

House Engrossed

gray water; definition; residential standards

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

HOUSE BILL 2097

AN ACT

AMENDING SECTIONS 11-811, 11-812, 11-815, 49-201, 49-204 AND 49-701,
ARIZONA REVISED STATUTES; RELATING TO WATER QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-811, Arizona Revised Statutes, is amended to
3 read:

4 11-811. Zoning ordinance; zoning districts; definitions

5 A. Pursuant to this article, the board of supervisors may adopt a
6 zoning ordinance in order to conserve and promote the public health,
7 safety, convenience and general welfare. The zoning ordinance and all
8 rezonings and zoning regulations amendments adopted under this article
9 shall be consistent with and conform to the adopted comprehensive plan.
10 In addition to the other matters that are required or authorized under
11 this section and article 1 of this chapter, the zoning ordinance:

12 1. Shall show the zoning districts designated as appropriate for
13 various classes of residential, business and industrial uses and shall
14 provide for the establishment of setback lines and other plans providing
15 for adequate light, air and parking facilities and for expediting traffic
16 within the districts.

17 2. May establish the percentage of a lot or parcel that may be
18 covered by buildings and the size of yards, courts and other open spaces.

19 3. Shall consider access to incident solar energy.

20 4. May provide for retirement community zoning districts.

21 5. May provide for the regulation and use of business licenses,
22 adult oriented business manager permits and adult service provider permits
23 in conjunction with the establishment or operation of adult oriented
24 businesses and facilities, including adult arcades, adult bookstores or
25 video stores, cabarets, adult live entertainment establishments, adult
26 motion picture theaters, adult theaters, massage establishments and nude
27 model studios. With respect to cabarets, the ordinance shall not conflict
28 with specific statutory or valid regulatory requirements applicable to
29 persons licensed to dispense alcoholic beverages, but the ordinance may
30 include regulation of the age and conduct of erotic entertainers in a
31 manner at least as restrictive as rules adopted under title 4.
32 Notwithstanding section 11-812, a county in regulating or licensing
33 businesses and facilities pursuant to this paragraph may impose reasonable
34 operating requirements that affect the existing uses of businesses and
35 facilities.

36 6. Shall designate and zone appropriate areas of reasonable size in
37 which there may be established with reasonable permanency canneries,
38 fertilizer plants, refineries, commercial feedlots, meat packing plants,
39 tallow works and other like businesses. A dairy operation, including
40 areas designated for the raising of replacement heifers or bulls owned by
41 the same dairy operation, is not subject to this paragraph, and is a
42 general agricultural purpose under subsection D, paragraph 2 of this
43 section and section 11-812, subsection A, paragraph 2. A replacement
44 heifer or bull raising operation of a dairy that is not on contiguous

1 property of the dairy is subject to this paragraph unless the operation
2 begins within one-quarter mile of the dairy.

3 7. MAY NOT IMPOSE ANY OTHER REQUIREMENTS BEYOND THE PROVISIONS OF
4 SECTION 49-204 OR ANY PENALTIES ON GRAY WATER USERS WHO COMPLY WITH
5 SECTION 49-204.

6 B. To carry out the purposes of this article, the board may adopt
7 overlay zoning districts and regulations applicable to particular
8 buildings, structures and land within individual zones. For the purposes
9 of this subsection, "overlay zoning district" means a special zoning
10 district that includes regulations that modify regulations in another
11 zoning district with which the overlay zoning district is combined.
12 Overlay zoning districts and regulations shall be adopted pursuant to
13 section 11-813. The provisions of overlay zoning shall apply
14 retroactively to authorize overlay zoning districts and regulations
15 adopted before April 20, 1993.

16 C. In accordance with article II, sections 1 and 2, Constitution of
17 Arizona, the board shall consider the individual property rights and
18 personal liberties of the residents of the county before adopting any
19 zoning ordinance.

20 D. This section does not authorize:

21 1. The imposition of dedications, exactions, fees or other
22 requirements that are not otherwise authorized by law.

23 2. The regulation or restriction of the use or occupation of land
24 or improvements for railroad, mining, metallurgical, grazing or general
25 agricultural purposes, if the tract concerned is five or more contiguous
26 commercial acres. For the purposes of this paragraph, general
27 agricultural purposes do not include the cultivation of cannabis as
28 defined in section 13-3401 or marijuana as defined in section 13-3401 or
29 36-2801.

30 E. For the purposes of this section:

31 1. "Adult arcade" means any place to which the public is ~~permitted~~
32 ~~ALLOWED~~ or invited and in which coin-operated or slug-operated or
33 electronically, electrically or mechanically controlled still or motion
34 picture machines, projectors or other ~~image-producing~~ ~~IMAGE-PRODUCING~~
35 devices are maintained to show images involving specific sexual activities
36 or specific anatomical areas to persons in booths or viewing rooms.

37 2. "Adult bookstore or video store" means a commercial
38 establishment that offers for sale or rent any of the following as one of
39 its principal business purposes:

40 (a) Books, magazines, periodicals or other printed matter,
41 photographs, films, motion pictures, videocassettes or reproductions or
42 slides or other visual representations that depict or describe specific
43 sexual activities or specific anatomical areas.

44 (b) Instruments, devices or paraphernalia that are designed for use
45 in connection with specific sexual activities.

1 3. "Adult live entertainment establishment" means an establishment
2 that features either:

3 (a) Persons who appear in a state of nudity.

4 (b) Live performances that are characterized by the exposure of
5 specific anatomical areas or specific sexual activities.

6 4. "Adult motion picture theater" means a commercial establishment
7 in which for any form of consideration films, motion pictures,
8 videocassettes, slides or other similar photographic reproductions that
9 are characterized by the depiction or description of specific sexual
10 activities or specific anatomical areas are predominantly shown.

11 5. "Adult oriented business" means adult arcades, adult bookstores
12 or video stores, cabarets, adult live entertainment establishments, adult
13 motion picture theaters, adult theaters, massage establishments that offer
14 adult service or nude model studios.

15 6. "Adult oriented business manager" means a person on the premises
16 of an adult oriented business who is authorized to exercise overall
17 operational control of the business.

18 7. "Adult service" means dancing, serving food or beverages,
19 modeling, posing, wrestling, singing, reading, talking, listening or other
20 performances or activities conducted for any consideration in an adult
21 oriented business by a person who is nude or seminude during all or part
22 of the time that the person is providing the service.

23 8. "Adult service provider" or "erotic entertainer" means any
24 natural person who provides an adult service.

25 9. "Adult theater" means a theater, concert hall, auditorium or
26 similar commercial establishment that predominantly features persons who
27 appear in a state of nudity or who engage in live performances that are
28 characterized by the exposure of specific anatomical areas or specific
29 sexual activities.

30 10. "Cabaret" means an adult oriented business licensed to provide
31 alcoholic beverages pursuant to title 4, chapter 2, article 1.

