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

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

49-201. Definitions
In this chapter, unless the context otherwise requires:
1. "Administrator" means the administrator of the United States environmental protection agency.
2. "Aquifer" means a geologic unit that contains sufficient saturated permeable material to yield usable quantities of water to a well or spring.
3. "Best management practices" means those methods, measures or practices to prevent or reduce discharges and includes structural and nonstructural controls and operation and maintenance procedures. Best management practices may be applied before, during and after discharges to reduce or eliminate the introduction of pollutants into receiving waters. Economic, institutional and technical factors shall be considered in developing best management practices.
4. "CERCLA" means the comprehensive environmental response, compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code sections 9601 through 9657), commonly known as "superfund".
5. "Clean closure" means implementation of all actions specified in an aquifer protection permit, if any, as closure requirements, as well as elimination, to the greatest degree practicable, of any reasonable probability of further discharge from the facility and of either exceeding aquifer water quality standards at the applicable point of compliance or, if an aquifer water quality standard is exceeded at the time the permit is issued, causing further degradation of the aquifer at the applicable point of compliance as provided in section 49-243, subsection B, paragraph 3. Clean closure also means postclosure monitoring and maintenance are unnecessary to meet the requirements in an aquifer protection permit.
7. "Closed facility" means:
   (a) A facility that ceased operation before January 1, 1986, that is not, on August 13, 1986, engaged in the activity for which the facility was designed and that was previously operated and for which there is no intent to resume operation.
   (b) A facility that has been approved as a clean closure by the director.
   (c) A facility at which any postclosure monitoring and maintenance plan, notifications and approvals required in a permit have been completed.
8. "Concentrated animal feeding operation" means an animal feeding operation that meets the criteria prescribed in 40 Code of Federal Regulations part 122, appendix B for determining a concentrated animal feeding operation for purposes of 40 Code of Federal Regulations sections 122.23 and 122.24, appendix C.

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

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

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

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

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

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

15. "Effluent-dependent water" means a surface water or portion of a surface water that consists of a point source discharge without which the surface water would be ephemeral. An effluent-dependent water may be perennial or intermittent depending on the volume and frequency of the point source discharge of treated wastewater.

16. "Environment" means WOTUS, any other surface waters, groundwater, drinking water supply, land surface or subsurface strata or ambient air, within or bordering on this state.

17. "Ephemeral water" means a surface water or portion of surface water that flows or pools only in direct response to precipitation.

18. "Existing facility" means a facility on which construction began before August 13, 1986 and that is neither a new facility nor a closed facility. For the purposes of this definition, construction on a facility has begun if the facility owner or operator has either:
   (a) Begun, or caused to begin, as part of a continuous on-site construction program any placement, assembly or installation of a building, structure or equipment.
   (b) Entered a binding contractual obligation to purchase a building, structure or equipment that is intended to be used in its operation within a reasonable time. Options to purchase or contracts that
can be terminated or modified without substantial loss, and contracts for
feasibility engineering and design studies, do not constitute a
contractual obligation for purposes of this definition.

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

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

21. "Hazardous substance" means:
(a) Any substance designated pursuant to sections 311(b)(2)(A) and
307(a) of the clean water act.
(b) Any element, compound, mixture, solution or substance
designated pursuant to section 102 of CERCLA.
(c) Any hazardous waste having the characteristics identified under
or listed pursuant to section 49-922.
(d) Any hazardous air pollutant listed under section 112 of the
federal clean air act (42 United States Code section 7412).
(e) Any imminently hazardous chemical substance or mixture with
respect to which the administrator has taken action pursuant to section 7
of the federal toxic substances control act (15 United States Code section
2606).
(f) Any substance that the director, by rule, either designates as
a hazardous substance following the designation of the substance by the
administrator under the authority described in subdivisions (a) through
(e) of this paragraph or designates as a hazardous substance on the basis
of a determination that such substance represents an imminent and
substantial endangerment to public health.

22. "Inert material":
(a) Means broken concrete, asphaltic pavement, manufactured
asbestos-containing products, brick, rock, gravel, sand and soil. inert
material also
(b) Includes material that when subjected to a water leach test
that is designed to approximate natural infiltrating waters will not leach
substances in concentrations that exceed numeric aquifer water quality
standards established pursuant to section 49-223, including overburden and
wall rock that is not acid generating, taking into consideration acid
neutralization potential, and that has not and will not be subject to mine
leaching operations.

23. "Intermittent water" means a surface water or portion of
surface water that flows continuously during certain times of the year and
more than in direct response to precipitation, such as when it receives
water from a spring, AN elevated groundwater table or another surface
source, such as melting snowpack.
24. "Major modification" means a physical change in an existing facility or a change in its method of operation that results in a significant increase or adverse alteration in the characteristics or volume of the pollutants discharged, or the addition of a process or major piece of production equipment, building or structure that is physically separated from the existing operation and that causes a discharge, provided that:

(a) A modification to a groundwater protection permit facility as defined in section 49-241.01, subsection C that would qualify for an area-wide permit pursuant to section 49-243 consisting of an activity or structure listed in section 49-241, subsection B shall not constitute a major modification solely because of that listing.

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

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

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

(b) Entered a binding contractual obligation to purchase a building, structure or equipment that is intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility engineering and design studies, do not constitute a contractual obligation for purposes of this definition.
26. "Nonpoint source" means any conveyance that is not a point source from which pollutants are or may be discharged to WOTUS.

27. "Non-WOTUS protected surface water" means a protected surface water that is not a WOTUS.

