

House Engrossed

department of environmental quality; omnibus

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

# HOUSE BILL 2628

AN ACT

AMENDING SECTION 42-5075, ARIZONA REVISED STATUTES; REPEALING SECTION 49-257, ARIZONA REVISED STATUTES; AMENDING SECTIONS 49-355 AND 49-360, ARIZONA REVISED STATUTES; AMENDING SECTION 49-542, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 27, SECTION 3 AND CHAPTER 116, SECTION 1; AMENDING SECTIONS 49-701, 49-766 AND 49-891, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5075, Arizona Revised Statutes, is amended to  
3 read:

4 42-5075. Prime contracting classification; exemptions;  
5 definitions

6 A. The prime contracting classification is comprised of the  
7 business of prime contracting and the business of manufactured building  
8 dealer. Sales for resale to another manufactured building dealer are not  
9 subject to tax. Sales for resale do not include sales to a lessor of  
10 manufactured buildings. The sale of a used manufactured building is not  
11 taxable under this chapter. The prime contracting classification does not  
12 include any work or operation performed by a person that is not required  
13 to be licensed by the registrar of contractors pursuant to section  
14 32-1121.

15 B. The tax base for the prime contracting classification is  
16 sixty-five percent of the gross proceeds of sales or gross income derived  
17 from the business. The following amounts shall be deducted from the gross  
18 proceeds of sales or gross income before computing the tax base:

19 1. The sales price of land, which shall not exceed the fair market  
20 value.

21 2. Sales and installation of groundwater measuring devices required  
22 under section 45-604 and groundwater monitoring wells required by law,  
23 including monitoring wells installed for acquiring information for a  
24 permit required by law.

25 3. The sales price of furniture, furnishings, fixtures, appliances  
26 and attachments that are not incorporated as component parts of or  
27 attached to a manufactured building or the setup site. The sale of such  
28 items may be subject to the taxes imposed by article 1 of this chapter  
29 separately and distinctly from the sale of the manufactured building.

30 4. The gross proceeds of sales or gross income received from a  
31 contract entered into for the modification of any building, highway, road,  
32 railroad, excavation, manufactured building or other structure, project,  
33 development or improvement located in a military reuse zone for providing  
34 aviation or aerospace services or for a manufacturer, assembler or  
35 fabricator of aviation or aerospace products within an active military  
36 reuse zone after the zone is initially established or renewed under  
37 section 41-1531. To be eligible to qualify for this deduction, before  
38 beginning work under the contract, the prime contractor must have applied  
39 for a letter of qualification from the department of revenue.

40 5. The gross proceeds of sales or gross income derived from a  
41 contract to construct a qualified environmental technology manufacturing,  
42 producing or processing facility, as described in section 41-1514.02, and  
43 from subsequent construction and installation contracts that begin within  
44 ten years after the start of initial construction. To qualify for this  
45 deduction, before beginning work under the contract, the prime contractor

1 must obtain a letter of qualification from the department of revenue.  
2 This paragraph shall apply for ten full consecutive calendar or fiscal  
3 years after the start of initial construction.

4 6. The gross proceeds of sales or gross income from a contract to  
5 provide for one or more of the following actions, or a contract for site  
6 preparation, constructing, furnishing or installing machinery, equipment  
7 or other tangible personal property, including structures necessary to  
8 protect exempt incorporated materials or installed machinery or equipment,  
9 and tangible personal property incorporated into the project, to perform  
10 one or more of the following actions in response to a release or suspected  
11 release of a hazardous substance, pollutant or contaminant from a facility  
12 to the environment, unless the release was authorized by a permit issued  
13 by a governmental authority:

14 (a) Actions to monitor, assess and evaluate such a release or a  
15 suspected release.

16 (b) Excavation, removal and transportation of contaminated soil and  
17 its treatment or disposal.

18 (c) Treatment of contaminated soil by vapor extraction, chemical or  
19 physical stabilization, soil washing or biological treatment to reduce the  
20 concentration, toxicity or mobility of a contaminant.

21 (d) Pumping and treatment or in situ treatment of contaminated  
22 groundwater or surface water to reduce the concentration or toxicity of a  
23 contaminant.

24 (e) The installation of structures, such as cutoff walls or caps,  
25 to contain contaminants present in groundwater or soil and prevent them  
26 from reaching a location where they could threaten human health or welfare  
27 or the environment.

28 This paragraph does not include asbestos removal or the construction or  
29 use of ancillary structures such as maintenance sheds, offices or storage  
30 facilities for unattached equipment, pollution control equipment,  
31 facilities or other control items required or to be used by a person to  
32 prevent or control contamination before it reaches the environment.

33 7. The gross proceeds of sales or gross income that is derived from  
34 a contract for the installation, assembly, repair or maintenance of  
35 machinery, equipment or other tangible personal property that is either  
36 deducted from the tax base of the retail classification under section  
37 42-5061, subsection B or that is exempt from use tax under section  
38 42-5159, subsection B and that has independent functional utility,  
39 pursuant to the following provisions:

40 (a) The deduction provided in this paragraph includes the gross  
41 proceeds of sales or gross income derived from all of the following:

42 (i) Any activity performed on machinery, equipment or other  
43 tangible personal property with independent functional utility.

44 (ii) Any activity performed on any tangible personal property  
45 relating to machinery, equipment or other tangible personal property with

1 independent functional utility in furtherance of any of the purposes  
2 provided for under subdivision (d) of this paragraph.

3 (iii) Any activity that is related to the activities described in  
4 items (i) and (ii) of this subdivision, including inspecting the  
5 installation of or testing the machinery, equipment or other tangible  
6 personal property.

7 (b) The deduction provided in this paragraph does not include gross  
8 proceeds of sales or gross income from the portion of any contracting  
9 activity that consists of the development of, or modification to, real  
10 property in order to facilitate the installation, assembly, repair,  
11 maintenance or removal of machinery, equipment or other tangible personal  
12 property that is either deducted from the tax base of the retail  
13 classification under section 42-5061, subsection B or exempt from use tax  
14 under section 42-5159, subsection B.

15 (c) The deduction provided in this paragraph shall be determined  
16 without regard to the size or useful life of the machinery, equipment or  
17 other tangible personal property.

18 (d) For the purposes of this paragraph, "independent functional  
19 utility" means that the machinery, equipment or other tangible personal  
20 property can independently perform its function without attachment to real  
21 property, other than attachment for any of the following purposes:

22 (i) Assembling the machinery, equipment or other tangible personal  
23 property.

24 (ii) Connecting items of machinery, equipment or other tangible  
25 personal property to each other.

26 (iii) Connecting the machinery, equipment or other tangible  
27 personal property, whether as an individual item or as a system of items,  
28 to water, power, gas, communication or other services.

29 (iv) Stabilizing or protecting the machinery, equipment or other  
30 tangible personal property during operation by bolting, burying or  
31 performing other similar nonpermanent connections to either real property  
32 or real property improvements.

33 8. The gross proceeds of sales or gross income attributable to the  
34 purchase of machinery, equipment or other tangible personal property that  
35 is exempt from or deductible from transaction privilege and use tax under:

36 (a) Section 42-5061, subsection A, paragraph 25, 29 or 58.

37 (b) Section 42-5061, subsection B.

38 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a),  
39 (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 55.

40 (d) Section 42-5159, subsection B.

41 9. The gross proceeds of sales or gross income received from a  
42 contract for the construction of an environmentally controlled facility  
43 for the raising of poultry for the production of eggs and the sorting,  
44 cooling and packaging of eggs.

1           10. The gross proceeds of sales or gross income that is derived  
2 from a contract entered into with a person who is engaged in the  
3 commercial production of livestock, livestock products or agricultural,  
4 horticultural, viticultural or floricultural crops or products in this  
5 state for the modification of any building, highway, road, excavation,  
6 manufactured building or other structure, project, development or  
7 improvement used directly and primarily to prevent, monitor, control or  
8 reduce air, water or land pollution.

9           11. The gross proceeds of sales or gross income that is derived  
10 from the installation, assembly, repair or maintenance of clean rooms that  
11 are deducted from the tax base of the retail classification pursuant to  
12 section 42-5061, subsection B, paragraph 17.

13           12. For taxable periods beginning from and after June 30, 2001, the  
14 gross proceeds of sales or gross income derived from a contract entered  
15 into for the construction of a residential apartment housing facility that  
16 qualifies for a federal housing subsidy for low-income persons over  
17 sixty-two years of age and that is owned by a nonprofit charitable  
18 organization that has qualified under section 501(c)(3) of the internal  
19 revenue code.

20           13. For taxable periods beginning from and after December 31, 1996  
21 and ending before January 1, 2017, the gross proceeds of sales or gross  
22 income derived from a contract to provide and install a solar energy  
23 device. The contractor shall register with the department as a solar  
24 energy contractor. By registering, the contractor acknowledges that it  
25 will make its books and records relating to sales of solar energy devices  
26 available to the department for examination.

27           14. The gross proceeds of sales or gross income derived from a  
28 contract entered into for the construction of a launch site, as defined in  
29 14 Code of Federal Regulations section 401.5.

30           15. The gross proceeds of sales or gross income derived from a  
31 contract entered into for the construction of a domestic violence shelter  
32 that is owned and operated by a nonprofit charitable organization that has  
33 qualified under section 501(c)(3) of the internal revenue code.

34           16. The gross proceeds of sales or gross income derived from  
35 contracts to perform postconstruction treatment of real property for  
36 termite and general pest control, including wood-destroying organisms.

37           17. The gross proceeds of sales or gross income received from  
38 contracts entered into before July 1, 2006 for constructing a state  
39 university research infrastructure project if the project has been  
40 reviewed by the joint committee on capital review before the university  
41 enters into the construction contract for the project. For the purposes  
42 of this paragraph, "research infrastructure" has the same meaning  
43 prescribed in section 15-1670.

44           18. The gross proceeds of sales or gross income received from a  
45 contract for the construction of any building, or other structure,

1 project, development or improvement owned by a qualified business under  
2 section 41-1516 for harvesting or processing qualifying forest products  
3 removed from qualifying projects as defined in section 41-1516 if actual  
4 construction begins before January 1, 2024. To qualify for this  
5 deduction, the prime contractor must obtain a letter of qualification from  
6 the Arizona commerce authority before beginning work under the contract.

7 19. Any amount of the gross proceeds of sales or gross income  
8 attributable to development fees that are incurred in relation to a  
9 contract for construction, development or improvement of real property and  
10 that are paid by a prime contractor or subcontractor. For the purposes of  
11 this paragraph:

12 (a) The attributable amount shall not exceed the value of the  
13 development fees actually imposed.

14 (b) The attributable amount is equal to the total amount of  
15 development fees paid by the prime contractor or subcontractor, and the  
16 total development fees credited in exchange for the construction of,  
17 contribution to or dedication of real property for providing public  
18 infrastructure, public safety or other public services necessary to the  
19 development. The real property must be the subject of the development  
20 fees.

