

REFERENCE TITLE: solid waste; fees; rules

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2367

Introduced by
Representative Griffin

AN ACT

AMENDING SECTIONS 44-1302, 44-1303, 44-1304.01, 44-1322, 49-104, 49-706, 49-747, 49-761, 49-762, 49-762.03, 49-762.05, 49-802, 49-836, 49-855, 49-857 AND 49-881, ARIZONA REVISED STATUTES; RELATING TO WASTE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 44-1302, Arizona Revised Statutes, is amended to
3 read:

4 44-1302. Sale of new tires; fees; acceptance of waste tires;
5 notice; definition

6 A. UNTIL THE EFFECTIVE DATE OF THE FEES AUTHORIZED PURSUANT TO
7 SUBSECTION N OF THIS SECTION, a retail seller of new motor vehicle tires
8 shall collect a fee of two ~~per cent~~ PERCENT of the purchase price for each
9 tire sold but not more than ~~two dollars~~ \$2 for each tire sold, which shall
10 be listed separately on any invoice.

11 B. UNTIL THE EFFECTIVE DATE OF THE FEES AUTHORIZED PURSUANT TO
12 SUBSECTION N OF THIS SECTION, if in a sale of a motor vehicle by a
13 manufacturer to a wholesaler or retailer the cost of the tires as a
14 separate component of the motor vehicle is not specified by the
15 manufacturer, the fee per tire to be collected shall not exceed one-half
16 of the maximum fee ~~permitted~~ ALLOWED under this section for a motor
17 vehicle with a gross vehicle weight under ten thousand pounds.

18 C. UNTIL THE EFFECTIVE DATE OF THE FEES AUTHORIZED PURSUANT TO
19 SUBSECTION N OF THIS SECTION, a wholesale seller of new motor vehicle
20 tires who sells tires to this state or a political subdivision of this
21 state or who sells tires to a private entity ~~which~~ THAT does not resell
22 the tires shall collect a fee of two ~~per cent~~ PERCENT of the purchase
23 price for each tire sold but not more than ~~two dollars~~ \$2 for each tire
24 sold, which shall be listed separately on any invoice.

25 D. The fee shall be paid to the department of revenue for deposit
26 on a quarterly basis in the waste tire fund established ~~pursuant to~~ BY
27 section 44-1305. Unless the context otherwise requires, title 42, chapter
28 5, article 1 governs the administration of the fees imposed by this
29 section, except that:

30 1. A separate license is not required for the fee imposed by this
31 section. The fee shall be reported and paid on forms prescribed by the
32 department.

33 2. A separate bond is not required of employees of the department
34 in administering the fee.

35 3. The fee imposed by this section may be included without
36 segregation in any notice and lien filed for unpaid transaction privilege
37 taxes.

38 4. The fee imposed by this section shall not be included in
39 computing the tax base, gross proceeds of sales or gross income from the
40 sale of new motor vehicle tires for the purposes of title 42, chapter 5
41 and is not subject to any transaction privilege, sales, use or other
42 similar tax levied by a city, town, or special taxing district.

43 E. A retail seller of new motor vehicle tires or a wholesale seller
44 of new motor vehicle tires shall accept waste tires from customers at the
45 point of transfer. A seller shall accept up to the number of new tires
46 sold at that point of transfer annually and may accept additional tires

1 from customers. The seller shall accept tires from a customer if the
2 customer presents a receipt within thirty days ~~of~~ AFTER the date of
3 purchase. This subsection does not apply to sellers of new motor
4 vehicles.

5 F. A designated waste tire collection site established pursuant to
6 section 44-1304, subsection G, shall require a manifest for the disposal
7 of waste tires at the site and shall establish registration procedures for
8 the collection site.

9 G. A seller of motor vehicle tires or the seller's designee
10 complying with this section shall provide a manifest to the designated
11 collection site established pursuant to section 44-1304, subsection G, to
12 dispose of waste tires and shall be preregistered at the designated
13 collection site.

14 H. A county or private enterprise under contract with a county may
15 refuse to accept waste tires and may impose a tire tipping fee, not
16 exceeding an amount necessary to recover the costs of administering a
17 waste tire program established pursuant to section 44-1305, if any of the
18 following conditions exists:

19 1. The private enterprise is not receiving waste tire fund monies
20 from the county pursuant to section 44-1305.

21 2. Waste tires are manifested as originating outside of the county.

22 3. A seller of motor vehicle tires complying with subsection E of
23 this section, is not preregistered at a collection site where registration
24 is required.

25 4. The county's pro rata share of the total waste tire fund is two
26 ~~per cent~~ PERCENT or less, and after a year of receiving monies from the
27 waste tire fund, the county determines that the cost of waste tire
28 disposal exceeds the amount received.

29 I. A designated waste tire collection site established pursuant to
30 section 44-1304, subsection G, shall not refuse to accept waste tires from
31 a resident of the county who is not a seller of motor vehicle tires and
32 shall not impose a tire tipping fee for up to five waste tires per year
33 from a resident of the county who is not a seller of motor vehicle
34 tires. Such waste tire collection sites may impose a tire tipping fee on
35 waste tires in excess of five tires per year from a resident of the county
36 who is not a seller of motor vehicle tires.

37 J. A seller of motor vehicle tires who is subject to subsection E
38 of this section shall post a written notice ~~which~~ THAT is clearly visible
39 in the public sales area of the establishment and ~~which~~ THAT contains the
40 following language:

41 ~~"~~It is unlawful to throw away a motor vehicle tire.

42 Recycle all used tires.

43 This retailer is required to accept scrap tires if any
44 new or recapped tires are purchased here. When any new tire
45 is purchased, an additional fee will be charged."~~"~~

1 K. An advertisement or other printed promotional material related
2 to the retail sale of tires shall contain the following notice in bold
3 print:

4 ~~“~~State or local taxes or surcharges for environmental
5 protection will be an extra charge.~~”~~

6 L. A credit of ~~ten cents~~ \$.10 per tire is allowed against the fee
7 imposed by this article for expenses incurred by the payer of the fee for
8 accounting for and reporting the fees.

9 M. This section does not apply to a person whose retail sales of
10 new motor vehicle tires are not in the ordinary course of business.

11 N. THE DIRECTOR OF ENVIRONMENTAL QUALITY SHALL ESTABLISH BY RULE
12 THE FEES, INCLUDING ANY ASSOCIATED MAXIMUM FEES, REQUIRED BY SUBSECTION A,
13 B OR C OF THIS SECTION.

