

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

CHAPTER 220

HOUSE BILL 2705

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 AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE DIRECTOR
15 SHALL ESTABLISH BY RULE A REGISTRATION FEE, INCLUDING A MAXIMUM FEE. AS PART
16 OF THE RULE MAKING PROCESS, THERE MUST BE PUBLIC NOTICE AND COMMENT AND A
17 REVIEW OF THE RULE BY THE JOINT LEGISLATIVE BUDGET COMMITTEE. AFTER
18 SEPTEMBER 30, 2013, THE DIRECTOR SHALL NOT INCREASE THAT FEE BY RULE WITHOUT
19 SPECIFIC STATUTORY AUTHORITY FOR THE INCREASE. REGISTRATION FEES SHALL BE
20 DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE
21 FUND ESTABLISHED BY SECTION 49-881.

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

24 44-1304.01. Storage, disposal, discard or abandonment of used
25 motor vehicle tires: registration fees:
26 violation: classification: exception

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

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

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

36 3. Within three feet of any property line.

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

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

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

45 7. Without placing class "2A-10BC" type fire extinguishers at well
46 marked points throughout the storage area so that the travel distance from

1 any point in the storage area to a fire extinguisher is not more than
2 seventy-five feet.

3 8. Without prior registration of the site with the department of
4 environmental quality. The registration shall be on a form approved by the
5 department and shall include the site's location, the NAME OF THE owner of
6 the property, the NAME OF THE owner or operator of the business storing the
7 waste tires, if applicable, and the type and approximate quantity of waste
8 tires stored at the site. For any waste tire collection site that is
9 operating on ~~the effective date of this amendment to this section~~ SEPTEMBER
10 26, 2008, the owner of the property shall register pursuant to this paragraph
11 ~~within sixty days after the effective date of this amendment to this section~~
12 ON OR BEFORE NOVEMBER 25, 2008. FOR ANY PERSON WHO STORES ONE HUNDRED OR
13 MORE USED MOTOR VEHICLE TIRES OUTDOORS AFTER THE EFFECTIVE DATE OF THIS
14 AMENDMENT TO THIS SECTION, THE OPERATOR SHALL PAY A REGISTRATION FEE. AFTER
15 THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE DEPARTMENT SHALL
16 ESTABLISH BY RULE A REGISTRATION FEE, INCLUDING A MAXIMUM FEE. AS PART OF
17 THE RULE MAKING PROCESS, THERE MUST BE PUBLIC NOTICE AND COMMENT AND A REVIEW
18 OF THE RULE BY THE JOINT LEGISLATIVE BUDGET COMMITTEE. AFTER SEPTEMBER 30,
19 2013, THE DEPARTMENT SHALL NOT INCREASE THAT FEE BY RULE WITHOUT SPECIFIC
20 STATUTORY AUTHORITY FOR THE INCREASE. REGISTRATION FEES SHALL BE DEPOSITED,
21 PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE FUND
22 ESTABLISHED BY SECTION 49-881.

23 B. A person who knowingly discards or abandons five hundred or more
24 motor vehicle tires, discards or abandons any motor vehicle tires for
25 commercial purposes except as provided in section 44-1304, or otherwise
26 knowingly performs any act prohibited by subsection A of this section
27 involving five hundred or more motor vehicle tires is guilty of a class 5
28 felony.

29 C. The attorney general may enforce this section.

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

33 Sec. 3. Section 49-104, Arizona Revised Statutes, is amended to read:
34 49-104. Powers and duties of the department and director

35 A. The department shall:

36 1. Formulate policies, plans and programs to implement this title to
37 protect the environment.

38 2. Stimulate and encourage all local, state, regional and federal
39 governmental agencies and all private persons and enterprises that have
40 similar and related objectives and purposes, cooperate with those agencies,
41 persons and enterprises and correlate department plans, programs and
42 operations with those of the agencies, persons and enterprises.

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

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

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

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

9 7. Promote and coordinate the protection and enhancement of the
10 quality of water resources consistent with the environmental policy of this
11 state.

12 8. Encourage industrial, commercial, residential and community
13 development that maximizes environmental benefits and minimizes the effects
14 of less desirable environmental conditions.

15 9. Assure the preservation and enhancement of natural beauty and
16 man-made scenic qualities.

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

21 11. Promote and recommend methods for the recovery, recycling and reuse
22 or, if recycling is not possible, the disposal of solid wastes consistent
23 with sound health, scenic and environmental quality policies. **BEGINNING IN**
24 **2014, THE DEPARTMENT SHALL REPORT ANNUALLY ON ITS REVENUES AND EXPENDITURES**
25 **RELATING TO THE SOLID AND HAZARDOUS WASTE PROGRAMS OVERSEEN OR ADMINISTERED**
26 **BY THE DEPARTMENT.**

27 12. Prevent pollution through the regulation of the storage, handling
28 and transportation of solids, liquids and gases that may cause or contribute
29 to pollution.