32 11. "Discernibly turgid state" means the state of being visibly
33 swollen, bloated, inflated or distended.

34 12. "Massage establishment" means an establishment in which a
35 person, firm, association or corporation engages in or permits massage
36 activities, including any method of pressure on, friction against,
37 stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating
38 of external soft parts of the body with the hands or with the aid of any
39 mechanical apparatus or electrical apparatus or appliance. This paragraph
40 does not apply to:

41 (a) Persons who are licensed pursuant to title 32, chapter 7, 8,
42 13, 14 or 17.

43 (b) Registered nurses, licensed practical nurses or technicians who
44 are acting under the supervision of a physician who is licensed pursuant
45 to title 32, chapter 13 or 17.

1 (c) Registered nurse practitioners who are licensed pursuant to
2 title 32, chapter 15.

3 (d) Persons who are employed or acting as trainers for a bona fide
4 amateur, semiprofessional or professional athlete or athletic team.

5 (e) Persons who are licensed pursuant to title 32, chapter 3 or 5
6 if the activity is limited to the head, face or neck.

7 13. "Nude model studio":

8 (a) Means a place in which a person who appears in a state of nudity
9 or who displays specific anatomical areas is observed, sketched, drawn,
10 painted, sculptured, photographed or otherwise depicted by other persons
11 who pay money or other consideration. ~~Nude model studio~~

12 (b) Does not include a proprietary school that is licensed by this
13 state, a college, community college or university that is supported
14 entirely or in part by taxation, a private college or university that
15 maintains and operates educational programs in which credits are
16 transferable to a college, community college or university that is
17 supported entirely or in part by taxation or a structure to which the
18 following apply:

19 ~~(a)~~ (i) A sign is not visible from the exterior of the structure
20 and no other advertising appears indicating that a nude person is
21 available for viewing.

22 ~~(b)~~ (ii) A student must enroll at least three days in advance of a
23 class in order to participate.

24 ~~(c)~~ (iii) ~~No~~ NOT more than one nude or seminude model is on the
25 premises at any time.

26 14. "Nude", "nudity" or "state of nudity" means any of the
27 following:

28 (a) The appearance of a human anus, genitals or a female breast
29 below a point immediately above the top of the areola.

30 (b) A state of dress that fails to opaquely cover a human anus,
31 genitals or a female breast below a point immediately above the top of the
32 areola.

33 15. "Principal business purposes" means that a commercial
34 establishment derives fifty percent or more of its gross income from the
35 sale or rental of items listed in paragraph 2 of this subsection.

36 16. "Seminude" means a state of dress in which clothing covers no
37 more than the genitals, pubic region and female breast below a point
38 immediately above the top of the areola, as well as portions of the body
39 that are covered by supporting straps or devices.

40 17. "Specific anatomical areas" means any of the following:

41 (a) A human anus, genitals, the pubic region or a female breast
42 below a point immediately above the top of the areola that is less than
43 completely and opaquely covered.

44 (b) Male genitals in a discernibly turgid state even if completely
45 and opaquely covered.

1 18. "Specific sexual activities" means any of the following:

2 (a) Human genitals in a state of sexual stimulation or arousal.

3 (b) Sex acts, normal or perverted, actual or simulated, including
4 acts of human masturbation, sexual intercourse, oral copulation or sodomy.

5 (c) Fondling or other erotic touching of the human genitals, pubic
6 region, buttocks, anus or female breast.

7 (d) Excretory functions as part of or in connection with any of the
8 activities under subdivision (a), (b) or (c) of this paragraph.

9 Sec. 2. Section 11-812, Arizona Revised Statutes, is amended to
10 read:

11 11-812. Restriction on regulation; exceptions; aggregate
12 mining regulation; definitions

13 A. ~~Nothing contained in~~ Any ordinance authorized by this chapter
14 shall NOT:

15 1. Affect existing uses of property or the right to its continued
16 use or the reasonable repair or alteration of the property for the purpose
17 for which used at the time the ordinance affecting the property takes
18 effect.

19 2. Prevent, restrict or otherwise regulate the use or occupation of
20 land or improvements for railroad, mining, metallurgical, grazing or
21 general agricultural purposes, if the tract concerned is five or more
22 contiguous commercial acres. For the purposes of this paragraph:

23 (a) "General agricultural purposes" includes agritourism as defined
24 in section 3-111, but does not include any of the following:

25 (i) Food establishments **THAT ARE** under the authority of the
26 department of health services pursuant to section 36-136, subsection I **AND**
27 that are associated with an agritourism business.

28 (ii) Rodeo events that are open to the general public and that sell
29 tickets for admission. For the purposes of this item, rodeo events do not
30 include generally accepted agricultural practices associated with
31 livestock and equine operations.

32 (iii) The cultivation of cannabis as defined in section 13-3401 or
33 marijuana as defined in section 13-3401 or 36-2801.

34 (b) "Mining" has the same meaning prescribed in section 27-301.

35 3. Prevent, restrict or otherwise regulate the use or occupation of
36 land or improvements for agricultural composting, if the tract is five or
37 more contiguous commercial acres. An agricultural composting operation
38 shall notify in writing the board of supervisors and the nearest fire
39 department of the location of the composting operation. If the nearest
40 fire department is located in a city, town or fire district where the
41 agricultural composting is not located, the agricultural composting
42 operation shall also notify in writing the fire district in which the
43 operation is located. Agricultural composting is subject to sections
44 3-112 and 49-141. For the purposes of this paragraph, "agricultural

1 composting" has the same meaning prescribed in section 9-462.01,
2 subsection G.

3 4. Prevent, restrict or otherwise regulate the otherwise lawful
4 discharge of a firearm or air gun or use of archery equipment on a private
5 lot or parcel of land that is not open to the public on a commercial or
6 membership basis.

7 5. PREVENT, RESTRICT OR OTHERWISE REGULATE THE USE OR OCCUPATION OF
8 LAND OR IMPROVEMENTS ON LAND RELATED TO GRAY WATER THAT CONFORM TO THE
9 REQUIREMENTS OF SECTION 49-204, EXCEPT AS PROVIDED BY SECTION 49-204.

10 B. A nonconforming business use within a district may expand if the
11 expansion does not exceed one hundred ~~per cent~~ PERCENT of the area of the
12 original business.

