generated on site is stored, processed, treated or disposed in compliance
2 with section 49-762.07, subsection F.

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

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

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

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

16 (f) A closed solid waste facility.

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

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

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

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

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

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

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

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

43 (iv) The operator provides a notice to the department containing
44 the information required by section 49-762.07, subsection A, paragraphs 1,
45 2 and 5 and a brief description of the project.

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

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

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

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

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

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

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

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

20 (t) An advanced recycling facility that converts recovered
21 feedstocks to manufacture raw materials and intermediate and final
22 products.

23 ~~37.~~ 47. "Solid waste landfill":

24 (a) Means a facility, area of land or excavation in which solid
25 wastes are placed for permanent disposal.

26 (b) Does not include a land application unit, surface impoundment,
27 injection well, COAL COMBUSTION RESIDUALS LANDFILL, compost pile or waste
28 pile or an area containing ash from the on-site combustion of coal that
29 does not contain household waste, household hazardous waste or
30 conditionally exempt small quantity generator waste.

31 ~~38.~~ 48. "Solid waste management" means the systematic
32 administration of activities that provide for the collection, source
33 separation, storage, transportation, transfer, processing, treatment or
34 disposal of solid waste in a manner that protects public health and safety
35 and the environment and prevents and abates environmental nuisances.

36 ~~39.~~ 49. "Solid waste management plan" means the plan that is
37 adopted pursuant to section 49-721 and that provides guidelines for the
38 collection, source separation, storage, transportation, processing,
39 treatment, reclamation and disposal of solid waste in a manner that
40 protects public health and safety and the environment and prevents and
41 abates environmental nuisances.

42 ~~40.~~ 50. "Solvolysis":

43 (a) Means a manufacturing process through which post-use polymers
44 are purified with the aid of solvents, allowing additives and contaminants

1 to be removed and producing polymers capable of being recycled or reused
2 without first being reverted to a monomer.

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

5 ~~41.~~ 51. "Storage" means the holding of solid waste.

6 ~~42.~~ 52. "Transfer facility":

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

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

14 ~~43.~~ 53. "Treatment" means any method, technique or process used to
15 change the physical, chemical or biological character of solid waste so as
16 to render that waste safer for transport, amenable for processing,
17 amenable for storage or reduced in volume.

18 ~~44.~~ 54. "Vegetative waste":

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

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

23 ~~45.~~ 55. "Waste pile" means any noncontainerized accumulation of
24 solid, nonflowing waste that is used for treatment or storage.

25 ~~46.~~ 56. Waste tire does not include tires used for agricultural
26 purposes as bumpers on agricultural equipment or as ballast to maintain
27 covers at an agricultural site, or any tire disposed of using any of the
28 methods in section 44-1304, subsection D, paragraphs 1, 2, 3, 5 through 8
29 and 11 and means any of the following:

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

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

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

35 ~~47.~~ 57. "Waste tire facility" means a solid waste facility at
36 which five thousand or more waste tires are stored outdoors on any day.

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

39 49-761. Rulemaking authority for solid waste facilities;
40 exemption; financial assurance; recycling
41 facilities

42 A. The department shall adopt rules regarding the storage,
43 processing, treatment and disposal of solid waste as prescribed by
44 subsections B through M of this section. In adopting rules, the
45 department shall consider the nature of the waste streams at the

1 facilities to be regulated. The department shall also consider other
2 applicable federal and state laws and rules in an effort to avoid
3 practices or requirements that duplicate, are inconsistent with or will
4 result in dual regulation with other applicable rules and laws.
5 Facilities that obtain and maintain coverage under a general permit
6 established by the department pursuant to section 49-706 are exempt from
7 rules adopted pursuant to this section. In adopting rules for solid waste
8 facilities, the director may include requirements for corrective actions
9 in response to a release, as defined in section 49-281, from a solid waste
10 facility that violates or results in a violation of any provision of this
11 chapter, rule adopted pursuant to this chapter or solid waste facility
12 plan approved pursuant to this chapter. These rules shall be consistent
13 with section 49-762.08, subsection B, subsection C, paragraphs 1 and 2 and
14 subsections D and E.

