

House Engrossed

~~technical correction; certificate; environmental compatibility~~
(now: small modular reactors; co-location)

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

HOUSE BILL 2774

AN ACT

AMENDING SECTIONS 11-812, 40-360.03 AND 40-360.07, ARIZONA REVISED
STATUTES; AMENDING TITLE 40, CHAPTER 2, ARTICLE 6.2, ARIZONA REVISED
STATUTES, BY ADDING SECTION 40-360.14; RELATING TO GENERATING ELECTRICITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-812, Arizona Revised Statutes, is amended to
3 read:

4 11-812. Restriction on regulation; exceptions; aggregate
5 mining regulation; definitions

6 A. ~~Nothing contained in~~ Any ordinance authorized by this chapter
7 ~~shall~~ MAY NOT:

8 1. Affect existing uses of property or the right to its continued
9 use or the reasonable repair or alteration of the property for the purpose
10 for which used at the time the ordinance affecting the property takes
11 effect.

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

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

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

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

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

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

28 3. Prevent, restrict or otherwise regulate the use or occupation of
29 land or improvements for agricultural composting, if the tract is five or
30 more contiguous commercial acres. An agricultural composting operation
31 shall notify in writing the board of supervisors and the nearest fire
32 department of the location of the composting operation. If the nearest
33 fire department is located in a city, town or fire district where the
34 agricultural composting is not located, the agricultural composting
35 operation shall also notify in writing the fire district in which the
36 operation is located. Agricultural composting is subject to sections
37 3-112 and 49-141. For the purposes of this paragraph, "agricultural
38 composting" has the same meaning prescribed in section 9-462.01,
39 subsection G.

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

1 5. EXCEPT IN A COUNTY WITH FIVE HUNDRED THOUSAND PERSONS OR MORE,
2 PREVENT, RESTRICT OR OTHERWISE REGULATE THE USE OR OCCUPATION OF LAND OR
3 IMPROVEMENTS FOR THE CONSTRUCTION AND OPERATION OF A SMALL MODULAR NUCLEAR
4 REACTOR, IF THE SMALL MODULAR NUCLEAR REACTOR IS COLOCATED WITH A LARGE
5 INDUSTRIAL ENERGY USER THAT RECEIVED ALL APPLICABLE ZONING ENTITLEMENTS.
6 FOR THE PURPOSES OF THIS PARAGRAPH, "COLOCATED WITH", "LARGE INDUSTRIAL
7 ENERGY USER" AND "SMALL MODULAR NUCLEAR REACTOR" HAVE THE SAME MEANINGS
8 ADOPTED BY THE CORPORATION COMMISSION PURSUANT TO SECTION 40-360.14.

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

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

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

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

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

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

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

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

42 F. Any administrative regulations adopted by a board of supervisors
43 pursuant to this section are not effective until the regulations are
44 approved by the state mine inspector. The STATE MINE inspector may
45 disapprove the administrative regulations adopted by the board of

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

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

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

28 I. For the purposes of this section:

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

30 2. "Aggregate mining" has the same meaning prescribed in section
31 27-441.

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

34 4. "Operators" means persons who are actively engaged in aggregate
35 mining operations within the zoning district or proposed zoning district
36 and who have given notice to the state mine inspector pursuant to section
37 27-303.

38 Sec. 2. Section 40-360.03, Arizona Revised Statutes, is amended to
39 read:

40 40-360.03. Application for certificate of environmental
41 compatibility before construction of facilities:
42 electronic format; rules; exception

43 A. Except as provided in ~~subsection~~ SUBSECTIONS B AND C of this
44 section, every utility that plans to construct a plant or transmission
45 line, or both, in this state shall first file with the commission an

1 application for a certificate of environmental compatibility. The
2 application shall be in a form prescribed by the commission and shall be
3 accompanied by information with respect to the proposed type of facilities
4 and description of the site, including the areas of jurisdiction affected
5 and the estimated cost of the proposed facilities and site. The
6 application shall also be accompanied by a receipt that evidences payment
7 of the appropriate fee required by section 40-360.09. The commission
8 shall promptly refer the application and accompanying information to the
9 chairman of the committee for the committee's review and decision. The
10 application and accompanying information may be submitted to the
11 commission in an electronic format. The commission may adopt rules to
12 accept electronic filings under this section and to ensure that proper
13 notice is provided electronically to interested parties.

