

REFERENCE TITLE: remedial groundwater incentives; PFAS

State of Arizona  
House of Representatives  
Fifty-seventh Legislature  
First Regular Session  
2025

# HB 2414

Introduced by  
Representative Kolodin

## AN ACT

AMENDING SECTIONS 45-561 AND 45-576.01, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 45-581, 45-581.01 AND 45-581.02; AMENDING SECTION 49-201, ARIZONA REVISED STATUTES; REPEALING LAWS 1997, CHAPTER 287, SECTION 52, AS AMENDED BY LAWS 1999, CHAPTER 295, SECTION 50 AND LAWS 2021, CHAPTER 272, SECTION 1; RELATING TO REMEDIAL GROUNDWATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-561, Arizona Revised Statutes, is amended to  
3 read:

4 ~~45-561.~~ Definitions

5 In this article, unless the context otherwise requires:

6 1. "APPROVED REMEDIAL ACTION PROJECT" MEANS A REMEDIAL ACTION  
7 PROJECT THAT IS APPROVED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
8 PURSUANT TO TITLE 49 OR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
9 PURSUANT TO CERCLA AS DEFINED IN SECTION 45-802.01.

10 ~~1.~~ 2. "Aquifer" means a geologic formation that contains  
11 sufficient saturated materials to be capable of storing water and  
12 transmitting water in usable quantities to a well.

13 ~~2.~~ 3. "Augmentation" means to supplement the water supply of an  
14 active management area and may include the importation of water into the  
15 active management area, storage of water or storage of water pursuant to  
16 chapter 3.1 of this title.

17 ~~3.~~ 4. "Incidental recharge" means the percolation of water to an  
18 aquifer after the water has been withdrawn, diverted or received for  
19 delivery by a municipal provider for use within its service area, except  
20 water that is added to an aquifer pursuant to chapter 3.1 of this title.

21 ~~4.~~ 5. "Incidental recharge factor" means the ratio of the amount  
22 of incidental recharge attributable to a municipal provider during a  
23 calendar year to the amount of water withdrawn, diverted or received for  
24 delivery by the municipal provider for use within its service area during  
25 the year. The amount of incidental recharge attributable to a municipal  
26 provider during a calendar year is the amount of water that is  
27 incidentally recharged during the year after it is withdrawn, diverted or  
28 received for delivery by the municipal provider for use within its service  
29 area.

30 ~~5.~~ 6. "Industrial use" means a non-irrigation use of water not  
31 supplied by a city, town or private water company, including animal  
32 industry use and expanded animal industry use.

33 ~~6.~~ 7. "Intermediate water duty" means an irrigation water duty, as  
34 defined in section 45-402, ~~which~~ THAT is established by the director  
35 during a management period to apply for a specific number of years during  
36 the management period.

37 ~~7.~~ 8. "Large untreated water provider" means a municipal provider  
38 that as of January 1, 1990 was serving untreated water to at least five  
39 hundred persons or supplying at least one hundred acre-feet of untreated  
40 water during a calendar year.

41 ~~8.~~ 9. "Management period" means a period of years prescribed by  
42 sections 45-564 through 45-568 during which a prescribed management plan  
43 applies.

44 ~~9.~~ 10. "Mined groundwater" means the amount of groundwater  
45 withdrawn or received by a municipal provider from within an active

management area during a calendar year for use in its service area, minus both of the following, as applicable:

(a) An amount of water computed by multiplying the amount of water supplied by the municipal provider for use within its service area during the calendar year by the incidental recharge factor established for the municipal provider pursuant to this article.

(b) If the municipal provider is a city or town in the Tucson active management area, the amount of groundwater withdrawn by the municipal provider during the calendar year from land owned or leased by the municipal provider to which a type 1 non-irrigation grandfathered right under section 45-463, subsection A is appurtenant, up to the following amount:

(i) If the municipal provider has made a request to the director as described in section 45-463, subsection F, the amount of groundwater computed by the director under section 45-463, subsection F, in determining whether to designate or redesignate the municipal provider as having an assured water supply, minus the amount of any groundwater withdrawn by the municipal provider from the land during the period beginning with January 1 of the year in which the request was made and ending on December 31 of the year immediately preceding the calendar year for which the calculation of mined groundwater is being made.