15 B. For purposes of administering 42 United States Code section
16 6945, as amended November 8, 1984, 40 C.F.R. part 258 is adopted by
17 reference except as prescribed by paragraph 2 of this subsection. This
18 subsection, as it applies to municipal solid waste landfills, governs if
19 there is any conflict between this subsection and any other statute
20 relating to solid waste. Municipal solid waste landfill facility plans
21 submitted pursuant to section 49-762 shall comply with this subsection.
22 In administering this subsection or in adopting or administering any rules
23 adopted pursuant to this subsection, the department shall ensure that any
24 discretion allowed to a director of an approved state pursuant to the
25 federal regulations is maintained. The following apply to the
26 department's administration of 42 United States Code section 6945 and to
27 the department's adoption of rules for municipal solid waste landfills:

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

38 2. 40 C.F.R. part 258, table I is not adopted in its entirety. The
39 department shall use aquifer water quality standards that have been
40 adopted by the department pursuant to section 49-223 and shall use those
41 portions of table I that are more restrictive than the standards adopted
42 pursuant to section 49-223.

1 C. The department shall adopt rules for those solid waste land
2 disposal facilities that are not municipal solid waste landfills AND THAT
3 ARE NOT REGULATED BY THE COAL COMBUSTION RESIDUALS PROGRAM ESTABLISHED
4 PURSUANT TO ARTICLE 11 OF THIS CHAPTER. Rules adopted pursuant to this
5 subsection shall not be more stringent than or conflict with 40 C.F.R.
6 part 257, SUBPARTS A AND B for nonprocedural standards, except that the
7 department may adopt aquifer protection standards that are more stringent
8 than 40 C.F.R. part 257, SUBPARTS A AND B if these standards are
9 consistent with and not more stringent than standards developed pursuant
10 to chapter 2, article 3 of this title, or if the standards are adopted
11 pursuant to article 9 of this chapter. In administering this subsection,
12 the department shall ensure that any discretion allowed to a director of
13 an approved state pursuant to the federal regulations is maintained in the
14 department's rules. Aquifer protection provisions adopted pursuant to
15 this subsection do not apply to an owner or operator of a solid waste
16 facility if the owner or operator submits an administratively complete
17 application for an aquifer protection permit pursuant to chapter 2,
18 article 3 of this title before the date that the owner or operator is
19 required to submit a solid waste facility plan.

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

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

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

1 reasonably necessary rules regarding the tracking of biohazardous medical
2 waste and medical sharps.

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

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

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

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

25 I. The department shall adopt reasonably necessary rules
26 establishing minimum standards for storing, collecting, transporting,
27 disposing and reclaiming solid waste, including garbage, trash, rubbish,
28 manure and other objectionable wastes. These rules shall provide for
29 inspecting premises, containers, processes, equipment and vehicles, and
30 for abating as environmental nuisances any premises, containers,
31 processes, equipment or vehicles that do not comply with the minimum
32 standards of these rules. The rules adopted pursuant to this subsection
33 do not apply to sites that are either regulated by section 49-762,
34 49-762.01 or 49-762.02 or exempted from the definition of solid waste
35 facility in section 49-701 or from the definition of solid waste in
36 section 49-701.01. Notwithstanding any other provision of this
37 subsection, rules adopted pursuant to this subsection shall apply to
38 defining environmental nuisances pursuant to section 49-141.

39 J. The department shall adopt rules relating to financial assurance
40 requirements. The rules shall indicate the types of financial assurance
41 mechanisms to be required and the content, terms and conditions of each
42 financial mechanism, including circumstances under which the department
43 may take action on the financial assurance mechanism for facility closure,
44 postclosure care if necessary and corrective action for known releases.
45 The financial assurance mechanisms shall include all of the following:

- 1 1. Surety bond.
- 2 2. Certificate of deposit.
- 3 3. Trust fund with pay-in period.
- 4 4. Letter of credit.
- 5 5. Insurance policy.
- 6 6. Certificate of self-insurance.
- 7 7. Deposit with the state treasurer.
- 8 8. Evidence of ability to meet any of the following:
 - 9 (a) Corporate financial test.
 - 10 (b) Local government financial test.
 - 11 (c) Corporate guarantee test.
 - 12 (d) Local government guarantee test.
 - 13 (e) Political subdivision financial test that shall require the
 - 14 department to consider the entity's bond rating, income stream, assets,
 - 15 liabilities and assessed valuation of taxable property.
- 16 9. Multiple financial assurance mechanisms.
- 17 10. Additional financial assurance mechanisms that may be
- 18 acceptable to the director.
- 19 K. The department shall adopt rules that prescribe standards to be
- 20 used in determining if a site is a recycling facility.
- 21 L. The director may adopt rules that prescribe standards to be used
- 22 in determining if a solid waste facility includes significant solid waste
- 23 transfer activities that warrant the facility's regulation as a transfer
- 24 facility.
- 25 M. The department shall adopt facility design, construction,
- 26 operation, closure and postclosure maintenance rules for biosolids
- 27 processing facilities and household waste composting facilities that must
- 28 obtain plan approval pursuant to section 49-762.
- 29 Sec. 5. Section 49-762, Arizona Revised Statutes, is amended to
- 30 read:
 - 31 49-762. Facilities requiring solid waste facility plans:
 - 32 exemption
 - 33 A. The owner or operator of the following solid waste facilities
 - 34 shall obtain approval of a solid waste facility plan in accordance with
 - 35 sections 49-762.03 and 49-762.04:
 - 36 1. Solid waste land disposal facilities EXCEPT THOSE FACILITIES
 - 37 REGULATED BY 40 CODE OF FEDERAL REGULATIONS PART 257, SUBPART D OR THE
 - 38 COAL COMBUSTION RESIDUALS PROGRAM ESTABLISHED PURSUANT TO ARTICLE 11 OF
 - 39 THIS CHAPTER AND APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION
 - 40 AGENCY IN ACCORDANCE WITH 42 UNITED STATES CODE SECTION 6945(d)(1).
 - 41 2. Biosolids processing facilities.
 - 42 3. Medical waste facilities.
 - 43 4. Special waste facilities.
 - 44 5. Municipal solid waste landfills.

1 6. Commercial or government-owned household waste composting
2 facilities.

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

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

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

11 49-762.01. Facilities requiring self-certification

12 The owner or operator of all solid waste facilities that are not
13 listed in either section 49-762 or 49-762.02 OR ARE NOT REGULATED UNDER 40
14 CODE OF FEDERAL REGULATIONS PART 257, SUBPART D OR UNDER ARTICLE 11 OF
15 THIS CHAPTER IN A PROGRAM APPROVED BY THE UNITED STATES ENVIRONMENTAL
16 PROTECTION AGENCY shall comply with self-certification procedures
17 prescribed by section 49-762.05. A waste tire facility that is not
18 required to obtain solid waste facility plan approval pursuant to section
19 49-762, paragraph 7 must comply with self-certification procedures as
20 prescribed in section 49-762.05.

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

23 49-762.02. Facilities subject to best management practices:
24 rules

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

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

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

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

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

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

42 6. A solid waste facility where only asbestos-containing waste
43 materials from manufactured products are stored, processed, treated or
44 disposed. The best management practices for these facilities that shall
45 apply are as follows:

1 (a) For solid waste facilities handling asbestos-containing waste
2 materials that are regulated under the national emission standards for
3 hazardous air pollutants in 40 Code of Federal Regulations part 61,
4 subpart M:

5 (i) The national emission standards for hazardous air pollutants
6 that are incorporated by reference in the rules adopted pursuant to
7 chapter 3 of this title.

8 (ii) For solid waste land disposal facilities that are not
9 municipal solid waste landfills, 40 Code of Federal Regulations part 257,
10 **SUBPARTS A AND B**.

11 (iii) For solid waste land disposal facilities, financial assurance
12 pursuant to the requirements and time frames of section 49-770.

13 (iv) Solid waste facility notification pursuant to section
14 49-762.05, subsection B, paragraph 5.

15 (v) Compliance with local zoning laws or section 49-767, if
16 applicable.

17 (b) For solid waste facilities handling asbestos-containing waste
18 materials that are not regulated under the national emission standards for
19 hazardous air pollutants in 40 Code of Federal Regulations part 61,
20 subpart M:

21 (i) Compliance with section 49-762.07.

22 (ii) Compliance with local zoning laws or section 49-767, if
23 applicable.

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

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

28 **49-762.06. Changes to solid waste facilities and amended**
29 **plans**

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

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

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

42 3. A type III change is a substantial change that does not require
43 public notice. This includes changes that are significant, that require
44 detailed review by the department and that are equally or more protective

1 of the public health and environment, changes that are required by statute
2 or regulation or other substantial changes that are not type IV changes.

