

REFERENCE TITLE: waste programs; general permits; fees

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HB 2705

Introduced by
Representative Reeve

AN ACT

AMENDING SECTIONS 44-1303, 44-1304.01 AND 49-104, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-706; AMENDING SECTIONS 49-747, 49-761, 49-762.03, 49-762.05, 49-837, 49-855, 49-881, 49-922 AND 49-931, ARIZONA REVISED STATUTES; RELATING TO THE ENVIRONMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 44-1303, Arizona Revised Statutes, is amended to
3 read:

4 44-1303. Waste tire collection sites; registration

5 A. An owner or operator of a waste tire collection site, within six
6 months ~~of the effective date of this article~~ AFTER SEPTEMBER 27, 1990, shall
7 register with the department of environmental quality and provide the
8 department with information concerning the site's location and size and the
9 approximate number of waste tires ~~which~~ THAT are stored at the site and shall
10 initiate steps to comply with this article.

11 B. ANY WASTE TIRE COLLECTION SITE THAT IS ESTABLISHED AFTER THE
12 EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION SHALL REGISTER WITH THE
13 DEPARTMENT BEFORE BEGINNING OPERATION AND SHALL PAY A REGISTRATION FEE
14 ESTABLISHED BY THE DIRECTOR BY RULE. REGISTRATION FEES SHALL BE DEPOSITED,
15 PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE FUND
16 ESTABLISHED BY SECTION 49-881.

17 Sec. 2. Section 44-1304.01, Arizona Revised Statutes, is amended to
18 read:

19 44-1304.01. Storage, disposal, discard or abandonment of used
20 motor vehicle tires; registration fees;
21 violation; classification; exception

22 A. It is unlawful to store one hundred or more used motor vehicle
23 tires outdoors as follows:

24 1. In any fashion that exceeds twenty feet in height.

25 2. In a pile that is more than one hundred fifty feet from a twenty
26 foot wide access route that allows fire control apparatus to approach the
27 pile. Access routes between and around tire piles shall be at least twenty
28 feet wide and maintained free of accumulations of rubbish, equipment or other
29 materials. Access routes shall be spaced so that a maximum grid system unit
30 of fifty feet by one hundred fifty feet is maintained.

31 3. Within three feet of any property line.

32 4. In any fashion that exceeds six feet in height if the used tires
33 are stored between three and ten feet of any property line.

34 5. Within fifty feet of any area in which smoking of tobacco or any
35 other substance by persons is permitted. "No smoking" signs shall be posted
36 in suitable and conspicuous locations.

37 6. At any area in which the used motor vehicle tires are stored and in
38 which electrical wiring, fixtures or appliances do not comply with the
39 national electrical code.

40 7. Without placing class "2A-10BC" type fire extinguishers at well
41 marked points throughout the storage area so that the travel distance from
42 any point in the storage area to a fire extinguisher is not more than
43 seventy-five feet.

44 8. Without prior registration of the site with the department of
45 environmental quality. The registration shall be on a form approved by the

1 department and shall include the site's location, the NAME OF THE owner of
2 the property, the NAME OF THE owner or operator of the business storing the
3 waste tires, if applicable, and the type and approximate quantity of waste
4 tires stored at the site. For any waste tire collection site that is
5 operating on ~~the effective date of this amendment to this section~~ SEPTEMBER
6 26, 2008, the owner of the property shall register pursuant to this paragraph
7 ~~within sixty days after the effective date of this amendment to this section~~
8 ON OR BEFORE NOVEMBER 25, 2008. FOR ANY PERSON WHO STORES ONE HUNDRED OR
9 MORE USED MOTOR VEHICLE TIRES OUTDOORS AFTER THE EFFECTIVE DATE OF THIS
10 AMENDMENT TO THIS SECTION, THE OPERATOR SHALL PAY A REGISTRATION FEE
11 ESTABLISHED BY THE DEPARTMENT BY RULE. REGISTRATION FEES SHALL BE DEPOSITED,
12 PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE FUND
13 ESTABLISHED BY SECTION 49-881.

14 B. A person who knowingly discards or abandons five hundred or more
15 motor vehicle tires, discards or abandons any motor vehicle tires for
16 commercial purposes except as provided in section 44-1304, or otherwise
17 knowingly performs any act prohibited by subsection A of this section
18 involving five hundred or more motor vehicle tires is guilty of a class 5
19 felony.

20 C. The attorney general may enforce this section.

21 D. For the purposes of this section, used motor vehicle tires ~~does~~ DO
22 not include tires that have been recapped and have not yet been put back into
23 service.

24 Sec. 3. Section 49-104, Arizona Revised Statutes, is amended to read:
25 49-104. Powers and duties of the department and director

26 A. The department shall:

27 1. Formulate policies, plans and programs to implement this title to
28 protect the environment.

29 2. Stimulate and encourage all local, state, regional and federal
30 governmental agencies and all private persons and enterprises that have
31 similar and related objectives and purposes, cooperate with those agencies,
32 persons and enterprises and correlate department plans, programs and
33 operations with those of the agencies, persons and enterprises.

34 3. Conduct research on its own initiative or at the request of the
35 governor, the legislature or state or local agencies pertaining to any
36 department objectives.

37 4. Provide information and advice on request of any local, state or
38 federal agencies and private persons and business enterprises on matters
39 within the scope of the department.

40 5. Consult with and make recommendations to the governor and the
41 legislature on all matters concerning department objectives.

42 6. Promote and coordinate the management of air resources to assure
43 their protection, enhancement and balanced utilization consistent with the
44 environmental policy of this state.

1 7. Promote and coordinate the protection and enhancement of the
2 quality of water resources consistent with the environmental policy of this
3 state.

4 8. Encourage industrial, commercial, residential and community
5 development that maximizes environmental benefits and minimizes the effects
6 of less desirable environmental conditions.

7 9. Assure the preservation and enhancement of natural beauty and
8 man-made scenic qualities.

9 10. Provide for the prevention and abatement of all water and air
10 pollution including that related to particulates, gases, dust, vapors, noise,
11 radiation, odor, nutrients and heated liquids in accordance with article 3 of
12 this chapter and chapters 2 and 3 of this title.

13 11. Promote and recommend methods for the recovery, recycling and reuse
14 or, if recycling is not possible, the disposal of solid wastes consistent
15 with sound health, scenic and environmental quality policies. **BEGINNING IN**
16 **2014, THE DEPARTMENT SHALL REPORT ANNUALLY ON ITS REVENUES AND EXPENDITURES**
17 **RELATING TO THE SOLID AND HAZARDOUS WASTE PROGRAMS OVERSEEN OR ADMINISTERED**
18 **BY THE DEPARTMENT.**

19 12. Prevent pollution through the regulation of the storage, handling
20 and transportation of solids, liquids and gases that may cause or contribute
21 to pollution.