13 C. For the purposes of subsection A, paragraph 2 of this section,
14 mining does not include aggregate mining operations in an aggregate mining
15 operations zoning district established pursuant to this section. The
16 board of supervisors of any county with a population of more than two
17 million persons shall designate and establish the boundaries of an
18 aggregate mining operations zoning district on the petition of at least
19 one hundred persons who reside within one-half mile of an existing
20 aggregate mining operation. In addition, the board of supervisors of any
21 county may establish, in its discretion and on the board's initiative, one
22 or more aggregate mining operations zoning districts. Aggregate mining
23 operations zoning districts may only be located in areas that are
24 inventoried and mapped as areas of known reserves or in areas with
25 existing aggregate mining operations. Subject to subsections E and F of
26 this section, a county and the state mine inspector may jointly adopt, as
27 internal administrative regulations, reasonable aggregate mining
28 operations zoning district standards limited to permitted uses, procedures
29 for approval of property development plans and site development standards
30 for dust control, height regulations, setbacks, days and hours of
31 operation, off-street parking, screening, noise, vibration and air
32 pollution control, signs, roadway access lanes, arterial highway
33 protection and property reclamation for which aggregate mining operations
34 are not otherwise subject to federal, state or local regulation or a
35 governmental contractual obligation. Regulations THAT ARE jointly adopted
36 pursuant to this subsection by the county and the state mine inspector
37 shall not prohibit the activities included in the definition of mine
38 pursuant to section 27-301, paragraph 8 or duplicate, conflict with or be
39 more stringent than applicable federal, state or local laws.

40 D. The board of supervisors of any county that establishes an
41 aggregate mining operations zoning district shall appoint an aggregate
42 mining operations recommendation committee for the district. The
43 committee consists of not more than seven operators, or representatives of
44 operators, of active aggregate mining operations in any district within
45 the county and an equal number of private citizens, who are not operators,

1 who are not employed by operators and who do not represent operators,
2 residing within three miles of the boundaries of aggregate mining
3 operations or a proposed aggregate mining operation in the district for
4 which the committee is established. The initial members appointed to the
5 committee shall be deemed the primary members, and the board of
6 supervisors shall appoint not more than five alternate members who
7 represent operators and shall appoint not more than five alternate members
8 who are private citizens. Alternate members may serve at meetings of the
9 committee when a primary member is unable to attend. An aggregate mining
10 operator may serve on more than one committee in the same county. The
11 board of supervisors shall determine the length of terms of members of the
12 committee and shall stagger the initial appointments so that not all
13 members' terms expire at the same time. Members of the committee who no
14 longer qualify for membership as provided by this subsection are subject
15 to removal and replacement by the board of supervisors. The committee
16 shall elect a member who is an aggregate mining operator to serve as
17 chairperson for the first year in which the committee is created. For
18 each year thereafter, the chairperson shall be elected by the members of
19 the committee with a member who is a private citizen and a member who is
20 an aggregate mining operator serving as chairperson in alternate years.
21 The committee is subject to the open meeting requirements of title 38,
22 chapter 3, article 3.1.

23 E. Within ninety days after an aggregate mining operations
24 recommendation committee is established, the committee shall notify all
25 existing aggregate mining operators in the district of the application of
26 this section and title 27, chapter 3, article 6 to the aggregate mining
27 operation. In addition, the committee shall:

28 1. By a majority vote of all members make recommendations to the
29 board of supervisors for aggregate mining zoning districts and
30 administrative regulations as provided in this section. The board of
31 supervisors may adopt or reject the recommendations but may not make any
32 modifications to the recommendations unless the modification is approved
33 by a majority of the members of the recommendation committee.

34 2. Serve as a forum for mediation of disputes between members of
35 the public and aggregate mining owners or operators. If the committee is
36 unable to resolve a dispute, the committee shall transmit the matter to
37 the state mine inspector, with written findings and recommendations, for
38 further action.

39 3. Hear written complaints filed with the state mine inspector
40 regarding alleged material deviations from approved community notices for
41 aggregate mining operations and make written recommendations to the state
42 mine inspector pursuant to section 27-446.

1 F. Any administrative regulations adopted by a board of supervisors
2 pursuant to this section are not effective until the regulations are
3 approved by the state mine inspector. The STATE MINE inspector may
4 disapprove the administrative regulations adopted by the board of
5 supervisors only if they duplicate, conflict with or are more stringent
6 than applicable federal, state or local laws, rules or regulations. If
7 the STATE MINE inspector disapproves the administrative regulations, the
8 STATE MINE inspector must provide written reasons for the disapproval.
9 The STATE MINE inspector shall not make any modification to the
10 administrative regulations as adopted by the board of supervisors unless
11 the modification is approved by a majority of the members of the board of
12 supervisors.

13 G. A person or entity is subject to this chapter if the use or
14 occupation of land or improvements by the person or entity consists of or
15 includes changing, remanufacturing or treating human sewage or sludge for
16 distribution or resale. These activities are not exempt from this chapter
17 under subsection A, paragraph 2 of this section.

18 H. A county shall not require as a condition for a permit or for
19 any approval, or otherwise cause, an owner or possessor of property to
20 waive the right to continue an existing nonconforming outdoor advertising
21 use or structure without acquiring the use or structure by purchase or
22 condemnation and paying just compensation unless the county, at its
23 option, allows the use or structure to be relocated to a comparable site
24 in the county with the same or a similar zoning classification, or to
25 another site in the county acceptable to both the county and the owner of
26 the use or structure, and the use or structure is relocated to the other
27 site. The county shall pay for relocating the outdoor advertising use or
28 structure, including the cost of removing and constructing the new use or
29 structure that is at least the same size and height. This subsection does
30 not apply to county rezoning of property at the request of the property
31 owner to a more intensive zoning district.

32 I. For the purposes of this section:

33 1. "Aggregate" has the same meaning prescribed in section 27-441.

34 2. "Aggregate mining" has the same meaning prescribed in section
35 27-441.

36 3. "Aggregate mining operation" means property that is owned,
37 operated or managed by the same person for aggregate mining.

38 4. "Operators" means persons who are actively engaged in aggregate
39 mining operations within the zoning district or proposed zoning district
40 and who have given notice to the state mine inspector pursuant to section
41 27-303.

1 Sec. 3. Section 11-815, Arizona Revised Statutes, is amended to
2 read:

3 11-815. Enforcement; county zoning inspector; deputies;
4 building permits; violations; classification; civil
5 penalties; hearing officers and procedures

6 A. The county zoning ordinance shall provide for its enforcement
7 within a zoned territory by means of withholding building permits, and for
8 those purposes may establish the position of county zoning inspector and
9 deputy inspectors as may be required, who shall be appointed by the board.

10 B. After ~~the establishment~~ ESTABLISHING and filling ~~of~~ the
11 position, it is unlawful to erect, construct, reconstruct, alter or use
12 any building or other structure within a zoning district covered by the
13 ordinance without first obtaining a building permit from the inspector,
14 and for that purpose the applicant shall provide the zoning inspector with
15 a sketch of the proposed construction containing sufficient information
16 for the enforcement of the zoning ordinance. A permit is not required for
17 repairs or improvements of a value OF not ~~exceeding five hundred dollars~~
18 MORE THAN \$500 OR FOR CONSTRUCTING A GRAY WATER SYSTEM THAT COMPLIES WITH
19 SECTION 49-204. Reasonable fees may be charged for the issuance of a
20 permit. The inspector shall recognize the limitations placed on the
21 inspector's authority by sections 11-804 and 11-811, and shall issue the
22 permit when it appears that the proposed erection, construction,
23 reconstruction, alteration or use fully conforms to the zoning ordinance.
24 In any other case the inspector shall withhold the permit.

