

Senate Engrossed House Bill

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 OR PENALTIES RELATED TO
4 GRAY WATER, GRAY WATER REUSE OR COMPOSTING TOILETS BEYOND THE PROVISIONS
5 OF SECTION 49-204 AND RELATED RULES ADOPTED BY THE DEPARTMENT OF
6 ENVIRONMENTAL QUALITY.

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

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

21 D. This section does not authorize:

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

24 2. The regulation or restriction of the use or occupation of land
25 or improvements for railroad, mining, metallurgical, grazing or general
26 agricultural purposes, if the tract concerned is five or more contiguous
27 commercial acres. For the purposes of this paragraph, general
28 agricultural purposes do not include the cultivation of cannabis as
29 defined in section 13-3401 or marijuana as defined in section 13-3401 or
30 36-2801.

31 E. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (a) Persons who are licensed pursuant to title 32, chapter 7, 8,
44 13, 14 or 17.

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

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

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

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

10 13. "Nude model studio":

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

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

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

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

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

29 14. "Nude", "nudity" or "state of nudity" means any of the
30 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

16 11-812. Restriction on regulation; exceptions; aggregate
17 mining regulation; definitions

18 A. ~~Nothing contained in~~ Any ordinance authorized by this chapter
19 shall NOT:

20 1. Affect existing uses of property or the right to its continued
21 use or the reasonable repair or alteration of the property for the purpose
22 for which used at the time the ordinance affecting the property takes
23 effect.

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

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

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

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

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

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

40 3. Prevent, restrict or otherwise regulate the use or occupation of
41 land or improvements for agricultural composting, if the tract is five or
42 more contiguous commercial acres. An agricultural composting operation
43 shall notify in writing the board of supervisors and the nearest fire
44 department of the location of the composting operation. If the nearest
45 fire department is located in a city, town or fire district where the

1 agricultural composting is not located, the agricultural composting
2 operation shall also notify in writing the fire district in which the
3 operation is located. Agricultural composting is subject to sections
4 3-112 and 49-141. For the purposes of this paragraph, "agricultural
5 composting" has the same meaning prescribed in section 9-462.01,
6 subsection G.

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

11 5. PREVENT, RESTRICT OR OTHERWISE REGULATE THE USE OR OCCUPATION OF
12 LAND OR IMPROVEMENTS ON LAND RELATED TO GRAY WATER OR COMPOSTING TOILETS
13 THAT CONFORM TO THE REQUIREMENTS OF SECTION 49-204, EXCEPT AS PROVIDED BY
14 SECTION 49-204 AND RELATED RULES ADOPTED BY THE DEPARTMENT OF
15 ENVIRONMENTAL QUALITY.

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

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

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

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

34 1. By a majority vote of all members make recommendations to the
35 board of supervisors for aggregate mining zoning districts and
36 administrative regulations as provided in this section. The board of
37 supervisors may adopt or reject the recommendations but may not make any
38 modifications to the recommendations unless the modification is approved
39 by a majority of the members of the recommendation committee.

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

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

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

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

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

36 I. For the purposes of this section:

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

38 2. "Aggregate mining" has the same meaning prescribed in section
39 27-441.

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

42 4. "Operators" means persons who are actively engaged in aggregate
43 mining operations within the zoning district or proposed zoning district
44 and who have given notice to the state mine inspector pursuant to section
45 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 OR FOR INSTALLING A
19 COMPOSTING TOILET THAT COMPLIES WITH SECTION 49-204 AND RELATED RULES
20 ADOPTED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY. Reasonable fees may
21 be charged for the issuance of a permit. The inspector shall recognize
22 the limitations placed on the inspector's authority by sections 11-804 and
23 11-811, and shall issue the permit when it appears that the proposed
24 erection, construction, reconstruction, alteration or use fully conforms
25 to the zoning ordinance. In any other case the inspector shall withhold
26 the permit.