22 13. Promote the restoration and reclamation of degraded or despoiled
23 areas and natural resources.

24 14. Assist the department of health services in recruiting and training
25 state, local and district health department personnel.

26 15. Participate in the state civil defense program and develop the
27 necessary organization and facilities to meet wartime or other disasters.

28 16. Cooperate with the Arizona-Mexico commission in the governor's
29 office and with researchers at universities in this state to collect data and
30 conduct projects in the United States and Mexico on issues that are within
31 the scope of the department's duties and that relate to quality of life,
32 trade and economic development in this state in a manner that will help the
33 Arizona-Mexico commission to assess and enhance the economic competitiveness
34 of this state and of the Arizona-Mexico region.

35 17. Unless specifically authorized by the legislature, ensure that
36 state laws, rules, standards, permits, variances and orders are adopted and
37 construed to be consistent with and no more stringent than the corresponding
38 federal law that addresses the same subject matter. This provision shall not
39 be construed to adversely affect standards adopted by an Indian tribe under
40 federal law.

41 B. The department, through the director, shall:

42 1. Contract for the services of outside advisers, consultants and
43 aides reasonably necessary or desirable to enable the department to
44 adequately perform its duties.

- 1 2. Contract and incur obligations reasonably necessary or desirable
2 within the general scope of department activities and operations to enable
3 the department to adequately perform its duties.
- 4 3. Utilize any medium of communication, publication and exhibition
5 when disseminating information, advertising and publicity in any field of its
6 purposes, objectives or duties.
- 7 4. Adopt procedural rules that are necessary to implement the
8 authority granted under this title, but that are not inconsistent with other
9 provisions of this title.
- 10 5. Contract with other agencies, including laboratories, in furthering
11 any department program.
- 12 6. Use monies, facilities or services to provide matching
13 contributions under federal or other programs that further the objectives and
14 programs of the department.
- 15 7. Accept gifts, grants, matching monies or direct payments from
16 public or private agencies or private persons and enterprises for department
17 services and publications and to conduct programs that are consistent with
18 the general purposes and objectives of this chapter. Monies received
19 pursuant to this paragraph shall be deposited in the department fund
20 corresponding to the service, publication or program provided.
- 21 8. Provide for the examination of any premises if the director has
22 reasonable cause to believe that a violation of any environmental law or rule
23 exists or is being committed on the premises. The director shall give the
24 owner or operator the opportunity for its representative to accompany the
25 director on an examination of those premises. Within forty-five days after
26 the date of the examination, the department shall provide to the owner or
27 operator a copy of any report produced as a result of any examination of the
28 premises.
- 29 9. Supervise sanitary engineering facilities and projects in this
30 state, authority for which is vested in the department, and own or lease land
31 on which sanitary engineering facilities are located, and operate the
32 facilities, if the director determines that owning, leasing or operating is
33 necessary for the public health, safety or welfare.
- 34 10. Adopt and enforce rules relating to approving design documents for
35 constructing, improving and operating sanitary engineering and other
36 facilities for disposing of solid, liquid or gaseous deleterious matter.
- 37 11. Define and prescribe reasonably necessary rules regarding the water
38 supply, sewage disposal and garbage collection and disposal for subdivisions.
39 The rules shall:
 - 40 (a) Provide for minimum sanitary facilities to be installed in the
41 subdivision and may require that water systems plan for future needs and be
42 of adequate size and capacity to deliver specified minimum quantities of
43 drinking water and to treat all sewage.

1 (b) Provide that the design documents showing or describing the water
2 supply, sewage disposal and garbage collection facilities be submitted with a
3 fee to the department for review and that no lots in any subdivision be
4 offered for sale before compliance with the standards and rules has been
5 demonstrated by approval of the design documents by the department.

6 12. Prescribe reasonably necessary measures to prevent pollution of
7 water used in public or semipublic swimming pools and bathing places and to
8 prevent deleterious conditions at such places. The rules shall prescribe
9 minimum standards for the design of and for sanitary conditions at any public
10 or semipublic swimming pool or bathing place and provide for abatement as
11 public nuisances of premises and facilities that do not comply with the
12 minimum standards. The rules shall be developed in cooperation with the
13 director of the department of health services and shall be consistent with
14 the rules adopted by the director of the department of health services
15 pursuant to section 36-136, subsection H, paragraph 10.

16 13. Prescribe reasonable rules regarding sewage collection, treatment,
17 disposal and reclamation systems to prevent the transmission of sewage borne
18 or insect borne diseases. The rules shall:

19 (a) Prescribe minimum standards for the design of sewage collection
20 systems and treatment, disposal and reclamation systems and for operating the
21 systems.

22 (b) Provide for inspecting the premises, systems and installations and
23 for abating as a public nuisance any collection system, process, treatment
24 plant, disposal system or reclamation system that does not comply with the
25 minimum standards.

26 (c) Require that design documents for all sewage collection systems,
27 sewage collection system extensions, treatment plants, processes, devices,
28 equipment, disposal systems, on-site wastewater treatment facilities and
29 reclamation systems be submitted with a fee for review to the department and
30 may require that the design documents anticipate and provide for future
31 sewage treatment needs.

32 (d) Require that construction, reconstruction, installation or
33 initiation of any sewage collection system, sewage collection system
34 extension, treatment plant, process, device, equipment, disposal system,
35 on-site wastewater treatment facility or reclamation system conform with
36 applicable requirements.

37 14. Prescribe reasonably necessary rules regarding excreta storage,
38 handling, treatment, transportation and disposal. The rules shall:

39 (a) Prescribe minimum standards for human excreta storage, handling,
40 treatment, transportation and disposal and shall provide for inspection of
41 premises, processes and vehicles and for abating as public nuisances any
42 premises, processes or vehicles that do not comply with the minimum
43 standards.

1 (b) Provide that vehicles transporting human excreta from privies,
2 septic tanks, cesspools and other treatment processes shall be licensed by
3 the department subject to compliance with the rules. THE DEPARTMENT MAY
4 REQUIRE PAYMENT OF A FEE AS A CONDITION OF LICENSURE AND SHALL PRESCRIBE BY
5 RULE THE AMOUNT OF ANY FEES REQUIRED. THE FEES SHALL BE DEPOSITED, PURSUANT
6 TO SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE FUND ESTABLISHED BY
7 SECTION 49-881.

8 15. Perform the responsibilities of implementing and maintaining a data
9 automation management system to support the reporting requirements of title
10 III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499)
11 and title 26, chapter 2, article 3.

12 16. Approve remediation levels pursuant to article 4 of this chapter.

13 C. The department may:

14 1. Charge fees to cover the costs of all permits and inspections it
15 performs to ensure compliance with rules adopted under section 49-203, except
16 that state agencies are exempt from paying the fees. Monies collected
17 pursuant to this subsection shall be deposited, pursuant to sections 35-146
18 and 35-147, in the water quality fee fund established by section 49-210.