14 ~~N.~~ O. For THE purposes of this section, "retail seller of new
15 motor vehicle tires" and "wholesale seller of new motor vehicle tires"
16 includes those persons who sell or lease new motor vehicles to others in
17 the ordinary course of business.

18 Sec. 2. Section 44-1303, Arizona Revised Statutes, is amended to
19 read:

20 44-1303. Waste tire collection sites; registration

21 A. An owner or operator of a waste tire collection site, ~~within six~~
22 ~~months after September 27, 1990,~~ shall register with the department of
23 environmental quality and provide the department with information
24 concerning the site's location and size and the approximate number of
25 waste tires that are stored at the site and shall initiate steps to comply
26 with this article.

27 B. Any waste tire collection site that is established after ~~the~~
28 ~~effective date of this amendment to this section~~ JULY 20, 2011 shall
29 register with the department before beginning operation and shall pay a
30 registration fee. After ~~the effective date of this amendment to this~~
31 ~~section,~~ JULY 20, 2011, the director shall establish by rule a
32 registration fee, including a maximum fee. ~~As part of the rule making~~
33 ~~process, there must be public notice and comment and a review of the rule~~
34 ~~by the joint legislative budget committee. After September 30, 2013, the~~
35 ~~director shall not increase that fee by rule without specific statutory~~
36 ~~authority for the increase.~~ Registration fees shall be deposited,
37 pursuant to sections 35-146 and 35-147, in the solid waste fee fund
38 established by section 49-881.

39 Sec. 3. Section 44-1304.01, Arizona Revised Statutes, is amended to
40 read:

41 44-1304.01. Storage, disposal, discard or abandonment of used
42 motor vehicle tires; registration fees;
43 violation; classification; exception

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

- 46 1. In any fashion that exceeds twenty feet in height.

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

8 3. Within three feet of any property line.

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

11 5. Within fifty feet of any area in which smoking of tobacco or any
12 other substance by persons is ~~permitted~~ ALLOWED. "No smoking" signs shall
13 be posted in suitable and conspicuous locations.

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

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

21 8. Without prior registration of the site with the department of
22 environmental quality. The registration shall be on a form approved by
23 the department and shall include the site's location, the name of the
24 owner of the property, the name of the owner or operator of the business
25 storing the waste tires, if applicable, and the type and approximate
26 quantity of waste tires stored at the site. For any waste tire collection
27 site that is operating on September 26, 2008, the owner of the property
28 shall register pursuant to this paragraph on or before November 25, 2008.
29 For any person who stores one hundred or more used motor vehicle tires
30 outdoors after ~~the effective date of this amendment to this section~~ JULY
31 20, 2011, the operator shall pay a registration fee. After ~~the effective~~
32 ~~date of this amendment to this section~~ JULY 20, 2011, the department shall
33 establish by rule a registration fee, including a maximum fee. ~~As part of~~
34 ~~the rule making process, there must be public notice and comment and a~~
35 ~~review of the rule by the joint legislative budget committee. After~~
36 ~~September 30, 2013, the department shall not increase that fee by rule~~
37 ~~without specific statutory authority for the increase.~~ Registration fees
38 shall be deposited, pursuant to sections 35-146 and 35-147, in the solid
39 waste fee fund established by section 49-881.

40 B. A person who knowingly discards or abandons five hundred or more
41 motor vehicle tires, discards or abandons any motor vehicle tires for
42 commercial purposes except as provided in section 44-1304, or otherwise
43 knowingly performs any act prohibited by subsection A of this section
44 involving five hundred or more motor vehicle tires is guilty of a class 5
45 felony.

46 C. The attorney general may enforce this section.

1 D. For the purposes of this section, used motor vehicle tires do
2 not include tires that have been recapped and have not yet been put back
3 into service.

4 Sec. 4. Section 44-1322, Arizona Revised Statutes, is amended to
5 read:

6 44-1322. Disposal of lead acid batteries

7 A. The disposal of lead acid batteries in landfills and the
8 incineration of those batteries is prohibited.

9 B. An owner or operator of a solid waste disposal facility shall
10 not knowingly accept a lead acid battery for disposal.

11 C. A lead acid battery shall be discarded or disposed of only as
12 follows:

13 1. A lead acid battery retailer or wholesaler may deliver a lead
14 acid battery to any one of the following:

15 (a) A permitted secondary lead smelter.

16 (b) A battery manufacturer.

17 (c) A collection or recycling facility authorized by the federal
18 environmental protection agency or the department of environmental
19 quality.

20 (d) In the case of battery retailers only, an agent of a battery
21 wholesaler.

22 2. A person other than a lead acid battery retailer or wholesaler
23 may deliver a lead acid battery to any one of the following:

24 (a) A lead acid battery retailer or wholesaler.

25 (b) A permitted secondary lead smelter.

26 (c) A collection or recycling facility authorized by the federal
27 environmental protection agency or the department of environmental
28 quality.

29 D. THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL
30 REGISTER COLLECTION AND RECYCLING FACILITIES THAT ACCEPT LEAD ACID
31 BATTERIES. THE DIRECTOR SHALL REQUIRE COLLECTION AND RECYCLING FACILITIES
32 THAT HANDLE LEAD ACID BATTERIES TO PAY AN INITIAL REGISTRATION FEE AND
33 ANNUAL FEE ESTABLISHED BY RULE. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO
34 SECTIONS 35-146 AND 35-147, REGISTRATION FEES IN THE SOLID WASTE FEE FUND
35 ESTABLISHED BY SECTION 49-881.

36 Sec. 5. Section 49-104, Arizona Revised Statutes, is amended to
37 read:

38 49-104. Powers and duties of the department and director

39 A. The department shall:

40 1. Formulate policies, plans and programs to implement this title
41 to protect the environment.