30 13. Promote the restoration and reclamation of degraded or despoiled
31 areas and natural resources.

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

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

36 16. Cooperate with the Arizona-Mexico commission in the governor's
37 office and with researchers at universities in this state to collect data and
38 conduct projects in the United States and Mexico on issues that are within
39 the scope of the department's duties and that relate to quality of life,
40 trade and economic development in this state in a manner that will help the
41 Arizona-Mexico commission to assess and enhance the economic competitiveness
42 of this state and of the Arizona-Mexico region.

43 17. Unless specifically authorized by the legislature, ensure that
44 state laws, rules, standards, permits, variances and orders are adopted and
45 construed to be consistent with and no more stringent than the corresponding
46 federal law that addresses the same subject matter. This provision shall not

1 be construed to adversely affect standards adopted by an Indian tribe under
2 federal law.

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

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

7 2. Contract and incur obligations reasonably necessary or desirable
8 within the general scope of department activities and operations to enable
9 the department to adequately perform its duties.

10 3. Utilize any medium of communication, publication and exhibition
11 when disseminating information, advertising and publicity in any field of its
12 purposes, objectives or duties.

13 4. Adopt procedural rules that are necessary to implement the
14 authority granted under this title, but that are not inconsistent with other
15 provisions of this title.

16 5. Contract with other agencies, including laboratories, in furthering
17 any department program.

18 6. Use monies, facilities or services to provide matching
19 contributions under federal or other programs that further the objectives and
20 programs of the department.

21 7. Accept gifts, grants, matching monies or direct payments from
22 public or private agencies or private persons and enterprises for department
23 services and publications and to conduct programs that are consistent with
24 the general purposes and objectives of this chapter. Monies received
25 pursuant to this paragraph shall be deposited in the department fund
26 corresponding to the service, publication or program provided.

27 8. Provide for the examination of any premises if the director has
28 reasonable cause to believe that a violation of any environmental law or rule
29 exists or is being committed on the premises. The director shall give the
30 owner or operator the opportunity for its representative to accompany the
31 director on an examination of those premises. Within forty-five days after
32 the date of the examination, the department shall provide to the owner or
33 operator a copy of any report produced as a result of any examination of the
34 premises.

35 9. Supervise sanitary engineering facilities and projects in this
36 state, authority for which is vested in the department, and own or lease land
37 on which sanitary engineering facilities are located, and operate the
38 facilities, if the director determines that owning, leasing or operating is
39 necessary for the public health, safety or welfare.

40 10. Adopt and enforce rules relating to approving design documents for
41 constructing, improving and operating sanitary engineering and other
42 facilities for disposing of solid, liquid or gaseous deleterious matter.

43 11. Define and prescribe reasonably necessary rules regarding the water
44 supply, sewage disposal and garbage collection and disposal for subdivisions.
45 The rules shall:

1 (a) Provide for minimum sanitary facilities to be installed in the
2 subdivision and may require that water systems plan for future needs and be
3 of adequate size and capacity to deliver specified minimum quantities of
4 drinking water and to treat all sewage.

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

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

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

23 (a) Prescribe minimum standards for the design of sewage collection
24 systems and treatment, disposal and reclamation systems and for operating the
25 systems.

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

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

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

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

43 (a) Prescribe minimum standards for human excreta storage, handling,
44 treatment, transportation and disposal and shall provide for inspection of
45 premises, processes and vehicles and for abating as public nuisances any

1 premises, processes or vehicles that do not comply with the minimum
2 standards.

3 (b) Provide that vehicles transporting human excreta from privies,
4 septic tanks, cesspools and other treatment processes shall be licensed by
5 the department subject to compliance with the rules. THE DEPARTMENT MAY
6 REQUIRE PAYMENT OF A FEE AS A CONDITION OF LICENSURE. AFTER THE EFFECTIVE
7 DATE OF THIS AMENDMENT TO THIS SECTION, THE DEPARTMENT SHALL ESTABLISH BY
8 RULE A FEE AS A CONDITION OF LICENSURE, INCLUDING A MAXIMUM FEE. AS PART OF
9 THE RULE MAKING PROCESS, THERE MUST BE PUBLIC NOTICE AND COMMENT AND A REVIEW
10 OF THE RULE BY THE JOINT LEGISLATIVE BUDGET COMMITTEE. AFTER SEPTEMBER 30,
11 2013, THE DEPARTMENT SHALL NOT INCREASE THAT FEE BY RULE WITHOUT SPECIFIC
12 STATUTORY AUTHORITY FOR THE INCREASE. THE FEES SHALL BE DEPOSITED, PURSUANT
13 TO SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE FUND ESTABLISHED BY
14 SECTION 49-881.