19 2. Contract with private consultants for the purposes of assisting the
20 department in reviewing applications for licenses, permits or other
21 authorizations to determine whether an applicant meets the criteria for
22 issuance of the license, permit or other authorization. If the department
23 contracts with a consultant under this paragraph, an applicant may request
24 that the department expedite the application review by requesting that the
25 department use the services of the consultant and by agreeing to pay the
26 department the costs of the consultant's services. Notwithstanding any other
27 law, monies paid by applicants for expedited reviews pursuant to this
28 paragraph are appropriated to the department for use in paying consultants
29 for services.

30 D. The director may:

31 1. If the director has reasonable cause to believe that a violation of
32 any environmental law or rule exists or is being committed, inspect any
33 person or property in transit through this state and any vehicle in which the
34 person or property is being transported and detain or disinfect the person,
35 property or vehicle as reasonably necessary to protect the environment if a
36 violation exists.

37 2. Authorize in writing any qualified officer or employee in the
38 department to perform any act that the director is authorized or required to
39 do by law.

40 Sec. 4. Title 49, chapter 4, article 1, Arizona Revised Statutes, is
41 amended by adding section 49-706, to read:

42 49-706. Waste programs general permits; rules

43 THE DEPARTMENT MAY ESTABLISH A GENERAL PERMIT FOR ANY PERMIT OR LICENSE
44 ISSUED PURSUANT TO THIS CHAPTER. THE GENERAL PERMIT CONSISTS OF THE
45 FOLLOWING:

1 1. THE DIRECTOR MAY ISSUE BY RULE A GENERAL PERMIT FOR A DEFINED CLASS
2 OF FACILITIES, ACTIVITIES OR PRACTICES IF ALL OF THE FOLLOWING APPLY:

3 (a) THE COST OF ISSUING INDIVIDUAL PERMITS OR LICENSES CANNOT BE
4 JUSTIFIED BY ANY ENVIRONMENTAL OR PUBLIC HEALTH BENEFIT THAT MAY BE GAINED
5 FROM ISSUING INDIVIDUAL PERMITS.

6 (b) THE FACILITIES, ACTIVITIES OR PRACTICES IN THE CLASS ARE
7 SUBSTANTIALLY SIMILAR IN NATURE.

8 (c) THE DIRECTOR IS SATISFIED THAT APPROPRIATE CONDITIONS UNDER A
9 GENERAL PERMIT FOR OPERATING THE FACILITIES OR CONDUCTING THE ACTIVITY OR
10 PRACTICE WILL MEET THE APPLICABLE REQUIREMENTS PRESCRIBED IN THIS CHAPTER FOR
11 THE FACILITY, ACTIVITY OR PRACTICE.

12 2. IN ADDITION TO OTHER APPLICABLE ENFORCEMENT ACTIONS, IF A PERSON IS
13 IN SUBSTANTIAL NONCOMPLIANCE WITH THE CONDITIONS OF A GENERAL PERMIT, THE
14 DIRECTOR MAY REVOKE COVERAGE UNDER THE GENERAL PERMIT FOR THAT PERSON AND
15 REQUIRE THAT THE PERSON OBTAIN AN INDIVIDUAL PERMIT. A GENERAL PERMIT MAY BE
16 REVOKED, MODIFIED OR SUSPENDED BY RULE IF THE DIRECTOR DETERMINES THAT ANY OF
17 THE CONDITIONS PRESCRIBED IN PARAGRAPH 1 NO LONGER APPLY.

18 3. RULES ADOPTED PURSUANT TO PARAGRAPH 1 MAY REQUIRE A PERSON SEEKING
19 COVERAGE UNDER A GENERAL PERMIT TO NOTIFY THE DIRECTOR OF THE PERSON'S INTENT
20 TO OPERATE PURSUANT TO THE GENERAL PERMIT AND TO PAY THE APPLICABLE FEE
21 ESTABLISHED BY THE DIRECTOR BY RULE.

22 Sec. 5. Section 49-747, Arizona Revised Statutes, is amended to read:
23 49-747. Annual registration of solid waste landfills; fee;
24 disposition of revenue

25 A. All solid waste landfills shall be registered annually with the
26 department.

27 B. The director shall establish a procedure for mailing registration
28 forms each year to the owners of all solid waste landfills. The registration
29 is valid for one year from the date of registration.

30 C. At the time of registration the owner of a solid waste landfill
31 shall pay to the department an annual fee ESTABLISHED BY THE DEPARTMENT BY
32 RULE. ~~for each site registered which is determined according to the~~
33 ~~population that the landfill serves based on the following schedule:~~

34 ~~1. For solid waste landfills that serve fewer than ten thousand~~
35 ~~people, five hundred dollars.~~

36 ~~2. For solid waste landfills that serve at least ten thousand people~~
37 ~~but less than twenty-five thousand people, seven hundred fifty dollars.~~

38 ~~3. For solid waste landfills that serve at least twenty-five thousand~~
39 ~~people but less than fifty thousand people, one thousand dollars.~~

40 ~~4. For solid waste landfills that serve at least fifty thousand people~~
41 ~~but less than one hundred thousand people, two thousand dollars.~~

42 ~~5. For solid waste landfills that serve at least one hundred thousand~~
43 ~~people but less than two hundred thousand people, three thousand dollars.~~

44 ~~6. For solid waste landfills that serve two hundred thousand people or~~
45 ~~more, five thousand dollars.~~

1 ~~7. Solid waste landfills that are open to the public and that accept~~
2 ~~demolition waste shall pay a flat fee of one thousand five hundred dollars.~~

3 ~~8. Solid waste landfills that are closed to the public and that accept~~
4 ~~nonhazardous waste shall pay a flat fee of one thousand five hundred dollars.~~

5 D. All monies collected pursuant to this section shall be deposited,
6 **PURSUANT TO SECTIONS 35-146 AND 35-147**, in the solid waste fee fund
7 established by section 49-881. The director may authorize the expenditure of
8 monies from the solid waste fee fund to pay the reasonable and necessary
9 costs of administering the registration program pursuant to section 49-881.

10 Sec. 6. Section 49-761, Arizona Revised Statutes, is amended to read:

11 **49-761. Rule making authority for solid waste facilities;**
12 **financial assurance; recycling facilities**

13 A. The department shall adopt rules regarding the storage, processing,
14 treatment and disposal of solid waste as prescribed by subsections B through
15 M of this section. In adopting rules, the department shall consider the
16 nature of the waste streams at the facilities to be regulated. The
17 department shall also consider other applicable federal and state laws and
18 rules in an effort to avoid practices or requirements that duplicate, are
19 inconsistent with or will result in dual regulation with other applicable
20 rules and laws. In adopting rules for solid waste facilities, the director
21 may include requirements for corrective actions in response to a release, as
22 defined in section 49-281, from a solid waste facility that violates or
23 results in a violation of any provision of this chapter, rule ~~promulgated~~
24 **ADOPTED** pursuant to this chapter or solid waste facility plan approved
25 pursuant to this chapter. These rules shall be consistent with ~~the~~
26 ~~provisions of~~ section 49-762.08, subsection B, subsection C, paragraphs 1 and
27 2, and subsections D and E.