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

- 1 3. Conduct research on its own initiative or at the request of the
2 governor, the legislature or state or local agencies pertaining to any
3 department objectives.
- 4 4. Provide information and advice on request of any local, state or
5 federal agencies and private persons and business enterprises on matters
6 within the scope of the department.
- 7 5. Consult with and make recommendations to the governor and the
8 legislature on all matters concerning department objectives.
- 9 6. Promote and coordinate the management of air resources to ensure
10 their protection, enhancement and balanced utilization consistent with the
11 environmental policy of this state.
- 12 7. Promote and coordinate the protection and enhancement of the
13 quality of water resources consistent with the environmental policy of
14 this state.
- 15 8. Encourage industrial, commercial, residential and community
16 development that maximizes environmental benefits and minimizes the
17 effects of less desirable environmental conditions.
- 18 9. Ensure the preservation and enhancement of natural beauty and
19 man-made scenic qualities.
- 20 10. Provide for the prevention and abatement of all water and air
21 pollution including that related to particulates, gases, dust, vapors,
22 noise, radiation, odor, nutrients and heated liquids in accordance with
23 article 3 of this chapter and chapters 2 and 3 of this title.
- 24 11. Promote and recommend methods for the recovery, recycling and
25 reuse or, if recycling is not possible, the disposal of solid wastes
26 consistent with sound health, scenic and environmental quality policies.
27 The department shall report annually on its revenues and expenditures
28 relating to the solid and hazardous waste programs overseen or
29 administered by the department.
- 30 12. Prevent pollution through the regulation of the storage,
31 handling and transportation of solids, liquids and gases that may cause or
32 contribute to pollution.
- 33 13. Promote the restoration and reclamation of degraded or
34 despoiled areas and natural resources.
- 35 14. Participate in the state civil defense program and develop the
36 necessary organization and facilities to meet wartime or other disasters.
- 37 15. Cooperate with the Arizona-Mexico commission in the governor's
38 office and with researchers at universities in this state to collect data
39 and conduct projects in the United States and Mexico on issues that are
40 within the scope of the department's duties and that relate to quality of
41 life, trade and economic development in this state in a manner that will
42 help the Arizona-Mexico commission to assess and enhance the economic
43 competitiveness of this state and of the Arizona-Mexico region.
- 44 16. Unless specifically authorized by the legislature, ensure that
45 state laws, rules, standards, permits, variances and orders are adopted
46 and construed to be consistent with and ~~not~~ NOT more stringent than the

1 corresponding federal law that addresses the same subject matter. This
2 paragraph does not adversely affect standards adopted by an Indian tribe
3 under federal law.

4 17. Provide administrative and staff support for the oil and gas
5 conservation commission.

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

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

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

13 3. ~~Utilize~~ USE any medium of communication, publication and
14 exhibition when disseminating information, advertising and publicity in
15 any field of its purposes, objectives or duties.

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

19 5. Contract with other agencies, including laboratories, in
20 furthering any department program.

21 6. Use monies, facilities or services to provide matching
22 contributions under federal or other programs that further the objectives
23 and programs of the department.

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

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

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

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

1 11. Define and prescribe reasonably necessary rules regarding the
2 water supply, sewage disposal and garbage collection and disposal for
3 subdivisions. The rules shall:

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

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

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

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

28 (a) Prescribe minimum standards for the design of sewage collection
29 systems and treatment, disposal and reclamation systems and for operating
30 the systems.

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

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

41 (d) Require that construction, reconstruction, installation or
42 initiation of any sewage collection system, sewage collection system
43 extension, treatment plant, process, device, equipment, disposal system,
44 on-site wastewater treatment facility or reclamation system conform with
45 applicable requirements.

1 14. Prescribe reasonably necessary rules regarding excreta storage,
2 handling, treatment, transportation and disposal. The rules may:

3 (a) Prescribe minimum standards for human excreta storage,
4 handling, treatment, transportation and disposal and shall provide for
5 inspection of premises, processes and vehicles and for abating as public
6 nuisances any premises, processes or vehicles that do not comply with the
7 minimum standards.

8 (b) Provide that vehicles transporting human excreta from privies,
9 septic tanks, cesspools and other treatment processes shall be licensed by
10 the department subject to compliance with the rules. The department may
11 require payment of a fee as a condition of licensure. The department ~~may~~
12 **SHALL** establish by rule a fee as a condition of licensure, including a
13 maximum fee. ~~As part of the rulemaking process, there must be public~~
14 ~~notice and comment and a review of the rule by the joint legislative~~
15 ~~budget committee. The department shall not increase that fee by rule~~
16 ~~without specific statutory authority for the increase.~~ The fees shall be
17 deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee
18 fund established by section 49-881.

19 15. Perform the responsibilities of implementing and maintaining a
20 data automation management system to support the reporting requirements of
21 title III of the superfund amendments and reauthorization act of 1986
22 (P.L. 99-499) and article 2 of this chapter.

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

25 17. Establish or revise fees by rule pursuant to the authority
26 granted under title 44, chapter 9, ~~article~~ **ARTICLES 8 AND 9** and chapters 4
27 and 5 of this title for the department to adequately perform its duties.
28 All fees shall be fairly assessed and impose the least burden and cost to
29 the parties subject to the fees. In establishing or revising fees, the
30 department shall base the fees on:

31 ~~(a)~~ the direct and indirect costs of the department's relevant
32 duties, including employee salaries and benefits, professional and outside
33 services, equipment, in-state travel and other necessary operational
34 expenses directly related to issuing licenses as defined in title 41,
35 chapter 6 and enforcing the requirements of the applicable regulatory
36 program.

37 ~~(b) The availability of other funds for the duties performed.~~

38 ~~(c) The impact of the fees on the parties subject to the fees.~~

39 ~~(d) The fees charged for similar duties performed by the~~
40 ~~department, other agencies and the private sector.~~

41 18. Appoint a person with a background in oil and gas conservation
42 to act on behalf of the oil and gas conservation commission and administer
43 and enforce the applicable provisions of title 27, chapter 4 relating to
44 the oil and gas conservation commission.

1 C. The department may:

2 1. Charge fees to cover the costs of all permits and inspections it
3 performs to ensure compliance with rules adopted under section 49-203,
4 except that state agencies are exempt from paying those fees that are not
5 associated with the dredge and fill permit program established pursuant to
6 chapter 2, article 3.2 of this title. For services provided under the
7 dredge and fill permit program, a state agency shall pay either:

8 (a) The fees established by the department under the dredge and
9 fill permit program.

10 (b) The reasonable cost of services provided by the department
11 pursuant to an interagency service agreement.

12 2. Monies collected pursuant to this subsection shall be deposited,
13 pursuant to sections 35-146 and 35-147, in the water quality fee fund
14 established by section 49-210.

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

26 D. The director may:

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

33 2. Authorize in writing any qualified officer or employee in the
34 department to perform any act that the director is authorized or required
35 to do by law.