21 (c) "Development fees" means fees imposed to offset capital costs  
22 of providing public infrastructure, public safety or other public services  
23 to a development and authorized pursuant to section 9-463.05, section  
24 11-1102 or title 48 regardless of the jurisdiction to which the fees are  
25 paid.

26 20. The gross proceeds of sales or gross income derived from a  
27 contract entered into for the construction of a mixed waste processing  
28 facility that is located on a municipal solid waste landfill and that is  
29 constructed for the purpose of recycling solid waste or producing  
30 renewable energy from landfill waste. For the purposes of this paragraph:

31 (a) "Mixed waste processing facility" means a solid waste facility  
32 that is owned, operated or used for the treatment, processing or disposal  
33 of solid waste, recyclable solid waste, ~~conditionally exempt~~ VERY small  
34 quantity generator waste or household hazardous waste. For the purposes  
35 of this subdivision, "~~conditionally exempt~~ VERY small quantity generator  
36 waste", "household hazardous waste" and "solid waste facility" have the  
37 same meanings prescribed in section 49-701, except that solid waste  
38 facility does include a site that stores, treats or processes paper,  
39 glass, wood, cardboard, household textiles, scrap metal, plastic,  
40 vegetative waste, aluminum, steel or other recyclable material.

41 (b) "Municipal solid waste landfill" has the same meaning  
42 prescribed in section 49-701.

43 (c) "Recycling" means collecting, separating, cleansing, treating  
44 and reconstituting recyclable solid waste that would otherwise become  
45 solid waste, but does not include incineration or other similar processes.

1 (d) "Renewable energy" means usable energy, including electricity,  
2 fuels, gas and heat, produced through the conversion of energy provided by  
3 sunlight, water, wind, geothermal, heat, biomass, biogas, landfill gas or  
4 ~~other~~ ANOTHER nonfossil renewable resource.

5 21. The gross proceeds of sales or gross income derived from a  
6 contract to install containment structures. For the purposes of this  
7 paragraph, "containment structure" means a structure that prevents,  
8 monitors, controls or reduces noxious or harmful discharge into the  
9 environment.

10 C. Entitlement to the deduction pursuant to subsection B, paragraph  
11 7 of this section is subject to the following provisions:

12 1. A prime contractor may establish entitlement to the deduction by  
13 both:

14 (a) Marking the invoice for the transaction to indicate that the  
15 gross proceeds of sales or gross income derived from the transaction was  
16 deducted from the base.

17 (b) Obtaining a certificate executed by the purchaser indicating  
18 the name and address of the purchaser, the precise nature of the business  
19 of the purchaser, the purpose for which the purchase was made, the  
20 necessary facts to establish the deductibility of the property under  
21 section 42-5061, subsection B, and a certification that the person  
22 executing the certificate is authorized to do so on behalf of the  
23 purchaser. The certificate may be disregarded if the prime contractor has  
24 reason to believe that the information contained in the certificate is not  
25 accurate or complete.

26 2. A person who does not comply with paragraph 1 of this subsection  
27 may establish entitlement to the deduction by presenting facts necessary  
28 to support the entitlement, but the burden of proof is on that person.

29 3. The department may prescribe a form for the certificate  
30 described in paragraph 1, subdivision (b) of this subsection. The  
31 department may also adopt rules that describe the transactions with  
32 respect to which a person is not entitled to rely solely on the  
33 information contained in the certificate provided in paragraph 1,  
34 subdivision (b) of this subsection but must instead obtain such additional  
35 information as required in order to be entitled to the deduction.

36 4. If a prime contractor is entitled to a deduction by complying  
37 with paragraph 1 of this subsection, the department may require the  
38 purchaser who caused the execution of the certificate to establish the  
39 accuracy and completeness of the information required to be contained in  
40 the certificate that would entitle the prime contractor to the deduction.  
41 If the purchaser cannot establish the accuracy and completeness of the  
42 information, the purchaser is liable in an amount equal to any tax,  
43 penalty and interest that the prime contractor would have been required to  
44 pay under article 1 of this chapter if the prime contractor had not  
45 complied with paragraph 1 of this subsection. Payment of the amount under

1 this paragraph exempts the purchaser from liability for any tax imposed  
2 under article 4 of this chapter. The amount shall be treated as a  
3 transaction privilege tax to the purchaser and as tax revenues collected  
4 from the prime contractor in order to designate the distribution base for  
5 purposes of section 42-5029.

6 D. Subcontractors or others who perform modification activities are  
7 not subject to tax if they can demonstrate that the job was within the  
8 control of a prime contractor or contractors or a dealership of  
9 manufactured buildings and that the prime contractor or dealership is  
10 liable for the tax on the gross income, gross proceeds of sales or gross  
11 receipts attributable to the job and from which the subcontractors or  
12 others were paid.

13 E. Amounts received by a contractor for a project are excluded from  
14 the contractor's gross proceeds of sales or gross income derived from the  
15 business if the person who hired the contractor executes and provides a  
16 certificate to the contractor stating that the person providing the  
17 certificate is a prime contractor and is liable for the tax under article  
18 1 of this chapter. The department shall prescribe the form of the  
19 certificate. If the contractor has reason to believe that the information  
20 contained on the certificate is erroneous or incomplete, the department  
21 may disregard the certificate. If the person who provides the certificate  
22 is not liable for the tax as a prime contractor, that person is  
23 nevertheless deemed to be the prime contractor in lieu of the contractor  
24 and is subject to the tax under this section on the gross receipts or  
25 gross proceeds received by the contractor.

26 F. Every person engaging or continuing in this state in the  
27 business of prime contracting or dealership of manufactured buildings  
28 shall present to the purchaser of such prime contracting or manufactured  
29 building a written receipt of the gross income or gross proceeds of sales  
30 from such activity and shall separately state the taxes to be paid  
31 pursuant to this section.

32 G. For the purposes of section 42-5032.01, the department shall  
33 separately account for revenues collected under the prime contracting  
34 classification from any prime contractor engaged in the preparation or  
35 construction of a multipurpose facility, and related infrastructure, that  
36 is owned, operated or leased by the tourism and sports authority pursuant  
37 to title 5, chapter 8.

38 H. For the purposes of section 42-5032.02, from and after  
39 September 30, 2013, the department shall separately account for revenues  
40 reported and collected under the prime contracting classification from any  
41 prime contractor engaged in the construction of any buildings and  
42 associated improvements that are for the benefit of a manufacturing  
43 facility. For the purposes of this subsection, "associated improvements"  
44 and "manufacturing facility" have the same meanings prescribed in section  
45 42-5032.02.

1 I. The gross proceeds of sales or gross income derived from a  
2 contract for lawn maintenance services is not subject to tax under this  
3 section if the contract does not include landscaping activities. Lawn  
4 maintenance service is a service pursuant to section 42-5061, subsection  
5 A, paragraph 1, and includes lawn mowing and edging, weeding, repairing  
6 sprinkler heads or drip irrigation heads, seasonal replacement of flowers,  
7 refreshing gravel, lawn dethatching, seeding winter lawns, leaf and debris  
8 collection and removal, tree or shrub pruning or clipping, garden and  
9 gravel raking and applying pesticides, as defined in section 3-361, and  
10 fertilizer materials, as defined in section 3-262.

11 J. Except as provided in subsection 0 of this section, the gross  
12 proceeds of sales or gross income derived from landscaping activities is  
13 subject to tax under this section. Landscaping includes installing lawns,  
14 grading or leveling ground, installing gravel or boulders, planting trees  
15 and other plants, felling trees, removing or mulching tree stumps,  
16 removing other imbedded plants, building irrigation berms, installing  
17 railroad ties and installing underground sprinkler or watering systems.

18 K. The portion of gross proceeds of sales or gross income  
19 attributable to the actual direct costs of providing architectural or  
20 engineering services that are incorporated in a contract is not subject to  
21 tax under this section. For the purposes of this subsection, "direct  
22 costs" means the portion of the actual costs that are directly expended in  
23 providing architectural or engineering services.

24 L. Operating a landfill or a solid waste disposal facility is not  
25 subject to taxation under this section, including filling, compacting and  
26 creating vehicle access to and from cell sites within the landfill.  
27 Constructing roads to a landfill or solid waste disposal facility and  
28 constructing cells within a landfill or solid waste disposal facility may  
29 be deemed prime contracting under this section.

30 M. The following apply in determining the taxable situs of sales of  
31 manufactured buildings:

32 1. For sales in this state where the manufactured building dealer  
33 contracts to deliver the building to a setup site or to perform the setup  
34 in this state, the taxable situs is the setup site.

35 2. For sales in this state where the manufactured building dealer  
36 does not contract to deliver the building to a setup site or does not  
37 perform the setup, the taxable situs is the location of the dealership  
38 where the building is delivered to the buyer.

39 3. For sales in this state where the manufactured building dealer  
40 contracts to deliver the building to a setup site that is outside this  
41 state, the situs is outside this state and the transaction is excluded  
42 from tax.

43 N. The gross proceeds of sales or gross income attributable to a  
44 written contract for design phase services or professional services,  
45 executed before modification begins and with terms, conditions and pricing

1 of all of these services separately stated in the contract from those for  
2 construction phase services, is not subject to tax under this section,  
3 regardless of whether the services are provided sequential to or  
4 concurrent with prime contracting activities that are subject to tax under  
5 this section. This subsection does not include the gross proceeds of  
6 sales or gross income attributable to construction phase services. For  
7 the purposes of this subsection:

8 1. "Construction phase services" means services for the execution  
9 and completion of any modification, including the following:

10 (a) Administration or supervision of any modification performed on  
11 the project, including team management and coordination, scheduling, cost  
12 controls, submittal process management, field management, safety program,  
13 close-out process and warranty period services.

14 (b) Administration or supervision of any modification performed  
15 pursuant to a punch list. For the purposes of this subdivision, "punch  
16 list" means minor items of modification work performed after substantial  
17 completion and before final completion of the project.

18 (c) Administration or supervision of any modification performed  
19 pursuant to change orders. For the purposes of this subdivision, "change  
20 order" means a written instrument issued after execution of a contract for  
21 modification work, providing for all of the following:

22 (i) The scope of a change in the modification work, contract for  
23 modification work or other contract documents.

24 (ii) The amount of an adjustment, if any, to the guaranteed maximum  
25 price as set in the contract for modification work. For the purposes of  
26 this item, "guaranteed maximum price" means the amount guaranteed to be  
27 the maximum amount due to a prime contractor for the performance of all  
28 modification work for the project.

29 (iii) The extent of an adjustment, if any, to the contract time of  
30 performance set forth in the contract.

31 (d) Administration or supervision of any modification performed  
32 pursuant to change directives. For the purposes of this subdivision,  
33 "change directive" means a written order directing a change in  
34 modification work before agreement on an adjustment of the guaranteed  
35 maximum price or contract time.

36 (e) Inspection to determine the dates of substantial completion or  
37 final completion.