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

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

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

21 D. The determination required by subsection C of this section shall
22 be made within the time limits prescribed by this subsection. If the
23 director fails to make a determination within those time limits, the
24 proposed change shall be deemed to be a type II change and in accordance
25 with the facility's approved plan and may be implemented by the owner or
26 operator without further review by the department. The time limits
27 prescribed by this subsection do not apply if the proposed change
28 conflicts with or is inconsistent with the requirements of 40 C.F.R. part
29 257, [SUBPARTS A AND B](#) or 40 C.F.R. part 258. The time limits are as
30 follows:

- 31 1. Fifteen days for solid waste facilities that are not landfills.
- 32 2. Thirty days for landfills that are not municipal solid waste
33 landfills.
- 34 3. Sixty days for municipal solid waste landfills.

35 E. If the director determines that the change is a type IV change
36 that requires a public notice, within thirty days after receipt of the
37 amended plan the director shall give public notice of the substantial
38 change as prescribed by section 49-762.04, subsection A, paragraph 2. If
39 there is sufficient public interest as evidenced by written comments
40 submitted pursuant to section 49-762.04, subsection A, paragraph 2 in
41 opposition to the substantial change to the solid waste facility, the
42 department shall hold a public hearing in accordance with the procedures
43 in section 49-762.04, subsection A, paragraph 6. Testimony at a public
44 hearing shall be limited to whether the substantial change to the plan
45 meets the criteria prescribed in section 49-762.04, subsection A,

1 paragraph 5. Testimony on the substantial change shall include the name
2 and address of the person presenting the testimony and, if in writing, the
3 signature of that person. The director shall issue a notice of any
4 technical deficiencies and a responsiveness summary in accordance with
5 section 49-762.04, subsection A, paragraph 8.

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

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

20 **49-762.07. Notices; exemptions; extensions; enforcement;**
21 **operating standards**

22 A. Except as provided in subsection B of this section, owners or
23 operators of solid waste facilities in operation on September 1, 1996
24 shall submit to the director by September 1, 1996 a notice that contains
25 the following information:

- 26 1. Facility name and mailing address.
- 27 2. Legal description by township, range and section and county
28 assessor's book, map and parcel number.
- 29 3. Description of waste storage and treatment equipment and methods
30 of waste management, including types and volumes of waste handled and time
31 the waste remains on site.
- 32 4. Description of waste management practices used at the facility
33 including measures taken to protect the environment and to protect the
34 public health.
- 35 5. A diagram of the property showing the location of the solid
36 waste facility or facilities.

37 B. Notices filed with the department before September 1, 1996 are
38 deemed to satisfy the notice requirement of subsection A of this section
39 unless there has been a substantial change to the solid waste facility
40 before the notice deadline. A solid waste facility that has obtained a
41 plan approval or that has filed an application for plan approval before
42 September 1, 1996 is exempt from the notice requirement of subsection A of
43 this section. Owners or operators of solid waste facilities that begin
44 operations after September 1, 1996 shall submit a notice to the director
45 containing the information specified in subsection A of this section **π**

1 NOT later than thirty days before beginning operation of a solid waste
2 facility. Owners and operators of recycling facilities shall not be
3 required to submit a notice pursuant to subsection A of this section or
4 this subsection until rules for recycling facilities are adopted pursuant
5 to section 49-761, subsection K.

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

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

12 E. In the absence of design and operating rules adopted by the
13 director pursuant to section 49-761 for solid waste landfills that are not
14 municipal solid waste landfills, owners and operators of solid waste
15 landfills that are not municipal solid waste landfills and that do not
16 have coverage under an applicable general permit established by the
17 department pursuant to section 49-706 shall comply with the provisions of
18 40 C.F.R. part 257, SUBPARTS A AND B.

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

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

29 2. Does not discharge hazardous substances as defined in section
30 49-281 to surface water, groundwater, or subsurface soil in a manner that
31 creates a public nuisance or poses an imminent and substantial
32 endangerment to public health or the environment.

33 3. Controls vector breeding and fire hazards.

34 4. ~~Utilizes~~ USES reasonable measures to control public access to:

35 (a) Medical waste generated by health care facilities.

36 (b) Special waste as defined in section 49-851, ~~subsection A~~.