(ii) If the municipal provider has not made a request to the director as described in section 45-463, subsection F, the amount of groundwater that the director would have been required to include in determining whether to designate or redesignate the municipal provider as having an assured water supply, as computed under section 45-463, subsection F, if the municipal provider had made a request to the director as described in that subsection on January 1 of the calendar year for which the calculation of mined groundwater is being made.

~~10.~~ 11. "Municipal provider" means a city, town, private water company or irrigation district that supplies water for non-irrigation use.

~~11.~~ 12. "Municipal use" means all non-irrigation uses of water supplied by a city, town, private water company or irrigation district, except for uses of water, other than Colorado river water, released for beneficial use from storage, diversion or distribution facilities to avoid spilling that would otherwise occur due to uncontrolled surface water inflows that exceed facility capacity.

### 13. "REMEDIAL GROUNDWATER":

(a) MEANS GROUNDWATER THAT IS WITHDRAWN PURSUANT TO AN APPROVED REMEDIAL ACTION PROJECT OR THAT CONTAINS PERFLUOROCTANESULFONIC ACID, PERFLUOROCTANOIC ACID OR ANY OTHER SUBSTANCE THAT IS CATEGORIZED AS A PERFLUOROALKYL OR POLYFLUOROALKYL SUBSTANCE IN AN AMOUNT GREATER THAN THE MAXIMUM CONTAMINANT LEVEL FOR PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES IN DRINKING WATER ADOPTED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

(b) DOES NOT INCLUDE GROUNDWATER THAT IS WITHDRAWN TO PROVIDE AN ALTERNATIVE WATER SUPPLY PURSUANT TO SECTION 49-282.03.

~~12-~~ 14. "Safe-yield" means a groundwater management goal which attempts to achieve and thereafter maintain a long-term balance between the annual amount of groundwater withdrawn in an active management area and the annual amount of natural and artificial recharge in the active management area.

~~13-~~ 15. "Small municipal provider" means a municipal provider that supplies two hundred fifty acre-feet or less of water for non-irrigation use during a calendar year. For THE purposes of this paragraph, the amount of untreated water that is supplied by a large untreated water provider during a year shall not be counted in determining whether the municipal provider supplied two hundred fifty acre-feet or less of water for non-irrigation use.

~~14-~~ 16. "Untreated water" means water that is not treated to improve its quality and that is supplied by a municipal provider through a distribution system other than a potable water distribution system.

Sec. 2. Section 45-576.01, Arizona Revised Statutes, is amended to read:

45-576.01. Determining consistency with management goal in a replenishment district, conservation district and water district

A. For the purpose of determining whether an assured water supply exists, the director shall find that a groundwater replenishment district member's projected use is consistent with achieving the management goal for the active management area under section 45-576 if:

1. The land for which a certificate or the city, town or private water company for which a designation is sought is in a groundwater replenishment district established pursuant to title 48, chapter 27.

2. The director has made either a preliminary determination that has not expired or a final determination that the district's plan for operation is consistent with achieving the management goal according to section 45-576.03, subsection E.

3. The master replenishment account established pursuant to section 45-858.01 does not have a debit balance that exceeds the cumulative amount of the district's debits accrued during the four preceding calendar years.

B. For the purpose of determining whether an assured water supply exists, the director shall find that a projected use is consistent with achieving the management goal for the active management area under section 45-576 if all of the following apply:

1. The land for which a certificate is sought is a member land, or the service area of a city, town or private water company for which a designation is sought is a member service area, in a conservation district as provided by title 48, chapter 22, article 4, or the land for which a certificate is sought is a water district member land, or the service area

for which a designation is sought is a water district member service area in a water district as provided by title 48, chapter 28, article 7.

2. The director's most recent determination pursuant to section 45-576.03, subsection M, O or R that the plan for operation submitted by the conservation district or water district is consistent with achieving the management goal for the active management area in which the use is located has not expired.

3. The conservation district or the water district, whichever is obligated to replenish groundwater on behalf of the land for which a certificate is sought or the service area of a city, town or private water company for which a designation is sought, is currently in compliance with its groundwater replenishment obligation for the active management area in which the use is located, as determined by the director pursuant to section 45-859.01 or 45-860.01.