38 (f) Preparation of any manuals, warranties, as-built drawings,  
39 spares or other items the prime contractor must furnish pursuant to the  
40 contract for modification work. For the purposes of this subdivision,  
41 "as-built drawing" means a drawing that indicates field changes made to  
42 adapt to field conditions, field changes resulting from change orders or  
43 buried and concealed installation of piping, conduit and utility services.

1 (g) Preparation of status reports after modification work has begun  
2 detailing the progress of work performed, including preparation of any of  
3 the following:

4 (i) Master schedule updates.

5 (ii) Modification work cash flow projection updates.

6 (iii) Site reports made on a periodic basis.

7 (iv) Identification of discrepancies, conflicts or ambiguities in  
8 modification work documents that require resolution.

9 (v) Identification of any health and safety issues that have arisen  
10 in connection with the modification work.

11 (h) Preparation of daily logs of modification work, including  
12 documentation of personnel, weather conditions and on-site occurrences.

13 (i) Preparation of any submittals or shop drawings used by the  
14 prime contractor to illustrate details of the modification work performed.

15 (j) Administration or supervision of any other activities for which  
16 a prime contractor receives a certificate for payment or certificate for  
17 final payment based on the progress of modification work performed on the  
18 project.

19 2. "Design phase services" means services for developing and  
20 completing a design for a project that are not construction phase  
21 services, including the following:

22 (a) Evaluating surveys, reports, test results or any other  
23 information on-site conditions for the project, including physical  
24 characteristics, legal limitations and utility locations for the site.

25 (b) Evaluating any criteria or programming objectives for the  
26 project to ascertain requirements for the project, such as physical  
27 requirements affecting cost or projected utilization of the project.

28 (c) Preparing drawings and specifications for architectural program  
29 documents, schematic design documents, design development documents,  
30 modification work documents or documents that identify the scope of or  
31 materials for the project.

32 (d) Preparing an initial schedule for the project, excluding the  
33 preparation of updates to the master schedule after modification work has  
34 begun.

35 (e) Preparing preliminary estimates of costs of modification work  
36 before completion of the final design of the project, including an  
37 estimate or schedule of values for any of the following:

38 (i) Labor, materials, machinery and equipment, tools, water, heat,  
39 utilities, transportation and other facilities and services used in the  
40 execution and completion of modification work, regardless of whether they  
41 are temporary or permanent or whether they are incorporated in the  
42 modifications.

43 (ii) The cost of labor and materials to be furnished by the owner  
44 of the real property.

1 (iii) The cost of any equipment of the owner of the real property  
2 to be assigned by the owner to the prime contractor.

3 (iv) The cost of any labor for installation of equipment separately  
4 provided by the owner of the real property that has been designed,  
5 specified, selected or specifically provided for in any design document  
6 for the project.

7 (v) Any fee paid by the owner of the real property to the prime  
8 contractor pursuant to the contract for modification work.

9 (vi) Any bond and insurance premiums.

10 (vii) Any applicable taxes.

11 (viii) Any contingency fees for the prime contractor that may be  
12 used before final completion of the project.

13 (f) Reviewing and evaluating cost estimates and project documents  
14 to prepare recommendations on site use, site improvements, selection of  
15 materials, building systems and equipment, modification feasibility,  
16 availability of materials and labor, local modification activity as  
17 related to schedules and time requirements for modification work.

18 (g) Preparing the plan and procedures for selection of  
19 subcontractors, including any prequalification of subcontractor  
20 candidates.

21 3. "Professional services" means architect services, engineer  
22 services, geologist services, land surveying services or landscape  
23 architect services that are within the scope of those services as provided  
24 in title 32, chapter 1 and for which gross proceeds of sales or gross  
25 income has not otherwise been deducted under subsection K of this section.

26 0. The gross proceeds of sales or gross income derived from a  
27 contract with the owner of real property or improvements to real property  
28 for the maintenance, repair, replacement or alteration of existing  
29 property is not subject to tax under this section if the contract does not  
30 include modification activities, except as specified in this subsection.  
31 The gross proceeds of sales or gross income derived from a de minimis  
32 amount of modification activity does not subject the contract or any part  
33 of the contract to tax under this section. For the purposes of this  
34 subsection:

35 1. Tangible personal property that is incorporated or fabricated  
36 into a project described in this subsection may be subject to the amount  
37 prescribed in section 42-5008.01.

38 2. Each contract is independent of any other contract, except that  
39 any change order that directly relates to the scope of work of the  
40 original contract shall be treated the same as the original contract under  
41 this chapter, regardless of the amount of modification activities included  
42 in the change order. If a change order does not directly relate to the  
43 scope of work of the original contract, the change order shall be treated  
44 as a new contract, with the tax treatment of any subsequent change order

1 to follow the tax treatment of the contract to which the scope of work of  
2 the subsequent change order directly relates.

3 P. Notwithstanding subsection O of this section, a contract that  
4 primarily involves surface or subsurface improvements to land and that is  
5 subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is  
6 taxable under this section, even if the contract also includes vertical  
7 improvements. Agencies that are subject to procurement processes under  
8 those provisions shall include in the request for proposals a notice to  
9 bidders when those projects are subject to this section. This subsection  
10 does not apply to contracts with:

11 1. Community facilities districts, fire districts, county  
12 television improvement districts, community park maintenance districts,  
13 cotton pest control districts, hospital districts, pest abatement  
14 districts, health service districts, agricultural improvement districts,  
15 county free library districts, county jail districts, county stadium  
16 districts, special health care districts, public health services  
17 districts, theme park districts or revitalization districts.

18 2. Any special taxing district not specified in paragraph 1 of this  
19 subsection if the district does not substantially engage in the  
20 modification, maintenance, repair, replacement or alteration of surface or  
21 subsurface improvements to land.

22 Q. Notwithstanding subsection R, paragraph 10 of this section, a  
23 person owning real property who enters into a contract for sale of the  
24 real property, who is responsible to the new owner of the property for  
25 modifications made to the property in the period subsequent to the  
26 transfer of title and who receives a consideration for the modifications  
27 is considered a prime contractor solely for purposes of taxing the gross  
28 proceeds of sale or gross income received for the modifications made  
29 subsequent to the transfer of title. The original owner's gross proceeds  
30 of sale or gross income received for the modifications shall be determined  
31 according to the following methodology:

32 1. If any part of the contract for sale of the property specifies  
33 amounts to be paid to the original owner for the modifications to be made  
34 in the period subsequent to the transfer of title, the amounts are  
35 included in the original owner's gross proceeds of sale or gross income  
36 under this section. Proceeds from the sale of the property that are  
37 received after transfer of title and that are unrelated to the  
38 modifications made subsequent to the transfer of title are not considered  
39 gross proceeds of sale or gross income from the modifications.

40 2. If the original owner enters into an agreement separate from the  
41 contract for sale of the real property providing for amounts to be paid to  
42 the original owner for the modifications to be made in the period  
43 subsequent to the transfer of title to the property, the amounts are  
44 included in the original owner's gross proceeds of sale or gross income  
45 received for the modifications made subsequent to the transfer of title.

1           3. If the original owner is responsible to the new owner for  
2 modifications made to the property in the period subsequent to the  
3 transfer of title and derives any gross proceeds of sale or gross income  
4 from the project subsequent to the transfer of title other than a delayed  
5 disbursement from escrow unrelated to the modifications, it is presumed  
6 that the amounts are received for the modifications made subsequent to the  
7 transfer of title unless the contrary is established by the owner through  
8 its books, records and papers kept in the regular course of business.

9           4. The tax base of the original owner is computed in the same  
10 manner as a prime contractor under this section.

11           R. For the purposes of this section:

12           1. "Alteration" means an activity or action that causes a direct  
13 physical change to existing property. For the purposes of this paragraph:

14           (a) For existing property that is properly classified as class two  
15 property under section 42-12002, paragraph 1, subdivision (c) or paragraph  
16 2, subdivision (c) and that is used for residential purposes, class three  
17 property under section 42-12003 or class four property under section  
18 42-12004, this paragraph does not apply if the contract amount is more  
19 than twenty-five percent of the most recent full cash value established  
20 under chapter 13, article 2 of this title as of the date of any bid for  
21 the work or the date of the contract, whichever value is higher.

22           (b) For all existing property other than existing property  
23 described in subdivision (a) of this paragraph, this paragraph does not  
24 apply if the contract amount is more than \$750,000.

25           (c) Project elements may not be artificially separated from a  
26 contract to cause a project to qualify as an alteration. The department  
27 has the burden of proof that project elements have been artificially  
28 separated from a contract.

29           (d) If a project for which the owner and the person performing the  
30 work reasonably believed, at the inception of the contract, would be  
31 treated as an alteration under this paragraph and, on completion of the  
32 project, the project exceeded the applicable threshold described in either  
33 subdivision (a) or (b) of this paragraph by ~~no~~ NOT more than twenty-five  
34 percent of the applicable threshold for any reason, the work performed  
35 under the contract qualifies as an alteration.

36           (e) A change order that directly relates to the scope of work of  
37 the original contract shall be treated as part of the original contract,  
38 and the contract amount shall include any amount attributable to a change  
39 order that directly relates to the scope of work of the original contract.

40           (f) Alteration does not include maintenance, repair or replacement.

41           2. "Contracting" means engaging in business as a contractor.

42           3. "Contractor" is synonymous with the term "builder" and means any  
43 person or organization that undertakes to or offers to undertake to, or  
44 purports to have the capacity to undertake to, or submits a bid to, or  
45 does personally or by or through others, modify any building, highway,

1 road, railroad, excavation, manufactured building or other structure,  
2 project, development or improvement, or to do any part of such a project,  
3 including the erection of scaffolding or other structure or works in  
4 connection with such a project, and includes subcontractors and specialty  
5 contractors. For all purposes of taxation or deduction, this definition  
6 shall govern without regard to whether or not such a contractor is acting  
7 in fulfillment of a contract.

8 4. "Manufactured building" means a manufactured home, mobile home  
9 or factory-built building, as defined in section 41-4001.

10 5. "Manufactured building dealer" means a dealer who either:

11 (a) Is licensed pursuant to title 41, chapter 37, article 4 and who  
12 sells manufactured buildings to the final consumer.

13 (b) Supervises, performs or coordinates the excavation and  
14 completion of site improvements or the setup of a manufactured building,  
15 including the contracting, if any, with any subcontractor or specialty  
16 contractor for the completion of the contract.

17 6. "Modification" means construction, grading and leveling ground,  
18 wreckage or demolition. Modification does not include:

19 (a) Any project described in subsection 0 of this section.

20 (b) Any wreckage or demolition of existing property, or any other  
21 activity that is a necessary component of a project described in  
22 subsection 0 of this section.

23 (c) Any mobilization or demobilization related to a project  
24 described in subsection 0 of this section, such as the erection or removal  
25 of temporary facilities to be used by those persons working on the  
26 project.

27 7. "Modify" means to make a modification or cause a modification to  
28 be made.

