

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SENATE BILL 1465

AN ACT

AMENDING SECTIONS 49-761, 49-762, 49-762.02 AND 49-762.07, ARIZONA REVISED
STATUTES; RELATING TO REGULATION OF SOLID WASTE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 49-761, Arizona Revised Statutes, is amended to
3 read:

4 49-761. Rule making authority for solid waste facilities:
5 exemption: financial assurance: recycling facilities

6 A. The department shall adopt rules regarding the storage, processing,
7 treatment and disposal of solid waste as prescribed by subsections B through
8 M of this section. In adopting rules, the department shall consider the
9 nature of the waste streams at the facilities to be regulated. The
10 department shall also consider other applicable federal and state laws and
11 rules in an effort to avoid practices or requirements that duplicate, are
12 inconsistent with or will result in dual regulation with other applicable
13 rules and laws. FACILITIES THAT OBTAIN AND MAINTAIN COVERAGE UNDER A GENERAL
14 PERMIT ESTABLISHED BY THE DEPARTMENT PURSUANT TO SECTION 49-706 ARE EXEMPT
15 FROM RULES ADOPTED PURSUANT TO THIS SECTION. In adopting rules for solid
16 waste facilities, the director may include requirements for corrective
17 actions in response to a release, as defined in section 49-281, from a solid
18 waste facility that violates or results in a violation of any provision of
19 this chapter, rule adopted pursuant to this chapter or solid waste facility
20 plan approved pursuant to this chapter. These rules shall be consistent with
21 section 49-762.08, subsection B, subsection C, paragraphs 1 and 2 and
22 subsections D and E.

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

36 1. The department may adopt rules for municipal solid waste landfills.
37 Rules adopted pursuant to this paragraph shall not be more stringent than or
38 conflict with 40 C.F.R. part 258 for nonprocedural standards, except that the
39 department may adopt aquifer protection standards that are more stringent
40 than 40 C.F.R. part 258 if those standards are consistent with and no more
41 stringent than standards developed pursuant to chapter 2, article 3 of this
42 title, or if the standards are adopted pursuant to article 9 of this chapter.
43 Rules adopted pursuant to this paragraph are effective on the concurrence of
44 the administrator with this state's municipal solid waste landfill program.

1 2. 40 C.F.R. part 258, table I is not adopted in its entirety. The
2 department shall use aquifer water quality standards that have been adopted
3 by the department pursuant to section 49-223 and shall use those portions of
4 table I that are more restrictive than the standards adopted pursuant to
5 section 49-223.

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

22 D. The department shall adopt rules to define biohazardous medical
23 waste and to regulate biohazardous medical waste and medical sharps to
24 include all of the following:

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

30 2. Reasonably necessary rules regarding the storage, collection,
31 transportation, treatment and disposal of biohazardous medical waste and
32 medical sharps, beginning with the placement by the generator of the waste in
33 containers for the purpose of waste collection. The department may require
34 payment of a fee for the licensure of a transporter of biohazardous medical
35 waste. After ~~the effective date of this amendment to this section~~ JULY 20,
36 2011, the department shall establish by rule a fee for the licensure of a
37 transporter of biohazardous medical waste, including a maximum fee. As part
38 of the rule making process, there must be public notice and comment and a
39 review of the rule by the joint legislative budget committee. After
40 September 30, 2013, the department shall not increase that fee by rule
41 without specific statutory authority for the increase. The fees shall be
42 deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee
43 fund established by section 49-881. In the case of self-hauling of waste by
44 the generator, all storage facilities under the generator's control and all
45 waste handling practices including storage, treatment and transportation

1 shall be in accordance with these rules. The department shall also adopt
2 reasonably necessary rules regarding the tracking of biohazardous medical
3 waste and medical sharps.

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

11 F. The department shall adopt rules for the application of sludge from
12 a wastewater treatment facility to land for use as fertilizer or beneficial
13 soil amendment. For the purposes of this subsection, "sludge" has the same
14 meaning as sewage sludge as defined in 40 Code of Federal Regulations section
15 122.2 in effect on January 1, 1998.

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

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

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

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

- 44 1. Surety bond.
- 45 2. Certificate of deposit.