28 B. For purposes of administering 42 United States Code section 6945,
29 as amended November 8, 1984, 40 C.F.R. part 258 is adopted by reference
30 except as prescribed by paragraph 2 of this subsection. This subsection, as
31 it applies to municipal solid waste landfills, governs if there is any
32 conflict between this subsection and any other statute relating to solid
33 waste. Municipal solid waste landfill facility plans submitted pursuant to
34 section 49-762 shall comply with this subsection. In administering this
35 subsection or in adopting or administering any rules adopted pursuant to this
36 subsection, the department shall ensure that any discretion allowed to a
37 director of an approved state pursuant to the federal regulations is
38 maintained. The following apply to the department's administration of 42
39 United States Code section 6945 and to the department's adoption of rules for
40 municipal solid waste landfills:

41 1. The department may adopt rules for municipal solid waste landfills.
42 Rules adopted pursuant to this paragraph shall not be more stringent than or
43 conflict with 40 C.F.R. part 258 for nonprocedural standards, except that the
44 department may adopt aquifer protection standards that are more stringent
45 than 40 C.F.R. part 258 if those standards are consistent with and no more

1 stringent than standards developed pursuant to chapter 2, article 3 of this
2 title, or if the standards are adopted pursuant to article 9 of this chapter.
3 Rules adopted pursuant to this paragraph are effective on the concurrence of
4 the administrator with this state's municipal solid waste landfill program.

5 2. 40 C.F.R. part 258, table I is not adopted in its entirety. The
6 department shall use aquifer water quality standards that have been adopted
7 by the department pursuant to section 49-223 and shall use those portions of
8 table I that are more restrictive than the standards adopted pursuant to
9 section 49-223.

10 C. The department shall adopt rules for those solid waste land
11 disposal facilities that are not municipal solid waste landfills. Rules
12 adopted pursuant to this subsection shall not be more stringent than or
13 conflict with 40 C.F.R. part 257 for nonprocedural standards, except that the
14 department may adopt aquifer protection standards that are more stringent
15 than 40 C.F.R. part 257 if these standards are consistent with and no more
16 stringent than standards developed pursuant to chapter 2, article 3 of this
17 title, or if the standards are adopted pursuant to article 9 of this chapter.
18 In administering this subsection, the department shall ensure that any
19 discretion allowed to a director of an approved state pursuant to the federal
20 regulations is maintained in the department's rules. Aquifer protection
21 provisions adopted pursuant to this subsection do not apply to an owner or
22 operator of a solid waste facility if the owner or operator submits an
23 administratively complete application for an aquifer protection permit
24 pursuant to chapter 2, article 3 of this title before the date that the owner
25 or operator is required to submit a solid waste facility plan.

26 D. The department shall adopt rules to define biohazardous medical
27 waste and to regulate biohazardous medical waste and medical sharps to
28 include all of the following:

29 1. A definition for biohazardous medical waste that includes wastes
30 that contain material that is likely to transmit etiologic agents that have
31 been shown to cause or contribute to increased human morbidity or mortality
32 of epidemiologic significance. The department shall consult with the
33 department of health services in making this determination.

34 2. Reasonably necessary rules regarding the storage, collection,
35 transportation, treatment and disposal of biohazardous medical waste and
36 medical sharps, beginning with the placement by the generator of the waste in
37 containers for the purpose of waste collection. **THE DEPARTMENT MAY REQUIRE
38 PAYMENT OF A FEE FOR THE LICENSURE OF A TRANSPORTER OF BIOHAZARDOUS MEDICAL
39 WASTE AND SHALL PRESCRIBE BY RULE THE AMOUNT OF ANY FEES REQUIRED. THE FEES
40 SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE SOLID
41 WASTE FEE FUND ESTABLISHED BY SECTION 49-881.** In the case of self-hauling of
42 waste by the generator, all storage facilities under the generator's control
43 and all waste handling practices including storage, treatment and
44 transportation shall be in accordance with these rules. The department shall

1 also adopt reasonably necessary rules regarding the tracking of biohazardous
2 medical waste and medical sharps.

3 E. The department may adopt reasonably necessary rules regarding the
4 storage, collection, transportation, treatment and disposal of
5 nonbiohazardous medical waste beginning with the placement by the generator
6 of the waste in containers for the purpose of waste collection. In the case
7 of self-hauling of the waste by the generator, all storage facilities under
8 the generator's control and all waste handling practices including storage,
9 treatment and transportation shall be in accordance with these rules.

10 F. The department shall adopt rules for the application of sludge from
11 a wastewater treatment facility to land for use as fertilizer or beneficial
12 soil amendment. For THE purposes of this subsection, "sludge" has the same
13 meaning as sewage sludge as defined in 40 Code of Federal Regulations section
14 122.2 in effect on January 1, 1998.

15 G. The department shall adopt rules regarding the storage, processing,
16 treatment or disposal of solid waste at solid waste facilities that are
17 identified in section 49-762.01. The rules shall allow the owner or operator
18 to certify compliance with the department's statutes and rules in lieu of
19 obtaining a solid waste facility plan approval. The rules shall provide that
20 the applicant at its option may request approval of a solid waste facility
21 plan rather than certifying compliance.

22 H. The department shall issue by rule best management practices for
23 the classes of solid waste facilities set forth in section 49-762.02.

24 I. The department shall adopt reasonably necessary rules establishing
25 minimum standards for storing, collecting, transporting, disposing and
26 reclaiming solid waste, including garbage, trash, rubbish, manure and other
27 objectionable wastes. These rules shall provide for inspecting premises,
28 containers, processes, equipment and vehicles, and for abating as
29 environmental nuisances any premises, containers, processes, equipment or
30 vehicles that do not comply with the minimum standards of these rules. The
31 rules adopted pursuant to this subsection do not apply to sites that are
32 either regulated by section 49-762, 49-762.01 or 49-762.02 or exempted by
33 section 49-701, paragraph 29 or section 49-701.01. Notwithstanding any other
34 provision of this subsection, rules adopted pursuant to this subsection shall
35 apply to defining environmental nuisances pursuant to section 49-141.

36 J. The department shall adopt rules relating to financial assurance
37 requirements. The rules shall indicate the types of financial assurance
38 mechanisms to be required and the content, terms and conditions of each
39 financial mechanism, including circumstances under which the department may
40 take action on the financial assurance mechanism for facility closure,
41 postclosure care if necessary and corrective action for known releases. The
42 financial assurance mechanisms shall include all of the following:

- 43 1. Surety bond.
- 44 2. Certificate of deposit.
- 45 3. Trust fund with pay-in period.