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

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

20 17. ESTABLISH OR REVISE FEES BY RULE PURSUANT TO THE AUTHORITY GRANTED
21 UNDER TITLE 44, CHAPTER 9, ARTICLE 8 AND CHAPTERS 4 AND 5 OF THIS TITLE FOR
22 THE DEPARTMENT TO ADEQUATELY PERFORM ITS DUTIES. ALL FEES SHALL BE FAIRLY
23 ASSESSED AND IMPOSE THE LEAST BURDEN AND COST TO THE PARTIES SUBJECT TO THE
24 FEES. IN ESTABLISHING OR REVISING FEES, THE DEPARTMENT SHALL BASE THE FEES
25 ON:

26 (a) THE DIRECT AND INDIRECT COSTS OF THE DEPARTMENT'S RELEVANT DUTIES,
27 INCLUDING EMPLOYEES SALARIES AND BENEFITS, PROFESSIONAL AND OUTSIDE SERVICES,
28 EQUIPMENT, IN-STATE TRAVEL AND OTHER NECESSARY OPERATIONAL EXPENSES DIRECTLY
29 RELATED TO ISSUING LICENSES AS DEFINED IN TITLE 41, CHAPTER 6 AND ENFORCING
30 THE REQUIREMENTS OF THE APPLICABLE REGULATORY PROGRAM.

31 (b) THE AVAILABILITY OF OTHER FUNDS FOR THE DUTIES PERFORMED.

32 (c) THE IMPACT OF THE FEES ON THE PARTIES SUBJECT TO THE FEES.

33 (d) THE FEES CHARGED FOR SIMILAR DUTIES PERFORMED BY THE DEPARTMENT,
34 OTHER AGENCIES AND THE PRIVATE SECTOR.

35 C. The department may:

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

41 2. Contract with private consultants for the purposes of assisting the
42 department in reviewing applications for licenses, permits or other
43 authorizations to determine whether an applicant meets the criteria for
44 issuance of the license, permit or other authorization. If the department
45 contracts with a consultant under this paragraph, an applicant may request
46 that the department expedite the application review by requesting that the

1 department use the services of the consultant and by agreeing to pay the
2 department the costs of the consultant's services. Notwithstanding any other
3 law, monies paid by applicants for expedited reviews pursuant to this
4 paragraph are appropriated to the department for use in paying consultants
5 for services.

6 D. The director may:

7 1. If the director has reasonable cause to believe that a violation of
8 any environmental law or rule exists or is being committed, inspect any
9 person or property in transit through this state and any vehicle in which the
10 person or property is being transported and detain or disinfect the person,
11 property or vehicle as reasonably necessary to protect the environment if a
12 violation exists.

13 2. Authorize in writing any qualified officer or employee in the
14 department to perform any act that the director is authorized or required to
15 do by law.

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

18 49-706. Waste programs general permits; rules

19 A. THE DEPARTMENT MAY ESTABLISH A GENERAL PERMIT FOR ANY PERMIT OR
20 LICENSE ISSUED PURSUANT TO THIS CHAPTER. THE GENERAL PERMIT CONSISTS OF THE
21 FOLLOWING:

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

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

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

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

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

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

43 B. AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE
44 DIRECTOR SHALL ESTABLISH BY RULE FEES FOR GENERAL PERMITS PURSUANT TO THIS
45 SECTION, INCLUDING MAXIMUM FEES. AS PART OF THE RULE MAKING PROCESS, THERE
46 MUST BE PUBLIC NOTICE AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT

1 LEGISLATIVE BUDGET COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DIRECTOR SHALL
2 NOT INCREASE THOSE FEES BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE
3 INCREASE. FEES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED,
4 PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE FUND
5 ESTABLISHED BY SECTION 49-881.