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

39 49-762.08. Corrective actions; application

40 A. ~~Beginning July 1, 1998,~~ The director, in the absence of
41 applicable corrective action rules adopted pursuant to section 49-761 for
42 solid waste facilities other than solid waste landfills, may require the
43 owner or operator of a solid waste facility to conduct corrective action
44 in response to a release, as defined in section 49-281, from a facility,
45 if the release violates or results from a violation of section 49-762.07,

1 subsection F or causes or threatens to cause a significant adverse effect
2 on human health or the environment.

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

7 C. This section shall not apply to the following:

8 1. Corrective or remedial action of groundwater that has been
9 impacted by an off-site source.

10 2. A release subject to a corrective action pursuant to chapter 6
11 of this title relating to underground storage tanks.

12 3. A release from a facility subject to the provisions of 40 Code
13 of Federal Regulations part 257, **SUBPART A AND B**, or part 258.

14 D. The department shall avoid practices or requirements that
15 duplicate or are inconsistent with other applicable laws and rules, to the
16 maximum extent practicable, for releases subject to corrective actions
17 pursuant to any of the following:

18 1. Chapter 2, article 3 of this title relating to aquifer
19 protection permits.

20 2. Chapter 5 of this title relating to hazardous waste.

21 3. The federal water pollution control act amendments of 1972
22 (P.L. 92-500; 86 Stat. 2795; 42 United States Code sections 6901 through
23 6992).

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

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

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

38 **49-763.01. Variances**

39 Within ninety days after receipt of a written request for a variance
40 from a solid waste facility owner, operator or management agency, the
41 department may grant a variance from solid waste management rules and
42 standards if the department concludes that no violation of health
43 standards will occur. The department may consider whether an
44 environmental nuisance will result. If the request is denied, the
45 department shall prepare and make available to the management agency or

1 facility owner or operator a written decision including relevant data and
2 a technical analysis supporting the denial. The department shall not
3 grant any variance or temporary authorization to operate under ~~the~~
4 ~~provisions of~~ this chapter if the proposed variance conflicts or is
5 inconsistent with the requirements of 40 C.F.R. part 257, **SUBPARTS A AND**
6 **B, 40 C.F.R. CODE OF FEDERAL REGULATIONS PART 257, SUBPART D** or 40 C.F.R.
7 part 258.

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

10 **49-769. Agency orders; appeal**

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

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

16 **49-770. Financial assurance requirements for solid waste**
17 **facilities**

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

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

41 **C. WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE EFFECTIVE DATE OF**
42 **DESIGN AND OPERATION RULES ADOPTED BY THE DIRECTOR FOR THAT TYPE OF SOLID**
43 **WASTE FACILITY PURSUANT TO ARTICLE 11 OF THIS CHAPTER, EXISTING SOLID**
44 **WASTE FACILITIES REGULATED UNDER ARTICLE 11 OF THIS CHAPTER MAY SUBMIT TO**
45 **THE DEPARTMENT THE FINANCIAL RESPONSIBILITY REQUIRED BY THIS SECTION.**

1 WITHIN ONE HUNDRED EIGHTY DAYS AFTER CCR PROGRAM APPROVAL, EXISTING SOLID
2 WASTE FACILITIES REGULATED UNDER ARTICLE 11 OF THIS CHAPTER SHALL SUBMIT
3 TO THE DEPARTMENT THE FINANCIAL RESPONSIBILITY REQUIRED BY THIS SECTION.
4 A SOLID WASTE FACILITY IN OPERATION BEFORE THE EFFECTIVE DATE OF CCR
5 PROGRAM APPROVAL MAY CONTINUE TO OPERATE WHILE THE DEPARTMENT REVIEWS THE
6 SUBMISSION.

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

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

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

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

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

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

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

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

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

43 5. Shall be released from closure or postclosure financial
44 responsibility on certification by a registered professional engineer or
45 other environmental professional deemed acceptable by the director that

1 the specific activities of closure or postclosure have been completed in
2 accordance with the approved facility plan and placed in the operating
3 record of the facility plan.

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

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

10 49-781. Compliance orders; appeal; enforcement

11 A. If the director determines that a person is in violation of any
12 provision of article 3 or 4 of this chapter, a rule adopted pursuant to
13 article 4 OR 11 of this chapter or any condition of a COAL COMBUSTION
14 RESIDUALS PERMIT OR solid waste facility plan approval issued pursuant to
15 this chapter or is creating an imminent and substantial endangerment to
16 the public health or the environment, the director may issue an order
17 requiring compliance immediately or within a specified period of time.