36 Sec. 6. Section 49-706, Arizona Revised Statutes, is amended to
37 read:

38 49-706. Waste programs general permits; rules; fee

39 A. The department may establish a general permit for any permit or
40 license issued pursuant to this chapter. The general permit consists of
41 the following:

42 1. The director may issue by rule a general permit for a defined
43 class of facilities, activities or practices if all of the following
44 apply:

1 (a) The cost of issuing individual permits or licenses cannot be
2 justified by any environmental or public health benefit that may be gained
3 from issuing individual permits.

4 (b) The facilities, activities or practices in the class are
5 substantially similar in nature.

6 (c) The director is satisfied that appropriate conditions under a
7 general permit for operating the facilities or conducting the activity or
8 practice will meet the applicable requirements prescribed in this chapter
9 for the facility, activity or practice.

10 2. In addition to other applicable enforcement actions, if a person
11 is in substantial noncompliance with the conditions of a general permit,
12 the director may revoke coverage under the general permit for that person
13 and require that the person obtain an individual permit. A general permit
14 may be revoked, modified or suspended by rule if the director determines
15 that any of the conditions prescribed in paragraph 1 no longer apply.

16 3. Rules adopted pursuant to paragraph 1 may require a person
17 seeking coverage under a general permit to notify the director of the
18 person's intent to operate pursuant to the general permit and to pay the
19 applicable fee established by the director by rule.

20 B. ~~After the effective date of this amendment to this section,~~ The
21 director shall establish by rule fees for general permits pursuant to this
22 section, including maximum fees. ~~As part of the rule making process,~~
23 ~~there must be public notice and comment and a review of the rule by the~~
24 ~~joint legislative budget committee. After September 30, 2013, the~~
25 ~~director shall not increase those fees by rule without specific statutory~~
26 ~~authority for the increase.~~ Fees collected pursuant to this section shall
27 be deposited, pursuant to sections 35-146 and 35-147, in the solid waste
28 fee fund established by section 49-881.

29 Sec. 7. Section 49-747, Arizona Revised Statutes, is amended to
30 read:

31 49-747. Annual registration of solid waste landfills; fee;
32 disposition of revenue

33 A. All solid waste landfills shall be registered annually with the
34 department.

35 B. The director shall establish a procedure for mailing
36 registration forms each year to the owners of all solid waste
37 landfills. The registration is valid for one year ~~from~~ AFTER the date of
38 registration.

39 C. At the time of registration, the owner of a solid waste landfill
40 shall pay to the department an annual fee. ~~After the effective date of~~
41 ~~this amendment to this section,~~ The department shall establish by rule an
42 annual fee, including a maximum fee. ~~As part of the rule making process,~~
43 ~~there must be public notice and comment and a review of the rule by the~~
44 ~~joint legislative budget committee. After September 30, 2013, the~~
45 ~~department shall not increase that fee by rule without specific statutory~~
46 ~~authority for the increase.~~

1 D. All monies collected pursuant to this section shall be
2 deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee
3 fund established by section 49-881. The director may authorize the
4 expenditure of monies from the solid waste fee fund to pay the reasonable
5 and necessary costs of administering the registration program pursuant to
6 section 49-881.

7 Sec. 8. Section 49-761, Arizona Revised Statutes, is amended to
8 read:

9 49-761. Rulemaking authority for solid waste facilities;
10 exemption; financial assurance; recycling
11 facilities

12 A. The department shall adopt rules regarding the storage,
13 processing, treatment and disposal of solid waste as prescribed by
14 subsections B through M of this section. In adopting rules, the
15 department shall consider the nature of the waste streams at the
16 facilities to be regulated. The department shall also consider other
17 applicable federal and state laws and rules in an effort to avoid
18 practices or requirements that duplicate, are inconsistent with or will
19 result in dual regulation with other applicable rules and laws.
20 Facilities that obtain and maintain coverage under a general permit
21 established by the department pursuant to section 49-706 are exempt from
22 rules adopted pursuant to this section. In adopting rules for solid waste
23 facilities, the director may include requirements for corrective actions
24 in response to a release, as defined in section 49-281, from a solid waste
25 facility that violates or results in a violation of any provision of this
26 chapter, rule adopted pursuant to this chapter or solid waste facility
27 plan approved pursuant to this chapter. These rules shall be consistent
28 with section 49-762.08, subsection B, subsection C, paragraphs 1 and 2 and
29 subsections D and E.

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

43 1. The department may adopt rules for municipal solid waste
44 landfills. Rules adopted pursuant to this paragraph shall not be more
45 stringent than or conflict with 40 C.F.R. part 258 for nonprocedural
46 standards, except that the department may adopt aquifer protection

1 standards that are more stringent than 40 C.F.R. part 258 if those
 2 standards are consistent with and not more stringent than standards
 3 developed pursuant to chapter 2, article 3 of this title, or if the
 4 standards are adopted pursuant to article 9 of this chapter. Rules
 5 adopted pursuant to this paragraph are effective on the concurrence of the
 6 administrator with this state's municipal solid waste landfill program.

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

12 C. The department shall adopt rules for those solid waste land
 13 disposal facilities that are not municipal solid waste landfills and that
 14 are not regulated by the coal combustion residuals program established
 15 pursuant to article 11 of this chapter. Rules adopted pursuant to this
 16 subsection shall not be more stringent than or conflict with 40 C.F.R.
 17 part 257, subparts A and B for nonprocedural standards, except that the
 18 department may adopt aquifer protection standards that are more stringent
 19 than 40 C.F.R. part 257, subparts A and B if these standards are
 20 consistent with and not more stringent than standards developed pursuant
 21 to chapter 2, article 3 of this title, or if the standards are adopted
 22 pursuant to article 9 of this chapter. In administering this subsection,
 23 the department shall ensure that any discretion allowed to a director of
 24 an approved state pursuant to the federal regulations is maintained in the
 25 department's rules. Aquifer protection provisions adopted pursuant to
 26 this subsection do not apply to an owner or operator of a solid waste
 27 facility if the owner or operator submits an administratively complete
 28 application for an aquifer protection permit pursuant to chapter 2,
 29 article 3 of this title before the date that the owner or operator is
 30 required to submit a solid waste facility plan.