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

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

41 E. A county that establishes a civil penalty for a violation of a
42 zoning regulation or ordinance may appoint hearing officers to hear and
43 determine zoning violations. If the zoning inspector reports a zoning
44 violation to the hearing officer, the hearing officer shall hold a hearing
45 after notice of the hearing has been served on the alleged violator. The

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

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

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

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

1 appropriate action or proceedings to prevent, abate or remove the unlawful
2 erection, construction, reconstruction, alteration, maintenance or use.

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

5 49-201. Definitions

6 In this chapter, unless the context otherwise requires:

7 1. "Administrator" means the administrator of the United States
8 environmental protection agency.

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

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

19 4. "CERCLA" means the comprehensive environmental response,
20 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.
21 2767; 42 United States Code sections 9601 through 9657), commonly known as
22 "superfund".

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

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

36 7. "Closed facility" means:

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

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

43 (c) A facility at which any postclosure monitoring and maintenance
44 plan, notifications and approvals required in a permit have been
45 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 AND THAT IS USED
6 IN CONFORMITY WITH RULES ESTABLISHED BY THE DEPARTMENT.

7 ~~8.~~ 9. "Concentrated animal feeding operation" means an animal
8 feeding operation that meets the criteria prescribed in 40 Code of Federal
9 Regulations part 122, appendix B for determining a concentrated animal
10 feeding operation for purposes of 40 Code of Federal Regulations sections
11 122.23 and 122.24, appendix C.

12 ~~9.~~ 10. "Department" means the department of environmental quality.

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

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

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

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

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

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

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

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

43 ~~18.~~ 19. "Existing facility" means a facility on which construction
44 began before August 13, 1986 and that is neither a new facility nor a

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

16 ~~20.~~ 21. "Gray water":

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

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

24 ~~21.~~ 22. "Hazardous substance" means:

25 (a) Any substance designated pursuant to sections 311(b)(2)(A) and
26 307(a) of the clean water act.

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

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

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

33 (e) Any imminently hazardous chemical substance or mixture with
34 respect to which the administrator has taken action pursuant to section 7
35 of the federal toxic substances control act (15 United States Code section
36 2606).

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

1 ~~22.~~ 23. "Inert material":

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

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

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

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

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

29 (b) For a groundwater protection permit facility as defined in
30 section 49-241.01, subsection C, a physical expansion that is accomplished
31 by lateral accretion or upward expansion within the pollutant management
32 area of the existing facility or group of facilities shall not constitute
33 a major modification if the accretion or expansion is accomplished through
34 sound engineering practice in a manner compatible with existing facility
35 design, taking into account safety, stability and risk of environmental
36 release. For a facility described in section 49-241.01, subsection C,
37 paragraph 1, expansion of a facility shall conform with the terms and
38 conditions of the applicable permit. For a facility described in section
39 49-241.01, subsection C, paragraph 2, if the area of the contemplated
40 expansion is not identified in the notice of disposal, the owner or
41 operator of the facility shall submit to the director the information
42 required by section 49-243, subsection A, paragraphs 1, 2, 3 and 7.

43 ~~25.~~ 26. "New facility" means a previously closed facility that
44 resumes operation or a facility on which construction was begun after
45 August 13, 1986 on a site at which no other facility is located or to

1 totally replace the process or production equipment that causes the
2 discharge from an existing facility. A major modification to an existing
3 facility is deemed a new facility to the extent that the criteria in
4 section 49-243, subsection B, paragraph 1 can be practicably applied to
5 such modification. For the purposes of this definition, construction on a
6 facility has begun if the facility owner or operator has either:

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

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

16 ~~26.~~ 27. "Nonpoint source" means any conveyance that is not a point
17 source from which pollutants are or may be discharged to WOTUS.

18 ~~27.~~ 28. "Non-WOTUS protected surface water" means a protected
19 surface water that is not a WOTUS.

20 ~~28.~~ 29. "Non-WOTUS waters of the state" means waters of the state
21 that are not WOTUS.

22 ~~29.~~ 30. "On-site wastewater treatment facility":

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

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

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

35 ~~31.~~ 32. "Perennial water" means a surface water or portion of
36 surface water that flows continuously throughout the year.

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

1 discharge does not cause an exceedance of an applicable surface water
2 quality standard.