18 B. A compliance order shall state with reasonable specificity the
19 nature of the violation, a time for compliance, if applicable, and the
20 right to a hearing.

21 C. A compliance order shall be transmitted to the alleged violator
22 by certified mail, return receipt requested, or by hand delivery.

23 D. At the request of the director, the attorney general may file an
24 action in superior court to enforce orders issued pursuant to this section
25 after the order becomes final.

26 E. THIS SECTION DOES NOT APPLY TO CCR UNITS UNTIL AFTER CCR PROGRAM
27 APPROVAL.

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

30 49-783. Injunctive relief; civil penalties; costs

31 A. If the director has reason to believe that a person is in
32 violation of any provision of ~~articles~~ ARTICLE 3, ~~or~~ 4 OR 11 of this
33 chapter, a rule adopted pursuant to article 4 OR 11 of this chapter, any
34 condition of A COAL COMBUSTION RESIDUALS PERMIT OR an approved solid waste
35 facility plan issued pursuant to article 4 of this chapter or that a
36 person is creating an imminent and substantial endangerment to the public
37 health or the environment, the director through the attorney general may
38 request a temporary restraining order, a preliminary injunction, a
39 permanent injunction or any other relief necessary to protect the public
40 health or the environment, without regard to whether the person has
41 requested a hearing.

42 B. A person who violates any provision of ~~articles~~ ARTICLE 3, ~~or~~ 4
43 OR 11 of this chapter, a rule adopted pursuant to article 4 OR 11 of this
44 chapter, an order issued pursuant to this article, A COAL COMBUSTION
45 RESIDUALS PERMIT or an approved solid waste facility plan issued pursuant

1 to THIS chapter ~~4~~ is subject to a civil penalty of not more than ~~one~~
2 ~~thousand dollars~~ \$1,000 for each day not to exceed ~~fifteen thousand~~
3 ~~dollars~~ \$15,000 for each violation. At the request of the director, the
4 attorney general shall file an action in superior court to recover civil
5 penalties as prescribed by this section.

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

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

10 49-791. Violation; classification; penalties

11 A. A person shall not:

- 12 1. Practice open burning at a solid waste facility without a
13 variance approval issued by the director.
- 14 2. Scavenge at a solid waste facility.
- 15 3. Damage or destroy signs posted at a solid waste facility.
- 16 4. Dump or dispose of solid waste in violation of ~~any provision of~~
17 this chapter or any applicable rule adopted pursuant to article 4 OR 11 of
18 this chapter.
- 19 5. Operate a solid waste facility in a manner inconsistent with the
20 solid waste facility plan after it has been approved or any rule adopted
21 pursuant to article 4 OR 11 of this chapter.

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

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

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

30 49-803. Prohibited practices

31 A. Used oil shall not be used or disposed of by any of the
32 following methods:

- 33 1. Discharge into sewers or waters of the state as defined in
34 section 49-201 except pursuant to a permit issued by appropriate
35 regulatory authorities.
- 36 2. Incineration except at a facility authorized to incinerate
37 hazardous waste under section 49-922 or the federal act. Burning for
38 energy recovery is not considered incineration for THE purposes of this
39 section, unless the director determines pursuant to rule that the purpose
40 of the burning is for destruction of listed or characteristic hazardous
41 waste rather than energy recovery.
- 42 3. Disposal on land unless the used oil is disposed of in a
43 landfill that is subject to 40 Code of Federal Regulations part 257,
44 SUBPARTS A AND B, or PART 258 and that has an approved solid waste

1 facility plan. This prohibition does not apply to used oil that is used
2 as an ingredient in an explosive material.

3 4. Dispersal as a dust suppressant or contact herbicide.