14 B. A utility may replace a conductor or wire on a transmission line
15 or may replace an existing transmission line structure or structures with
16 a new transmission line structure or structures without seeking a new
17 certificate of environmental compatibility and without holding a hearing
18 under this article if the replacement is on a transmission line that
19 previously received a certificate of environmental compatibility or that
20 was in use or authorized before August 13, 1971. All replacement
21 conductors or structures shall comply with the terms and conditions of the
22 applicable existing certificate of environmental compatibility.

23 C. A UTILITY, AFTER PROVIDING THIRTY DAYS' WRITTEN NOTICE TO THE
24 COMMISSION, MAY REPLACE AN EXISTING THERMAL ELECTRIC GENERATING UNIT WITH
25 A REPLACEMENT SMALL MODULAR NUCLEAR REACTOR OR CONSTRUCT A NEW SMALL
26 MODULAR NUCLEAR REACTOR WITHOUT SEEKING A NEW CERTIFICATE OF ENVIRONMENTAL
27 COMPATIBILITY AND WITHOUT HOLDING A HEARING UNDER THIS ARTICLE IF THE NEW
28 OR REPLACEMENT SMALL MODULAR NUCLEAR REACTOR IS LOCATED ON OR IMMEDIATELY
29 ADJACENT TO THE SITE OF A PLANT THAT PREVIOUSLY RECEIVED A CERTIFICATE OF
30 ENVIRONMENTAL COMPATIBILITY OR THAT WAS IN USE OR AUTHORIZED BEFORE AUGUST
31 13, 1971.

32 Sec. 3. Section 40-360.07, Arizona Revised Statutes, is amended to
33 read:

34 40-360.07. Compliance by utility; commission order

35 A. ~~NO~~ EXCEPT AS PROVIDED IN SECTION 40-360.14, SUBSECTIONS B AND C,
36 A utility may NOT construct a plant or transmission line within this state
37 until it has received a certificate of environmental compatibility from
38 the committee with respect to the proposed site, affirmed and approved by
39 an order of the commission which shall be issued not less than thirty days
40 nor more than sixty days after the certificate is issued by the committee,
41 except that within fifteen days after the committee has rendered its
42 written decision any party to a certification proceeding may request a
43 review of the committee's decision by the commission.

44 B. The grounds for review shall be stated in a written notice filed
45 with the commission with a copy thereof served on the chairman of the

1 committee. The committee shall transmit to the commission the complete
2 record, including a certified transcript, and the review shall be
3 conducted on the basis of the record. The commission ~~may~~, at the request
4 of any party, ~~MAY~~ require written briefs or oral argument and shall within
5 sixty days ~~from~~ AFTER the date the notice is filed either confirm, deny or
6 modify any certificate granted by the committee, or ~~in the event~~ IF the
7 committee refused to grant a certificate, the commission may issue a
8 certificate to the applicant. In arriving at its decision, the commission
9 shall comply with ~~the provisions of~~ section 40-360.06 and shall balance,
10 in the broad public interest, the need for an adequate, economical and
11 reliable supply of electric power with the desire to minimize the effect
12 thereof on the environment and ecology of this state.

13 C. The committee or any party to a decision by the commission
14 pursuant to subsection B of this section may request the commission to
15 reconsider its decision within thirty days after the decision is
16 issued. A request for reconsideration made pursuant to this subsection
17 shall set forth the grounds ~~upon~~ ON which it is based and state the manner
18 in which the party believes the commission unreasonably or unlawfully
19 applied or failed to apply the criteria set forth in section
20 40-360.06. The decision of the commission is final with respect to all
21 issues, subject only to judicial review as provided by law in the event of
22 an appeal by a person having a legal right or interest that will be
23 injuriously affected by the decision.

24 Sec. 4. Title 40, chapter 2, article 6.2, Arizona Revised Statutes,
25 is amended by adding section 40-360.14, to read:

26 40-360.14. Exemption; modular reactors colocated with large
27 industrial energy user; rules; applicability

28 A. NOTWITHSTANDING SECTIONS 40-360.03 AND 40-360.07, A UTILITY,
29 AFTER PROVIDING THIRTY DAYS' WRITTEN NOTICE TO THE COMMISSION, MAY
30 CONSTRUCT A NEW SMALL MODULAR NUCLEAR REACTOR IN THIS STATE WITHOUT FILING
31 AN APPLICATION FOR OR RECEIVING A CERTIFICATE OF ENVIRONMENTAL
32 COMPATIBILITY IF THE NEW SMALL MODULAR NUCLEAR REACTOR IS COLOCATED WITH A
33 LARGE INDUSTRIAL ENERGY USER.