- 1 4. Letter of credit.
- 2 5. Insurance policy.
- 3 6. Certificate of self-insurance.
- 4 7. Deposit with the state treasurer.
- 5 8. Evidence of ability to meet any of the following:
- 6 (a) Corporate financial test.
- 7 (b) Local government financial test.
- 8 (c) Corporate guarantee test.
- 9 (d) Local government guarantee test.
- 10 (e) Political subdivision financial test that shall require the
- 11 department to consider the entity's bond rating, income stream, assets,
- 12 liabilities and assessed valuation of taxable property.
- 13 9. Multiple financial assurance mechanisms.
- 14 10. Additional financial assurance mechanisms that may be acceptable to
- 15 the director.
- 16 K. The department shall adopt rules that prescribe standards to be
- 17 used in determining if a site is a recycling facility.
- 18 L. The director may adopt rules that prescribe standards to be used in
- 19 determining if a solid waste facility includes significant solid waste
- 20 transfer activities that warrant the facility's regulation as a transfer
- 21 facility.
- 22 M. The department shall adopt facility design, construction,
- 23 operation, closure and postclosure maintenance rules for biosolids processing
- 24 facilities and household waste composting facilities that must obtain plan
- 25 approval pursuant to section 49-762.
- 26 Sec. 7. Section 49-762.03, Arizona Revised Statutes, is amended to
- 27 read:
- 28 49-762.03. Solid waste facility plan approval
- 29 A. Except as provided in subsections C and E of this section, the
- 30 owner or operator of a solid waste facility identified in section 49-762
- 31 shall obtain the department's approval of a solid waste facility plan as
- 32 follows:
- 33 1. For a new solid waste facility and before commencing construction
- 34 of the solid waste facility, the owner or operator shall obtain approval of a
- 35 solid waste facility plan that satisfies rules adopted by the director.
- 36 2. For an existing solid waste facility, the owner or operator shall
- 37 file with the department a solid waste facility plan within one hundred
- 38 eighty days after the effective date of rules adopted pursuant to section
- 39 49-761 that contain design and operation standards for that type of solid
- 40 waste facility. An existing solid waste facility may continue to operate
- 41 while the department reviews the plan. For an existing public solid waste
- 42 facility that is currently subject to rules that contain design and operation
- 43 standards, the owner or operator shall file with the department a solid waste
- 44 facility plan by October 1, 1996, if the facility has not received plan
- 45 approval before that date.

1 B. For a solid waste facility subject to site approval pursuant to
2 section 49-767, a solid waste facility plan shall not be submitted to the
3 department until the site for the solid waste facility has been approved
4 pursuant to section 49-767. For all new solid waste landfills, a solid waste
5 facility plan shall provide evidence of compliance with or the
6 inapplicability of city, town or county zoning ordinances.

7 C. The director shall grant temporary authorization to operate a new
8 solid waste facility if in the director's opinion the solid waste facility is
9 needed immediately and could not be properly planned in advance.

10 D. An owner or operator of more than one solid waste facility that
11 conducts similar activities with similar waste streams may prepare and
12 implement a single plan that covers all of its facilities if it has received
13 prior approval from the director and has complied with rules regarding single
14 plans that are adopted by the director.

15 E. The director by rule may exempt from some or all of the facility
16 plan approval requirements those solid waste facilities that are located in
17 unincorporated areas and that are used for disposal by any single family
18 residence located on the same property or those solid waste facilities that
19 do not present a threat to public health and safety and the environment.

20 F. The department shall collect from the applicant ~~a reasonable fee~~
21 ~~based on the department's reasonable direct costs, not including indirect~~
22 ~~costs~~ FEES ESTABLISHED BY THE DIRECTOR BY RULE for the APPROVAL OF THE PLAN,
23 INCLUDING COSTS FOR THE processing, review, approval or disapproval of the
24 plan, ~~to be reviewed on an annual basis~~. The director may amend an existing
25 rule or adopt a new rule to establish criteria for those costs AND SHALL
26 IDENTIFY IN RULE THE TYPES AND AMOUNTS OF FEES AND COSTS TO BE CHARGED,
27 INCLUDING MAXIMUM FEES. ~~That rule making is exempt from title 41, chapter 6,~~
28 ~~except that the director shall provide for reasonable notice and a hearing.~~
29 THE FEES SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE
30 SOLID WASTE FEE FUND ESTABLISHED BY SECTION 49-881.

31 G. The department may contract with private consultants for the
32 purposes of assisting the department in reviewing solid waste facility plan
33 approvals to determine whether a facility meets the criteria of section
34 49-762.04. The department shall pay the consultant for the services rendered
35 by the consultant from fees paid by the applicant. If the department
36 contracts with a consultant under this section, an applicant may request that
37 the department expedite the application review by requesting that the
38 department use the services of the consultant and by agreeing to pay the
39 department the costs of the consultant's services. Notwithstanding section
40 49-881, fees collected by the department for expedited plan review shall be
41 deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in the solid waste fee
42 fund ESTABLISHED BY SECTION 49-881 and used for payment of the costs of the
43 consultant services. Fees received for the purpose of expedited plan review
44 are not subject to appropriation.

1 Sec. 8. Section 49-762.05, Arizona Revised Statutes, is amended to
2 read:

3 49-762.05. Self-certification procedures; rules

4 A. The owner or operator of a solid waste facility identified in
5 section 49-762.01 shall comply with the self-certification requirements
6 prescribed by this section and rules adopted by the director.

7 B. The owner or operator of a new solid waste facility may be required
8 by rule to submit some or all of the following information to the department
9 before the start of construction:

10 1. Design and operational plans or other documents necessary to
11 describe the design of the facility and the practices and methods that are or
12 will be used to comply with the design and operation rules adopted by the
13 director for that type of facility.

14 2. A demonstration of financial assurance in accordance with section
15 49-770.

16 3. A demonstration of compliance with either local zoning laws or
17 section 49-767.

18 4. A demonstration of the issuance of other environmental permits that
19 are required by statute.

20 5. A copy of the public notice in a newspaper of general circulation
21 in the area in which a new solid waste facility will be located. The public
22 notice shall state the intent to construct and operate a new solid waste
23 facility pursuant to this subsection.

24 C. The owner or operator of an existing solid waste facility may be
25 required by rule to submit some or all of the information described in
26 subsection B, paragraphs 1 through 4 of this section within one hundred
27 eighty days after the adoption of design and operation rules for that type of
28 facility.

29 D. The owner or operator shall maintain all documents required by
30 statute or rule at the solid waste facility or any other location as
31 determined by rule, and those documents shall be made available for
32 inspection pursuant to section 49-763.