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

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

9 49-881. Solid waste fee fund; uses; exemption

10 A. The solid waste fee fund is established. The director shall
11 administer the fund. The fund consists of legislative appropriations,
12 donations, gifts, grants, registration fees collected pursuant to sections
13 44-1303 and 44-1304.01, waste tire administrative monies distributed
14 pursuant to section 44-1305, subsection B, paragraph 1, licensure fees
15 collected pursuant to section 49-104, subsection B, paragraph 14,
16 subdivision (b), solid waste general permit fees collected pursuant to
17 section 49-706, solid waste landfill registration fees from section
18 49-747, licensure fees collected pursuant to section 49-761, subsection D,
19 paragraph 2, solid waste fees collected pursuant to section 49-762.03,
20 subsection F, special waste management plan fees collected pursuant to
21 section 49-857, special waste management fees collected pursuant to
22 section 49-863, private consultants expedited plan review fees collected
23 pursuant to section 49-762.03, subsection G, self-certification filing
24 fees collected pursuant to section 49-762.05, subsection H, solid waste
25 landfill disposal fees collected pursuant to section 49-836, ~~and~~ special
26 waste fees collected pursuant to section 49-855, subsection C, paragraph 2
27 AND COAL COMBUSTION RESIDUALS PERMIT PROCESSING FEES AND ANNUAL FEES
28 COLLECTED PURSUANT TO SECTION 49-891.

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

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

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

39 ARTICLE 11. MANAGEMENT OF COAL COMBUSTION RESIDUALS

40 49-891. Coal combustion residuals program; rules;
41 incorporation by reference

42 A. THE DIRECTOR MAY ADOPT RULES TO ESTABLISH AND OPERATE A COAL
43 COMBUSTION RESIDUALS PROGRAM EQUIVALENT TO OR AT LEAST AS PROTECTIVE AS
44 THE FEDERAL COAL COMBUSTION RESIDUALS PROGRAM UNDER 40 CODE OF FEDERAL
45 REGULATIONS PART 257, SUBPART D FOR THE PURPOSE OF OBTAINING APPROVAL TO

1 OPERATE THE FEDERAL CCR PROGRAM. FEDERAL COAL COMBUSTION RESIDUALS
2 REGULATIONS MAY BE ADOPTED BY REFERENCE. RULES ADOPTED PURSUANT TO THIS
3 SUBSECTION SHALL NOT BE MORE OR LESS STRINGENT THAN OR CONFLICT WITH 40
4 CODE OF FEDERAL REGULATIONS PART 257, SUBPART D FOR NONPROCEDURAL
5 STANDARDS, EXCEPT THAT THE DEPARTMENT MAY ADOPT AQUIFER PROTECTION
6 STANDARDS THAT ARE MORE STRINGENT THAN 40 CODE OF FEDERAL REGULATIONS PART
7 257, SUBPART D IF THESE STANDARDS ARE DEVELOPED PURSUANT TO CHAPTER 2,
8 ARTICLE 3 OF THIS TITLE.

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

17 C. THE RULES AUTHORIZED BY SUBSECTION A OF THIS SECTION SHALL
18 PROVIDE REQUIREMENTS FOR ISSUING, DENYING, SUSPENDING OR MODIFYING
19 INDIVIDUAL CCR PERMITS, INCLUDING:

20 1. REQUIREMENTS FOR SUBMITTING NOTICES, PERMIT APPLICATIONS AND ANY
21 ADDITIONAL INFORMATION NECESSARY TO DETERMINE WHETHER A PERMIT SHOULD BE
22 ISSUED.

23 2. RECORDKEEPING, REPORTING AND COMPLIANCE SCHEDULE REQUIREMENTS IN
24 THE PERMIT.

25 3. A PERMIT LIFE OF TEN YEARS, AFTER WHICH THE PERMIT SHALL BE
26 RENEWED.

27 4. ADEQUATE OPPORTUNITIES FOR PUBLIC PARTICIPATION DURING CCR
28 PERMIT PROCESSING.

29 5. OTHER TERMS AND CONDITIONS AS THE DIRECTOR DEEMS NECESSARY TO
30 ENSURE COMPLIANCE WITH THIS ARTICLE.

31 D. THE RULES FOR CCR PERMITS SHALL INCLUDE:

32 1. PERMIT PROCESSING FEES FROM THE APPLICANT TO COVER THE COST OF
33 ADMINISTRATIVE SERVICES AND OTHER EXPENSES ASSOCIATED WITH EVALUATING THE
34 APPLICATION AND ISSUING OR DENYING THE PERMIT, BEGINNING WHEN AN
35 APPLICATION IS SUBMITTED.

36 2. ANNUAL FEES FOR THE PROGRAM APPROVED BY THE UNITED STATES
37 ENVIRONMENTAL PROTECTION AGENCY BEGINNING AFTER CCR PROGRAM APPROVAL.

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

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

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

3 49-891.01. Powers of the director

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

APPROVED BY THE GOVERNOR APRIL 25, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 2022.