31 D. The department shall adopt rules to define biohazardous medical
 32 waste and to regulate biohazardous medical waste and medical sharps to
 33 include all of the following:

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

39 2. Reasonably necessary rules regarding the storage, collection,
 40 transportation, treatment and disposal of biohazardous medical waste and
 41 medical sharps, beginning with the placement by the generator of the waste
 42 in containers for the purpose of waste collection. The department ~~may~~
 43 **SHALL** require payment of a fee for the licensure of a transporter of
 44 biohazardous medical waste. ~~After July 20, 2011,~~ The department shall
 45 establish by rule a fee for the licensure of a transporter of biohazardous
 46 medical waste, including a maximum fee. ~~As part of the rulemaking~~

1 ~~process, there must be public notice and comment and a review of the rule~~
 2 ~~by the joint legislative budget committee. After September 30, 2013, the~~
 3 ~~department shall not increase that fee by rule without specific statutory~~
 4 ~~authority for the increase.~~ The fees shall be deposited, pursuant to
 5 sections 35-146 and 35-147, in the solid waste fee fund established by
 6 section 49-881. In the case of self-hauling of waste by the generator,
 7 all storage facilities under the generator's control and all waste
 8 handling practices including storage, treatment and transportation shall
 9 be in accordance with these rules. The department shall also adopt
 10 reasonably necessary rules regarding the tracking of biohazardous medical
 11 waste and medical sharps.

12 3. RULES THAT REQUIRE FACILITIES THAT RECEIVE PLAN APPROVAL UNDER
 13 SECTION 49-762, SUBSECTION A, PARAGRAPH 3 TO PAY AN ANNUAL FEE AS
 14 ESTABLISHED BY RULE. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS
 15 35-146 AND 35-147, FEES IN THE SOLID WASTE FEE FUND ESTABLISHED BY SECTION
 16 49-881.

17 E. The department may adopt reasonably necessary rules regarding
 18 the storage, collection, transportation, treatment and disposal of
 19 nonbiohazardous medical waste beginning with the placement by the
 20 generator of the waste in containers for the purpose of waste collection.
 21 In the case of self-hauling of the waste by the generator, all storage
 22 facilities under the generator's control and all waste handling practices
 23 including storage, treatment and transportation shall be in accordance
 24 with these rules.

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

30 G. The department shall adopt rules regarding the storage,
 31 processing, treatment or disposal of solid waste at solid waste facilities
 32 that are identified in section 49-762.01. The rules shall allow the owner
 33 or operator to certify compliance with the department's statutes and rules
 34 instead of obtaining a solid waste facility plan approval. The rules
 35 shall provide that the applicant at its option may request approval of a
 36 solid waste facility plan rather than certifying compliance.

37 H. The department shall issue by rule best management practices for
 38 the classes of solid waste facilities set forth in section 49-762.02. THE
 39 DEPARTMENT SHALL ESTABLISH FEES IN RULES FOR SOLID WASTE FACILITIES. THE
 40 DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, FEES IN
 41 THE SOLID WASTE FEE FUND ESTABLISHED BY SECTION 49-881.

42 I. The department shall adopt reasonably necessary rules
 43 establishing minimum standards for storing, collecting, transporting,
 44 disposing and reclaiming solid waste, including garbage, trash, rubbish,
 45 manure and other objectionable wastes. These rules shall provide for
 46 inspecting premises, containers, processes, equipment and vehicles, and

1 for abating as environmental nuisances any premises, containers,
2 processes, equipment or vehicles that do not comply with the minimum
3 standards of these rules. The rules adopted pursuant to this subsection
4 do not apply to sites that are either regulated by section 49-762,
5 49-762.01 or 49-762.02 or exempted from the definition of solid waste
6 facility in section 49-701 or from the definition of solid waste in
7 section 49-701.01. Notwithstanding any other provision of this
8 subsection, rules adopted pursuant to this subsection shall apply to
9 defining environmental nuisances pursuant to section 49-141.

10 J. The department shall adopt rules relating to financial assurance
11 requirements. The rules shall indicate the types of financial assurance
12 mechanisms to be required and the content, terms and conditions of each
13 financial mechanism, including circumstances under which the department
14 may take action on the financial assurance mechanism for facility closure,
15 postclosure care if necessary and corrective action for known releases.
16 THE DEPARTMENT SHALL ESTABLISH FEES IN RULE. THE DEPARTMENT SHALL
17 DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, FEES IN THE SOLID WASTE
18 FEE FUND ESTABLISHED BY SECTION 49-881. The financial assurance
19 mechanisms shall include all of the following:

- 20 1. Surety bond.
- 21 2. Certificate of deposit.
- 22 3. Trust fund with pay-in period.
- 23 4. Letter of credit.
- 24 5. Insurance policy.
- 25 6. Certificate of self-insurance.
- 26 7. Deposit with the state treasurer.
- 27 8. Evidence of ability to meet any of the following:
 - 28 (a) Corporate financial test.
 - 29 (b) Local government financial test.
 - 30 (c) Corporate guarantee test.
 - 31 (d) Local government guarantee test.
 - 32 (e) Political subdivision financial test that shall require the
33 department to consider the entity's bond rating, income stream, assets,
34 liabilities and assessed valuation of taxable property.
- 35 9. Multiple financial assurance mechanisms.
- 36 10. Additional financial assurance mechanisms that may be
37 acceptable to the director.

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

40 L. The director may adopt rules that prescribe standards to be used
41 in determining if a solid waste facility includes significant solid waste
42 transfer activities that warrant the facility's regulation as a transfer
43 facility.

44 M. The department shall adopt facility design, construction,
45 operation, closure and postclosure maintenance rules for biosolids
46 processing facilities and household waste composting facilities that must

1 obtain plan approval pursuant to section 49-762. THE DEPARTMENT SHALL
2 REQUIRE FACILITIES THAT RECEIVE PLAN APPROVAL PURSUANT TO SECTION 49-762
3 TO PAY AN ANNUAL FEE. THE DEPARTMENT SHALL ESTABLISH BY RULE THE ANNUAL
4 FEE. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND
5 35-147, FEES IN THE SOLID WASTE FEE FUND ESTABLISHED BY SECTION 49-881.

6 Sec. 9. Section 49-762, Arizona Revised Statutes, is amended to
7 read:

8 49-762. Facilities requiring solid waste facility plans;
9 exemption

10 A. The owner or operator of the following solid waste facilities
11 shall obtain approval of a solid waste facility plan in accordance with
12 sections 49-762.03 and 49-762.04:

13 1. Solid waste land disposal facilities except those facilities
14 regulated by 40 Code of Federal Regulations part 257, subpart D or the
15 coal combustion residuals program THAT IS established pursuant to article
16 11 of this chapter and THAT IS approved by the United States environmental
17 protection agency in accordance with 42 United States Code section
18 6945(d)(1).

19 2. Biosolids processing facilities.

20 3. Medical waste facilities.

21 4. Special waste facilities.

22 5. Municipal solid waste landfills.