29 8. "Owner" means the person that holds title to the real property  
30 or improvements to real property that is the subject of the work, as well  
31 as an agent of the title holder and any person with the authority to  
32 perform or authorize work on the real property or improvements, including  
33 a tenant and a property manager. For the purposes of subsection 0 of this  
34 section, a person who is hired by a general contractor that is hired by an  
35 owner, or a subcontractor of a general contractor that is hired by an  
36 owner, is considered to be hired by the owner.

37 9. "Prime contracting" means engaging in business as a prime  
38 contractor.

39 10. "Prime contractor" means a contractor who supervises, performs  
40 or coordinates the modification of any building, highway, road, railroad,  
41 excavation, manufactured building or other structure, project, development  
42 or improvement, including the contracting, if any, with any subcontractors  
43 or specialty contractors and who is responsible for the completion of the  
44 contract. Except as provided in subsections E and Q of this section, a  
45 person who owns real property, who engages one or more contractors to

1 modify that real property and who does not itself modify that real  
2 property is not a prime contractor within the meaning of this paragraph  
3 regardless of the existence of a contract for sale or the subsequent sale  
4 of that real property.

5 11. "Replacement" means the removal from service of one component  
6 or system of existing property or tangible personal property installed in  
7 existing property, including machinery or equipment, and the installation  
8 of a new component or system or new tangible personal property, including  
9 machinery or equipment, that provides the same, a similar or an upgraded  
10 design or functionality, regardless of the contract amount and regardless  
11 of whether the existing component or system or existing tangible personal  
12 property is physically removed from the existing property.

13 12. "Sale of a used manufactured building" does not include a lease  
14 of a used manufactured building.

15 Sec. 2. Repeal

16 Section 49-257, Arizona Revised Statutes, is repealed.

17 Sec. 3. Section 49-355, Arizona Revised Statutes, is amended to  
18 read:

19 49-355. Small drinking water systems fund; exemption; grants;  
20 definition

21 A. The small drinking water systems fund is established in the  
22 water infrastructure finance authority of Arizona. The fund consists of  
23 monies appropriated by the legislature **AND FEDERAL MONIES TO ASSIST IN**  
24 **CARRYING OUT THE PURPOSE OF THIS SECTION.** Monies in the fund are exempt  
25 from lapsing under section 35-190. Interest earned on monies in the fund  
26 shall be credited to the fund.

27 B. Monies from the small drinking water systems fund shall be used  
28 to provide grants, including emergency grants, to interim operators,  
29 interim managers or owners of small drinking water systems to repair,  
30 replace or upgrade water infrastructure as required for compliance with  
31 title 40, chapter 2, this chapter or any rule adopted under title 40,  
32 chapter 2 or this chapter.

33 C. On recommendation of the department in consultation with the  
34 corporation commission, the water infrastructure finance authority of  
35 Arizona may approve a grant from the fund to an interim operator, an  
36 interim manager or an owner of a small drinking water system pursuant to  
37 this section only if the interim operator, the interim manager or the  
38 owner demonstrates that it requires financial assistance to replace, make  
39 repairs to, rehabilitate or upgrade the drinking water system  
40 infrastructure in order to correct or avoid an interruption in water  
41 service or to comply with title 40, chapter 2, this chapter or any rule  
42 adopted under title 40, chapter 2 or this chapter. The department shall  
43 include in its recommendation to the water infrastructure finance  
44 authority of Arizona a written statement that is signed by the director  
45 and that includes a detailed assessment of the direct public benefit of

1 the grant, a certification that disbursement of monies is in the best  
2 interests of this state and, if applicable, a determination that the grant  
3 is in response to an emergency.

4 D. Before disbursing monies to an authorized recipient pursuant to  
5 this section, the water infrastructure finance authority of Arizona shall  
6 enter into a written grant agreement with the recipient. The terms of the  
7 agreement shall include at least the following:

8 1. Performance targets and target dates for matters associated with  
9 the grant as determined by the department.

10 2. Terms for payment of monies to the recipient and repayment to  
11 this state as prescribed by subsection F of this section.

12 E. The written grant agreement may require that a reasonable  
13 percentage of the total amount of the grant be withheld until the  
14 recipient meets specified performance targets.

15 F. The water infrastructure finance authority of Arizona may  
16 require repayment to this state of a portion or all of the grant monies  
17 with interest at an agreed rate and on agreed terms. The repayment may be  
18 required if either of the following applies:

19 1. The water infrastructure finance authority of Arizona in  
20 coordination with the department finds that the grant recipient has not  
21 met performance targets specified in the written grant agreement on or  
22 before the dates specified in the agreement.

23 2. The written grant agreement prescribes the repayment.

24 G. Emergency grants made pursuant to this section are exempt from  
25 title 41, chapter 23.

26 H. For the purposes of this section, "small drinking water system"  
27 means a public water system as prescribed in section 49-352 that serves  
28 ten thousand or fewer persons.

29 Sec. 4. Section 49-360, Arizona Revised Statutes, is amended to  
30 read:

31 49-360. Monitoring assistance program for public water  
32 systems; rules; fees; monitoring assistance fund;  
33 safe drinking water program fund; rules

34 A. The department shall establish a monitoring assistance program  
35 to assist public water systems in complying with monitoring requirements  
36 under the federal safe drinking water act (P.L. 93-523; 88 Stat. 1660;  
37 P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613; 42 United States  
38 Code sections 300f through 300j-25), as amended. The program shall  
39 provide for the collection, transportation and analysis of baseline  
40 samples from public water systems in a frequency sufficient to keep the  
41 systems in compliance with the federal safe drinking water act  
42 requirements. THE DEPARTMENT MAY ADOPT RULES TO ESTABLISH CRITERIA FOR A  
43 PUBLIC WATER SYSTEM TO OPT OUT OF THE MONITORING ASSISTANCE PROGRAM. THE  
44 DEPARTMENT MAY CONDUCT ADDITIONAL SAMPLING FOR A SYSTEM THAT TRIGGERS A  
45 DETECTION LIMIT SET BY RULE TO COMPLY WITH THE FEDERAL SAFE DRINKING WATER

1 ACT. At a minimum, the program shall include monitoring for the following  
2 categories of contaminants:

- 3 1. Volatile organic chemicals.
- 4 2. Synthetic organic chemicals.
- 5 3. Inorganic chemicals except for copper and lead.
- 6 4. Radiochemicals.
- 7 5. OTHER CONTAMINANTS AS REQUIRED BY THE FEDERAL SAFE DRINKING  
8 WATER ACT.

9 B. The department shall contract with one or more private parties  
10 or statewide nonprofit organizations representing water systems to  
11 implement the monitoring assistance program subject to available funding.  
12 Contracts shall be awarded for up to three years. Entities with which the  
13 department contracts shall:

- 14 1. Provide updated monitoring schedules, developed in conjunction  
15 with the department, to participating water systems.
- 16 2. Take samples for participating water systems, allow for  
17 certified operators to take samples and train system personnel to take  
18 samples.
- 19 3. Assist participating water systems when resampling is required  
20 by the federal safe drinking water act.
- 21 4. Assist participating water systems to apply for and qualify for  
22 available interim monitoring relief and waivers.
- 23 5. Provide any other on-site technical assistance necessary to help  
24 the participating water systems comply with the monitoring requirements of  
25 the federal safe drinking water act.

26 C. Any public water systems serving more than ten thousand persons  
27 may elect to participate in the monitoring assistance program subject to  
28 the payment of the fees pursuant to subsection F of this section.

29 D. The department shall use licensed environmental laboratories as  
30 defined in section 36-495 or laboratories certified or designated by the  
31 United States environmental protection agency to analyze samples collected  
32 under the monitoring assistance program. The department shall establish  
33 specific criteria for measuring contractor qualifications and performance.

34 E. Each environmental laboratory that the department uses pursuant  
35 to subsection D of this section shall deliver copies of the analysis  
36 results to the water system owner, the monitoring assistance program  
37 contractor and the department.

38 F. The director shall establish fees for the monitoring assistance  
39 program to be collected from all public water systems serving up to ten  
40 thousand persons. The participating water systems shall remit these fees  
41 to the department for deposit in the monitoring assistance fund.

42 G. The monitoring assistance fund is established consisting of fees  
43 collected from participating public water systems pursuant to subsection F  
44 of this section AND FEDERAL MONIES TO ASSIST IN CARRYING OUT THE PURPOSE  
45 OF THIS SECTION. The director shall administer the fund. If the fund has

1 a surplus after execution of the previous year's contract, any surplus ~~in~~  
2 ~~excess~~ of ~~\$200,000~~ MORE THAN THE AVERAGE ANNUAL OPERATION COSTS AS  
3 MEASURED BY THE THREE PRECEEDING FISCAL YEARS, in any year shall be used  
4 to reduce the fee for the subsequent year in a manner consistent with the  
5 program invoicing system. Monies in the fund shall be used to pay the  
6 monitoring assistance program contractors, the environmental laboratories  
7 used for the purposes of this section and administrative costs incurred by  
8 the department. Monies in the fund are exempt from lapsing pursuant to  
9 section 35-190. Interest earned on monies in the fund shall be credited  
10 to the fund. The allowable administrative costs of the department are  
11 limited to not more than fifteen percent of monies deposited in the fund  
12 annually or ~~one hundred eighty-four thousand dollars~~ \$184,000, whichever  
13 is less. For the purposes of this subsection, "administrative costs"  
14 includes only those costs necessary to do the following:

- 15 1. Ensure contractor performance and quality control.
- 16 2. Administer the contracts.
- 17 3. Collect fees as provided in subsection F of this section.
- 18 4. Provide direct technical assistance related to the  
19 implementation of the monitoring assistance program only to the extent the  
20 department's assistance is required by this section.

21 H. The safe drinking water program fund is established consisting  
22 of monies deposited in the fund pursuant to section 42-5304. The director  
23 shall administer the fund. Subject to legislative appropriation, monies  
24 in the fund shall be used to pay for the costs of programs required by  
25 this article incurred by the department. Monies in the fund are exempt  
26 from the provisions of section 35-190 relating to lapsing of  
27 appropriations. Interest earned on monies in the fund shall be credited  
28 to the fund.

29 I. The department shall adopt rules for the monitoring assistance  
30 program.

31 J. Any site visit made pursuant to this section by a monitoring  
32 assistance program contractor shall not be regarded as an inspection or  
33 investigation. Enforcement actions shall not be taken as a result of  
34 these site visits, except that this section does not affect the authority  
35 of the department to enforce this article pursuant to section 49-354.