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

9 ~~34.~~ 35. "Point source":

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

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

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

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

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

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

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

40 (d) Meet property use restrictions.

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

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

~~39.~~ 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.

1 ~~49.~~ 50. "Vadose zone" means the zone between the ground surface
2 and any aquifer.

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

10 ~~51.~~ 52. "Well" means a bored, drilled or driven shaft, pit or hole
11 whose depth is greater than its largest surface dimension.

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

17 ~~53.~~ 54. "WOTUS" means waters of the state that are also navigable
18 waters as defined by section 502(7) of the clean water act.

19 ~~54.~~ 55. "WOTUS protected surface water" means a protected surface
20 water that is a WOTUS.

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

23 49-204. Gray water; residential standards; toilet flushing;
24 use or discharge; composting toilets; rules;
25 definition

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

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

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

- 41 1. Uses less than four hundred gallons of gray water per day.
- 42 2. Is certified to meet standard 350 for residential gray water
43 recycling that is issued by a national sanitary foundation and an American
44 national standards institute.
- 45 3. Reasonably precludes human contact with gray water.

1 4. Provides a dedicated piping system that supplies only treated
2 gray water to the toilet flushing facilities.

3 5. Provides gray water for toilet flushing only if the system is
4 properly functioning.

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

9 E. THE DEPARTMENT SHALL ADOPT RULES THAT ALLOW FOR THE USE OR
10 DISCHARGE OF GRAY WATER AND FOR THE USE OF COMPOSTING TOILETS. RULES
11 ADOPTED PURSUANT TO THIS SECTION SHALL:

12 1. NOT LATER THAN JUNE 1, 2026, ALLOW FOR THE USE OR DISCHARGE OF
13 GRAY WATER AT A SINGLE-FAMILY RESIDENCE PURSUANT TO A GENERAL PERMIT.

14 2. NOT LATER THAN JUNE 1, 2026, ALLOW FOR THE USE OF COMPOSTING
15 TOILETS AND THE USE OR DISCHARGE OF GRAY WATER ON RESIDENTIAL RURAL LAND
16 PURSUANT TO A GENERAL PERMIT.

17 3. ESTABLISH CONDITIONS THAT EXEMPT A PROPERTY OWNER OF RESIDENTIAL
18 RURAL LAND THAT HAS INSTALLED ONLY COMPOSTING TOILETS, RATHER THAN
19 CONVENTIONAL TOILETS, AND THAT USES ONLY GRAY WATER FROM THE REQUIREMENT
20 TO CONNECT TO AN ON-SITE WASTEWATER TREATMENT FACILITY OR OUTSIDE SEWAGE
21 SYSTEM.

22 4. ESTABLISH CONDITIONS THAT ALLOW A PROPERTY OWNER OF RESIDENTIAL
23 RURAL LAND TO INSTALL LOW-COST WATERLESS COMPOSTING TOILETS.

24 5. HAVE THE PRIMARY OBJECTIVE TO FACILITATE AND MAXIMIZE THE VOLUME
25 OF ALLOWABLE GRAY WATER REUSE, INCLUDING FROM KITCHEN SINKS AND
26 DISHWASHERS.

27 6. MINIMIZE THE COSTS AND BURDENS OF GRAY WATER REUSE AND IMPOSE
28 CONDITIONS AND RESTRICTIONS ONLY TO THE EXTENT NECESSARY TO PROTECT PUBLIC
29 HEALTH, SAFETY AND GROUNDWATER FROM CONTAMINATION.

30 7. NOT REQUIRE AN INDIVIDUAL PERMIT FOR A SINGLE-FAMILY RESIDENCE
31 OR FOR RESIDENTIAL RURAL LAND.

32 F. FOR THE PURPOSES OF THIS SECTION, THE DEPARTMENT SHALL RETAIN
33 THE SAME AUTHORITY TO ENFORCE SUBSECTION E OF THIS SECTION AS IT DOES TO
34 ENFORCE OTHER USES OF GRAY WATER.