C. A PERSON WHO USES REMEDIAL GROUNDWATER WHILE APPLYING FOR OR HOLDING A CERTIFICATE OR DESIGNATION OF ASSURED WATER SUPPLY IS DEEMED TO COMPLY WITH THE MANAGEMENT GOAL OF THE ACTIVE MANAGEMENT AREA WHERE THE REMEDIAL GROUNDWATER IS WITHDRAWN. FOR THE PURPOSES OF DETERMINING COMPLIANCE WITH A MANAGEMENT GOAL PURSUANT TO THIS ARTICLE, THE DIRECTOR SHALL EXCLUDE ANY WITHDRAWAL OR USE OF REMEDIAL GROUNDWATER IF THE USE OR WITHDRAWAL IS CONSISTENT WITH SECTIONS 45-581, 45-581.01 AND 45-581.02.

Sec. 3. Title 45, chapter 2, article 9, Arizona Revised Statutes, is amended by adding sections 45-581, 45-581.01 and 45-581.02, to read:

45-581. Remedial groundwater; applications; management goal; authorization; rules; definition

A. EACH CALENDAR YEAR ACROSS ALL ACTIVE MANAGEMENT AREAS, THE DIRECTOR MAY DEEM THE WITHDRAWAL OF UP TO SIXTY-FIVE THOUSAND ACRE-FEET OF REMEDIAL GROUNDWATER THAT IS WITHDRAWN PURSUANT TO AN APPROVED REMEDIAL ACTION PROJECT AS CONSISTENT WITH THE MANAGEMENT GOAL OF THE ACTIVE MANAGEMENT AREA WHERE THE REMEDIAL GROUNDWATER IS WITHDRAWN. THIS SUBSECTION DOES NOT APPLY TO GROUNDWATER THAT IS WITHDRAWN TO PROVIDE AN ALTERNATIVE WATER SUPPLY PURSUANT TO SECTION 49-282.03 OR ANY REMEDIAL GROUNDWATER THAT IS WITHDRAWN IN EXCESS OF THE AGGREGATE SIXTY-FIVE THOUSAND ACRE FOOT LIMIT.

B. A MUNICIPAL WATER PROVIDER THAT PROPOSES TO USE GROUNDWATER THAT IS WITHDRAWN PURSUANT TO AN APPROVED REMEDIAL ACTION PROJECT MAY APPLY TO THE DIRECTOR FOR A DETERMINATION THAT THE USE OF SOME OR ALL OF THE MUNICIPAL PROVIDER'S PROJECTED REMEDIAL GROUNDWATER WITHDRAWALS ARE CONSISTENT WITH THE MANAGEMENT GOAL OF THE ACTIVE MANAGEMENT AREA WHERE THE REMEDIAL GROUNDWATER IS WITHDRAWN. THE DIRECTOR MAY NOT DEEM THAT THE WITHDRAWAL OF GROUNDWATER IN EXCESS OF THE GROUNDWATER THAT THE MUNICIPAL PROVIDER IS LEGALLY OBLIGATED TO WITHDRAW OR USE IS CONSISTENT WITH THE MANAGEMENT GOAL OF THE AREA WHERE REMEDIAL GROUNDWATER MAY BE WITHDRAWN.

C. NOT LATER THAN JANUARY 1, 2026, THE DIRECTOR SHALL AMEND THE RULES ADOPTED PURSUANT TO SECTION 45-576, SUBSECTION H TO CARRY OUT THE

1 PURPOSES OF THIS SECTION. BEFORE THE AMENDMENT OF THESE RULES, THE  
2 DIRECTOR SHALL TREAT ANY GROUNDWATER THAT IS WITHDRAWN PURSUANT TO AN  
3 APPROVED REMEDIAL ACTION PROJECT AFTER THE EFFECTIVE DATE OF THIS SECTION  
4 AS CONSISTENT WITH THE MANAGEMENT GOAL AS PROVIDED IN SUBSECTIONS A AND B  
5 OF THIS SECTION.