36 Sec. 5. Section 49-542, Arizona Revised Statutes, as amended by  
37 Laws 2021, chapter 27, section 3 and chapter 116, section 1, is amended to  
38 read:

39 49-542. Emissions inspection program; powers and duties of  
40 director; administration; periodic inspection;  
41 minimum standards and rules; exceptions; definition

42 A. The director shall administer a comprehensive annual or biennial  
43 emissions inspection program that shall require the inspection of vehicles  
44 in this state pursuant to this article and applicable administrative  
45 rules. Such inspection is required for vehicles that are registered in

1 area A and area B, for those vehicles owned by a person who is subject to  
2 section 15-1444 or 15-1627 and for those vehicles registered outside of  
3 area A or area B but used to commute to the driver's principal place of  
4 employment located within area A or area B. Inspection in other counties  
5 of ~~the~~ THIS state shall commence on the director's approval of an  
6 application by a county board of supervisors for participation in such  
7 inspection program. In all counties with a population of three hundred  
8 fifty thousand or fewer persons, except for the portion of counties that  
9 contain any portion of area A, the director shall as conditions dictate  
10 provide for testing to determine the effect of vehicle-related pollution  
11 on ambient air quality in all communities with a metropolitan area  
12 population of twenty thousand persons or more. If such testing detects  
13 the violation of state ambient air quality standards by vehicle-related  
14 pollution, the director shall forward a full report of such violation to  
15 the president of the senate, the speaker of the house of representatives  
16 and the governor.

17 B. The state's annual or biennial emissions inspection program  
18 shall provide for vehicle inspections at official emissions inspection  
19 stations or at fleet emissions inspection stations or may provide for  
20 remote vehicle inspection. Each official inspection station in area A  
21 shall employ at least one technical assistant who is available during the  
22 station's hours of operation to provide assistance for persons who fail  
23 the emissions test. An official or fleet emissions inspection station  
24 permit shall not be sold, assigned, transferred, conveyed or removed to  
25 another location except on such terms and conditions as the director may  
26 prescribe. The director shall establish a pilot program to provide for  
27 remote vehicle inspections in area A and area B. The director shall  
28 operate the pilot program for at least three consecutive years and shall  
29 complete the pilot program before July 1, 2025. On completion of the  
30 pilot program, the director shall submit to the joint legislative budget  
31 committee and the office of the governor a report summarizing the results  
32 of the pilot program. The director shall submit the report before the  
33 department implements any ~~full-scale~~ FULL-SCALE remote vehicle inspection  
34 program and shall include in the report a summary of the data collected  
35 during the pilot program and a certification by the director that, based  
36 on the data collected during the pilot program, a full scale  
37 implementation of a remote vehicle inspection program will increase the  
38 efficiency and reduce the costs of the vehicle emissions inspection  
39 program.

40 C. Vehicles required to be inspected and registered in this state,  
41 except those provided for in section 49-546, shall be inspected, for the  
42 purpose of complying with the registration requirement pursuant to  
43 subsection D of this section, in accordance with ~~the provisions of~~ this  
44 article not more than ninety days before each registration expiration  
45 date. A vehicle may be submitted voluntarily for inspection more than

1 ninety days before the registration expiration date on payment of the  
2 prescribed inspection fee. That voluntary inspection may be considered as  
3 compliance with the registration requirement pursuant to subsection D of  
4 this section only on conditions prescribed by the director.

5 D. A vehicle shall not be registered until such vehicle has passed  
6 the emissions inspection and the tampering inspection prescribed in  
7 subsection G of this section or has been issued a certificate of waiver.  
8 A certificate of waiver shall only be issued one time to a vehicle after  
9 January 1, 1997. If any vehicle to be registered is being sold by a  
10 dealer licensed to sell motor vehicles pursuant to title 28, the cost of  
11 any inspection and any repairs necessary to pass the inspection shall be  
12 borne by the dealer. A dealer who is licensed to sell motor vehicles  
13 pursuant to title 28 and whose place of business is located in area A or  
14 area B shall not deliver any vehicle to the retail purchaser until the  
15 vehicle passes any inspection required by this article, except if the  
16 vehicle is a collectible vehicle and the retail purchaser obtains  
17 collectible vehicle or classic automobile insurance coverage as prescribed  
18 in subsection Z of this section before delivery or the vehicle is  
19 otherwise exempt under subsection J of this section.

20 E. On the registration of a vehicle that has complied with the  
21 minimum emissions standards pursuant to this section or is otherwise  
22 exempt under this section, the registering officer shall issue an air  
23 quality compliance sticker to the registered owner that shall be placed on  
24 the vehicle as prescribed by rule adopted by the department of  
25 transportation or issue a modified year validating tab as prescribed by  
26 rule adopted by the department of transportation. Those persons who  
27 reside outside of area A or area B but who elect to test their vehicle or  
28 are required to test their vehicle pursuant to this section and who comply  
29 with the minimum emissions standards pursuant to this section or are  
30 otherwise exempt under this section shall remit a compliance form, as  
31 prescribed by the department of transportation, and proof of compliance  
32 issued at an official emissions inspection station to the department of  
33 transportation along with the appropriate fees. The department of  
34 transportation shall then issue the person an air quality compliance  
35 sticker that shall be placed on the vehicle as prescribed by rule adopted  
36 by the department of transportation. The registering officer or the  
37 department of transportation shall collect an air quality compliance fee  
38 of \$.25. The registering officer or the department of transportation  
39 shall deposit, pursuant to sections 35-146 and 35-147, the air quality  
40 compliance fee in the state highway fund established by section  
41 28-6991. The department of transportation shall deposit, pursuant to  
42 sections 35-146 and 35-147, any emissions inspection fee in the emissions  
43 inspection fund. ~~The provisions of~~ This subsection ~~do~~ DOES not apply to  
44 those vehicles registered pursuant to title 28, chapter 7, article 7 or 8,  
45 the sale of vehicles between motor vehicle dealers or vehicles leased to a

1 person residing outside of area A or area B by a leasing company whose  
2 place of business is in area A or area B.

3 F. The director shall adopt minimum emissions standards pursuant to  
4 section 49-447 with which the various classes of vehicles shall be  
5 required to comply as follows:

6 1. For the purpose of determining compliance with minimum emissions  
7 standards in area B for motor vehicles other than diesel powered vehicles  
8 or constant four-wheel drive vehicles:

9 (a) A motor vehicle that is equipped with an onboard diagnostic  
10 system required by section 202(m) of the clean air act shall be required  
11 to take and pass an onboard diagnostic test or a steady state loaded test  
12 and curb idle test as approved by the director.

13 (b) A motor vehicle with a model year of 1981 or later, other than  
14 a vehicle covered by subdivision (a) of this paragraph, shall be required  
15 to take and pass a steady state loaded test and curb idle test.

16 (c) A motor vehicle, other than a vehicle covered by subdivision  
17 (a) or (b) of this paragraph, shall be required to take and pass a curb  
18 idle test.

19 2. For the purposes of determining compliance with minimum  
20 emissions standards and functional tests in area A for motor vehicles  
21 other than diesel powered vehicles or constant four-wheel drive vehicles:

22 (a) A motor vehicle that is equipped with an onboard diagnostic  
23 system required by section 202(m) of the clean air act shall be required  
24 to take and pass an onboard diagnostic test or a transient loaded test as  
25 approved by the director.

26 (b) A motor vehicle with a model year of 1981 or later, WITH A  
27 GROSS VEHICLE WEIGHT RATING OF LESS THAN EIGHT THOUSAND FIVE HUNDRED ONE  
28 POUNDS, other than a vehicle covered by subdivision (a) of this paragraph,  
29 shall be required to take and pass a transient loaded test. A MOTOR  
30 VEHICLE WITH A MODEL YEAR OF 1981 OR LATER, WITH A GROSS VEHICLE WEIGHT  
31 RATING OF MORE THAN EIGHT THOUSAND FIVE HUNDRED ONE POUNDS, OTHER THAN A  
32 VEHICLE COVERED BY SUBDIVISION (a) OF THIS PARAGRAPH, SHALL BE REQUIRED TO  
33 TAKE AND PASS A STEADY STATE LOADED TEST, A CURB IDLE TEST OR ANOTHER TEST  
34 APPROVED UNDER THE FEDERAL CLEAN AIR ACT.

35 (c) A motor vehicle, other than a vehicle covered by subdivision  
36 (a) or (b) of this paragraph, shall be required to take and pass a steady  
37 state loaded test and curb idle test.

38 (d) Motor vehicles by specific class or model year shall be  
39 required to take and pass any of the following tests:

- 40 (i) An evaporative system purge test.
- 41 (ii) An evaporative system integrity test.

42 3. For the purpose of determining compliance with minimum emissions  
43 standards in area A or area B for diesel powered motor vehicles:

1 (a) A diesel powered motor vehicle that is equipped with an onboard  
2 diagnostic system required by section 202(m) of the clean air act shall be  
3 required to take and pass an onboard diagnostic test or an opacity test as  
4 approved by the director.

5 (b) A diesel powered motor vehicle, other than a vehicle covered by  
6 subdivision (a) of this paragraph, shall be required to take and pass an  
7 emissions test as follows:

8 (i) A loaded, transient or any other form of test as provided for  
9 in rules adopted by the director for vehicles with a gross vehicle weight  
10 rating of eight thousand five hundred pounds or less.

11 (ii) A test that conforms with the society for automotive engineers  
12 standard J1667 for vehicles with a gross vehicle weight rating of more  
13 than eight thousand five hundred pounds.

14 4. A constant four-wheel drive vehicle shall be required to take  
15 and pass a curb idle test or an onboard diagnostic test.

16 5. Fleet operators must comply with this section, except that used  
17 vehicles, other than diesel powered vehicles, sold by a motor vehicle  
18 dealer who is a fleet operator and who has been issued a permit under  
19 section 49-546 shall be tested as follows:

20 (a) A motor vehicle with a model year of 1980 or earlier shall take  
21 and pass a curb idle test.

22 (b) A motor vehicle with a model year of 1981 or later, other than  
23 a vehicle that is equipped with an onboard diagnostic system that is  
24 required by section 202(m) of the clean air act, shall take and pass a  
25 curb idle test and a twenty-five hundred revolutions per minute unloaded  
26 test.

27 6. Vehicles owned or operated by the United States, this state or a  
28 political subdivision of this state shall comply with this subsection  
29 without regard to whether those vehicles are required to be registered in  
30 this state, except that alternative fuel vehicles of a school district  
31 that is located in area A, other than vehicles equipped with an onboard  
32 diagnostic system required by section 202(m) of the clean air act, shall  
33 be required to take and pass the curb idle test and the loaded test.

34 7. A diesel powered motor vehicle with a gross vehicle weight of  
35 more than twenty-six thousand pounds and for which gross weight fees are  
36 paid pursuant to title 28, chapter 15, article 2 in area A shall not be  
37 allowed to operate in area A unless it was manufactured in or after the  
38 1988 model year or is powered by an engine that is certified to meet or  
39 surpass emissions standards contained in 40 Code of Federal Regulations  
40 section 86.088-11 in effect on July 1, 1995. This paragraph does not  
41 apply to vehicles that are registered pursuant to title 28, chapter 7,  
42 article 7 or 8.

43 G. In addition to an emissions inspection, a vehicle is subject to  
44 a tampering inspection as prescribed by rules adopted by the director if  
45 the vehicle was manufactured after the 1974 model year.

1 H. Vehicles required to be inspected shall undergo a functional  
2 test of the gas cap to determine if the cap holds pressure within limits  
3 prescribed by the director. This subsection does not apply to any diesel  
4 powered vehicle.