6 Sec. 5. Section 49-747, Arizona Revised Statutes, is amended to read:
7 49-747. Annual registration of solid waste landfills; fee;
8 disposition of revenue

9 A. All solid waste landfills shall be registered annually with the
10 department.

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

14 C. At the time of registration the owner of a solid waste landfill
15 shall pay to the department an annual fee. AFTER THE EFFECTIVE DATE OF THIS
16 AMENDMENT TO THIS SECTION, THE DEPARTMENT SHALL ESTABLISH BY RULE AN ANNUAL
17 FEE, INCLUDING A MAXIMUM FEE. AS PART OF THE RULE MAKING PROCESS, THERE MUST
18 BE PUBLIC NOTICE AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT
19 LEGISLATIVE BUDGET COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DEPARTMENT SHALL
20 NOT INCREASE THAT FEE BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE
21 INCREASE. ~~for each site registered which is determined according to the~~
22 ~~population that the landfill serves based on the following schedule:~~

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

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

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

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

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

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

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

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

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

44 Sec. 6. Section 49-761, Arizona Revised Statutes, is amended to read:
45 49-761. Rule making authority for solid waste facilities;
46 financial assurance; recycling facilities

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

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

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

38 2. 40 C.F.R. part 258, table I is not adopted in its entirety. The
39 department shall use aquifer water quality standards that have been adopted
40 by the department pursuant to section 49-223 and shall use those portions of
41 table I that are more restrictive than the standards adopted pursuant to
42 section 49-223.

43 C. The department shall adopt rules for those solid waste land
44 disposal facilities that are not municipal solid waste landfills. Rules
45 adopted pursuant to this subsection shall not be more stringent than or
46 conflict with 40 C.F.R. part 257 for nonprocedural standards, except that the

1 department may adopt aquifer protection standards that are more stringent
2 than 40 C.F.R. part 257 if these standards are consistent with and no more
3 stringent than standards developed pursuant to chapter 2, article 3 of this
4 title, or if the standards are adopted pursuant to article 9 of this chapter.
5 In administering this subsection, the department shall ensure that any
6 discretion allowed to a director of an approved state pursuant to the federal
7 regulations is maintained in the department's rules. Aquifer protection
8 provisions adopted pursuant to this subsection do not apply to an owner or
9 operator of a solid waste facility if the owner or operator submits an
10 administratively complete application for an aquifer protection permit
11 pursuant to chapter 2, article 3 of this title before the date that the owner
12 or operator is required to submit a solid waste facility plan.

13 D. The department shall adopt rules to define biohazardous medical
14 waste and to regulate biohazardous medical waste and medical sharps to
15 include all of the following:

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

21 2. Reasonably necessary rules regarding the storage, collection,
22 transportation, treatment and disposal of biohazardous medical waste and
23 medical sharps, beginning with the placement by the generator of the waste in
24 containers for the purpose of waste collection. THE DEPARTMENT MAY REQUIRE
25 PAYMENT OF A FEE FOR THE LICENSURE OF A TRANSPORTER OF BIOHAZARDOUS MEDICAL
26 WASTE. AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE
27 DEPARTMENT SHALL ESTABLISH BY RULE A FEE FOR THE LICENSURE OF A TRANSPORTER
28 OF BIOHAZARDOUS MEDICAL WASTE, INCLUDING A MAXIMUM FEE. AS PART OF THE RULE
29 MAKING PROCESS, THERE MUST BE PUBLIC NOTICE AND COMMENT AND A REVIEW OF THE
30 RULE BY THE JOINT LEGISLATIVE BUDGET COMMITTEE. AFTER SEPTEMBER 30, 2013,
31 THE DEPARTMENT SHALL NOT INCREASE THAT FEE BY RULE WITHOUT SPECIFIC STATUTORY
32 AUTHORITY FOR THE INCREASE. THE FEES SHALL BE DEPOSITED, PURSUANT TO
33 SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE FUND ESTABLISHED BY
34 SECTION 49-881. In the case of self-hauling of waste by the generator, all
35 storage facilities under the generator's control and all waste handling
36 practices including storage, treatment and transportation shall be in
37 accordance with these rules. The department shall also adopt reasonably
38 necessary rules regarding the tracking of biohazardous medical waste and
39 medical sharps.

40 E. The department may adopt reasonably necessary rules regarding the
41 storage, collection, transportation, treatment and disposal of
42 nonbiohazardous medical waste beginning with the placement by the generator
43 of the waste in containers for the purpose of waste collection. In the case
44 of self-hauling of the waste by the generator, all storage facilities under
45 the generator's control and all waste handling practices including storage,
46 treatment and transportation shall be in accordance with these rules.

1 F. The department shall adopt rules for the application of sludge from
2 a wastewater treatment facility to land for use as fertilizer or beneficial
3 soil amendment. For THE purposes of this subsection, "sludge" has the same
4 meaning as sewage sludge as defined in 40 Code of Federal Regulations section
5 122.2 in effect on January 1, 1998.

6 G. The department shall adopt rules regarding the storage, processing,
7 treatment or disposal of solid waste at solid waste facilities that are
8 identified in section 49-762.01. The rules shall allow the owner or operator
9 to certify compliance with the department's statutes and rules in lieu of
10 obtaining a solid waste facility plan approval. The rules shall provide that
11 the applicant at its option may request approval of a solid waste facility
12 plan rather than certifying compliance.

