

	Waste Programs Division Substantive Policy	ADEQ
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	Pollution Prevention Plans (A.R.S. 49-463) – Interpretation of “Mining and Metallurgical Operations” and “Used”	Policy No. 4000.2026
		Effective: June 5, 2026

This Substantive Policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes section 41-1033 for a review of the statement.

1.0 Purpose

Pursuant to A.R.S. § 41-1001(24), “substantive policy statement” means a written expression which informs the general public of an agency’s current approach to, or opinion of, the requirements of the federal or state constitution, federal or state statute, administrative rule or regulation, or final judgment of a court of competent jurisdiction, including, where appropriate, the agency’s current practice, procedure or method of action based upon that approach or opinion. The clarification provided in this substantive policy statement has been determined by ADEQ to meet applicable state and federal law and, therefore, ADEQ provides this substantive policy to assist persons in interpreting rules pertinent to ADEQ. Notwithstanding this substantive policy statement, ADEQ may consider alternative approaches to comply with applicable law.

ADEQ is issuing this substantive policy statement to assist facilities in determining whether the quantitative threshold filing requirement in A.R.S. § 49-963(D) is met such that the facility is required to prepare a Pollution Prevention Plan. Specifically, this policy explains ADEQ’s interpretation of “mining and metallurgical operations,” and “used” in A.R.S. § 49-963(A).

2.0 Definitions

Cement Production Facility - means a facility that manufactures Portland, natural, masonry, pozzolanic, and other hydraulic cements.

EPCRA - means the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. §§ 11001 - 11050).

Extractive Metallurgy - means the practice of removing valuable metals from ores or refining them to produce a purer metal.

Ferrous Metallurgy - means metallurgical processes using iron and alloys based on iron.

Hot-mix Asphalt Facility - means a facility that combines aggregates such as sand and gravel or crushed stone with bitumen or tar and adds heat for delivery to a work site.

Non-ferrous Metallurgy - means metallurgical processes and alloys based on non-iron metals.

Pollution Prevention Plan - means the plan required by A.R.S. § 49-963 that addresses a reduction in the use of toxic substances and the generation of hazardous waste.

Ready-mix Concrete Facility - means a facility that mixes Portland cement, water and aggregates such as sand and gravel or crushed stone in a precise mixture for delivery to a work site in an unhardened state.

Refining - means the removal of impurities from materials by a thermal process.

Smelting - means heating of metal oxides involving thermal reactions and at least one product is in a molten phase.

Toxic Substance or Toxics - Under A.R.S. § 49-961(9), Toxic Substance or Toxics means a toxic chemical listed pursuant to the Pollution Prevention Act of 1990 (42 U.S.C. § 13102(3)). Under 42 U.S.C. § 13102(3) toxic chemical means any substance on the list described in 42 U.S.C. § 11023(c), namely the EPCRA Section 313 Toxic Release Inventory (TRI) toxic substance (or chemical) list available at <https://www.epa.gov/toxics-release-inventory-tri-program/tri-listed-chemicals>.

3.0 Policy Statement

Pursuant to A.R.S. § 49-963, a facility is required to prepare a Pollution Prevention Plan if either, (1) it meets the reporting requirements in A.R.S § 49-962, or (2) it uses more than 10,000 pounds (lbs) in a calendar year of a toxic substance. See A.R.S. § 49-963(A) and (D), respectively. Materials used or produced in connection with mining or metallurgic operations do not count towards the quantitative threshold (10,000 lbs/calendar year) filing requirement in A.R.S § 49-963(D). See A.R.S § 49-963(A) (“For purposes of this section, ‘toxic substance’ does not include material used or produced in connection with mining or metallurgical operation”). The statute, however, does not define “mining or metallurgical operation” or “used.”

Please note that facilities may be subject to the Pollution Prevention Program through multiple statutory thresholds; this substantive policy statement applies solely to quantitative toxic substance use threshold in A.R.S. § 49-963(D) and does not modify or limit applicability under A.R.S. § 49-962(A)(1) TRI form submission to EPA threshold and (2) hazardous waste generation threshold.

Mining Operations

ADEQ interprets “mining operations” to include sand and gravel operations.

In addition, ADEQ considers ready-mix concrete, hot-mix asphalt, and cement production facilities that are physically connected to a sand and gravel or other mining operation, or are so interdependent with that operation so as to form one integral enterprise, to also be mining operations.

The physical connection or interdependence criteria are currently used to classify these facilities for safety inspections by the Arizona Division of Occupational Safety and Health (ADOSH) and the Arizona State Mine Inspector. A.R.S. § 23-408(C) authorizes ADOSH to “inspect at least every six months any operation that mixes rock, sand, gravel or similar materials with water and cement or with asphalt and that is not included in the definition of mine in section 27-301.” A.R.S. § 27-301(8) provides that “Mine includes that portion of an operation which mixes rock, sand, gravel or similar materials with water and cement or with asphalt, provided that the operation is either physically connected to the mine or is so interdependent with the mine as to form one integral enterprise.” The Arizona State Mine Inspector is required to inspect every mine at least once a year. A.R.S. § 27-124(A). ADEQ will use an annual list of active mines from the Arizona State Mine Inspector as guidance in determining which entities are mining operations. Materials used or produced at such facilities would not count towards the quantitative threshold filing requirement in A.R.S. § 49-963(D).

Metallurgical Operations

ADEQ interprets “metallurgical operations” to include facilities that, (1) extract metals from ore, or (2) smelt or refine ferrous or nonferrous metals from ore, pig iron, or scrap, or (3) produce metal alloys.