25 C. It is unlawful to erect, construct, reconstruct, maintain or use
26 any land in any zoning district in violation of any regulation or any
27 ordinance pertaining to the land and any violation constitutes a public
28 nuisance. Any person, firm or corporation violating an ordinance, or any
29 part of an ordinance, is guilty of a class 2 misdemeanor. Each day during
30 which the illegal erection, construction, reconstruction, alteration,
31 maintenance or use continues is a separate offense.

32 D. A county may establish civil penalties for a violation of any
33 zoning regulation or ordinance. Civil penalties shall not exceed the
34 amount of the maximum fine for a class 2 misdemeanor. Each day of
35 continuance of the violation constitutes a separate violation. If an
36 alleged violator is served with a notice of violation pursuant to
37 subsection E of this section, the alleged violator is not subject to a
38 criminal charge arising out of the same facts.

39 E. A county that establishes a civil penalty for a violation of a
40 zoning regulation or ordinance may appoint hearing officers to hear and
41 determine zoning violations. If the zoning inspector reports a zoning
42 violation to the hearing officer, the hearing officer shall hold a hearing
43 after notice of the hearing has been served on the alleged violator. The
44 zoning inspector shall cause the notice to be personally served on the
45 alleged violator at least five days before the hearing. Personal service

1 may be made by ~~a zoning~~ AN inspector or by any person authorized to
 2 perform personal service by the Arizona rules of civil procedure. If it
 3 is impracticable for the ~~zoning~~ inspector to cause the notice to be
 4 personally served, the notice may be served in the same manner prescribed
 5 for alternative methods of service by the Arizona rules of civil
 6 procedure. A notice served on the alleged violator other than by personal
 7 service shall be served at least thirty days before the hearing. For the
 8 purposes of this subsection, "impracticable" includes service of the
 9 notice outside the boundaries of the county or in situations in which the
 10 hearing officer reasonably determines that personal service on the alleged
 11 violator would jeopardize the safety of the ~~zoning~~ inspector or other
 12 persons authorized to perform personal service by the Arizona rules of
 13 civil procedure.

14 F. At the hearing, the ~~zoning~~ inspector shall present evidence
 15 showing the existence of a zoning violation and the alleged violator or
 16 the alleged violator's attorney or other designated representative shall
 17 be given a reasonable opportunity to present evidence. The county
 18 attorney may present evidence on behalf of the ~~zoning~~ inspector. At the
 19 conclusion of the hearing, the hearing officer shall determine whether a
 20 zoning violation exists and, if a violation is found to exist, may impose
 21 civil penalties pursuant to subsection D of this section.

22 G. A hearing officer may be an employee of the county and shall be
 23 appointed by the board of supervisors. A review of decisions of the
 24 hearing officer by the board of supervisors shall be available to any
 25 party to the hearing. The board of supervisors may delegate this review
 26 to a county board of adjustment. If the board of supervisors elects to
 27 delegate this review, the board of supervisors shall delegate all
 28 requested reviews to the board of adjustment. The board of supervisors
 29 shall adopt written rules of procedure for the hearing and review of
 30 hearings, which shall be adopted in the same manner as zoning ordinances.
 31 Judicial review of the final decisions of the board of supervisors or a
 32 board of adjustment shall be pursuant to title 12, chapter 7, article 6.
 33 A county that establishes civil penalties for a violation of a zoning
 34 regulation or ordinance is not precluded from pursuing the remedies ~~as~~
 35 ~~provided for~~ in subsection H of this section.

36 H. If any building or structure is or is proposed to be erected,
 37 constructed, reconstructed, altered, maintained or used or any land is or
 38 is proposed to be used in violation of this chapter or any ordinance,
 39 regulation or provision enacted or adopted by the board under the
 40 authority granted by this chapter, the board, the county attorney, the
 41 inspector or any adjacent or neighboring property owner who is specially
 42 damaged by the violation, in addition to the other remedies provided by
 43 law, may institute injunction, mandamus, abatement or any other
 44 appropriate action or proceedings to prevent, abate or remove the unlawful
 45 erection, construction, reconstruction, alteration, maintenance or use.

1 Sec. 4. Section 49-201, Arizona Revised Statutes, is amended to
2 read:

3 49-201. Definitions

4 In this chapter, unless the context otherwise requires:

5 1. "Administrator" means the administrator of the United States
6 environmental protection agency.

7 2. "Aquifer" means a geologic unit that contains sufficient
8 saturated permeable material to yield usable quantities of water to a well
9 or spring.

10 3. "Best management practices" means those methods, measures or
11 practices to prevent or reduce discharges and includes structural and
12 nonstructural controls and operation and maintenance procedures. Best
13 management practices may be applied before, during and after discharges to
14 reduce or eliminate the introduction of pollutants into receiving waters.
15 Economic, institutional and technical factors shall be considered in
16 developing best management practices.

17 4. "CERCLA" means the comprehensive environmental response,
18 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.
19 2767; 42 United States Code sections 9601 through 9657), commonly known as
20 "superfund".

21 5. "Clean closure" means implementation of all actions specified in
22 an aquifer protection permit, if any, as closure requirements, as well as
23 elimination, to the greatest degree practicable, of any reasonable
24 probability of further discharge from the facility and of either exceeding
25 aquifer water quality standards at the applicable point of compliance or,
26 if an aquifer water quality standard is exceeded at the time the permit is
27 issued, causing further degradation of the aquifer at the applicable point
28 of compliance as provided in section 49-243, subsection B, paragraph 3.
29 Clean closure also means postclosure monitoring and maintenance are
30 unnecessary to meet the requirements in an aquifer protection permit.

31 6. "Clean water act" means the federal water pollution control act
32 amendments of 1972 (P.L. 92-500; 86 Stat. 816; 33 United States Code
33 sections 1251 through 1376), as amended.

34 7. "Closed facility" means:

35 (a) A facility that ceased operation before January 1, 1986, that
36 is not, on August 13, 1986, engaged in the activity for which the facility
37 was designed and that was previously operated and for which there is no
38 intent to resume operation.

39 (b) A facility that has been approved as a clean closure by the
40 director.

41 (c) A facility at which any postclosure monitoring and maintenance
42 plan, notifications and approvals required in a permit have been
43 completed.