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

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

27 J. The department shall adopt rules relating to financial assurance
28 requirements. The rules shall indicate the types of financial assurance
29 mechanisms to be required and the content, terms and conditions of each
30 financial mechanism, including circumstances under which the department may
31 take action on the financial assurance mechanism for facility closure,
32 postclosure care if necessary and corrective action for known releases. The
33 financial assurance mechanisms shall include all of the following:

- 34 1. Surety bond.
- 35 2. Certificate of deposit.
- 36 3. Trust fund with pay-in period.
- 37 4. Letter of credit.
- 38 5. Insurance policy.
- 39 6. Certificate of self-insurance.
- 40 7. Deposit with the state treasurer.
- 41 8. Evidence of ability to meet any of the following:
 - 42 (a) Corporate financial test.
 - 43 (b) Local government financial test.
 - 44 (c) Corporate guarantee test.
 - 45 (d) Local government guarantee test.

1 (e) Political subdivision financial test that shall require the
2 department to consider the entity's bond rating, income stream, assets,
3 liabilities and assessed valuation of taxable property.

4 9. Multiple financial assurance mechanisms.

5 10. Additional financial assurance mechanisms that may be acceptable to
6 the director.

7 K. The department shall adopt rules that prescribe standards to be
8 used in determining if a site is a recycling facility.

9 L. The director may adopt rules that prescribe standards to be used in
10 determining if a solid waste facility includes significant solid waste
11 transfer activities that warrant the facility's regulation as a transfer
12 facility.

13 M. The department shall adopt facility design, construction,
14 operation, closure and postclosure maintenance rules for biosolids processing
15 facilities and household waste composting facilities that must obtain plan
16 approval pursuant to section 49-762.

17 Sec. 7. Section 49-762.03, Arizona Revised Statutes, is amended to
18 read:

19 49-762.03. Solid waste facility plan approval

20 A. Except as provided in subsections C and E of this section, the
21 owner or operator of a solid waste facility identified in section 49-762
22 shall obtain the department's approval of a solid waste facility plan as
23 follows:

24 1. For a new solid waste facility and before commencing construction
25 of the solid waste facility, the owner or operator shall obtain approval of a
26 solid waste facility plan that satisfies rules adopted by the director.

27 2. For an existing solid waste facility, the owner or operator shall
28 file with the department a solid waste facility plan within one hundred
29 eighty days after the effective date of rules adopted pursuant to section
30 49-761 that contain design and operation standards for that type of solid
31 waste facility. An existing solid waste facility may continue to operate
32 while the department reviews the plan. For an existing public solid waste
33 facility that is currently subject to rules that contain design and operation
34 standards, the owner or operator shall file with the department a solid waste
35 facility plan by October 1, 1996, if the facility has not received plan
36 approval before that date.

37 B. For a solid waste facility subject to site approval pursuant to
38 section 49-767, a solid waste facility plan shall not be submitted to the
39 department until the site for the solid waste facility has been approved
40 pursuant to section 49-767. For all new solid waste landfills, a solid waste
41 facility plan shall provide evidence of compliance with or the
42 inapplicability of city, town or county zoning ordinances.

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

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

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

11 F. The department shall collect from the applicant ~~a reasonable fee~~
12 ~~based on the department's reasonable direct costs, not including indirect~~
13 ~~costs~~ FEES ESTABLISHED BY THE DIRECTOR BY RULE for the APPROVAL OF THE PLAN,
14 INCLUDING COSTS FOR THE processing, review, approval or disapproval of the
15 plan, ~~to be reviewed on an annual basis. The director may amend an existing~~
16 ~~rule or adopt a new rule to establish criteria for those costs~~ AFTER THE
17 EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE DIRECTOR SHALL
18 ESTABLISH BY RULE FEES FOR THE APPROVAL OF THE PLAN, INCLUDING COSTS FOR THE
19 PROCESSING, REVIEW, APPROVAL OR DISAPPROVAL OF THE PLAN AND MAXIMUM FEES. AS
20 PART OF THE RULE MAKING PROCESS, THERE MUST BE PUBLIC NOTICE AND COMMENT AND
21 A REVIEW OF THE RULE BY THE JOINT LEGISLATIVE BUDGET COMMITTEE. AFTER
22 SEPTEMBER 30, 2013, THE DIRECTOR SHALL NOT INCREASE THOSE FEES BY RULE
23 WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE INCREASE. ~~That rule making is~~
24 ~~exempt from title 41, chapter 6, except that the director shall provide for~~
25 ~~reasonable notice and a hearing.~~ THE FEES SHALL BE DEPOSITED, PURSUANT TO
26 SECTIONS 35-146 AND 35-147, IN THE SOLID WASTE FEE FUND ESTABLISHED BY
27 SECTION 49-881.