34 B. A NEW SMALL MODULAR REACTOR THAT IS CONSTRUCTED PURSUANT TO THIS
35 SECTION SHALL COMPLY WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS AND
36 REQUIREMENTS.

37 C. THE COMMISSION SHALL ADOPT RULES TO IMPLEMENT THIS SECTION,
38 WHICH SHALL INCLUDE THE COMMISSION'S DEFINITION FOR EACH OF THE FOLLOWING
39 TERMS:

40 1. COLOCATED WITH. THE COMMISSION'S DEFINITION SHALL SPECIFY ONE
41 OR BOTH OF THE FOLLOWING:

42 (a) THE DISTANCE IN FEET OR PARCELS BETWEEN THE SITE OF A LARGE
43 INDUSTRIAL ENERGY USER AND THE SITE OF A SMALL MODULAR NUCLEAR REACTOR.

44 (b) THE QUALITY OR NATURE OF THE ELECTRICAL INTERCONNECTION BETWEEN
45 THE LARGE INDUSTRIAL ENERGY USER AND THE SMALL MODULAR NUCLEAR REACTOR.

1 2. LARGE INDUSTRIAL ENERGY USER. THE COMMISSION'S DEFINITION:
2 (a) SHALL SPECIFY THE PEAK OR AVERAGE ANNUAL OR MONTHLY ENERGY
3 DEMAND OF THE USER THAT IS MEASURED IN MEGAWATTS OR MEGAWATT HOURS.
4 (b) MAY NOT DISCRIMINATE BETWEEN DIFFERENT:
5 (i) INDUSTRIES, SECTORS OR END USERS, THE OWNERS OR OPERATORS OF
6 SUCH END USERS OR THE PROPOSED LOCATIONS OF END USERS.
7 (ii) END USERS IN ANY OTHER CAPACITY BEYOND THE USE OF ENERGY
8 DEMAND AND OTHER ELECTRICAL-RELATED OPERATING NEEDS OR CHARACTERISTICS.
9 3. SMALL MODULAR NUCLEAR REACTOR. THE COMMISSION'S DEFINITION:
10 (a) SHALL ESTABLISH A MAXIMUM ELIGIBLE NAMEPLATE RATING FOR EACH
11 SMALL MODULAR NUCLEAR REACTOR. FOR THE PURPOSES OF THIS SUBDIVISION, THE
12 COMMISSION SHALL TREAT EACH SEPARATE NUCLEAR GENERATING UNIT AND THE
13 NAMEPLATE RATING ASSOCIATED WITH EACH SEPARATE NUCLEAR GENERATING UNIT AS
14 A SEPARATE SMALL MODULAR NUCLEAR REACTOR, CONSISTENT WITH THE DEFINITION
15 OF PLANT AS DEFINED IN SECTION 40-360. THE MAXIMUM ELIGIBLE NAMEPLATE
16 RATING THE COMMISSION ESTABLISHES PURSUANT TO THIS SUBDIVISION MAY NOT BE
17 LESS THAN ONE HUNDRED MEGAWATTS.
18 (b) MAY DISCRIMINATE BETWEEN DIFFERENT NUCLEAR REACTOR TYPES OR
19 CLASSIFICATIONS OR REACTORS THAT INCLUDE OR ARE OTHERWISE MANUFACTURED
20 WITH CERTAIN MINIMUM BUILT-IN SAFETY FEATURES OR REDUNDANCIES, IF SUCH
21 DISCRIMINATION IS REASONABLE AND CONSISTENT WITH THE TYPES OR
22 CLASSIFICATIONS THAT ARE ADOPTED OR RECOGNIZED BY THE UNITED STATES
23 NUCLEAR REGULATORY COMMISSION.
24 D. THE COMMISSION MAY ADOPT DEFINITIONS FOR ANY OTHER TERMS THE
25 COMMISSION DEEMS REASONABLE OR NECESSARY TO CARRY OUT THIS SECTION.
26 E. THIS SECTION APPLIES ONLY IN A COUNTY WITH A POPULATION OF LESS
27 THAN FIVE HUNDRED THOUSAND PERSONS.