1 8. "COMPOSTING TOILET" MEANS A MANUFACTURED OR CONSTRUCTED
2 TREATMENT TECHNOLOGY THAT RECEIVES HUMAN WASTE FROM A WATERLESS TOILET
3 DIRECTLY INTO AN AEROBIC COMPOSTING CHAMBER IN WHICH DEHYDRATION AND
4 BIOLOGICAL ACTIVITY REDUCE THE WASTE VOLUME, NUTRIENT CONTENT AND HARMFUL
5 MICROORGANISMS TO AN APPROPRIATE LEVEL FOR LATER DISPOSAL.

6 ~~8.~~ 9. "Concentrated animal feeding operation" means an animal
7 feeding operation that meets the criteria prescribed in 40 Code of Federal
8 Regulations part 122, appendix B for determining a concentrated animal
9 feeding operation for purposes of 40 Code of Federal Regulations sections
10 122.23 and 122.24, appendix C.

11 ~~9.~~ 10. "Department" means the department of environmental quality.

12 ~~10.~~ 11. "Direct reuse" means the beneficial use of reclaimed water
13 for specific purposes authorized pursuant to section 49-203, subsection A,
14 paragraph 7.

15 ~~11.~~ 12. "Director" means the director of environmental quality or
16 the director's designee.

17 ~~12.~~ 13. "Discharge" means the direct or indirect addition of any
18 pollutant to the waters of the state from a facility. For purposes of the
19 aquifer protection permit program prescribed by article 3 of this chapter,
20 discharge means the addition of a pollutant from a facility either
21 directly to an aquifer or to the land surface or the vadose zone in such a
22 manner that there is a reasonable probability that the pollutant will
23 reach an aquifer.

24 ~~13.~~ 14. "Discharge impact area" means the potential areal extent
25 of pollutant migration, as projected on the land surface, as the result of
26 a discharge from a facility.

27 ~~14.~~ 15. "Discharge limitation" means any restriction, prohibition,
28 limitation or criteria established by the director, through a rule, permit
29 or order, on quantities, rates, concentrations, combinations, toxicity and
30 characteristics of pollutants.

31 ~~15.~~ 16. "Effluent-dependent water" means a surface water or
32 portion of a surface water that consists of a point source discharge
33 without which the surface water would be ephemeral. An effluent-dependent
34 water may be perennial or intermittent depending on the volume and
35 frequency of the point source discharge of treated wastewater.

36 ~~16.~~ 17. "Environment" means WOTUS, any other surface waters,
37 groundwater, drinking water supply, land surface or subsurface strata or
38 ambient air, within or bordering on this state.

39 ~~17.~~ 18. "Ephemeral water" means a surface water or portion of
40 surface water that flows or pools only in direct response to
41 precipitation.

42 ~~18.~~ 19. "Existing facility" means a facility on which construction
43 began before August 13, 1986 and that is neither a new facility nor a
44 closed facility. For the purposes of this definition, construction on a
45 facility has begun if the facility owner or operator has either:

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

4 (b) Entered a binding contractual obligation to purchase a
5 building, structure or equipment that is intended to be used in its
6 operation within a reasonable time. Options to purchase or contracts that
7 can be terminated or modified without substantial loss, and contracts for
8 feasibility engineering and design studies, do not constitute a
9 contractual obligation for purposes of this definition.

10 ~~19.~~ 20. "Facility" means any land, building, installation,
11 structure, equipment, device, conveyance, area, source, activity or
12 practice from which there is, or with reasonable probability may be, a
13 discharge.

14 ~~20.~~ 21. "Gray water":

15 (a) Means wastewater that has been collected separately from a
16 sewage flow and that originates from a clothes washer, ~~or a~~ bathroom tub,
17 BATHROOM shower, ~~or~~ BATHROOM sink, DISHWASHER OR KITCHEN SINK THAT DOES
18 NOT INCLUDE A GARBAGE DISPOSAL. ~~but that~~

19 (b) Does not include wastewater from a kitchen sink THAT INCLUDES A
20 GARBAGE DISPOSAL, ~~dishwasher~~ or FROM A FLUSH toilet OR WASTEWATER
21 CONTAMINATED BY SOILED DIAPERS.

22 ~~21.~~ 22. "Hazardous substance" means:

23 (a) Any substance designated pursuant to sections 311(b)(2)(A) and
24 307(a) of the clean water act.

25 (b) Any element, compound, mixture, solution or substance
26 designated pursuant to section 102 of CERCLA.

27 (c) Any hazardous waste having the characteristics identified under
28 or listed pursuant to section 49-922.

29 (d) Any hazardous air pollutant listed under section 112 of the
30 federal clean air act (42 United States Code section 7412).

31 (e) Any imminently hazardous chemical substance or mixture with
32 respect to which the administrator has taken action pursuant to section 7
33 of the federal toxic substances control act (15 United States Code section
34 2606).

35 (f) Any substance that the director, by rule, either designates as
36 a hazardous substance following the designation of the substance by the
37 administrator under the authority described in subdivisions (a) through
38 (e) of this paragraph or designates as a hazardous substance on the basis
39 of a determination that such substance represents an imminent and
40 substantial endangerment to public health.

41 ~~22.~~ 23. "Inert material":

42 (a) Means broken concrete, asphaltic pavement, manufactured
43 asbestos-containing products, brick, rock, gravel, sand and soil. ~~inert~~
44 ~~material also~~

1 (b) Includes material that when subjected to a water leach test
2 that is designed to approximate natural infiltrating waters will not leach
3 substances in concentrations that exceed numeric aquifer water quality
4 standards established pursuant to section 49-223, including overburden and
5 wall rock that is not acid generating, taking into consideration acid
6 neutralization potential, and that has not and will not be subject to mine
7 leaching operations.

8 ~~23.~~ 24. "Intermittent water" means a surface water or portion of
9 surface water that flows continuously during certain times of the year and
10 more than in direct response to precipitation, such as when it receives
11 water from a spring, ~~AN~~ elevated groundwater table or another surface
12 source, such as melting snowpack.

13 ~~24.~~ 25. "Major modification" means a physical change in an
14 existing facility or a change in its method of operation that results in a
15 significant increase or adverse alteration in the characteristics or
16 volume of the pollutants discharged, or the addition of a process or major
17 piece of production equipment, building or structure that is physically
18 separated from the existing operation and that causes a discharge,
19 provided that:

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

25 (b) For a groundwater protection permit facility as defined in
26 section 49-241.01, subsection C, a physical expansion that is accomplished
27 by lateral accretion or upward expansion within the pollutant management
28 area of the existing facility or group of facilities shall not constitute
29 a major modification if the accretion or expansion is accomplished through
30 sound engineering practice in a manner compatible with existing facility
31 design, taking into account safety, stability and risk of environmental
32 release. For a facility described in section 49-241.01, subsection C,
33 paragraph 1, expansion of a facility shall conform with the terms and
34 conditions of the applicable permit. For a facility described in section
35 49-241.01, subsection C, paragraph 2, if the area of the contemplated
36 expansion is not identified in the notice of disposal, the owner or
37 operator of the facility shall submit to the director the information
38 required by section 49-243, subsection A, paragraphs 1, 2, 3 and 7.