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

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

44 49-762.05. Self-certification procedures; rules

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

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

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

11 2. A demonstration of financial assurance in accordance with section
12 49-770.

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

15 4. A demonstration of the issuance of other environmental permits that
16 are required by statute.

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

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

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

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

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

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

42 H. The department shall collect from the applicant ~~an initial~~
43 ~~registration fee of five hundred dollars for a self-certification filing.~~
44 ~~The department shall collect from the applicant a registration fee of two~~
45 ~~hundred dollars for a self-certification filing for a substantial change~~
46 **REGISTRATION FEES. AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS**

1 SECTION, THE DEPARTMENT SHALL ESTABLISH BY RULE REGISTRATION FEES, INCLUDING
2 MAXIMUM FEES. AS PART OF THE RULE MAKING PROCESS, THERE MUST BE PUBLIC
3 NOTICE AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT LEGISLATIVE BUDGET
4 COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DEPARTMENT SHALL NOT INCREASE THOSE
5 FEES BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE INCREASE fees
6 collected pursuant to this section shall be deposited, PURSUANT TO SECTIONS
7 35-146 AND 35-147, in the 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
46 transported to a facility in this state for treatment, storage or disposal.

1 AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE DEPARTMENT
2 SHALL ESTABLISH BY RULE A FEE FOR EACH TON OF SPECIAL WASTE THAT IS
3 TRANSPORTED TO A FACILITY IN THIS STATE FOR TREATMENT, STORAGE OR DISPOSAL,
4 INCLUDING A MAXIMUM FEE. AS PART OF THE RULE MAKING PROCESS, THERE MUST BE
5 PUBLIC NOTICE AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT LEGISLATIVE
6 BUDGET COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DEPARTMENT SHALL NOT
7 INCREASE THAT FEE BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE
8 INCREASE. THE FEES SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND
9 35-147, IN THE SOLID WASTE FEE FUND ESTABLISHED BY SECTION 49-881.

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

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

17 1. The additional regulation is necessary to protect public health or
18 the environment.

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

21 3. The additional regulation is technically feasible.

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

26 Sec. 11. Section 49-881, Arizona Revised Statutes, is amended to read:
27 49-881. Solid waste fee fund: uses: exemption

28 A. ~~A~~ THE solid waste fee fund is established. The director shall
29 administer the fund. The fund consists of legislative appropriations,
30 donations, gifts, grants, REGISTRATION FEES COLLECTED PURSUANT TO SECTIONS
31 44-1303 AND 44-1304.01, waste tire administrative monies distributed pursuant
32 to section 44-1305, subsection B, paragraph 1, LICENSURE FEES COLLECTED
33 PURSUANT TO SECTION 49-104, SUBSECTION B, PARAGRAPH 14, SUBDIVISION (b),
34 SOLID WASTE GENERAL PERMIT FEES COLLECTED PURSUANT TO SECTION 49-706, solid
35 waste landfill registration fees from section 49-747, LICENSURE FEES
36 COLLECTED PURSUANT TO SECTION 49-761, SUBSECTION D, PARAGRAPH 2, solid waste
37 fees collected pursuant to section 49-762.03, subsection F, special waste
38 management plan fees collected pursuant to section 49-857, special waste
39 management fees collected pursuant to section 49-863, private consultants
40 expedited plan review fees collected pursuant to section 49-762.03,
41 subsection G, self-certification filing fees collected pursuant to section
42 49-762.05, subsection H, ~~and~~ solid waste landfill disposal fees collected
43 pursuant to section 49-836 AND SPECIAL WASTE FEES COLLECTED PURSUANT TO
44 SECTION 49-855, SUBSECTION C, PARAGRAPH 2.

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

4 C. On notice from the director, the state treasurer shall invest and
5 divest monies in the fund as provided in section 35-313, and monies earned
6 from investment shall be credited to the fund. Monies deposited in the fund
7 are exempt from the provisions of section 35-190 relating to lapsing of
8 appropriations.

9 Sec. 12. Section 49-922, Arizona Revised Statutes, is amended to read:

10 49-922. Department rules and standards; prohibited permittees

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

25 B. These rules shall establish criteria and standards for the
26 characteristics, identification, listing, generation, transportation,
27 treatment, storage and disposal of hazardous waste within this state. In
28 establishing the standards the director shall, where appropriate, distinguish
29 between new and existing facilities. The criteria and standards shall
30 include requirements respecting:

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

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

36 3. The transportation of hazardous waste, including appropriate
37 packaging, labeling and marking requirements and requirements respecting the
38 use of a manifest system, which are consistent with the regulations of the
39 state and United States departments of transportation governing the
40 transportation of hazardous materials.

