State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

CHAPTER 87

HOUSE BILL 2126

AN ACT

AMENDING SECTIONS 49-922 AND 49-931, ARIZONA REVISED STATUTES; RELATING TO
HAZARDOUS WASTE DISPOSAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 49-922, Arizona Revised Statutes, is amended to read:

49-922. Department rules and standards; prohibited permittees
A. The director shall adopt rules to establish a hazardous waste management program equivalent to and consistent with the federal hazardous waste regulations promulgated pursuant to subtitle C of the federal act. Federal hazardous waste regulations may be adopted by reference. The director shall not adopt a nonprocedural standard that is more stringent than or conflicts with those found in 40 Code of Federal Regulations parts 260 through 268, 270 through 272, 279 and 124. The director shall not identify a waste as hazardous unless the director finds, based on all the factors in 40 Code of Federal Regulations section 261.11(a)(1), (2), or (3), that the waste may cause or significantly contribute to an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health or the environment when it is improperly treated, stored, transported, disposed or otherwise managed.

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

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

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

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

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

5. Requiring a permit for a hazardous waste treatment, storage or disposal facility including the modification and termination of permits, the authority to continue activities and permits existing on July 27, 1983
consistent with the federal hazardous waste regulations. and the payment
of reasonable fees. The director shall establish and collect reasonable
fees from the applicant to cover the cost of administrative services and
other expenses associated with evaluating the application and issuing or
denying the permit. After the effective date of this amendment to this
section, the director shall establish by rule an application fee to cover
the cost of administrative services and other expenses associated with
evaluating the application and issuing or denying the permit, including a
maximum fee. As part of the rule making process, there must be public
notice and comment and a review of the rule by the joint legislative
budget committee. After September 30, 2013, the director shall not
increase that fee by rule without specific statutory authority for the
increase. The fees shall be deposited, pursuant to sections 35-146 and
35-147, in the hazardous waste management fund established by section
49-927.

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

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

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

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

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

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

D. Nothing in This article shall DOES NOT affect the validity of
any existing rules adopted by the director that are equivalent to and
consistent with the federal hazardous waste regulations until new rules
for hazardous waste are adopted.

E. Nothing in This article shall DOES NOT authorize the regulation
of small quantity generators as defined by 40 code of federal regulations
section 261.5 PART 262 in a manner inconsistent with the federal hazardous
waste regulations. However, the director may require reports of any small
quantity generator or group of small quantity generators regarding the
treatment, storage, transportation, disposal or management of hazardous
waste if the hazardous waste of such generator or generators may pose a
substantial present or potential hazard to human health or the environment
when it is improperly treated, stored, transported, disposed or otherwise
managed.

Sec. 2. Section 49-931, Arizona Revised Statutes, is amended to
read:

49-931. Hazardous waste fees; definitions
A. The following fees apply:
1. A person who generates hazardous waste that is shipped off
site shall pay a fee for each ton of waste generated. After the effective
date of this amendment to this section, the department shall establish by
rule a fee for the generation of hazardous waste that is shipped off site,
including a maximum fee. As part of the rule making process, there must
be public notice and comment and a review of the rule by the joint
legislative budget committee. After September 30, 2013, the department
shall not increase that fee by rule without specific statutory authority
for the increase. Hazardous waste that is shipped off site to a facility
that is in this state and that is owned or operated by the same person who
generates the waste is exempt from the fees in this paragraph.
2. An owner or operator of a facility that disposes of hazardous
waste shall pay a fee for each ton of waste disposed. After the effective
date of this amendment to this section, the department shall establish by
rule a fee for an owner or operator of a facility that disposes of
hazardous waste, including a maximum fee. As part of the rule making
process, there must be public notice and comment and a review of the rule
by the joint legislative budget committee. After September 30, 2013, the
department shall not increase that fee by rule without specific statutory
authority for the increase. Hazardous waste that is disposed at a
facility that is owned or operated by the same person who generates
the waste is exempt from the fee in this paragraph.
3. A person who generates hazardous waste that is retained on
site for disposal or that is shipped off site for disposal to a facility
that is owned or operated by that generator shall pay a fee for each ton
of hazardous waste delivered to the disposal facility. After the
effective date of this amendment to this section, the department shall
establish by rule a fee for each ton of hazardous waste delivered to the
disposal facility, including a maximum fee. As part of the rule making
process, there must be public notice and comment and a review of the rule
by the joint legislative budget committee. After September 30, 2013, the
department shall not increase that fee by rule without specific statutory
authority for the increase.
4. Until July 1, 2012, in lieu of the fees prescribed in paragraphs
1 and 3 of this subsection, a person who generates hazardous waste and who
complies with the pollution prevention planning requirements of article 4
of this chapter shall pay one-half of the prescribed fee for each ton of
hazardous waste. In lieu of the fees prescribed in paragraph 2 of this subsection, an owner or operator of a facility that receives hazardous waste from a person who complies with the pollution prevention planning requirements of article 4 of this chapter shall collect and pay one-half of the prescribed fee for each ton of hazardous waste received. These reduced fees apply only if the person submits written certification of that compliance. This certificate of compliance shall be submitted with the manifest that accompanies the hazardous waste transported off site for disposal and shall accompany the copy of the manifest that is filed by the generator with the department.

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

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

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

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

F. For the purposes of this section:

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

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

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