39 ~~25.~~ 26. "New facility" means a previously closed facility that
40 resumes operation or a facility on which construction was begun after
41 August 13, 1986 on a site at which no other facility is located or to
42 totally replace the process or production equipment that causes the
43 discharge from an existing facility. A major modification to an existing
44 facility is deemed a new facility to the extent that the criteria in
45 section 49-243, subsection B, paragraph 1 can be practicably applied to

1 such modification. For the purposes of this definition, construction on a
2 facility has begun if the facility owner or operator has either:

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

6 (b) Entered a binding contractual obligation to purchase a
7 building, structure or equipment that is intended to be used in its
8 operation within a reasonable time. Options to purchase or contracts that
9 can be terminated or modified without substantial loss, and contracts for
10 feasibility engineering and design studies, do not constitute a
11 contractual obligation for purposes of this definition.

12 ~~26.~~ 27. "Nonpoint source" means any conveyance that is not a point
13 source from which pollutants are or may be discharged to WOTUS.

14 ~~27.~~ 28. "Non-WOTUS protected surface water" means a protected
15 surface water that is not a WOTUS.

16 ~~28.~~ 29. "Non-WOTUS waters of the state" means waters of the state
17 that are not WOTUS.

18 ~~29.~~ 30. "On-site wastewater treatment facility":

19 (a) Means a conventional septic tank system or alternative system
20 that is installed at a site to treat and dispose of wastewater of
21 predominantly human origin that is generated at that site.

22 (b) DOES NOT INCLUDE A SYSTEM THAT IS INSTALLED AT A SITE TO TREAT
23 AND DISPOSE OF GRAY WATER.

24 ~~30.~~ 31. "Ordinary high watermark" means the line on the shore of
25 an intermittent or perennial protected surface water established by the
26 fluctuations of water and indicated by physical characteristics such as a
27 clear, natural line impressed on the bank, shelving, changes in the
28 character of soil, destruction of terrestrial vegetation, the presence of
29 litter and debris or other appropriate means that consider the
30 characteristics of the channel, floodplain and riparian area.

31 ~~31.~~ 32. "Perennial water" means a surface water or portion of
32 surface water that flows continuously throughout the year.

33 ~~32.~~ 33. "Permit" means a written authorization issued by the
34 director or prescribed by this chapter or in a rule adopted under this
35 chapter stating the conditions and restrictions governing a discharge or
36 governing the construction, operation or modification of a facility. For
37 the purposes of regulating non-WOTUS protected surface waters, a permit
38 shall not include provisions governing the construction, operation or
39 modification of a facility except as necessary for the purpose of ensuring
40 that a discharge meets water quality-related effluent limitations or to
41 require best management practices for the purpose of ensuring that a
42 discharge does not cause an exceedance of an applicable surface water
43 quality standard.

1 ~~33.~~ 34. "Person" means an individual, employee, officer, managing
2 body, trust, firm, joint stock company, consortium, public or private
3 corporation, including a government corporation, partnership, association
4 or state, a political subdivision of this state, a commission, the United
5 States government or any federal facility, interstate body or other
6 entity.

7 ~~34.~~ 35. "Point source":

8 (a) Means any discernible, confined and discrete conveyance,
9 including any pipe, ditch, channel, tunnel, conduit, well, discrete
10 fissure, container, rolling stock, concentrated animal feeding operation
11 or vessel or other floating craft from which pollutants are or may be
12 discharged to WOTUS or protected surface water. ~~Point source~~

13 (b) Does not include return flows from irrigated agriculture.

14 ~~35.~~ 36. "Pollutant" means fluids, contaminants, toxic wastes,
15 toxic pollutants, dredged spoil, solid waste, substances and chemicals,
16 pesticides, herbicides, fertilizers and other agricultural chemicals,
17 incinerator residue, sewage, garbage, sewage sludge, munitions, petroleum
18 products, chemical wastes, biological materials, radioactive materials,
19 heat, wrecked or discarded equipment, rock, sand, cellar dirt and mining,
20 industrial, municipal and agricultural wastes or any other liquid, solid,
21 gaseous or hazardous substances.

22 ~~36.~~ 37. "Postclosure monitoring and maintenance" means those
23 activities that are conducted after closure notification and that are
24 necessary to:

25 (a) Keep the facility in compliance with either the aquifer water
26 quality standards at the applicable point of compliance or, for any
27 aquifer water quality standard that is exceeded at the time the aquifer
28 protection permit is issued, the requirement to prevent the facility from
29 further degrading the aquifer at the applicable point of compliance as
30 provided under section 49-243, subsection B, paragraph 3.

31 (b) Verify that the actions or controls specified as closure
32 requirements in an approved closure plan or strategy are routinely
33 inspected and maintained.

34 (c) Perform any remedial, mitigative or corrective actions or
35 controls as specified in the aquifer protection permit or perform
36 corrective action as necessary to comply with this paragraph and article 3
37 of this chapter.

38 (d) Meet property use restrictions.

39 ~~37.~~ 38. "Practicably" means able to be reasonably done from the
40 standpoint of technical practicability and, except for pollutants
41 addressed in section 49-243, subsection I, economically achievable on an
42 industry-wide basis.

43 ~~38.~~ 39. "Protected surface waters" means waters of the state
44 listed on the protected surface waters list under section 49-221,
45 subsection G and all WOTUS.

~~39.~~ 40. "Public waters" means waters of the state open to or managed for use by members of the general public.

~~40.~~ 41. "Recharge project" means a facility necessary or convenient to obtain, divert, withdraw, transport, exchange, deliver, treat or store water to infiltrate or reintroduce that water into the ground.

~~41.~~ 42. "Reclaimed water" means water that has been treated or processed by a wastewater treatment plant or an on-site wastewater treatment facility.

~~42.~~ 43. "Regulated agricultural activity" means the application of nitrogen fertilizer or a concentrated animal feeding operation.

~~43.~~ 44. "Safe drinking water act" means the federal safe drinking water act, as amended (P.L. 93-523; 88 Stat. 1660; 95-190; 91 Stat. 1393).

~~44.~~ 45. "Standards" means water quality standards, pretreatment standards and toxicity standards established pursuant to this chapter.

~~45.~~ 46. "Standards of performance" means performance standards, design standards, best management practices, technologically based standards and other standards, limitations or restrictions established by the director by rule or by permit condition.

~~46.~~ 47. "Tank" means a stationary device, including a sump, that is constructed of concrete, steel, plastic, fiberglass, or other non-earthen material that provides substantial structural support, and that is designed to contain an accumulation of solid, liquid or gaseous materials.