41 4. The operation, maintenance, location, design and construction of
42 hazardous waste treatment, storage or disposal facilities, including such
43 additional qualifications as to ownership, continuity of operation,
44 contingency plans, corrective actions and abatement of continuing releases,
45 monitoring and inspection programs, personnel training, closure and

1 postclosure requirements and financial responsibility as may be necessary and
2 appropriate.

3 5. Requiring a permit for a hazardous waste treatment, storage or
4 disposal facility including the modification and termination of permits, the
5 authority to continue activities and permits existing on July 27, 1983
6 consistent with the federal hazardous waste regulations, and the payment of
7 ~~a reasonable application fee~~ FEES. The director shall establish and collect
8 ~~a reasonable fee~~ FEES from the applicant to cover the cost of administrative
9 services and other expenses associated with evaluating the application and
10 issuing or denying the permit. AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO
11 THIS SECTION, THE DIRECTOR SHALL ESTABLISH BY RULE AN APPLICATION FEE TO
12 COVER THE COST OF ADMINISTRATIVE SERVICES AND OTHER EXPENSES ASSOCIATED WITH
13 EVALUATING THE APPLICATION AND ISSUING OR DENYING THE PERMIT, INCLUDING A
14 MAXIMUM FEE. AS PART OF THE RULE MAKING PROCESS, THERE MUST BE PUBLIC NOTICE
15 AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT LEGISLATIVE BUDGET
16 COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DIRECTOR SHALL NOT INCREASE THAT
17 FEE BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE INCREASE. THE FEES
18 SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE HAZARDOUS
19 WASTE MANAGEMENT FUND ESTABLISHED BY SECTION 49-927.

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

22 7. Providing for appropriate public participation in developing,
23 revising, implementing, amending and enforcing any rule, guideline,
24 information or program under this article consistent with the federal
25 hazardous waste program.

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

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

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

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

40 D. Nothing in this article shall affect the validity of any existing
41 rules adopted by the director that are equivalent to and consistent with the
42 federal hazardous waste regulations until new rules for hazardous waste are
43 adopted.

44 E. Nothing in this article shall authorize the regulation of small
45 quantity generators as defined by 40 Code of Federal Regulations section
46 261.5 in a manner inconsistent with the federal hazardous waste regulations.

1 However, the director may require reports of any small quantity generator or
2 group of small quantity generators regarding the treatment, storage,
3 transportation, disposal or management of hazardous waste if the hazardous
4 waste of such generator or generators may pose a substantial present or
5 potential hazard to human health or the environment when it is improperly
6 treated, stored, transported, disposed or otherwise managed.

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

8 49-931. Hazardous waste fees; definitions

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

10 1. ~~Except as provided in paragraph 4 of this subsection,~~ A person who
11 generates hazardous waste that is shipped off site shall pay ~~ten dollars~~ A
12 FEE for each ton of waste generated. AFTER THE EFFECTIVE DATE OF THIS
13 AMENDMENT TO THIS SECTION, THE DEPARTMENT SHALL ESTABLISH BY RULE A FEE FOR
14 THE GENERATION OF HAZARDOUS WASTE THAT IS SHIPPED OFF SITE, INCLUDING A
15 MAXIMUM FEE. AS PART OF THE RULE MAKING PROCESS, THERE MUST BE PUBLIC NOTICE
16 AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT LEGISLATIVE BUDGET
17 COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DEPARTMENT SHALL NOT INCREASE THAT
18 FEE BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE INCREASE. Hazardous
19 waste that is shipped off site to a facility that is in this state and that
20 is owned or operated by the same person who generates the waste is exempt
21 from the fees in this paragraph.

22 2. ~~Except as provided in paragraph 4 of this subsection,~~ An owner or
23 operator of a facility that disposes of hazardous waste shall pay ~~forty~~
24 ~~dollars~~ A FEE for each ton of waste disposed. AFTER THE EFFECTIVE DATE OF
25 THIS AMENDMENT TO THIS SECTION, THE DEPARTMENT SHALL ESTABLISH BY RULE A FEE
26 FOR AN OWNER OR OPERATOR OF A FACILITY THAT DISPOSES OF HAZARDOUS WASTE,
27 INCLUDING A MAXIMUM FEE. AS PART OF THE RULE MAKING PROCESS, THERE MUST BE
28 PUBLIC NOTICE AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT LEGISLATIVE
29 BUDGET COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DEPARTMENT SHALL NOT
30 INCREASE THAT FEE BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE
31 INCREASE. Hazardous waste that is disposed at a facility that is owned or
32 operated by the same person who generates the waste is exempt from the fee in
33 this paragraph.