23 6. Commercial or government-owned ~~household~~ waste composting
24 facilities.

25 7. A site at which at least five hundred waste tires are stored on
26 any day and any tire is stored for more than twelve months unless the site
27 is a waste tire collection site owned by a municipality or a county.

28 B. Facilities that obtain and maintain coverage under a general
29 permit established by the department pursuant to section 49-706 are exempt
30 from submitting a solid waste facility plan pursuant to this section.

31 Sec. 10. Section 49-762.03, Arizona Revised Statutes, is amended to
32 read:

33 49-762.03. Solid waste facility plan approval

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

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

42 2. For an existing solid waste facility, the owner or operator
43 shall file with the department a solid waste facility plan within one
44 hundred eighty days after the effective date of rules adopted pursuant to
45 section 49-761 that contain design and operation standards for that type
46 of solid waste facility. An existing solid waste facility may continue to

1 operate while the department reviews the plan. ~~For an existing public~~
 2 ~~solid waste facility that is currently subject to rules that contain~~
 3 ~~design and operation standards, the owner or operator shall file with the~~
 4 ~~department a solid waste facility plan by October 1, 1996, if the facility~~
 5 ~~has not received plan approval before that date.~~

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

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

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

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

27 F. The department shall collect from the applicant reasonable fees
 28 established by the director by rule for the approval of the plan,
 29 including costs for the processing, review, approval or disapproval of the
 30 plan. ~~After the effective date of this amendment to this section,~~ The
 31 director shall establish by rule fees for ~~the approval of the plan,~~
 32 ~~including~~ costs **INCURRED BY THE DEPARTMENT** for the processing, review,
 33 approval or disapproval of the plan **and UP TO THE ESTABLISHED** maximum
 34 fees. ~~As part of the rule making process, there must be public notice and~~
 35 ~~comment and a review of the rule by the joint legislative budget~~
 36 ~~committee. After September 30, 2013, the director shall not increase~~
 37 ~~those fees by rule without specific statutory authority for the~~
 38 ~~increase.~~ The fees shall be deposited, pursuant to sections 35-146 and
 39 35-147, in the solid waste fee fund established by section 49-881.

40 G. The department may contract with private consultants for the
 41 purposes of assisting the department in reviewing solid waste facility
 42 plan approvals to determine whether a facility meets the criteria of
 43 section 49-762.04. The department shall pay the consultant for the
 44 services rendered by the consultant from fees paid by the applicant. If
 45 the department contracts with a consultant under this section, an
 46 applicant may request that the department expedite the application review

1 by requesting that the department use the services of the consultant and
2 by agreeing to pay the department the costs of the consultant's services.
3 Notwithstanding section 49-881, fees collected by the department for
4 expedited plan review shall be deposited, pursuant to sections 35-146 and
5 35-147, in the solid waste fee fund established by section 49-881 and used
6 for payment of the costs of the consultant services. Fees received for
7 the purpose of expedited plan review are not subject to appropriation.

8 Sec. 11. Section 49-762.05, Arizona Revised Statutes, is amended to
9 read:

10 49-762.05. Self-certification procedures; rules

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

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

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

21 2. A demonstration of financial assurance in accordance with
22 section 49-770.

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

25 4. A demonstration of the issuance of other environmental permits
26 that are required by statute.

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

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

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

40 E. An owner or operator making a substantial change to a solid
41 waste facility shall submit documentation to the department before the
42 start of construction stating that the facility will remain in compliance
43 with the design and operation rules for that type of facility. The owner
44 or operator of a solid waste facility that makes any changes in its
45 compliance with subsection B, paragraph 2 or 3 of this section shall
46 submit copies of those changes to the department.

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

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

6 H. The department shall collect from the applicant registration
7 fees. ~~After the effective date of this amendment to this section,~~ The
8 department shall establish by rule registration fees, including maximum
9 fees. ~~As part of the rule making process, there must be public notice and
10 comment and a review of the rule by the joint legislative budget
11 committee. After September 30, 2013, the department shall not increase
12 those fees by rule without specific statutory authority for the
13 increase.~~ Fees collected pursuant to this section shall be deposited,
14 pursuant to sections 35-146 and 35-147, in the solid waste fee fund
15 established by section 49-881.

16 I. An owner or operator of more than one solid waste facility
17 identified in section 49-762.01 that conducts similar activities with
18 similar waste streams may submit one self-certification filing for all
19 such facilities if the owner or operator has received prior approval from
20 the director and has complied with rules for self-certification that are
21 adopted by the director.

22 Sec. 12. Section 49-802, Arizona Revised Statutes, is amended to
23 read:

24 49-802. Federal used oil program; incorporation by reference;
25 rulemaking

26 A. The department shall administer 42 United States Code section
27 6935, as amended on January 1, 1997, as the used oil program for this
28 state. For that purpose, 40 Code of Federal Regulations part 279, as
29 amended on January 1, 1997, is adopted by reference. For purposes of this
30 program, the United States, the environmental protection agency and the
31 administrator shall be applied to mean this state, the department and the
32 director, respectively.

33 B. The department may adopt rules for the administration of the
34 federal program. Rules adopted pursuant to this subsection shall not be
35 more stringent than or conflict with 40 Code of Federal Regulations
36 part 279. ~~THE DEPARTMENT SHALL REQUIRE AN ANNUAL REGISTRATION FEE
37 ESTABLISHED BY RULE FOR HANDLERS OF USED OIL THAT ARE REQUIRED TO OBTAIN A
38 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY IDENTIFICATION NUMBER
39 PURSUANT TO 40 CODE OF FEDERAL REGULATIONS PART 279. THE DEPARTMENT SHALL
40 DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, FEES IN THE SOLID WASTE
41 FEE FUND ESTABLISHED BY SECTION 49-881.~~

42 C. The following requirements apply in addition to 40 Code of
43 Federal Regulations part 279:

44 1. A used oil collection center, as defined in 40 Code of Federal
45 Regulations part 279, shall register with the department by obtaining an

1 identification number from the department. A request for an
2 identification number shall include:

- 3 (a) The company name.
- 4 (b) The name of the owner of the company.
- 5 (c) The mailing address and telephone number of the company.
- 6 (d) The location of the collection center.
- 7 (e) A description of the type of used oil activity at the company.

8 2. A person who sends used oil fuel to a person who burns the used
9 oil fuel for energy recovery shall certify to the burner that the used oil
10 fuel has been analyzed or otherwise tested for compliance with the used
11 oil specifications in 40 Code of Federal Regulations part 279.