35 G. FOR THE PURPOSES OF THIS SECTION, "RESIDENTIAL RURAL LAND" MEANS
36 PROPERTY THAT MEETS ALL OF THE FOLLOWING CONDITIONS:

37 1. IS NOT LOCATED IN A COUNTY ISLAND AS DEFINED IN SECTION
38 11-251.12.

39 2. IS LOCATED IN AN UNINCORPORATED AREA OF A COUNTY WITH A ZONING
40 CLASSIFICATION THAT ALLOWS FOR THE CONSTRUCTION OF A PRIVATE RESIDENCE.

41 3. IS LOCATED ON A LOT OF TWO ACRES OR LARGER.

42 4. IS NOT DIRECTLY ADJACENT TO A CITY OR TOWN.

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

3 49-701. Definitions

4 In this chapter, unless the context otherwise requires:

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

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

11 3. "Advanced recycling":

12 (a) Means a manufacturing process to convert post-use polymers and
13 recovered feedstocks into basic hydrocarbon raw materials, feedstocks,
14 chemicals, monomers, oligomers, plastics, plastics and chemical
15 feedstocks, basic and unfinished chemicals, crude oil, naphtha, liquid
16 transportation fuels and coatings and other products such as waxes and
17 lubricants through processes that include pyrolysis, gasification,
18 depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis
19 and other similar technologies.

20 (b) Does not include solid waste management, processing,
21 incineration or treatment.

22 4. "Advanced recycling facility":

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

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

28 (c) Does not include a solid waste facility, processing facility,
29 treatment facility, materials recovery facility, recycling facility or
30 incinerator.

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

33 (a) The CCR provides a functional benefit.

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

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

40 (d) ~~When~~ IF unencapsulated use of CCR ~~involving~~ INVOLVES placement
41 of twelve thousand four hundred tons or more on the land in nonroadway
42 applications, the user demonstrates, keeps records and provides
43 documentation on request, ~~that~~ environmental releases to groundwater,
44 surface water, soil and air are comparable to or lower than those from
45 analogous products made without CCR, or that environmental releases to

1 groundwater, surface water, soil and air will be at or below relevant
2 regulatory and health-based benchmarks for human and ecological receptors
3 during use.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (a) Means an area of land or an excavation that receives CCR and
40 that is not a surface impoundment, an underground injection well, a salt
41 dome formation, a salt bed formation, an underground or surface coal mine
42 or a cave.

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

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

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

4 (b) Includes both new and existing units, unless otherwise
5 specified.

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

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

11 15. "County" means:

12 (a) The board of supervisors in the context of the exercise of
13 powers or duties.

14 (b) The unincorporated areas in the context of area of
15 jurisdiction.

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

18 17. "Depolymerization" means a manufacturing process through which
19 post-use polymers are broken into smaller molecules such as monomers and
20 oligomers or raw, intermediate or final products, plastics and chemical
21 feedstocks, basic and unfinished chemicals, crude oil, naphtha, liquid
22 transportation fuels, waxes, lubricants, coatings and other basic
23 hydrocarbons.

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

25 19. "Existing CCR landfill" means a CCR landfill that receives CCR
26 both before and after October 19, 2015, or for which construction
27 commenced before October 19, 2015 and that receives CCR on or after
28 October 19, 2015. For the purposes of this paragraph, "commenced
29 construction" means the owner or operator of a CCR landfill has obtained
30 the federal, state and local approvals or permits necessary to begin
31 physical construction and a continuous on site, physical construction
32 program had begun before October 19, 2015.

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

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

36 (b) For which construction commenced before October 19, 2015 and
37 that receives CCR on or after October 19, 2015. For the purposes of this
38 paragraph, "commenced construction" means the owner or operator of a CCR
39 surface impoundment has obtained the federal, state, ~~and~~ and local approvals
40 or permits necessary to begin physical construction and a continuous on
41 site, physical construction program had begun ~~prior to~~ BEFORE October 19,
42 2015.

43 21. "Existing solid waste facility" means a solid waste facility
44 other than a CCR unit that begins construction or is in operation on the

1 effective date of the design and operation rules adopted by the director
2 pursuant to section 49-761 for that type of solid waste facility.