33 E. An owner or operator making a substantial change to a solid waste
34 facility shall submit documentation to the department before the start of
35 construction stating that the facility will remain in compliance with the
36 design and operation rules for that type of facility. The owner or operator
37 of a solid waste facility that makes any changes in its compliance with
38 subsection B, paragraph 2 or 3 of this section shall submit copies of those
39 changes to the department.

40 F. A person making a submittal under this section shall certify in
41 writing that the information submitted is true, accurate and complete to the
42 best of the person's knowledge and belief.

43 G. Self-certified facilities identified in section 49-762.01 are not
44 subject to the location restrictions of section 49-772.

1 H. The department shall collect from the applicant ~~an initial~~
2 ~~registration fee of five hundred dollars for a self certification filing.~~
3 ~~The department shall collect from the applicant a registration fee of two~~
4 ~~hundred dollars for a self certification filing for a substantial change FEES~~
5 ESTABLISHED BY THE DEPARTMENT BY RULE. Fees collected pursuant to this
6 section shall be deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in the
7 solid waste fee fund established by section 49-881.

8 I. An owner or operator of more than one solid waste facility
9 identified in section 49-762.01 that conducts similar activities with similar
10 waste streams may submit one self-certification filing for all such
11 facilities if the owner or operator has received prior approval from the
12 director and has complied with rules for self-certification that are adopted
13 by the director. ~~The director shall collect from the applicant only one~~
14 ~~initial registration fee or substantial change fee for the multiple facility~~
15 ~~self-certification filing in the amounts prescribed by subsection H of this~~
16 ~~section.~~

17 Sec. 9. Section 49-837, Arizona Revised Statutes, is amended to read:
18 49-837. Recycling fund; use; advisory committee

19 A. A recycling fund is established to be administered by the director.
20 The fund consists of monies appropriated by the legislature, gifts, grants,
21 donations and monies derived from the landfill disposal fees in section
22 49-836. Monies derived from landfill disposal fees are subject to
23 legislative appropriation. Monies in the fund are exempt from lapsing under
24 section 35-190. On notice from the director, the state treasurer shall
25 invest and divest monies in the fund as provided by section 35-313, and
26 monies earned from investment shall be credited to the fund.

27 B. Monies from the recycling fund shall be used for the following
28 purposes:

29 1. ~~At least forty per cent shall be allocated for~~ Grants to or
30 contracts with political subdivisions, nonprofit organizations or private
31 enterprise for research, demonstration projects, market development and
32 source reduction studies and implementation of the recommendations or reports
33 prepared pursuant to this article.

34 2. ~~At least twenty per cent shall be allocated for~~ Public information,
35 public education and technical assistance programs concerning litter control,
36 recycling and source reduction.

37 3. ~~No more than five per cent may be allocated for~~ The collection and
38 administration of monies in the fund.

39 4. ~~No more than five per cent may be allocated for~~ The administration
40 of this article.

41 5. ~~At least four per cent but not more than five per cent may be~~
42 ~~allocated for~~ The administration of the department of commerce recycled
43 market development program. At the end of each fiscal year, any funds not
44 expended by the department of commerce for this purpose shall be returned to
45 the fund.

1 6. THE DEPARTMENT'S SOLID WASTE CONTROL PROGRAM ACTIVITIES PRESCRIBED
2 IN THIS CHAPTER AND IN TITLE 44.

3 C. In making expenditures pursuant to subsection B, paragraph 2 of
4 this section, the director shall ensure that counties having a population of
5 ~~fewer~~ LESS than five hundred thousand persons according to the most recent
6 United States decennial census receive benefits in proportion to their
7 contributions to the fund.

8 D. The director shall appoint an advisory committee to advise the
9 director on the use of monies in the recycling fund. The advisory committee
10 shall consist of two representatives from private solid waste collection
11 businesses, two representatives from private solid waste recycling
12 businesses, four representatives from political subdivisions which have
13 implemented recycling and source reduction programs, at least one of whom
14 resides in a county having a population of fewer than five hundred thousand
15 persons, and one representative of the general public. The members of the
16 committee serve at the pleasure of the director and are not eligible to
17 receive compensation, and the committee is an advisory committee for purposes
18 of title 38, chapter 3, article 3.1.

19 Sec. 10. Section 49-855, Arizona Revised Statutes, is amended to read:

20 49-855. Best management practices; fee; criteria

21 A. The director shall adopt, by rule, best management practices for
22 the treatment, storage and disposal of each waste to be designated as a
23 special waste pursuant to this article.

24 B. In adopting best management practices for a special waste, the
25 director shall consider:

26 1. The availability, effectiveness, economic feasibility and technical
27 feasibility of alternative handling or management technologies and practice.

28 2. The potential nature and severity of the effect on public health
29 and the environment resulting from the special waste.

30 3. Circumstances under which the practices shall be applied including
31 climatological, geological and hydrogeological conditions.

32 4. Consistency with other federal and state laws, rules and
33 regulations in an effort to avoid practices or requirements that duplicate,
34 are inconsistent with or result in dual regulation under other federal and
35 state laws, rules and regulations.

36 C. The best management practices adopted by the director shall contain
37 procedures necessary for the protection of public health and the environment
38 for the transportation, treatment, storage and disposal of special wastes.
39 Additional items to be contained in the best management practices shall
40 include at least:

41 1. A designated time of not less than ninety days beyond which a waste
42 may not be stored.

43 2. A fee for each TON OF special waste ~~of not more than two dollars~~
44 ~~per ton and beginning from and after January 1, 1995, not more than twenty~~
45 ~~thousand dollars per generator site per year for special waste~~ that is

1 transported to a facility in this state for treatment, storage or disposal.
2 THE DEPARTMENT SHALL ESTABLISH THE FEES, INCLUDING MAXIMUM FEES, BY RULE.
3 THE FEES SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE
4 SOLID WASTE FEE FUND ESTABLISHED BY SECTION 49-881.

5 D. The director may adopt special waste best management practices that
6 apply to the treatment, storage or disposal of those wastes that are not
7 regulated as hazardous wastes under federal laws or regulations.

8 E. The director may enact special waste best management practices that
9 are more stringent than federal laws or regulations that govern
10 polychlorinated biphenyls pursuant to the toxic substances control act (15
11 United States Code section 2605) if the director determines in writing that:

12 1. The additional regulation is necessary to protect public health or
13 the environment.

14 2. There is a scientific basis for the additional regulation based
15 upon appropriate environment testing and analytical data.

16 3. The additional regulation is technically feasible.

17 F. Nothing in this section shall preclude the director from adopting
18 best management practices under this article which incorporate management
19 practices applicable to the treatment, storage or disposal of those wastes
20 that are not regulated as hazardous wastes under federal laws or regulations.