5 I. Motor vehicles failing the initial or subsequent test are not  
6 subject to a penalty fee for late registration renewal if the original  
7 testing was accomplished before the expiration date and if the  
8 registration renewal is received by the motor vehicle division or the  
9 county assessor within thirty days after the original test.

10 J. The director may adopt rules for purposes of implementation,  
11 administration, regulation and enforcement of ~~the provisions of~~ this  
12 article including:

13 1. The submission of records relating to the emissions inspection  
14 of vehicles inspected by another jurisdiction in accordance with another  
15 inspection law and the acceptance of such inspection for compliance with  
16 the provisions of this article.

17 2. The exemption from inspection of:

18 (a) Except as otherwise provided in this subdivision, a motor  
19 vehicle manufactured in or before the 1966 model year. If the United  
20 States environmental protection agency issues a vehicle emissions testing  
21 exemption for motor vehicles manufactured in or before the 1974 model year  
22 for purposes of the state implementation or maintenance plan for air  
23 quality, a motor vehicle manufactured in or before the 1974 model year is  
24 exempt from inspection.

25 (b) New vehicles originally registered at the time of initial  
26 retail sale and titling in this state pursuant to section 28-2153 or  
27 28-2154.

28 (c) Vehicles registered pursuant to title 28, chapter 7, article 7  
29 or 8.

30 (d) New vehicles before the sixth registration year after initial  
31 purchase or lease.

32 (e) Vehicles that are outside of this state at the time of  
33 registration, except the director by rule may require testing of those  
34 vehicles within a reasonable period of time after those vehicles return to  
35 this state.

36 (f) Golf carts.

37 (g) ~~Electrically-powered~~ **ELECTRICALLY POWERED** vehicles.

38 (h) Vehicles with an engine displacement of less than ninety cubic  
39 centimeters.

40 (i) The sale of vehicles between motor vehicle dealers.

41 (j) Vehicles leased to a person residing outside of area A or area  
42 B by a leasing company whose place of business is in area A or area B.

43 (k) Collectible vehicles.

44 (l) Motorcycles.

1 (m) Cranes and oversize vehicles that require permits pursuant to  
2 section ~~28-1100~~, 28-1103 or 28-1144.

3 (n) Vehicles that are not in use and that are owned by residents of  
4 this state while on active military duty outside of this state.

5 3. Compiling and maintaining records of emissions test results  
6 after servicing.

7 4. A procedure that allows the vehicle service and repair industry  
8 to compare the calibration accuracy of its emissions testing equipment  
9 with the department's calibration standards.

10 5. Training requirements for automotive repair personnel using  
11 emissions measuring equipment whose calibration accuracy has been compared  
12 with the department's calibration standards.

13 6. Any other rule that may be required to accomplish ~~the provisions~~  
14 ~~of~~ this article.

15 K. The director, after consultation with automobile manufacturers  
16 and the vehicle service and repair industry, shall establish by rule a  
17 definition of "vehicle maintenance and repairs" for motor vehicles subject  
18 to inspection under this article. The definition shall specify repair  
19 procedures that, when implemented, will reduce vehicle emissions.

20 L. The director shall adopt rules that specify that the estimated  
21 retail cost of all recommended maintenance and repairs shall not exceed  
22 the amounts prescribed in this subsection, except that if a vehicle fails  
23 a tampering inspection there is no limit on the cost of recommended  
24 maintenance and repairs. The director shall issue a certificate of waiver  
25 for a vehicle if the director has determined that all recommended  
26 maintenance and repairs have been performed and that the vehicle has  
27 failed any reinspection that may be required by rule. If the director has  
28 determined that the vehicle is in compliance with minimum emissions  
29 standards or that all recommended maintenance and repairs for compliance  
30 with minimum emissions standards have been performed, but that tampering  
31 discovered at a tampering inspection has not been repaired, the director  
32 may issue a certificate of waiver if the owner of the vehicle provides to  
33 the director a written statement from an automobile parts or repair  
34 business that an emissions control device that is necessary to repair the  
35 tampering is not available and cannot be obtained from any usual source of  
36 supply before the vehicle's current registration expires. Rules adopted  
37 by the director for the purpose of establishing the estimated retail cost  
38 of all recommended maintenance and repairs pursuant to this subsection  
39 shall specify that:

40 1. In area A the cost shall not exceed:

41 (a) \$500 for a diesel powered vehicle with a gross weight in excess  
42 of twenty-six thousand pounds.

43 (b) \$500 for a diesel powered vehicle with tandem axles.

1 (c) For a vehicle other than a diesel powered vehicle with a gross  
2 weight in excess of twenty-six thousand pounds and other than a diesel  
3 powered vehicle with tandem axles:

4 (i) \$200 for such a vehicle manufactured in or before the 1974  
5 model year.

6 (ii) \$300 for such a vehicle manufactured in the 1975 through 1979  
7 model years.

8 (iii) \$450 for such a vehicle manufactured in or after the 1980  
9 model year.

10 2. In area B the cost shall not exceed:

11 (a) \$300 for a diesel powered vehicle with a gross weight in excess  
12 of twenty-six thousand pounds.

13 (b) \$300 for a diesel powered vehicle with tandem axles.

14 3. For a vehicle other than a diesel powered vehicle with a gross  
15 weight in excess of twenty-six thousand pounds and other than a diesel  
16 powered vehicle with tandem axles:

17 (a) \$50 for such a vehicle manufactured in or before the 1974 model  
18 year.

19 (b) \$200 for such a vehicle manufactured in the 1975 through 1979  
20 model years.

21 (c) \$300 for such a vehicle manufactured in or after the 1980 model  
22 year.

23 M. Each person whose vehicle has failed an emissions inspection  
24 shall be provided a list of those general recommended repair and  
25 maintenance procedures for vehicles that are designed to reduce vehicle  
26 emissions levels.

27 N. Notwithstanding any other provisions of this article, the  
28 director may adopt rules allowing exemptions from the requirement that all  
29 vehicles must meet the minimum standards for registration.

30 O. The director of environmental quality shall establish, in  
31 cooperation with the assistant director for the motor vehicle division of  
32 the department of transportation:

33 1. An adequate method for identifying bona fide residents residing  
34 outside of area A or area B to ensure that such residents are exempt from  
35 compliance with the inspection program established by this article and  
36 rules adopted under this article.

37 2. A written notice that shall accompany the vehicle registration  
38 application forms that are sent to vehicle owners pursuant to section  
39 28-2151 and that shall accompany or be included as part of the vehicle  
40 emissions test results that are provided to vehicle owners at the time of  
41 the vehicle emissions test. This written notice shall describe at least  
42 the following:

43 (a) The restriction of the waiver program to one time per vehicle  
44 and a brief description of the implications of this limit.

1 (b) The availability and a brief description of the vehicle repair  
2 and retrofit program established pursuant to section 49-558.02.

3 (c) Notice that many vehicles carry extended warranties for vehicle  
4 emissions systems, and those warranties are described in the vehicle's  
5 owner's manual or other literature.

6 P. Notwithstanding any other law, if area A or area B is  
7 reclassified as an attainment area, emissions testing conducted pursuant  
8 to this article shall continue for vehicles registered inside that  
9 reclassified area, vehicles owned by a person who is subject to section  
10 15-1444 or 15-1627 and vehicles registered outside of that reclassified  
11 area but used to commute to the driver's principal place of employment  
12 located within that reclassified area.

13 Q. A fleet operator who is issued a permit pursuant to section  
14 49-546 may electronically transmit emissions inspection data to the  
15 department of transportation pursuant to rules adopted by the director of  
16 the department of transportation in consultation with the director of  
17 environmental quality.

18 R. The director shall prohibit a certificate of waiver pursuant to  
19 subsection L of this section for any vehicle that has failed inspection in  
20 area A or area B due to the catalytic converter system.

21 S. The director shall establish provisions for rapid testing of  
22 certain vehicles and to allow fleet operators, singly or in combination,  
23 to contract directly for vehicle emissions testing.

24 T. Each vehicle emissions inspection station in area A shall have a  
25 sign posted to be visible to persons who are having their vehicles tested.  
26 This sign shall state that enhanced testing procedures are a direct result  
27 of federal law.

28 U. The initial adoption of rules pursuant to this section shall be  
29 deemed emergency rules pursuant to section 41-1026.

30 V. The director of environmental quality and the director of the  
31 department of transportation shall implement a system to exchange  
32 information relating to the waiver program, including information relating  
33 to vehicle emissions test results and vehicle registration information.

34 W. Any person who sells a vehicle that has been issued a  
35 certificate of waiver pursuant to this section after January 1, 1997 and  
36 who knows that a certificate of waiver has been issued after January 1,  
37 1997 for that vehicle shall disclose to the buyer before completion of the  
38 sale that a certificate of waiver has been issued for that vehicle.

39 X. Vehicles that fail the emissions test at emission levels higher  
40 than twice the standard established for that vehicle class by the  
41 department pursuant to section 49-447 are not eligible for a certificate  
42 of waiver pursuant to this section unless the vehicle is repaired  
43 sufficiently to achieve an emissions level below twice the standard for  
44 that class of vehicle.

1           Y. If an insurer notifies the department of transportation of the  
2 cancellation or nonrenewal of collectible vehicle or classic automobile  
3 insurance coverage for a collectible vehicle, the department of  
4 transportation shall cancel the registration of the vehicle and the  
5 vehicle's exemption from emissions testing pursuant to this section unless  
6 evidence of coverage is presented to the department of transportation  
7 within sixty days.

8           Z. For the purposes of this section, "collectible vehicle" means a  
9 vehicle that complies with both of the following:

10           1. Either:

11           (a) Bears a model year date of original manufacture that is at  
12 least fifteen years old.

13           (b) Is of unique or rare design, of limited production and an  
14 object of curiosity.

15           2. Meets both of the following criteria:

16           (a) Is maintained primarily for use in car club activities,  
17 exhibitions, parades or other functions of public interest or for a  
18 private collection and is used only infrequently for other purposes.

19           (b) Has a collectible vehicle or classic automobile insurance  
20 coverage that restricts the collectible vehicle mileage or use, or both,  
21 and requires the owner to have another vehicle for personal use.

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

24           49-701. Definitions

25           In this chapter, unless the context otherwise requires:

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

30           2. "Administrator" means the administrator of the United States  
31 environmental protection agency.

32           3. "Advanced recycling":

33           (a) Means a manufacturing process to convert post-use polymers and  
34 recovered feedstocks into basic hydrocarbon raw materials, feedstocks,  
35 chemicals, monomers, oligomers, plastics, plastics and chemical  
36 feedstocks, basic and unfinished chemicals, crude oil, naphtha, liquid  
37 transportation fuels and coatings and other products such as waxes and  
38 lubricants through processes that include pyrolysis, gasification,  
39 depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis  
40 and other similar technologies.

41           (b) Does not include solid waste management, processing,  
42 incineration or treatment.