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

6 23. "40 C.F.R. part 257, subparts A and B" means 40 Code of Federal
7 Regulations part 257, subparts A and B in effect on May 1, 2004.

8 24. "40 C.F.R. part 258" means 40 Code of Federal Regulations part
9 258 in effect on May 1, 2004.

10 25. "Gasification" means a manufacturing process through which
11 recovered feedstocks are heated and converted into a fuel and gas mixture
12 in an oxygen-deficient atmosphere and the mixture is converted into
13 valuable raw, intermediate and final products, including plastic monomers,
14 chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel,
15 gasoline, diesel and gasoline blendstocks, home heating oil and other
16 fuels, including ethanol and transportation fuel, that are returned to
17 economic utility in the form of raw materials, products or fuels.

18 26. "Household hazardous waste" means solid waste as described in
19 40 Code of Federal Regulations section 261.4(b)(1) as incorporated by
20 reference in the rules adopted pursuant to chapter 5 of this title.

21 27. "Household waste":

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

27 (b) Does not include construction debris, landscaping rubble or
28 demolition debris.

29 28. "Inert material":

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

31 (i) Is not flammable.

32 (ii) Will not decompose.

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

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

39 (c) Does not include special waste, hazardous waste, glass or other
40 metal.

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

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

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

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

8 33. "Medical waste":

9 (a) Means any solid waste that is generated in the diagnosis,
10 treatment or immunization of a human being or animal or in any research
11 relating to that diagnosis, treatment or immunization, or in the
12 production or testing of biologicals.

13 (b) Includes discarded drugs.

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

16 34. "Municipal solid waste landfill" means any solid waste landfill
17 that accepts household waste, household hazardous waste or conditionally
18 exempt small quantity generator waste.

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

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

32 37. "Person" means any public or private corporation, company,
33 partnership, firm, association or society of persons, the federal
34 government and any of its departments or agencies, this state or any of
35 its agencies, departments, political subdivisions, counties, towns or
36 municipal corporations, as well as a natural person.

37 38. "Post-use polymer":

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

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

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

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

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

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

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

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

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

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

21 42. "Recovered feedstocks":

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

25 (i) Post-use polymers.

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

30 (b) Does not include:

31 (i) Unprocessed municipal solid waste.

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

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

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

41 45. "Scavenging" means the unauthorized removal of solid waste from
42 a solid waste facility.

43 46. "Solid waste facility" means a transfer facility and any site
44 owned, operated or used by any person for the storage, processing,
45 treatment or disposal of solid waste, conditionally exempt small quantity

1 generator waste or household hazardous waste but does not include the
2 following:

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

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

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

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

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

21 (f) A closed solid waste facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (t) An advanced recycling facility that converts recovered
26 feedstocks to manufacture raw materials and intermediate and final
27 products.

28 47. "Solid waste landfill":

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

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

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

41 49. "Solid waste management plan" means the plan that is adopted
42 pursuant to section 49-721 and that provides guidelines for the
43 collection, source separation, storage, transportation, processing,
44 treatment, reclamation and disposal of solid waste in a manner that

1 protects public health and safety and the environment and prevents and
2 abates environmental nuisances.

3 50. "Solvolysis":

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

8 (b) Includes hydrolysis, aminolysis, ammonolysis, methanolysis and
9 glycolysis.

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

11 52. "Transfer facility":

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

16 (b) Includes those facilities that include significant solid waste
17 transfer activities that warrant the facility's regulation as a transfer
18 facility.

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

23 54. "Vegetative waste":

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

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

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

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

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

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

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

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

1 Sec. 7. Legislative intent

2 The legislature intends that rules adopted pursuant to section
3 49-204, subsection E, Arizona Revised Statutes, as added by this act, meet
4 all of the following conditions:

5 1. Impose the least burden and costs to persons regulated by the
6 rules, including paperwork and other compliance costs, necessary to
7 achieve the underlying regulatory objective.

8 2. Are necessary to protect public health and safety.

9 3. Are adopted as prescribed by title 41, chapter 6, Arizona
10 Revised Statutes.

11 4. Are consistent with the laws of this state, legislative intent
12 and the department of environmental quality's statutory authority.