34 3. ~~Except as provided in paragraph 4 of this subsection,~~ A person who
35 generates hazardous waste that is retained on site for disposal or that is
36 shipped off site for disposal to a facility that is owned or operated by that
37 generator shall pay ~~four dollars~~ A FEE for each ton of hazardous waste
38 delivered to the disposal facility. AFTER THE EFFECTIVE DATE OF THIS
39 AMENDMENT TO THIS SECTION, THE DEPARTMENT SHALL ESTABLISH BY RULE A FEE FOR
40 EACH TON OF HAZARDOUS WASTE DELIVERED TO THE DISPOSAL FACILITY, INCLUDING A
41 MAXIMUM FEE. AS PART OF THE RULE MAKING PROCESS, THERE MUST BE PUBLIC NOTICE
42 AND COMMENT AND A REVIEW OF THE RULE BY THE JOINT LEGISLATIVE BUDGET
43 COMMITTEE. AFTER SEPTEMBER 30, 2013, THE DEPARTMENT SHALL NOT INCREASE THAT
44 FEE BY RULE WITHOUT SPECIFIC STATUTORY AUTHORITY FOR THE INCREASE.

45 4. UNTIL JULY 1, 2012, in lieu of the fees prescribed in paragraphs 1
46 and 3 of this subsection, a person who generates hazardous waste and who

1 complies with the pollution prevention planning requirements of article 4 of
2 this chapter shall pay one-half of the prescribed fee for each ton of
3 hazardous waste. In lieu of the fees prescribed in paragraph 2 of this
4 subsection, an owner or operator of a facility that receives hazardous waste
5 from a person who complies with the pollution prevention planning
6 requirements of article 4 of this chapter shall collect and pay one-half of
7 the prescribed fee for each ton of hazardous waste received. These reduced
8 fees apply only if the person submits written certification of that
9 compliance. This certificate of compliance shall be submitted with the
10 manifest that accompanies the hazardous waste transported off site for
11 disposal and shall accompany the copy of the manifest that is filed by the
12 generator with the department.

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

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

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

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

28 F. For THE purposes of this section:

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

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

33 3. "Person" means an individual, trust, firm, joint stock company,
34 corporation, including a government corporation, partnership, association,
35 state, municipality, commission, political subdivision of this state,
36 interstate body or federal facility.

37 Sec. 14. Department of environmental quality; continuing fee
38 authority; retroactivity

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

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

44 (a) A person who generates hazardous waste that is shipped off site
45 shall pay seventy dollars for each ton of waste generated. Hazardous waste
46 that is shipped off site to a facility that is in this state and that is

1 owned or operated by the same person who generates the waste is exempt from
2 the fees in this subdivision.

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

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

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

15 3. For special waste that is shredder residue, the owner or operator
16 of a special waste facility may pay a fee in the amount of one dollar
17 sixty-five cents per cubic yard of uncompacted shredder residue or of three
18 dollars seventy-five cents per cubic yard of compacted shredder residue
19 received in lieu of the five dollars per ton prescribed in paragraph 2 of
20 this subsection.

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

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

25 (b) For solid waste landfills that serve at least ten thousand people
26 but less than twenty-five thousand people, three thousand seven hundred fifty
27 dollars.

28 (c) For solid waste landfills that serve at least twenty-five thousand
29 people but less than fifty thousand people, five thousand dollars.

30 (d) For solid waste landfills that serve at least fifty thousand
31 people but less than one hundred thousand people, ten thousand dollars.

32 (e) For solid waste landfills that serve at least one hundred thousand
33 people but less than two hundred thousand people, fifteen thousand dollars.

34 (f) For solid waste landfills that serve two hundred thousand people
35 or more, twenty-five thousand dollars.

36 (g) For solid waste landfills that are open to the public and that
37 accept demolition waste, seven thousand five hundred dollars.

38 (h) For solid waste landfills that are closed to the public and that
39 accept nonhazardous waste, seven thousand five hundred dollars.

40 B. Notwithstanding any other law, through June 30, 2012, in addition
41 to the fees specified in subsection A of this section, the department of
42 environmental quality has continuing fee authority to collect the fees that
43 were in effect in fiscal year 2010-2011 for the following:

44 1. The review of solid waste facility plans for new solid waste
45 facilities.

46 2. The review of modifications to solid waste facility plans.

- 1 3. The review of financial responsibility plans for solid waste
- 2 facilities.
- 3 4. The hourly rate for the review of solid waste facility plans.
- 4 C. This section applies retroactively to from and after June 30, 2011.

APPROVED BY THE GOVERNOR APRIL 25, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 2011.