~~47.~~ 48. "Toxic pollutant" means a substance that will cause significant adverse reactions if ingested in drinking water. Significant adverse reactions are reactions that may indicate a tendency of a substance or mixture to cause long lasting or irreversible damage to human health.

~~48.~~ 49. "Trade secret" means information to which all of the following apply:

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

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

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

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

~~49.~~ 50. "Vadose zone" means the zone between the ground surface and any aquifer.

1 ~~50.~~ 51. "Waters of the state" means all waters within the
2 jurisdiction of this state including all perennial or intermittent
3 streams, lakes, ponds, impounding reservoirs, marshes, watercourses,
4 waterways, wells, aquifers, springs, irrigation systems, drainage systems
5 and other bodies or accumulations of surface, underground, natural,
6 artificial, public or private water situated wholly or partly in or
7 bordering on the state.

8 ~~51.~~ 52. "Well" means a bored, drilled or driven shaft, pit or hole
9 whose depth is greater than its largest surface dimension.

10 ~~52.~~ 53. "Wetland" means, for the purposes of non-WOTUS protected
11 surface waters, an area that is inundated or saturated by surface or
12 groundwater at a frequency and duration sufficient to support, and under
13 normal conditions does support, a prevalence of vegetation typically
14 adapted for life in saturated soil conditions.

15 ~~53.~~ 54. "WOTUS" means waters of the state that are also navigable
16 waters as defined by section 502(7) of the clean water act.

17 ~~54.~~ 55. "WOTUS protected surface water" means a protected surface
18 water that is a WOTUS.

19 Sec. 5. Section 49-204, Arizona Revised Statutes, is amended to
20 read:

21 49-204. Gray water reuse; residential standards; toilet
22 flushing; rules; landscape watering

23 A. A city, town or county may not limit the use of gray water by
24 rule or ordinance unless, in an initial active management area that has a
25 groundwater management goal of safe yield and that does not contain a part
26 of the central Arizona project aqueduct, effluent has been included in an
27 assured water supply determination pursuant to section 45-576 and the use
28 of gray water would reduce the volume of effluent available to satisfy
29 assured water supply requirements applicable to that determination.

30 B. For residential gray water treatment systems that are used
31 indoors for toilet flushing, the director may establish by rule minimum
32 requirements that are necessary specifically to address public health or
33 safety concerns.

34 C. Until rules are adopted pursuant to subsection B of this
35 section, residential gray water may be used indoors for toilet flushing
36 with a gray water treatment system that complies with all of the
37 following:

- 38 1. Uses less than four hundred gallons of gray water per day.
- 39 2. Is certified to meet standard 350 for residential gray water
40 recycling that is issued by a national sanitary foundation and an American
41 national standards institute.
- 42 3. Reasonably precludes human contact with gray water.
- 43 4. Provides a dedicated piping system that supplies only treated
44 gray water to the toilet flushing facilities.

1 5. Provides gray water for toilet flushing only if the system is
2 properly functioning.

3 D. Any residential gray water treatment system that is installed
4 after the effective date of rules adopted pursuant to subsection B of this
5 section and that includes the use of gray water for indoor toilet flushing
6 shall meet the minimum requirements that are established by those rules.

7 E. NOTWITHSTANDING ANY OTHER LAW, A PERSON MAY USE OR DISCHARGE
8 GRAY WATER AT A PRIVATE RESIDENCE IF ALL OF THE FOLLOWING APPLY:

9 1. THE TOTAL GRAY WATER FLOW IS FOUR HUNDRED GALLONS PER DAY OR
10 LESS.

11 2. GRAY WATER ORIGINATING FROM THE RESIDENCE IS USED AND CONTAINED
12 WITHIN THE PROPERTY BOUNDARY FOR HOUSEHOLD GARDENING, COMPOSTING OR
13 LANDSCAPE WATERING.

14 3. HUMAN CONTACT WITH GRAY WATER AND SOIL WATERED BY GRAY WATER IS
15 AVOIDED.

16 4. SURFACE APPLICATION OF GRAY WATER IS NOT USED FOR WATERING OF
17 FOOD PLANTS, EXCEPT FOR TREES AND SHRUBS THAT HAVE AN EDIBLE PORTION THAT
18 DOES NOT COME INTO CONTACT WITH THE GRAY WATER.

19 5. THE GRAY WATER DOES NOT CONTAIN HAZARDOUS CHEMICALS, INCLUDING
20 THOSE DERIVED FROM CLEANING CAR PARTS, WASHING GREASY OR OILY RAGS OR
21 DISPOSING OF WASTE SOLUTIONS FROM HOBBYIST OR HOME OCCUPATIONAL
22 ACTIVITIES.

23 6. THE GRAY WATER DOES NOT CONTAIN WATER USED TO WASH DIAPERS OR
24 SIMILAR SOILED OR INFECTIOUS GARMENTS.

25 7. GRAY WATER APPLICATION IS MANAGED TO MINIMIZE STANDING WATER ON
26 THE SURFACE AND THE WATER USER EMPLOYS BEST PRACTICES TO IMPROVE SOIL
27 CONDITION AND INCREASE FILTRATION.

28 8. THE WATER USER CEASES GRAY WATER USE IF THE SYSTEM FAILS TO
29 OPERATE PROPERLY.

30 9. THE WATER USER RESTRICTS ACCESS TO ANY GRAY WATER SURGE TANKS
31 WITH A COVERING OR LID AND HOLDING TIME IS MINIMIZED TO AVOID DEVELOPMENT
32 OF ANAEROBIC CONDITIONS AND ODORS.

33 10. THE GRAY WATER SYSTEM IS SITED OUTSIDE OF A FLOODWAY.

34 11. THE GRAY WATER SYSTEM IS OPERATED TO MAINTAIN A MINIMUM
35 VERTICAL SEPARATION DISTANCE OF AT LEAST FIVE FEET FROM THE POINT OF GRAY
36 WATER APPLICATION TO THE TOP OF THE SEASONALLY HIGH GROUNDWATER TABLE.

37 12. ANY PRESSURE PIPING USED IN THE GRAY WATER SYSTEM THAT MAY BE
38 SUSCEPTIBLE TO CROSS CONNECTION WITH A POTABLE WATER SYSTEM CLEARLY
39 INDICATES THE PIPING DOES NOT CARRY POTABLE WATER.

40 13. THE WATER USER APPLIES GRAY WATER TO A SURFACE ONLY BY FLOOD OR
41 DRIP DISTRIBUTION. FOR THE PURPOSES OF THIS PARAGRAPH FLOOD DISTRIBUTION
42 MAY INCLUDE CONTAINMENT BY HORTICULTURAL MULCH BASINS AND SWALES.