28. "Non-WOTUS waters of the state" means waters of the state that are not WOTUS.

29. "On-site wastewater treatment facility" means a conventional septic tank system or alternative system that is installed at a site to treat and dispose of wastewater of predominantly human origin that is generated at that site.

30. "Ordinary high watermark" means the line on the shore of an intermittent or perennial protected surface water established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris or other appropriate means that consider the characteristics of the channel, floodplain and riparian area.

31. "Perennial water" means a surface water or portion of surface water that flows continuously throughout the year.

32. "Permit" means a written authorization issued by the director or prescribed by this chapter or in a rule adopted under this chapter stating the conditions and restrictions governing a discharge or governing the construction, operation or modification of a facility. For the purposes of regulating non-WOTUS protected surface waters, a permit shall not include provisions governing the construction, operation or modification of a facility except as necessary for the purpose of ensuring that a discharge meets water quality-related effluent limitations or to require best management practices for the purpose of ensuring that a discharge does not cause an exceedance of an applicable surface water quality standard.

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

34. "Point source":
   (a) Means any discernible, confined and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft from which pollutants are or may be discharged to WOTUS or protected surface water. \textit{Point source}
   (b) Does not include return flows from irrigated agriculture.
35. "Pollutant" means fluids, contaminants, toxic wastes, toxic pollutants, dredged spoil, solid waste, substances and chemicals, pesticides, herbicides, fertilizers and other agricultural chemicals, incinerator residue, sewage, garbage, sewage sludge, munitions, petroleum products, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and mining, industrial, municipal and agricultural wastes or any other liquid, solid, gaseous or hazardous substances.

36. "Postclosure monitoring and maintenance" means those activities that are conducted after closure notification and that are necessary to:
   (a) Keep the facility in compliance with either the aquifer water quality standards at the applicable point of compliance or, for any aquifer water quality standard that is exceeded at the time the aquifer protection permit is issued, the requirement to prevent the facility from further degrading the aquifer at the applicable point of compliance as provided under section 49-243, subsection B, paragraph 3.
   (b) Verify that the actions or controls specified as closure requirements in an approved closure plan or strategy are routinely inspected and maintained.
   (c) Perform any remedial, mitigative or corrective actions or controls as specified in the aquifer protection permit or perform corrective action as necessary to comply with this paragraph and article 3 of this chapter.
   (d) Meet property use restrictions.

37. "Practicably" means able to be reasonably done from the standpoint of technical practicability and, except for pollutants addressed in section 49-243, subsection I, economically achievable on an industry-wide basis.

38. "Protected surface waters" means waters of the state listed on the protected surface waters list under section 49-221, subsection G and all WOTUS.

39. "Public waters" means waters of the state open to or managed for use by members of the general public.

40. "Recharge project" means a facility necessary or convenient to obtain, divert, withdraw, transport, exchange, deliver, treat or store water to infiltrate or reintroduce that water into the ground.

41. "Reclaimed water" means water that has been treated or processed by a wastewater treatment plant or an on-site wastewater treatment facility.

42. "Regulated agricultural activity" means the application of nitrogen fertilizer or a concentrated animal feeding operation.


44. "Standards" means water quality standards, pretreatment standards and toxicity standards established pursuant to this chapter.
45. "Standards of performance" means performance standards, design standards, best management practices, technologically based standards and other standards, limitations or restrictions established by the director by rule or by permit condition.

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

47. "Toxic pollutant" means a substance that will cause significant adverse reactions if ingested in drinking water. Significant adverse reactions are reactions that may indicate a tendency of a substance or mixture to cause long lasting or irreversible damage to human health.

48. "Trade secret" means information to which all of the following apply:

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

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

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

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

49. "Vadose zone" means the zone between the ground surface and any aquifer.

50. "Waters of the state" means all waters within the jurisdiction of this state, including all perennial or intermittent streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, aquifers, springs, irrigation systems, drainage systems and other bodies or accumulations of surface, underground, natural, artificial, public or private water situated wholly or partly in or bordering on the state. NOTWITHSTANDING ANY OTHER LAW, A DRY WASH, ARROYO, SWALE, GULLY OR RILL OR OTHER SIMILAR EROSIONAL FEATURE THAT IS CHARACTERIZED BY LOW VOLUME, INFREQUENT OR SHORT DURATION FLOWS IS NOT A WATER OF THIS STATE, WOTUS OR PROTECTED SURFACE WATER.

51. "Well" means a bored, drilled or driven shaft, pit or hole whose depth is greater than its largest surface dimension.

52. "Wetland" means, for the purposes of non-WOTUS protected surface waters, an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
53. "WOTUS" means waters of the state that are also navigable waters as defined by section 502(7) of the clean water act.

54. "WOTUS protected surface water" means a protected surface water that is a WOTUS.

Sec. 2. Title 49, chapter 2, article 3.2, Arizona Revised Statutes, is amended by adding section 49-256.03, to read:

49-256.03. Dry washes; dredge and fill permits; exemption

NOTWITHSTANDING ANY OTHER LAW, A DRY WASH, ARROYO, SWALE, GULLY OR RILL OR OTHER SIMILAR EROSIONAL FEATURE THAT IS CHARACTERIZED BY LOW VOLUME, INFREQUENT OR SHORT DURATION FLOWS IS NOT A WATER OF THIS STATE OR PROTECTED SURFACE WATER, IS EXEMPT FROM THE PERMIT PROGRAM PRESCRIBED BY THIS ARTICLE AND IS NOT A WOTUS.