21 Sec. 11. Section 49-881, Arizona Revised Statutes, is amended to read:

22 49-881. Solid waste fee fund; uses; exemption

23 A. ~~A~~ THE solid waste fee fund is established. The director shall
24 administer the fund. The fund consists of legislative appropriations,
25 donations, gifts, grants, REGISTRATION FEES COLLECTED PURSUANT TO SECTIONS
26 44-1303 AND 44-1304.01, waste tire administrative monies distributed pursuant
27 to section 44-1305, subsection B, paragraph 1, LICENSURE FEES COLLECTED
28 PURSUANT TO SECTION 49-104, SUBSECTION B, PARAGRAPH 14, SUBDIVISION (b),
29 solid waste landfill registration fees from section 49-747, LICENSURE FEES
30 COLLECTED PURSUANT TO SECTION 49-761, SUBSECTION D, PARAGRAPH 2, solid waste
31 fees collected pursuant to section 49-762.03, subsection F, special waste
32 management plan fees collected pursuant to section 49-857, special waste
33 management fees collected pursuant to section 49-863, private consultants
34 expedited plan review fees collected pursuant to section 49-762.03,
35 subsection G, self-certification filing fees collected pursuant to section
36 49-762.05, subsection H, ~~and~~ solid waste landfill disposal fees collected
37 pursuant to section 49-836 AND SPECIAL WASTE FEES COLLECTED PURSUANT TO
38 SECTION 49-855, SUBSECTION C, PARAGRAPH 2.

39 B. Monies in the fund are subject to legislative appropriation for
40 solid waste control programs established in the funding sources pursuant to
41 subsection A of this section and as determined by the director.

42 C. On notice from the director, the state treasurer shall invest and
43 divest monies in the fund as provided in section 35-313, and monies earned
44 from investment shall be credited to the fund. Monies deposited in the fund

1 are exempt from the provisions of section 35-190 relating to lapsing of
2 appropriations.

3 Sec. 12. Section 49-922, Arizona Revised Statutes, is amended to read:
4 49-922. Department rules and standards; prohibited permittees

5 A. The director shall adopt rules to establish a hazardous waste
6 management program equivalent to and consistent with the federal hazardous
7 waste regulations promulgated pursuant to subtitle C of the federal act.
8 Federal hazardous waste regulations may be adopted by reference. The
9 director shall not adopt a nonprocedural standard that is more stringent than
10 or conflicts with those found in 40 Code of Federal Regulations ~~sections~~
11 PARTS 260 through 268, 270 through 272, 279 and 124. The director shall not
12 identify a waste as hazardous, if not so identified in the federal hazardous
13 waste regulations, unless the director finds, based on all the factors in 40
14 Code of Federal Regulations section 261.11(a)(1), (2), or (3), that the waste
15 may cause or significantly contribute to an increase in serious irreversible,
16 or incapacitating reversible, illness or pose a substantial present or
17 potential hazard to human health or the environment when it is improperly
18 treated, stored, transported, disposed or otherwise managed.

19 B. These rules shall establish criteria and standards for the
20 characteristics, identification, listing, generation, transportation,
21 treatment, storage and disposal of hazardous waste within this state. In
22 establishing the standards the director shall, where appropriate, distinguish
23 between new and existing facilities. The criteria and standards shall
24 include requirements respecting:

25 1. Maintaining records of hazardous waste identified under this
26 article and the manner in which the waste is generated, transported, treated,
27 stored or disposed.

28 2. Submission of reports, data, manifests and other information
29 necessary to ensure compliance with such standards.

30 3. The transportation of hazardous waste, including appropriate
31 packaging, labeling and marking requirements and requirements respecting the
32 use of a manifest system, which are consistent with the regulations of the
33 state and United States departments of transportation governing the
34 transportation of hazardous materials.

35 4. The operation, maintenance, location, design and construction of
36 hazardous waste treatment, storage or disposal facilities, including such
37 additional qualifications as to ownership, continuity of operation,
38 contingency plans, corrective actions and abatement of continuing releases,
39 monitoring and inspection programs, personnel training, closure and
40 postclosure requirements and financial responsibility as may be necessary and
41 appropriate.

42 5. Requiring a permit for a hazardous waste treatment, storage or
43 disposal facility including the modification and termination of permits, the
44 authority to continue activities and permits existing on July 27, 1983
45 consistent with the federal hazardous waste regulations, and the payment of

1 ~~a~~ reasonable ~~application fee~~ FEES. The director shall establish and collect
2 ~~a~~ reasonable fee FEES from the applicant to cover the cost of administrative
3 services and other expenses associated with evaluating the application and
4 issuing or denying the permit. THE DIRECTOR SHALL ESTABLISH THOSE FEES,
5 INCLUDING MAXIMUM FEES, BY RULE, AND THE FEES SHALL BE DEPOSITED, PURSUANT TO
6 SECTIONS 35-146 AND 35-147, IN THE HAZARDOUS WASTE MANAGEMENT FUND
7 ESTABLISHED BY SECTION 49-927.

8 6. Providing the right of entry for inspection and sampling to ensure
9 compliance with the standards.

10 7. Providing for appropriate public participation in developing,
11 revising, implementing, amending and enforcing any rule, guideline,
12 information or program under this article consistent with the federal
13 hazardous waste program.

14 C. The director may refuse to issue a permit for a facility for
15 storage, treatment or disposal of hazardous waste to a person if any of the
16 following applies:

17 1. The person fails to demonstrate sufficient reliability, expertise,
18 integrity and competence to operate a hazardous waste facility.

19 2. The person has been convicted of, or pled guilty or no contest to,
20 a felony in any state or federal court during the five years before the date
21 of the permit application.

22 3. In the case of a corporation or business entity, if any of its
23 officers, directors, partners, key employees or persons or business entities
24 holding ten per cent or more of its equity or debt liability has been
25 convicted of, or pled guilty or no contest to, a felony in any state or
26 federal court during the five years before the date of the permit
27 application.

28 D. Nothing in this article shall affect the validity of any existing
29 rules adopted by the director that are equivalent to and consistent with the
30 federal hazardous waste regulations until new rules for hazardous waste are
31 adopted.

32 E. Nothing in this article shall authorize the regulation of small
33 quantity generators as defined by 40 Code of Federal Regulations section
34 261.5 in a manner inconsistent with the federal hazardous waste regulations.
35 However, the director may require reports of any small quantity generator or
36 group of small quantity generators regarding the treatment, storage,
37 transportation, disposal or management of hazardous waste if the hazardous
38 waste of such generator or generators may pose a substantial present or
39 potential hazard to human health or the environment when it is improperly
40 treated, stored, transported, disposed or otherwise managed.