6 D. FOR ANNUAL REMEDIATED GROUNDWATER WITHDRAWALS OF TWO HUNDRED  
7 FIFTY ACRE-FEET OR LESS THAT ARE WITHDRAWN PURSUANT TO AN APPROVED  
8 REMEDIAL ACTION PROJECT UNDER CERCLA, THE WATER QUALITY ASSURANCE  
9 REVOLVING FUND PROGRAM OR OTHER APPLICABLE LAW AND, EXCEPT FOR GROUNDWATER  
10 THAT IS WITHDRAWN TO PROVIDE AN ALTERNATIVE WATER SUPPLY PURSUANT TO  
11 SECTION 49-282.03, THE AMOUNT OF GROUNDWATER WITHDRAWN MAY NOT BE DEBITED  
12 AGAINST THE WATER PROVIDER'S ASSURED WATER SUPPLY MINED GROUNDWATER  
13 ACCOUNT AND IS NOT SUBJECT TO A REPLENISHMENT OBLIGATION. AN ANNUAL USER  
14 OF TWO HUNDRED FIFTY ACRE-FEET OR LESS OF REMEDIATED GROUNDWATER SHALL  
15 NOTIFY THE DIRECTOR OF COMPLIANCE WITH THE EXEMPTION, AND THESE USES DO  
16 NOT APPLY IN CALCULATING THE SIXTY-FIVE THOUSAND ACRE-FEET PER YEAR TOTAL  
17 PRESCRIBED BY SUBSECTION A OF THIS SECTION.

18 E. FOR THE PURPOSES OF THIS SECTION, "CERCLA" HAS THE SAME MEANING  
19 PRESCRIBED IN SECTION 49-201.

20 45-581.01. Remedial groundwater; metering; reporting

21 A. A PERSON WITH OR APPLYING FOR A CERTIFICATE OR DESIGNATION OF  
22 ASSURED WATER SUPPLY THAT IS WITHDRAWING OR PROPOSING TO WITHDRAW REMEDIAL  
23 GROUNDWATER THAT IS OR HAS BEEN DETERMINED TO BE CONSISTENT WITH THE  
24 MANAGEMENT GOAL UNDER SECTION 45-576.01 SHALL METER THE REMEDIAL  
25 GROUNDWATER WITHDRAWALS SEPARATELY FROM GROUNDWATER THAT IS WITHDRAWN  
26 PURSUANT TO ANOTHER GROUNDWATER WITHDRAWAL AUTHORITY.

27 B. A PERSON WITH OR APPLYING FOR A CERTIFICATE OR DESIGNATION OF  
28 ASSURED WATER SUPPLY THAT IS WITHDRAWING OR PROPOSING TO WITHDRAW REMEDIAL  
29 GROUNDWATER THAT IS OR HAS BEEN DETERMINED TO BE CONSISTENT WITH THE  
30 MANAGEMENT GOAL UNDER SECTION 45-576.01 SHALL INCLUDE IN ITS ANNUAL  
31 REPORTS FILED PURSUANT TO SECTION 45-632 THE AMOUNT OF REMEDIAL  
32 GROUNDWATER THAT IS WITHDRAWN DURING THE REPORTING YEAR AND THAT IS  
33 CONSISTENT WITH THE MANAGEMENT GOAL UNDER THIS ARTICLE AND THE PURPOSES  
34 FOR WHICH THE REMEDIAL GROUNDWATER WAS USED.

35 45-581.02. Remedial groundwater; use; notice

36 A PERSON WITH OR APPLYING FOR A CERTIFICATE OR DESIGNATION OF  
37 ASSURED WATER SUPPLY THAT IS WITHDRAWING OR PROPOSING TO WITHDRAW OR USE  
38 REMEDIAL GROUNDWATER THAT IS OR HAS BEEN DETERMINED TO BE CONSISTENT WITH  
39 THE MANAGEMENT GOAL PURSUANT TO SECTION 45-576.01 SHALL PROVIDE NOT LESS  
40 THAN ONE HUNDRED TWENTY DAYS BEFORE COMMENCEMENT OF THE WITHDRAWALS OR USE  
41 OR ONE HUNDRED TWENTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION,  
42 WHICHEVER IS LATER, WRITTEN NOTICE TO THE DIRECTOR OF THE FOLLOWING:

43 1. THE ANNUAL VOLUME OF REMEDIAL GROUNDWATER TO BE WITHDRAWN FROM  
44 EACH WELL PURSUANT TO AN APPROVED REMEDIAL ACTION PROJECT.

2. THE TIME PERIOD IN WHICH REMEDIAL GROUNDWATER WILL BE WITHDRAWN AND USED.

3. THE ANTICIPATED OR ACTUAL COMMENCEMENT DATE OF WITHDRAWALS OR USE.

4. THE PURPOSE FOR WHICH THE REMEDIAL GROUNDWATER WILL BE USED.

5. A COPY OF A DOCUMENT SHOWING THAT THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY HAS APPROVED THE PERSON'S WITHDRAWAL AND USE OF REMEDIAL GROUNDWATER, SUCH AS AN APPROVED REMEDIAL ACTION PROJECT, RECORD OF DECISION OR CONSENT DECREE.