43           4. "Advanced recycling facility":

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

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

4 (c) Does not include a solid waste facility, processing facility,  
5 treatment facility, materials recovery facility, recycling facility or  
6 incinerator.

7 5. "Beneficial use of CCR" means that ~~the CCR meets~~ all of the  
8 following conditions APPLY:

9 (a) The CCR provides a functional benefit.

10 (b) The CCR substitutes for the use of a virgin material, which  
11 conserves natural resources that would otherwise need to be obtained  
12 through practices such as extraction.

13 (c) The use of the CCR meets relevant product specifications,  
14 regulatory standards or design standards when available, and when those  
15 standards are not available, the CCR is not used in excess quantities.

16 (d) ~~When~~ FOR unencapsulated use of CCR involving placement of  
17 twelve thousand four hundred tons or more on the land in nonroadway  
18 applications, the user demonstrates, keeps records and provides  
19 documentation on request, that environmental releases to groundwater,  
20 surface water, soil and air are comparable to or lower than those from  
21 analogous products made without CCR, or that environmental releases to  
22 groundwater, surface water, soil and air will be at or below relevant  
23 regulatory and health-based benchmarks for human and ecological receptors  
24 during use.

25 6. "CCR pile" ~~or "pile"~~:

26 (a) Means any noncontainerized accumulation of solid, nonflowing  
27 CCR that is placed on the land.

28 (b) Does not include a CCR that is beneficially used off-site.

29 7. "CCR program approval" means United States environmental  
30 protection agency approval of the Arizona coal combustion residuals  
31 program in accordance with 42 United States Code section 6945(d)(1).

32 8. "CCR surface impoundment" or "impoundment" means a natural  
33 topographic depression, man-made excavation or diked area, which is  
34 designed to hold an accumulation of CCR and liquids, and the CCR unit  
35 treats, stores or disposes of CCR.

36 9. "Closed solid waste facility" means any of the following:

37 (a) A solid waste facility other than a CCR unit that ceases  
38 storing, treating, processing or receiving for disposal solid waste before  
39 the effective date of design and operation rules for that type of facility  
40 adopted pursuant to section 49-761.

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

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

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

1 (iii) Received approval for closure from the department AFTER  
2 COMPLETING A POST CLOSURE CARE AND MONITORING PLAN AS REQUIRED BY PERMIT  
3 OR PLAN APPROVAL.

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

6 ~~(d) A CCR unit when placement of CCR in a CCR unit has ceased and~~  
7 ~~the owner or operator has completed closure of the CCR unit and has~~  
8 ~~initiated postclosure care in accordance with 40 Code of Federal~~  
9 ~~Regulations part 257, subpart D or in accordance with a program approved~~  
10 ~~by the United States environmental protection agency under 42 United~~  
11 ~~States Code section 6945(d)(1).~~

12 10. "Coal combustion residuals" or "CCR" means fly ash, bottom ash,  
13 boiler slag and flue gas desulfurization materials generated from burning  
14 coal for the purpose of generating electricity by electric utilities and  
15 independent power producers.

16 11. "Coal combustion residuals landfill" or "CCR landfill":

17 (a) Means an area of land or an excavation that receives CCR and  
18 that is not a surface impoundment, an underground injection well, a salt  
19 dome formation, a salt bed formation, an underground or surface coal mine  
20 or a cave.

21 (b) Includes sand and gravel pits and quarries that receive CCR or  
22 CCR piles and any use of CCR that does not meet the definition of a  
23 beneficial use of CCR.

24 12. "Coal combustion residuals unit" or "CCR unit":

25 (a) Means any CCR landfill, CCR surface impoundment or lateral  
26 expansion of a CCR unit or a combination of more than one of these units.

27 (b) Includes both new and existing units, unless otherwise  
28 specified.

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

32 ~~14.~~ 13. "Construction debris" means solid waste derived from the  
33 construction, repair or remodeling of buildings or other structures.

34 ~~15.~~ 14. "County" means:

35 (a) The board of supervisors in the context of the exercise of  
36 powers or duties.

37 (b) The unincorporated areas in the context of area of  
38 jurisdiction.

39 ~~16.~~ 15. "Demolition debris" means solid waste derived from the  
40 demolition of buildings or other structures.

41 ~~17.~~ 16. "Depolymerization" means a manufacturing process through  
42 which post-use polymers are broken into smaller molecules such as monomers  
43 and oligomers or raw, intermediate or final products, plastics and  
44 chemical feedstocks, basic and unfinished chemicals, crude oil, naphtha,

1 liquid transportation fuels, waxes, lubricants, coatings and other basic  
2 hydrocarbons.

3 ~~18.~~ 17. "Discharge" has the same meaning prescribed in section  
4 49-201.

5 ~~19.~~ 18. "Existing CCR landfill" means a CCR landfill that receives  
6 CCR both before and after October 19, 2015, or for which construction  
7 commenced before October 19, 2015 and that receives CCR on or after  
8 October 19, 2015. For the purposes of this paragraph, "commenced  
9 construction" means the owner or operator of a CCR landfill has obtained  
10 the federal, state and local approvals or permits necessary to begin  
11 physical construction and a continuous on site, physical construction  
12 program had begun before October 19, 2015.

13 ~~20.~~ 19. "Existing CCR surface impoundment" means a CCR surface  
14 impoundment that meets one of the following conditions:

15 (a) Receives CCR both before and after October 19, 2015.

16 (b) For which construction commenced before October 19, 2015 and  
17 that receives CCR on or after October 19, 2015. For the purposes of this  
18 paragraph, "commenced construction" means the owner or operator of a CCR  
19 surface impoundment has obtained the federal, state, and local approvals  
20 or permits necessary to begin physical construction and a continuous on  
21 site, physical construction program had begun ~~prior to~~ BEFORE October 19,  
22 2015.

23 ~~21.~~ 20. "Existing solid waste facility" means a solid waste  
24 facility other than a CCR unit that begins construction or is in operation  
25 on the effective date of the design and operation rules adopted by the  
26 director pursuant to section 49-761 for that type of solid waste facility.

27 ~~22.~~ 21. "Facility plan" means any design or operating plan for a  
28 solid waste facility or group of solid waste facilities other than a  
29 permit issued under article 11 of this chapter.

30 ~~23.~~ 22. "40 C.F.R. part 257, subparts A and B" means 40 Code of  
31 Federal Regulations part 257, subparts A and B in effect on May 1, 2004.

32 ~~24.~~ 23. "40 C.F.R. part 258" means 40 Code of Federal Regulations  
33 part 258 in effect on May 1, 2004.

34 ~~25.~~ 24. "Gasification" means a manufacturing process through which  
35 recovered feedstocks are heated and converted into a fuel and gas mixture  
36 in an oxygen-deficient atmosphere and the mixture is converted into  
37 valuable raw, intermediate and final products, including plastic monomers,  
38 chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel,  
39 gasoline, diesel and gasoline blendstocks, home heating oil and other  
40 fuels, including ethanol and transportation fuel, that are returned to  
41 economic utility in the form of raw materials, products or fuels.

42 ~~26.~~ 25. "Household hazardous waste" means solid waste as described  
43 in 40 Code of Federal Regulations section 261.4(b)(1) as incorporated by  
44 reference in the rules adopted pursuant to chapter 5 of this title.

45 ~~27.~~ 26. "Household waste":

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

6 (b) Does not include construction debris, landscaping rubble or  
7 demolition debris.

8 ~~28.~~ 27. "Inert material":

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

10 (i) Is not flammable.

11 (ii) Will not decompose.

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

16 (b) Includes concrete, asphaltic pavement, brick, rock, gravel,  
17 sand, soil and metal, if used as reinforcement in concrete.

18 (c) Does not include special waste, hazardous waste, glass or other  
19 metal.

20 ~~29.~~ 28. "Land disposal" means placement of solid waste in or on  
21 land.

22 ~~30.~~ 29. "Landscaping rubble" means material that is derived from  
23 landscaping or reclamation activities and that may contain inert material  
24 and not more than ten percent by volume of vegetative waste.

25 ~~31.~~ 30. "Lateral expansion" means, for the purposes of the coal  
26 combustion residuals program established pursuant to article 11 of this  
27 chapter, a horizontal expansion of the waste boundaries of an existing CCR  
28 landfill or existing CCR surface impoundment made after October 19, 2015.

29 ~~32.~~ 31. "Management agency" means any person responsible for the  
30 day-to-day operation, maintenance and management of a particular public  
31 facility or group of public facilities.

32 ~~33.~~ 32. "Medical waste":

33 (a) Means any solid waste that is generated in the diagnosis,  
34 treatment or immunization of a human being or animal or in any research  
35 relating to that diagnosis, treatment or immunization, or in the  
36 production or testing of biologicals.

37 (b) Includes discarded drugs.

38 (c) Does not include hazardous waste as defined in section 49-921  
39 other than ~~conditionally exempt~~ VERY small quantity generator waste.

40 ~~34.~~ 33. "Municipal solid waste landfill" means any solid waste  
41 landfill that accepts household waste, household hazardous waste or  
42 ~~conditionally exempt~~ VERY small quantity generator waste.

43 ~~35.~~ 34. "New solid waste facility" means a solid waste facility  
44 that begins construction or operation after the effective date of design

1 and operating rules that are adopted pursuant to section 49-761 or article  
2 11 of this chapter for that type of solid waste facility.

3 ~~36.~~ 35. "On site" means the same or geographically contiguous  
4 property that may be divided by public or private right-of-way if the  
5 entrance and exit between the properties are at a crossroads intersection  
6 and access is by crossing the right-of-way and not by traveling along the  
7 right-of-way. Noncontiguous properties that are owned by the same person  
8 and connected by a right-of-way that is controlled by that person and to  
9 which the public does not have access are deemed on site property.  
10 Noncontiguous properties that are owned or operated by the same person  
11 regardless of right-of-way control are also deemed on site property.

12 ~~37.~~ 36. "Person" means any public or private corporation, company,  
13 partnership, firm, association or society of persons, the federal  
14 government and any of its departments or agencies, this state or any of  
15 its agencies, departments, political subdivisions, counties, towns or  
16 municipal corporations, as well as a natural person.

17 ~~38.~~ 37. "Post-use polymer":

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

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

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

23 (iii) The plastic's use or intended use is as a feedstock for  
24 manufacturing crude oil, fuels, feedstocks, blendstocks, raw materials or  
25 other intermediate products or final products using advanced recycling.

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

30 (v) The plastic is processed at an advanced recycling facility or  
31 held at an advanced recycling facility before processing.

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

33 ~~39.~~ 38. "Process" or "processing" means the reduction, separation,  
34 recovery, conversion or recycling of solid waste.

35 ~~40.~~ 39. "Public solid waste facility" means a transfer facility  
36 and any site owned, operated or used by any person for the storage,  
37 processing, treatment or disposal of solid waste that is not generated on  
38 site.