43 F. THE DEPARTMENT OR A COUNTY, CITY, TOWN OR OTHER POLITICAL
44 SUBDIVISION OF THIS STATE MAY NOT REQUIRE A NOTICE OR PERMIT, INCLUDING
45 ANY PERMIT ISSUED PURSUANT TO THIS CHAPTER, FOR THE USE OR DISCHARGE OF

1 GRAY WATER IF THE GRAY WATER USE IS CONSISTENT WITH SUBSECTION E OF THIS
2 SECTION.

3 G. THE DEPARTMENT OR A COUNTY, CITY, TOWN OR OTHER POLITICAL
4 SUBDIVISION OF THIS STATE MAY NOT REQUIRE A PRIVATE RESIDENCE TO CONNECT
5 TO AN ON-SITE WASTEWATER TREATMENT FACILITY OR OUTSIDE SEWAGE SYSTEM OR
6 REQUIRE ANY RELATED PERMITS OR NOTICES IF ALL OF THE FOLLOWING APPLY:

7 1. THE RESIDENCE USES GRAY WATER PURSUANT TO SUBSECTION E OF THIS
8 SECTION.

9 2. ALL TOILETS AT THE RESIDENCE ARE COMPOSTING TOILETS.

10 3. ALL KITCHEN SINKS IN THE RESIDENCE DO NOT HAVE A GARBAGE
11 DISPOSAL.

12 H. THE DEPARTMENT OR A COUNTY, CITY, TOWN OR OTHER POLITICAL
13 SUBDIVISION OF THIS STATE MAY NOT PROHIBIT A PERSON FROM INSTALLING A
14 COMPOSTING TOILET ON ANY PROPERTY IN WHICH ALL OF THE FOLLOWING APPLY:

15 1. THE PROPERTY IS LOCATED IN AN UNINCORPORATED AREA OF A COUNTY
16 WITH A ZONING CLASSIFICATION THAT ALLOWS FOR THE CONSTRUCTION OF A PRIVATE
17 RESIDENCE.

18 2. THE PROPERTY IS LOCATED ON A LOT OF TWO ACRES OR LARGER.

19 3. THE PROPERTY IS NOT DIRECTLY ADJACENT TO A CITY OR TOWN.

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

22 49-701. Definitions

23 In this chapter, unless the context otherwise requires:

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

28 2. "Administrator" means the administrator of the United States
29 environmental protection agency.

30 3. "Advanced recycling":

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

39 (b) Does not include solid waste management, processing,
40 incineration or treatment.

41 4. "Advanced recycling facility":

42 (a) Means a facility that receives, stores and converts post-use
43 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~~ **IF** unencapsulated use of CCR ~~involving~~ **INVOLVES** placement
17 of 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.

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

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

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

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

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

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

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

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

25 (b) Includes both new and existing units, unless otherwise
26 specified.

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

30 14. "Construction debris" means solid waste derived from the
31 construction, repair or remodeling of buildings or other structures.

32 15. "County" means:

33 (a) The board of supervisors in the context of the exercise of
34 powers or duties.

35 (b) The unincorporated areas in the context of area of
36 jurisdiction.

37 16. "Demolition debris" means solid waste derived from the
38 demolition of buildings or other structures.

39 17. "Depolymerization" means a manufacturing process through which
40 post-use polymers are broken into smaller molecules such as monomers and
41 oligomers or raw, intermediate or final products, plastics and chemical
42 feedstocks, basic and unfinished chemicals, crude oil, naphtha, liquid
43 transportation fuels, waxes, lubricants, coatings and other basic
44 hydrocarbons.

45 18. "Discharge" has the same meaning prescribed in section 49-201.

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

9 20. "Existing CCR surface impoundment" means a CCR surface
10 impoundment that meets one of the following conditions:

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

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

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

23 22. "Facility plan" means any design or operating plan for a solid
24 waste facility or group of solid waste facilities other than a permit
25 issued under article 11 of this chapter.

26 23. "40 C.F.R. part 257, subparts A and B" means 40 Code of Federal
27 Regulations part 257, subparts A and B in effect on May 1, 2004.

28 24. "40 C.F.R. part 258" means 40 Code of Federal Regulations part
29 258 in effect on May 1, 2004.

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

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

41 27. "Household waste":

42 (a) Means any solid waste, including garbage, rubbish and sanitary
43 waste from septic tanks, that is generated from households, including
44 single and multiple-family residences, hotels and motels, bunkhouses,

1 ranger stations, crew quarters, campgrounds, picnic grounds and day use
2 recreation areas.

3 (b) Does not include construction debris, landscaping rubble or
4 demolition debris.

5 28. "Inert material":

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

7 (i) Is not flammable.

8 (ii) Will not decompose.

9 (iii) Will not leach substances in concentrations that exceed
10 applicable aquifer water quality standards prescribed by section 49-201,
11 paragraph ~~22~~ 23 when subjected to a water leach test that is designed to
12 approximate natural infiltrating waters.

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

15 (c) Does not include special waste, hazardous waste, glass or other
16 metal.

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

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

21 31. "Lateral expansion" means, for the purposes of the coal
22 combustion residuals program established pursuant to article 11 of this
23 chapter, a horizontal expansion of the waste boundaries of an existing CCR
24 landfill or existing CCR surface impoundment made after October 19, 2015.

25 32. "Management agency" means any person responsible for the
26 day-to-day operation, maintenance and management of a particular public
27 facility or group of public facilities.

28 33. "Medical waste":

29 (a) Means any solid waste that is generated in the diagnosis,
30 treatment or immunization of a human being or animal or in any research
31 relating to that diagnosis, treatment or immunization, or in the
32 production or testing of biologicals.

33 (b) Includes discarded drugs.

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

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

39 35. "New solid waste facility" means a solid waste facility that
40 begins construction or operation after the effective date of design and
41 operating rules that are adopted pursuant to section 49-761 or article 11
42 of this chapter for that type of solid waste facility.

43 36. "On site" means the same or geographically contiguous property
44 that may be divided by public or private right-of-way if the entrance and
45 exit between the properties are at a crossroads intersection and access is

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

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

12 38. "Post-use polymer":

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

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

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

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

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

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

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

28 39. "Process" or "processing" means the reduction, separation,
29 recovery, conversion or recycling of solid waste.

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

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

41 42. "Recovered feedstocks":

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

45 (i) Post-use polymers.

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

5 (b) Does not include:

6 (i) Unprocessed municipal solid waste.

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

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

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

16 45. "Scavenging" means the unauthorized removal of solid waste from
17 a solid waste facility.

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

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

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

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

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

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

41 (f) A closed solid waste facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (t) An advanced recycling facility that converts recovered
2 feedstocks to manufacture raw materials and intermediate and final
3 products.

4 47. "Solid waste landfill":

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

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

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

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

23 50. "Solvolysis":

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

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

30 51. "Storage" means the holding of solid waste.

31 52. "Transfer facility":

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

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

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

43 54. "Vegetative waste":

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

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

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

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

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

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

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

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