6. THE PERSON WITH OR APPLYING FOR A CERTIFICATE OR DESIGNATION OF ASSURED WATER SUPPLY TO WHICH THE REMEDIAL GROUNDWATER WILL BE PLEDGED.

7. THE NAME AND TELEPHONE NUMBER THE DEPARTMENT OF WATER RESOURCES MAY CONTACT REGARDING THE WITHDRAWAL OR USE.

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

49-201. Definitions

In this chapter, unless the context otherwise requires:

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

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

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

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

5. "Clean closure" means:

(a) Implementation of all actions specified in an aquifer protection permit, if any, as closure requirements, as well as elimination, to the greatest degree practicable, of any reasonable probability of further discharge from the facility and of either exceeding aquifer water quality standards at the applicable point of compliance or, if an aquifer water quality standard is exceeded at the time the permit is issued, causing further degradation of the aquifer at the applicable point of compliance as provided in section 49-243, subsection B, paragraph 3.

~~Clean closure also means~~

1           (b) Postclosure monitoring and maintenance are unnecessary to meet  
2 the requirements in an aquifer protection permit.

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

6           7. "Closed facility" means:

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

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

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

16           8. "Concentrated animal feeding operation" means an animal feeding  
17 operation that meets the criteria prescribed in 40 Code of Federal  
18 Regulations part 122, appendix B for determining a concentrated animal  
19 feeding operation for purposes of 40 Code of Federal Regulations sections  
20 122.23 and 122.24, appendix C.

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

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

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

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

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

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

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



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

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

6        18. "Existing facility" means a facility on which construction  
7 began before August 13, 1986 and that is neither a new facility nor a  
8 closed facility. For the purposes of this definition, construction on a  
9 facility has begun if the facility owner or operator has either:

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

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

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

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

26        21. "Hazardous substance" means:

27        (a) Any substance designated pursuant to sections 311(b)(2)(A) and  
28 307(a) of the clean water act.

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

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

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

35        (e) Any imminently hazardous chemical substance or mixture with  
36 respect to which the administrator has taken action pursuant to section 7  
37 of the federal toxic substances control act (15 United States Code section  
38 2606).

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

(g) PERFLUOROOCTANESULFONIC ACID, PERFLUOROOCTANOIC ACID AND ANY OTHER SUBSTANCE THAT IS CATEGORIZED AS A PERFLUOROALKYL OR POLYFLUOROALKYL SUBSTANCE AND THAT IS DETECTED IN A SYSTEM THAT IS CLASSIFIED AS A PUBLIC WATER SYSTEM AS PRESCRIBED BY SECTION 49-352 AND THAT EXCEEDS A MAXIMUM CONTAMINANT LEVEL FOR PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES IN DRINKING WATER ADOPTED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

22. "Inert material":

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

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

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

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

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

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

49-241.01, subsection C, paragraph 2, if the area of the contemplated expansion is not identified in the notice of disposal, the owner or operator of the facility shall submit to the director the information required by section 49-243, subsection A, paragraphs 1, 2, 3 and 7.

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

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

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

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

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

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

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

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

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

32. "Permit" means a written authorization issued by the director or prescribed by this chapter or in a rule adopted under this chapter stating the conditions and restrictions governing a discharge or governing the construction, operation or modification of a facility. For the

1 purposes of regulating non-WOTUS protected surface waters, a permit shall  
2 not include provisions governing the construction, operation or  
3 modification of a facility except as necessary for the purpose of ensuring  
4 that a discharge meets water quality-related effluent limitations or to  
5 require best management practices for the purpose of ensuring that a  
6 discharge does not cause an exceedance of an applicable surface water  
7 quality standard.

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

14 34. "Point source":

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

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

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

29 36. "Postclosure monitoring and maintenance" means those activities  
30 that are conducted after closure notification and that are necessary to:

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

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

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

44 (d) Meet property use restrictions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 Sec. 5. Repeal

24 Laws 1997, chapter 287, section 52, as amended by Laws 1999, chapter  
25 295, section 50 and Laws 2021, chapter 272, section 1, is repealed.

26 Sec. 6. Applications; time frame

27 Within ninety days after the effective date of this act, the  
28 department of water resources shall begin accepting applications for the  
29 remedial groundwater program established pursuant to this act.