12 3. ~~Beginning on September 1, 1997,~~ Each used oil fuel transporter,
13 used oil fuel marketer and used oil processor and re-refiner, as defined
14 in 40 Code of Federal Regulations part 279, shall submit to the department
15 a written report ~~each calendar quarter~~ ANNUALLY. The report shall be
16 submitted within thirty days after the end of the calendar ~~quarter~~ YEAR to
17 which the report applies, and it shall contain a copy of the tracking
18 information required to be kept pursuant to 40 Code of Federal Regulations
19 part 279 or a summary of such tracking information on a reporting form
20 supplied by the department.

21 4. ~~Beginning January 1, 1998,~~ Each person who burns used oil fuel
22 in devices identified in 40 Code of Federal Regulations section
23 279.61(a)(1) through (3) shall submit to the department a written annual
24 report. The report shall be submitted to the department by February 1 for
25 the previous calendar year and shall contain the following information:

- 26 (a) The name, address and telephone number of the person reporting.
- 27 (b) The name, address and telephone number of the burner facility.
- 28 (c) The United States environmental protection agency
29 identification number of the burner facility.
- 30 (d) The total volume of on-specification used oil burned.
- 31 (e) The period being reported.
- 32 (f) The total volume of self-generated used oil burned on site.
- 33 (g) The total volume of used oil fuel burned.
- 34 (h) A summary of the tracking information required to be kept
35 pursuant to 40 Code of Federal Regulations part 279.

36 5. Used oil fuel marketers and used oil fuel burners shall label
37 all tanks that store on-specification used oil with the words
38 "on-specification used oil". The department may sample and test used oil
39 or used oil fuel to determine its properties or characteristics as
40 prescribed in this article and rules adopted pursuant to this article.

41 6. A household "do-it-yourselfer" used oil generator, as defined
42 under 40 Code of Federal Regulations part 279, shall send its used oil to
43 a "do-it-yourselfer" collection station, a household hazardous waste
44 collection center, a used oil collection center, a used oil fuel marketer
45 or a used oil processor or refiner.

1 D. In administering this section or in adopting or administering
2 rules pursuant to this section, the department shall maintain the level of
3 discretion that is permitted pursuant to applicable federal rules.

4 E. Any client names or related identifying data required to be
5 submitted to the department pursuant to this section ~~is~~ ARE confidential.

6 Sec. 13. Section 49-836, Arizona Revised Statutes, is amended to
7 read:

8 49-836. Solid waste landfill disposal fees

9 A. Each operator of a solid waste landfill or facility shall make
10 the fee payments required by this section as determined by the
11 department. Monies from fees shall be deposited in the recycling fund
12 established ~~pursuant to~~ BY section 49-837 and the solid waste fee fund
13 established ~~pursuant to~~ BY section 49-881. Fees shall be calculated and
14 paid as follows UNTIL THE EFFECTIVE DATES OF RULES ADOPTED PURSUANT TO
15 SUBSECTION G OF THIS SECTION:

16 1. A disposal fee of ~~twenty-five cents~~ \$.25 for each six cubic
17 yards of uncompacted solid waste, ~~twenty-five cents~~ \$.25 for each three
18 cubic yards of compacted solid waste or ~~twenty-five cents~~ \$.25 per ton of
19 solid waste received at landfills regulated by the department. ~~From and~~
20 ~~after June 30, 2004, for each twenty-five cents collected in disposal~~
21 ~~fees, twelve and one-half cents shall be deposited in the recycling fund~~
22 ~~and twelve and one-half cents shall be deposited in the solid waste fee~~
23 ~~fund.~~ From and after June 30, 2005, all ~~twenty-five cents~~ \$.25 collected
24 in disposal fees shall be deposited in the recycling fund.

25 2. A solid waste landfill that receives only waste generated on
26 site shall compute the fee by using one of the following methods:

27 (a) By actual volume or weight.

28 (b) By estimate based on landfill capacity use, volume or number of
29 waste loads or any other reasonable means for approximating the volume or
30 weight of disposed waste.

31 3. Facilities that generate waste from recycling solid waste,
32 effluent from a secondary wastewater treatment plant or wastewaters shall
33 pay one-half of the fee calculated pursuant to paragraph 1 of this
34 subsection. The maximum annual amount paid by a facility for on-site
35 disposal of waste generated from recycling shall not exceed ~~fifteen~~
36 ~~thousand dollars~~ \$15,000. The fee for these facilities may be computed
37 based on the dry or dewatered weight or volume of the waste generated from
38 recycling.

39 B. Each fee payment shall be accompanied by a form prepared and
40 furnished by the department and completed by the operator. The form shall
41 state the total volume or weight of solid waste disposed of at that
42 landfill during the payment period and shall provide any other information
43 deemed necessary by the department. The form shall be signed by the
44 operator.

45 C. A person who for a fee disposes of waste in a solid waste
46 landfill that is not regulated by the department shall keep accurate

1 records of the waste disposed of in those landfills and shall remit a fee
2 to the department at the same rate and in the same manner as provided in
3 subsection A of this section **OR RULES ADOPTED PURSUANT TO SUBSECTION G OF**
4 **THIS SECTION.**

5 D. For solid waste landfills that are operated pursuant to section
6 49-741 and that do not have on-site operators or scales, the fee shall be
7 based on a formula ~~which~~ **THAT** multiplies the population of the political
8 subdivisions served by the landfill by ~~seven cents \$.07. From and after~~
9 ~~June 30, 2004, three and one-half cents of the seven cents shall be~~
10 ~~deposited in the recycling fund and three and one-half cents of the seven~~
11 ~~cents shall be deposited in the solid waste fee fund.~~ From and after June
12 30, 2005, all ~~seven cents~~ **FEES** shall be deposited in the recycling fund.
13 The fee shall be paid in the same manner as provided in subsection A of
14 this section **OR RULES ADOPTED PURSUANT TO SUBSECTION G OF THIS SECTION.**

15 E. ~~The provisions of~~ This section **OR ANY RULES ADOPTED PURSUANT TO**
16 **SUBSECTION G OF THIS SECTION** do not apply to:

17 1. Persons disposing of a load containing less than six cubic yards
18 of uncompacted solid waste or three cubic yards of compacted solid waste.

19 2. A site used solely for the reclamation of land through the
20 introduction of landscaping rubble or inert material.

21 3. Material produced in connection with a mining or metallurgical
22 operation.