41 Sec. 13. Section 49-931, Arizona Revised Statutes, is amended to read:

42 49-931. Hazardous waste fees; definitions

43 A. ~~Beginning January 1, 1992,~~ The following fees apply:

44 1. ~~Except as provided in paragraph 4 of this subsection,~~ A person who
45 generates hazardous waste that is shipped off site shall pay ~~ten dollars~~ A

1 FEE ESTABLISHED BY THE DEPARTMENT BY RULE for each ton of waste generated.
2 Hazardous waste that is shipped off site to a facility that is in this state
3 and that is owned or operated by the same person who generates the waste is
4 exempt from the fees in this paragraph.

5 2. ~~Except as provided in paragraph 4 of this subsection,~~ An owner or
6 operator of a facility that disposes of hazardous waste shall pay ~~forty~~
7 ~~dollars~~ A FEE ESTABLISHED BY THE DEPARTMENT BY RULE for each ton of waste
8 disposed. Hazardous waste that is disposed at a facility that is owned or
9 operated by the same person who generates the waste is exempt from the fee in
10 this paragraph.

11 3. ~~Except as provided in paragraph 4 of this subsection,~~ A person who
12 generates hazardous waste that is retained on site for disposal or that is
13 shipped off site for disposal to a facility that is owned or operated by that
14 generator shall pay ~~four dollars~~ A FEE ESTABLISHED BY THE DEPARTMENT BY RULE
15 for each ton of hazardous waste delivered to the disposal facility.

16 4. UNTIL JULY 1, 2012, in lieu of the fees prescribed in paragraphs 1
17 and 3 of this subsection, a person who generates hazardous waste and who
18 complies with the pollution prevention planning requirements of article 4 of
19 this chapter shall pay one-half of the prescribed fee for each ton of
20 hazardous waste. In lieu of the fees prescribed in paragraph 2 of this
21 subsection, an owner or operator of a facility that receives hazardous waste
22 from a person who complies with the pollution prevention planning
23 requirements of article 4 of this chapter shall collect and pay one-half of
24 the prescribed fee for each ton of hazardous waste received. These reduced
25 fees apply only if the person submits written certification of that
26 compliance. This certificate of compliance shall be submitted with the
27 manifest that accompanies the hazardous waste transported off site for
28 disposal and shall accompany the copy of the manifest that is filed by the
29 generator with the department.

30 B. Each operator or person who is required to pay a fee as prescribed
31 by this section shall make the fee payment as determined by the department.

32 C. The department shall collect all fees due under this section and
33 shall deposit, pursuant to sections 35-146 and 35-147, those fees in the
34 hazardous waste management fund established in section 49-927. Each fee
35 payment shall be accompanied by a form furnished by the department and
36 completed by the operator or person. The form shall state the total volume
37 or weight of hazardous waste generated or disposed at that facility during
38 the payment period and shall provide any other information deemed necessary
39 by the department. The operator or person shall sign the form.

40 D. If an operator or person fails to pay the fee prescribed by this
41 section, the operator or person is additionally liable for interest on the
42 unpaid amount at the rate prescribed by section 44-1201.

43 E. State agencies, including state universities, are not exempt from
44 the fees prescribed by this section.

1 F. For THE purposes of this section:

2 1. "Generates" means the act or process of producing hazardous waste
3 and includes importing hazardous waste into this state for disposal.

4 2. "Off site" means any transportation that is not on site as defined
5 in section 49-851.

6 3. "Person" means an individual, trust, firm, joint stock company,
7 corporation, including a government corporation, partnership, association,
8 state, municipality, commission, political subdivision of this state,
9 interstate body or federal facility.

10 Sec. 14. Department of environmental quality; continuing fee
11 authority; retroactivity

12 A. Notwithstanding any other law, through June 30, 2012, the
13 department of environmental quality has continuing fee authority to collect
14 the following fees:

15 1. Except as provided in section 49-931, subsection A, paragraph 4,
16 the following hazardous waste fees apply:

17 (a) A person who generates hazardous waste that is shipped off site
18 shall pay seventy dollars for each ton of waste generated. Hazardous waste
19 that is shipped off site to a facility that is in this state and that is
20 owned or operated by the same person who generates the waste is exempt from
21 the fees in this subdivision.

22 (b) An owner or operator of a facility that disposes of hazardous
23 waste shall pay two hundred eighty dollars for each ton of waste disposed.
24 Hazardous waste that is disposed at a facility that is owned or operated by
25 the same person who generates the waste is exempt from the fee in this
26 subdivision.

27 (c) A person who generates hazardous waste that is retained on site
28 for disposal or that is shipped off site for disposal to a facility that is
29 owned or operated by that generator shall pay twenty eight dollars for each
30 ton of hazardous waste delivered to the disposal facility.

31 2. A fee of not more than five dollars per ton and not more than fifty
32 thousand dollars per generator site per year for special waste that is
33 transported to a facility in this state for treatment, storage or disposal.

34 3. For special waste that is shredder residue, the owner or operator
35 of a special waste facility may pay a fee in the amount of one dollar
36 sixty-five cents per cubic yard of uncompacted shredder residue or of three
37 dollars seventy-five cents per cubic yard of compacted shredder residue
38 received in lieu of the five dollars per ton prescribed in paragraph 2 of
39 this subsection.

40 4. At the time of registration the owner of a solid waste landfill
41 shall pay the following as an annual fee for each site registered:

42 (a) For solid waste landfills that serve fewer than ten thousand
43 people, two thousand five hundred dollars.

- 1 (b) For solid waste landfills that serve at least ten thousand people
2 but less than twenty-five thousand people, three thousand seven hundred fifty
3 dollars.
- 4 (c) For solid waste landfills that serve at least twenty-five thousand
5 people but less than fifty thousand people, five thousand dollars.
- 6 (d) For solid waste landfills that serve at least fifty thousand
7 people but less than one hundred thousand people, ten thousand dollars.
- 8 (e) For solid waste landfills that serve at least one hundred thousand
9 people but less than two hundred thousand people, fifteen thousand dollars.
- 10 (f) For solid waste landfills that serve two hundred thousand people
11 or more, twenty-five thousand dollars.
- 12 (g) For solid waste landfills that are open to the public and that
13 accept demolition waste, seven thousand five hundred dollars.
- 14 (h) For solid waste landfills that are closed to the public and that
15 accept nonhazardous waste, seven thousand five hundred dollars.
- 16 B. Notwithstanding any other law, through June 30, 2012, in addition
17 to the fees specified in subsection A of this section, the department of
18 environmental quality has continuing fee authority to collect the fees that
19 were in effect in fiscal year 2010-2011 for the following:
- 20 1. The review of solid waste facility plans for new solid waste
21 facilities.
- 22 2. The review of modifications to solid waste facility plans.
- 23 3. The review of financial responsibility plans for solid waste
24 facilities.
- 25 4. The hourly rate for the review of solid waste facility plans.
- 26 C. This section applies retroactively to from and after June 30, 2011.