1 3. Trust fund with pay-in period.
2 4. Letter of credit.
3 5. Insurance policy.
4 6. Certificate of self-insurance.
5 7. Deposit with the state treasurer.
6 8. Evidence of ability to meet any of the following:
7 (a) Corporate financial test.
8 (b) Local government financial test.
9 (c) Corporate guarantee test.
10 (d) Local government guarantee test.
11 (e) Political subdivision financial test that shall require the
12 department to consider the entity's bond rating, income stream, assets,
13 liabilities and assessed valuation of taxable property.
14 9. Multiple financial assurance mechanisms.
15 10. Additional financial assurance mechanisms that may be acceptable to
16 the director.
17 K. The department shall adopt rules that prescribe standards to be
18 used in determining if a site is a recycling facility.
19 L. The director may adopt rules that prescribe standards to be used in
20 determining if a solid waste facility includes significant solid waste
21 transfer activities that warrant the facility's regulation as a transfer
22 facility.
23 M. The department shall adopt facility design, construction,
24 operation, closure and postclosure maintenance rules for biosolids processing
25 facilities and household waste composting facilities that must obtain plan
26 approval pursuant to section 49-762.
27 Sec. 2. Section 49-762, Arizona Revised Statutes, is amended to read:
28 49-762. Facilities requiring solid waste facility plans:
29 exemption
30 A. The owner or operator of the following solid waste facilities shall
31 obtain approval of a solid waste facility plan in accordance with sections
32 49-762.03 and 49-762.04:
33 1. Solid waste land disposal facilities.
34 2. Biosolids processing facilities.
35 3. Medical waste facilities.
36 4. Special waste facilities.
37 5. Municipal solid waste landfills.
38 6. Commercial or government-owned household waste composting
39 facilities.
40 7. A site at which AT LEAST five hundred ~~or more~~ waste tires are
41 stored on any day and any tire is stored for more than twelve months unless
42 the site is a waste tire collection site owned by a municipality or a county.
43 B. FACILITIES THAT OBTAIN AND MAINTAIN COVERAGE UNDER A GENERAL PERMIT
44 ESTABLISHED BY THE DEPARTMENT PURSUANT TO SECTION 49-706 ARE EXEMPT FROM
45 SUBMITTING A SOLID WASTE FACILITY PLAN PURSUANT TO THIS SECTION.

1 Sec. 3. Section 49-762.02, Arizona Revised Statutes, is amended to
2 read:

3 49-762.02. Facilities subject to best management practices:
4 rules

5 The following solid waste facilities are subject to best management
6 practices adopted in accordance with section 49-761, subsection H:

7 1. Transfer facilities that have a daily solid waste throughput of one
8 hundred eighty cubic yards or less.

9 2. Recycling facilities that are located off site, that are used for
10 the collection of recyclable material, that have a storage capacity of one
11 hundred eighty cubic yards or less and that store the recyclable material for
12 less than ninety days.

13 3. Recycling facilities that are located on site and that are used
14 solely for the collection and storage of recyclable material for less than
15 one hundred eighty days.

16 4. Closed loop recycling facilities that are located at the site of
17 waste generation.

18 5. A site at which more than five hundred and fewer than five thousand
19 waste tires are stored on any day and that is not required to obtain solid
20 waste facility plan approval pursuant to section 49-762, SUBSECTION A,
21 paragraph 7.

22 6. A solid waste facility where only asbestos-containing waste
23 materials from manufactured products are stored, processed, treated or
24 disposed. The best management practices for these facilities that shall
25 apply are as follows:

26 (a) For solid waste facilities handling asbestos-containing waste
27 materials that are regulated under the national emission standards for
28 hazardous air pollutants in 40 Code of Federal Regulations part 61,
29 subpart M:

30 (i) The national emission standards for hazardous air pollutants that
31 are incorporated by reference in the rules adopted pursuant to chapter 3 of
32 this title.

33 (ii) For solid waste land disposal facilities that are not municipal
34 solid waste landfills, 40 Code of Federal Regulations part 257.

35 (iii) For solid waste land disposal facilities, financial assurance
36 pursuant to the requirements and time frames of section 49-770.