In addition, ADEQ considers facilities that are physically connected to a facility engaged in extractive metallurgy, smelting or refining, or the production of metal alloys or other mining operation, or are so interdependent with that operation so as to form one integral enterprise, to also be metallurgical operations. For example, a facility that smelts or refines scrap metal and uses this processed material to engage in non-metallurgical operations such as plating in a physically connected facility, is also considered to be a metallurgical operation. Materials used or produced at such facilities would not count towards the quantitative threshold filing requirement in A.R.S. § 49-963(D).

Used

ADEQ interprets “used” to mean the manufacturing or processing of a toxic substance, as further described below.

ADEQ interprets manufacturing to mean producing, preparing, importing, or compounding a toxic substance for sale, distribution into commerce, or on-site use or processing.

ADEQ interprets processing to mean preparing a toxic substance for distribution into commerce after its manufacture where the same physical state and chemical form, as

that received by the facility, of the chemical is maintained. This includes any toxic substance that is used as:

- As a reactant, such as using a toxic substance in chemical reactions for the manufacture of another chemical substance or product.
 - For example; feedstocks, raw materials intermediates and initiators
- As a formulation component which includes any toxic substance added to a product prior to further distribution of the product that acts as a performance enhancer during use of the product.
 - For example; additives, dyes, solvents, inhibitors, emulsifiers and flame retardants
- As an article component that becomes an integral component of an article distributed for industrial, trade or consumer use.
 - For example; pigment components of paint applied to a chair that is sold

Exceptions: Toxic substances described in the following three categories do not count towards the quantitative threshold filing requirement in A.R.S. § 49-963(D):

1. Toxic Substances that are:
 - a. Used for routine janitorial or facility grounds maintenance
 - b. Used to maintain motor vehicles operated by the facility
 - c. Used as a structural component of the facility
 - d. Contained in batteries (lead and sulfuric acid)
 - e. Contained in intake water (used for processing or non-contact cooling) or in intake air (used as either as compressed air or for combustion)
2. The following activities:
 - a. Repackaging of a toxic substance
 - b. Storing a toxic substance
 - c. On-site recycling of a toxic substance
 - d. Personal use of a toxic substance by employees or other persons
 - e. Blending or burning a toxic substance for energy recovery
3. Any toxic substance use not described by a qualifier in Table II. EPCRA Section 313 Chemical List. For example:
 - a. Aluminum oxide is only considered used if it is in a fume or dust form.
 - b. Persistent Bioaccumulative Toxic (PBT) chemicals, listed in Table II must be used in excess of 10,000 lbs. to meet P2 Program thresholds; even though the TRI program reporting threshold is lower. For example, the TRI program classifies lead and lead compounds as PBT chemicals which are subjected to the TRI program's lower use threshold of 100 lbs. However, if no TRI program thresholds are met, lead and lead compounds must be used in excess of 10,000 lbs. to meet Pollution Prevention Program thresholds.

Additional Guidance:

While a facility may not use more than 10,000 lbs. in a calendar year of a toxic substance, it may nonetheless be required to prepare a Pollution Prevention Plan

if it meets the reporting requirements in A.R.S. § 49-962(A). See A.R.S. § 49-963(A). If required to prepare a Pollution Prevention Plan under A.R.S. § 49-963(A), the facility would not have to address a reduction in the use of material used or produced in connection with a mining or metallurgical operation. See A.R.S. § 49-963(A).

4.0 Authority

A.R.S. § 49-104(a)(1) provides authority for ADEQ to formulate policies, plans and programs to implement Title 49 to protect the environment.

ADEQ is charged with implementing the Pollution Prevention Planning Program under A.R.S. Title 49, Chapter 5, Article 4.

5.0 Audience

Facilities that may have to file a Pollution Prevention Plan.
ADEQ employees who implement the Pollution Prevention Planning Program.

6.0 Policy Steward

The Hazardous Waste Permits and Support Unit Manager

7.0 Communication & Training

This substantive policy will be noticed in accordance with A.R.S. § 41-1091. ADEQ will make this policy available on its external website and provide notice to relevant stakeholders. ADEQ will make this policy available on the Agency’s Substantive Policy Statements website and the Pollution Prevention Planning Program website: <https://azdeq.gov/p2-steps-determine-business-eligibility>.

8.0 Annual Policy Review

This Policy will be reviewed annually during the Agency Annual Policy Review and will be revised or withdrawn as necessary at that time.

9.0 Additional Documents

Annual list of active mines available from the Arizona State Mine Inspector

10.0 Approval

Title	Name	Signature	Date
ADEQ Director, if necessary	Karen Peters	DocuSigned by: <i>Karen Peters</i> 72DC0E312D584BF...	5/7/2026
Affected Executive Leadership Team Member	Julie Riemenschneider	Signed by: <i>Julie Riemenschneider</i> FC6BE52F7A5B425...	5/8/2026
Administrative Counsel, as to form	Edwin Slade	DocuSigned by: <i>Edwin Slade</i> C19ECEB333B7458...	5/12/2026

11.0 Historical Note

Date	Number, Name, and Issue Date of Previous Version	Replaces Listed Sections/Entire Document	Reason
5/5/2026	<p>(1) N/A; Mining Operations that are Exempt from Pollution Prevention Plans; Issue/Revision Date: 3/6/15</p> <p>(2) N/A; Metallurgical Operations that are Exempt from Pollution Prevention Plans; Issue/Revision Date: 5/27/16</p> <p>(3) N/A; Interpretation of “use” of toxic substances in excess of 10,000 pounds for the Pollution Prevention Program; Issue/Revision Date: 5/31/16</p>	Entire Document	Updates and consolidates three prior substantive policy statements into a single, unified structure