23 F. Solid waste management service companies and agencies affected
24 by the landfill disposal fees established by this section may adjust the
25 fees charged to customers by passing through to the customers the
26 additional costs.

27 **G. THE DEPARTMENT SHALL ESTABLISH BY RULE THE SOLID WASTE LANDFILL**
28 **DISPOSAL FEES.**

29 Sec. 14. Section 49-855, Arizona Revised Statutes, is amended to
30 read:

31 **49-855. Best management practices; fee; criteria**

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

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

37 1. The availability, effectiveness, economic feasibility and
38 technical feasibility of alternative handling or management technologies
39 and practice.

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

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

44 4. Consistency with other federal and state laws, rules and
45 regulations in an effort to avoid practices or requirements that

1 duplicate, are inconsistent with or result in dual regulation under other
2 federal and state laws, rules and regulations.

3 C. The best management practices adopted by the director shall
4 contain procedures necessary for the protection of public health and the
5 environment for the transportation, treatment, storage and disposal of
6 special wastes. Additional items to be contained in the best management
7 practices shall include at least:

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

10 2. A fee for each ton of special waste that is transported to a
11 facility in this state for treatment, storage or disposal. ~~After the~~
12 ~~effective date of this amendment to this section,~~ The department shall
13 establish by rule a fee for each ton of special waste that is transported
14 to a facility in this state for treatment, storage or disposal, including
15 a maximum fee. ~~As part of the rule making process, there must be public~~
16 ~~notice and comment and a review of the rule by the joint legislative~~
17 ~~budget committee. After September 30, 2013, the department shall not~~
18 ~~increase that fee by rule without specific statutory authority for the~~
19 ~~increase.~~ The fees shall be deposited, pursuant to sections 35-146 and
20 35-147, in the solid waste fee fund established by section 49-881.

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

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

29 1. The additional regulation is necessary to protect public health
30 or the environment.

31 2. There is a scientific basis for the additional regulation based
32 ~~upon~~ ON appropriate environment testing and analytical data.

33 3. The additional regulation is technically feasible.

34 F. ~~Nothing in~~ This section ~~shall~~ DOES NOT preclude the director
35 from adopting best management practices under this article, which
36 incorporate management practices applicable to the treatment, storage or
37 disposal of those wastes that are not regulated as hazardous wastes under
38 federal laws or regulations.

39 G. THE DEPARTMENT SHALL REQUIRE FACILITIES THAT GENERATE, TRANSPORT
40 OR RECEIVE SPECIAL WASTE TO PAY AN ANNUAL FEE. THE DEPARTMENT SHALL
41 ESTABLISH BY RULE AN ANNUAL FEE. THE DEPARTMENT SHALL DEPOSIT, PURSUANT
42 TO SECTIONS 35-146 AND 35-147, FEES IN THE SOLID WASTE FEE FUND
43 ESTABLISHED BY SECTION 49-881. FACILITIES THAT PAY REGISTRATION FEES
44 PURSUANT TO SECTION 49-747 ARE EXEMPT FROM THE FEE PRESCRIBED BY THIS
45 SECTION.

1 Sec. 15. Section 49-857, Arizona Revised Statutes, is amended to
2 read:

3 49-857. Special waste management plans; director; approval;
4 fee

5 A. Except as provided in section 49-858, a facility that plans to
6 manage special waste for treatment, storage or disposal shall apply for
7 and obtain approval of the director.

8 B. The application shall include all of the following:

9 1. A complete solid waste facility plan pursuant to section 49-762
10 that includes a special waste management plan component that complies with
11 best management practices adopted pursuant to section 49-855 for each
12 special waste for that portion of the facility that is engaged in the
13 treatment, storage or disposal of special waste.

14 2. Evidence of compliance with permit filing requirements pursuant
15 to this title.

16 C. The director shall collect from the applicant a reasonable fee
17 based on the state's total costs in processing the plan. The director may
18 amend an existing rule or adopt a new rule to establish criteria for those
19 costs. ~~The rule making is exempt from title 41, chapter 6, except that~~
20 ~~the director shall provide for reasonable notice and a hearing.~~ Monies
21 from fees shall be deposited in the solid waste fee fund established by
22 section 49-881.

23 D. A facility at which the treatment, storage or disposal of
24 special waste occurs only as a result of an episodic release at that
25 facility shall not be subject to the special waste management plan
26 requirements of this section. The special waste shall be managed pursuant
27 to applicable best management practices.

28 Sec. 16. Section 49-881, Arizona Revised Statutes, is amended to
29 read:

30 49-881. Solid waste fee fund; uses; exemption

31 A. The solid waste fee fund is established. The director shall
32 administer the fund. The fund consists of legislative appropriations,
33 donations, gifts, grants, registration fees collected pursuant to sections
34 44-1303 and 44-1304.01, waste tire administrative monies distributed
35 pursuant to section 44-1305, subsection B, paragraph 1, LEAD ACID BATTERY
36 COLLECTION AND RECYCLING FEES COLLECTED PURSUANT TO SECTION 44-1322,
37 licensure fees collected pursuant to section 49-104, subsection B,
38 paragraph 14, subdivision (b), solid waste general permit fees collected
39 pursuant to section 49-706, solid waste landfill registration fees from
40 section 49-747, licensure fees collected pursuant to section 49-761,
41 subsection D, ~~paragraph~~ PARAGRAPHS 2 AND 3 AND SUBSECTIONS H, J AND M,
42 solid waste fees collected pursuant to section 49-762.03, subsection F,
43 SECTION 49-802, SUBSECTION B, special waste management plan fees collected
44 pursuant to section 49-857, special waste management fees collected
45 pursuant to section 49-863, private consultants expedited plan review fees
46 collected pursuant to section 49-762.03, subsection G, self-certification

1 filing fees collected pursuant to section 49-762.05, subsection H, solid
2 waste landfill disposal fees collected pursuant to section 49-836, special
3 waste fees collected pursuant to section 49-855, subsection C, paragraph 2
4 and coal combustion residuals permit processing fees and annual fees
5 collected pursuant to section 49-891.

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

9 C. On notice from the director, the state treasurer shall invest
10 and divest monies in the fund as provided in section 35-313, and monies
11 earned from investment shall be credited to the fund. Monies deposited in
12 the fund are exempt from the provisions of section 35-190 relating to
13 lapsing of appropriations.

14 Sec. 17. Emergency

15 This act is an emergency measure that is necessary to preserve the
16 public peace, health or safety and is operative immediately as provided by
17 law.