37 (iv) Solid waste facility notification pursuant to section 49-762.05,
38 subsection B, paragraph 5.

39 (v) Compliance with local zoning laws or section 49-767, if
40 applicable.

41 (b) For solid waste facilities handling asbestos-containing waste
42 materials that are not regulated under the national emission standards for
43 hazardous air pollutants in 40 Code of Federal Regulations part 61,
44 subpart M:

45 (i) Compliance with section 49-762.07.

1 (ii) Compliance with local zoning laws or section 49-767, if
2 applicable.

3 7. Any other solid waste facility that the director determines by rule
4 should be subject to best management practices.

5 Sec. 4. Section 49-762.07, Arizona Revised Statutes, is amended to
6 read:

7 49-762.07. Notices; exemptions; extensions; enforcement;
8 operating standards

9 A. Except as provided in subsection B of this section, owners or
10 operators of solid waste facilities in operation on September 1, 1996 shall
11 submit to the director by September 1, 1996 a notice that contains the
12 following information:

13 1. Facility name and mailing address.

14 2. Legal description by township, range and section, ~~and~~ and county
15 assessor's book, map and parcel number.

16 3. Description of waste storage and treatment equipment and methods of
17 waste management, including types and volumes of waste handled and time the
18 waste remains on site.

19 4. Description of waste management practices used at the facility
20 including measures taken to protect the environment and to protect the public
21 health.

22 5. A diagram of the property showing the location of the solid waste
23 facility or facilities.

24 B. Notices filed with the department before September 1, 1996 are
25 deemed to satisfy the notice requirement of subsection A of this section
26 unless there has been a substantial change to the solid waste facility before
27 the notice deadline. A solid waste facility that has obtained a plan
28 approval or that has filed an application for plan approval before September
29 1, 1996 is exempt from the notice requirement of subsection A of this
30 section. Owners or operators of solid waste facilities that begin operations
31 after September 1, 1996 shall submit a notice to the director containing the
32 information specified in subsection A of this section no later than thirty
33 days ~~prior to~~ BEFORE beginning operation of a solid waste facility. Owners
34 and operators of recycling facilities shall not be required to submit a
35 notice pursuant to subsection A of this section or this subsection until
36 rules for recycling facilities are adopted pursuant to section 49-761,
37 subsection K.

38 C. The department may grant an extension of up to sixty days beyond
39 the September 1, 1996 deadline on receipt of a written request from the owner
40 or operator of a solid waste facility.

41 D. A solid waste facility that does not submit a notice as prescribed
42 by subsection A or B of this section is subject to the enforcement provisions
43 of article 5 of this chapter.

44 E. In the absence of design and operating rules adopted by the
45 director pursuant to section 49-761 for solid waste landfills that are not

1 municipal solid waste landfills, owners and operators of solid waste
2 landfills that are not municipal solid waste landfills AND THAT DO NOT HAVE
3 COVERAGE UNDER AN APPLICABLE GENERAL PERMIT ESTABLISHED BY THE DEPARTMENT
4 PURSUANT TO SECTION 49-706 shall comply with the provisions of 40 C.F.R.
5 part 257.

6 F. In the absence of design and operating rules adopted by the
7 director pursuant to section 49-761 for solid waste facilities other than
8 solid waste landfills, owners and operators shall operate those facilities in
9 a manner that:

10 1. Controls wind dispersion and other surface dispersion of solid
11 waste from the facility so that the solid waste does not create a public
12 nuisance or pose an imminent and substantial endangerment to public health or
13 the environment. Visible solid waste that is dispersed beyond the boundaries
14 of the solid waste facility shall be collected on a regular basis by the
15 operator of the solid waste facility.

16 2. Does not discharge hazardous substances as defined in section
17 49-281 to surface water, groundwater, or subsurface soil in a manner that
18 creates a public nuisance or poses an imminent and substantial endangerment
19 to public health or the environment.

20 3. Controls vector breeding and fire hazards.

21 4. Utilizes reasonable measures to control public access to:

22 (a) Medical waste generated by health care facilities.

23 (b) Special waste as defined in section 49-851, subsection A.