39 ~~41.~~ 40. "Pyrolysis" means a manufacturing process through which  
40 post-use polymers are heated in the absence of oxygen until melted, are  
41 thermally decomposed and are then cooled, condensed and converted into  
42 valuable raw, intermediate and final products, including plastic monomers,  
43 chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel,  
44 gasoline, diesel and gasoline blendstocks, home heating oil and other

1 fuels, including ethanol and transportation fuel, that are returned to  
2 economic utility in the form of raw materials, products or fuels.

3 ~~42.~~ 41. "Recovered feedstocks":

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

7 (i) Post-use polymers.

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

12 (b) Does not include:

13 (i) Unprocessed municipal solid waste.

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

16 ~~43.~~ 42. "Recycling facility" means a solid waste facility that is  
17 owned, operated or used for the storage, treatment or processing of  
18 recyclable solid waste ~~and that handles wastes that have a significant~~  
19 ~~adverse effect on the environment.~~

20 ~~44.~~ 43. "Salvaging" means the removal of solid waste from a solid  
21 waste facility with the permission and in accordance with rules or  
22 ordinances of the management agency for purposes of productive reuse.

23 ~~45.~~ 44. "Scavenging" means the unauthorized removal of solid waste  
24 from a solid waste facility.

25 ~~46.~~ 45. "Solid waste facility" means a transfer facility and any  
26 site owned, operated or used by any person for the storage, processing,  
27 treatment or disposal of solid waste, ~~conditionally exempt~~ VERY small  
28 quantity generator waste or household hazardous waste but does not include  
29 the following:

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

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

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

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

- 1 (e) A site where sludge from a wastewater treatment facility is  
2 applied to the land as a fertilizer or beneficial soil amendment in  
3 accordance with sludge application requirements.
- 4 (f) A closed solid waste facility.
- 5 (g) A solid waste landfill that is performing or has completed  
6 postclosure care before July 1, 1996 in accordance with an approved  
7 postclosure plan.
- 8 (h) A closed solid waste landfill performing a onetime removal of  
9 solid waste from the closed solid waste landfill, if the operator provides  
10 a written notice that describes the removal project to the department  
11 within thirty days after completion of the removal project.
- 12 (i) A site where solid waste generated in street sweeping  
13 activities is stored, processed or treated before disposal at a solid  
14 waste facility authorized under this chapter.
- 15 (j) A site where solid waste generated at either a drinking water  
16 treatment facility or a wastewater treatment facility is stored,  
17 processed, or treated on site before disposal at a solid waste facility  
18 authorized under this chapter, and any discharge is regulated pursuant to  
19 chapter 2, article 3 of this title.
- 20 (k) A closed solid waste landfill where development activities  
21 occur on the property or where excavation or removal of solid waste is  
22 performed for maintenance and repair if the following conditions are met:
- 23 (i) When the project is completed there will not be an increase in  
24 leachate that would result in a discharge.
- 25 (ii) When the project is completed the concentration of methane gas  
26 will not exceed twenty-five percent of the lower explosive limit in  
27 on-site structures, or the concentration of methane gas will not exceed  
28 the lower explosive limit at the property line.
- 29 (iii) Protection has been provided to prevent remaining waste from  
30 causing any vector, odor, litter or other environmental nuisance.
- 31 (iv) The operator provides a notice to the department containing  
32 the information required by section 49-762.07, subsection A, paragraphs 1,  
33 2 and 5 and a brief description of the project.
- 34 (l) Agricultural on-site disposal as provided in section 49-766.
- 35 (m) The use, storage, treatment or disposal of by-products of  
36 regulated agricultural activities as defined in section 49-201 and that  
37 are subject to best management practices pursuant to section 49-247 or  
38 by-products of livestock, range livestock and poultry as defined in  
39 section 3-1201, pesticide containers that are regulated pursuant to  
40 title 3, chapter 2, article 6 or other agricultural crop residues.
- 41 (n) Household hazardous waste collection events held at a temporary  
42 site for not more than six days in any calendar quarter.
- 43 (o) Wastewater treatment facilities as defined in section 49-1201.
- 44 (p) An on-site single-family household waste composting facility.
- 45 (q) A site at which five hundred or fewer waste tires are stored.

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

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

8 (t) An advanced recycling facility that converts recovered  
9 feedstocks to manufacture raw materials and intermediate and final  
10 products.

11 ~~47.~~ 46. "Solid waste landfill":

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

14 (b) Does not include a land application unit, surface impoundment,  
15 injection well, coal combustion residuals landfill, compost pile or waste  
16 pile or an area containing ash from the on-site combustion of coal that  
17 does not contain household waste, household hazardous waste or  
18 ~~conditionally exempt~~ VERY small quantity generator waste.

19 ~~48.~~ 47. "Solid waste management" means the systematic  
20 administration of activities that provide for the collection, source  
21 separation, storage, transportation, transfer, processing, treatment or  
22 disposal of solid waste in a manner that protects public health and safety  
23 and the environment and prevents and abates environmental nuisances.

24 ~~49.~~ 48. "Solid waste management plan" means the plan that is  
25 adopted pursuant to section 49-721 and that provides guidelines for the  
26 collection, source separation, storage, transportation, processing,  
27 treatment, reclamation and disposal of solid waste in a manner that  
28 protects public health and safety and the environment and prevents and  
29 abates environmental nuisances.

30 ~~50.~~ 49. "Solvolysis":

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

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

37 ~~51.~~ 50. "Storage" means the holding of solid waste.

38 ~~52.~~ 51. "Transfer facility":

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

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

1           ~~53.~~ 52. "Treatment" means any method, technique or process used to  
2 change the physical, chemical or biological character of solid waste so as  
3 to render that waste safer for transport, amenable for processing,  
4 amenable for storage or reduced in volume.

5           ~~54.~~ 53. "Vegetative waste":

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

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

10           54. "VERY SMALL QUANTITY GENERATOR WASTE" MEANS HAZARDOUS WASTE IN  
11 QUANTITIES AS DEFINED BY RULES ADOPTED PURSUANT TO SECTION 49-922.

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

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

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

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

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

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

26           Sec. 7. Section 49-766, Arizona Revised Statutes, is amended to  
27 read:

28           49-766. Agricultural landfills; notice

29           A. A single family residence located on a farm or ranch of more  
30 than forty acres in an unincorporated area may operate on site a landfill  
31 for the disposal of solid waste resulting from the residents' household  
32 activities. The owner or operator of the farm or ranch shall comply with  
33 all of the following:

34           1. The landfill does not violate the floodplain provisions of  
35 section 49-772, subsection C or the wetland provisions of section 49-772,  
36 subsection D.

37           2. The owner or operator submits to the ~~to~~ board of supervisors  
38 a location map and a written, general description of the landfill by  
39 October 21, 1994, or if solid waste disposal begins after April 24, 1994,  
40 within thirty days after disposing of solid waste.

41           3. The landfill does not create an environmental nuisance.

42           B. A person engaged in farming or ranching on at least forty acres  
43 in an unincorporated area may operate an agricultural landfill on the  
44 property for disposal of solid waste, but not hazardous waste, generated  
45 on the property. The person shall comply with all of the following:

1           1. The landfill does not accept household waste, household  
2 hazardous waste or ~~conditionally exempt~~ VERY small QUANTITY generator  
3 waste.

4           2. The owner or operator submits to the board of supervisors or its  
5 designee a location map and a written, general description of the landfill  
6 by October 21, 1994, or if solid waste disposal begins after April 24,  
7 1994, within thirty days after disposing of solid waste.

8           3. The landfill does not violate the floodplain provisions of  
9 section 49-772, subsection C or the wetland provisions of section 49-772,  
10 subsection D.

11           4. The landfill does not create an environmental nuisance.

12           Sec. 8. Section 49-891, Arizona Revised Statutes, is amended to  
13 read:

14           49-891. Coal combustion residuals program; rules;  
15 incorporation by reference

16           A. The director may adopt rules to establish and operate a coal  
17 combustion residuals program equivalent to or at least as protective as  
18 the federal coal combustion residuals program under 40 Code of Federal  
19 Regulations part 257, subpart D for the purpose of obtaining approval to  
20 operate the federal CCR program. Federal coal combustion residuals  
21 regulations may be adopted by reference. Rules adopted pursuant to this  
22 subsection shall not be more or less stringent than or conflict with 40  
23 Code of Federal regulations part 257, subpart D for nonprocedural  
24 standards, except that the department may adopt aquifer protection  
25 standards that are more stringent than 40 Code of Federal regulations part  
26 257, subpart D if these standards are developed pursuant to chapter 2,  
27 article 3 of this title.

28           B. Rules adopted pursuant to subsection A of this section shall not  
29 be more or less stringent than or conflict with 40 Code of Federal  
30 Regulations part 257, subpart D for nonprocedural standards, except that  
31 the department shall adopt those portions of the dam safety standards THAT  
32 ARE developed pursuant to title 45, chapter 6, article 1, ~~and~~ THAT are in  
33 existence for CCR surface impoundments on September 24, 2022 AND that are  
34 more stringent than 40 Code of Federal Regulations part 257, subpart D.

35           C. The rules authorized by subsection A of this section shall  
36 provide requirements for issuing, denying, suspending or modifying  
37 individual CCR permits, including:

38           1. Requirements for submitting notices, permit applications and any  
39 additional information necessary to determine whether a permit should be  
40 issued.

41           2. Recordkeeping, reporting and compliance schedule requirements in  
42 the permit.

43           3. A permit life of ten years, after which the permit shall be  
44 renewed.

1           4. Adequate opportunities for public participation during CCR  
2 permit processing.

3           5. Other terms and conditions as the director deems necessary to  
4 ensure compliance with this article.

5           D. The rules for CCR permits shall include:

6           1. Permit processing fees from the applicant to cover the cost of  
7 administrative services and other expenses associated with evaluating the  
8 application and issuing or denying the permit, beginning when an  
9 application is submitted.

10          2. Annual fees for the program approved by the United States  
11 environmental protection agency beginning after CCR program approval.

12          E. The fees authorized by this section shall be deposited, pursuant  
13 to sections 35-146 and 35-147, in the solid waste fee fund established by  
14 section 49-881.

15          F. ~~Within one hundred eighty days~~ After the effective date of  
16 design and operation rules adopted by the director for coal combustion  
17 residuals facilities pursuant to this section, facilities with CCR units  
18 may submit to the department a permit application covering each CCR unit  
19 at the facility. Facilities with CCR units shall submit to the department  
20 a permit application covering each CCR unit at the facility within one  
21 hundred eighty days of CCR program approval.

22          Sec. 9. Conditional enactment

23          Section 49-542, Arizona Revised Statutes, as amended by Laws 2021,  
24 chapter 27, section 3 and chapter 116, section 1 and this act, becomes  
25 effective on the date prescribed by Laws 2021, chapter 27, section 9, as  
26 amended by Laws 2023, chapter 78, section 1, but only on the occurrence of  
27 the condition prescribed by Laws 2021, chapter 27, section 9, as amended  
28 by Laws 2023, chapter 78, section 1.