

House Engrossed

hazardous waste program fees

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)

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

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

4 49-922. Department rules and standards; prohibited permittees

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

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

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

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

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

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

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

1 consistent with the federal hazardous waste regulations, and the payment
2 of reasonable fees. The director shall establish and collect reasonable
3 fees from the applicant to cover the cost of administrative services and
4 other expenses associated with evaluating the application and issuing or
5 denying the permit. ~~After the effective date of this amendment to this~~
6 ~~section,~~ The director shall establish by rule an application fee to cover
7 the cost of administrative services and other expenses associated with
8 evaluating the application and issuing or denying the permit, including a
9 maximum fee. ~~As part of the rule making process, there must be public~~
10 ~~notice and comment and a review of the rule by the joint legislative~~
11 ~~budget committee. After September 30, 2013, the director shall not~~
12 ~~increase that fee by rule without specific statutory authority for the~~
13 ~~increase.~~ The fees shall be deposited, pursuant to sections 35-146 and
14 35-147, in the hazardous waste management fund established by section
15 49-927.

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

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

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

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

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

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

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

40 E. ~~Nothing in~~ This article ~~shall~~ DOES NOT authorize the regulation
41 of small quantity generators as defined by 40 code of federal regulations
42 ~~section 261.5~~ PART 262 in a manner inconsistent with the federal hazardous
43 waste regulations. However, the director may require reports of any small
44 quantity generator or group of small quantity generators regarding the
45 treatment, storage, transportation, disposal or management of hazardous

1 waste if the hazardous waste of such generator or generators may pose a
2 substantial present or potential hazard to human health or the environment
3 when it is improperly treated, stored, transported, disposed or otherwise
4 managed.

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

7 49-931. Hazardous waste fees; definitions

8 A. The following fees apply:

9 1. A person ~~who~~ THAT generates hazardous waste that is shipped off
10 site shall pay a fee for each ton of waste generated. ~~After the effective~~
11 ~~date of this amendment to this section,~~ The department shall establish by
12 rule a fee for the generation of hazardous waste that is shipped off site,
13 including a maximum fee. ~~As part of the rule making process, there must~~
14 ~~be public notice and comment and a review of the rule by the joint~~
15 ~~legislative budget committee. After September 30, 2013, the department~~
16 ~~shall not increase that fee by rule without specific statutory authority~~
17 ~~for the increase.~~ Hazardous waste that is shipped off site to a facility
18 that is in this state and that is owned or operated by the same person ~~who~~
19 THAT generates the waste is exempt from the fees in this paragraph.

20 2. An owner or operator of a facility that disposes of hazardous
21 waste shall pay a fee for each ton of waste disposed. ~~After the effective~~
22 ~~date of this amendment to this section,~~ The department shall establish by
23 rule a fee for an owner or operator of a facility that disposes of
24 hazardous waste, including a maximum fee. ~~As part of the rule making~~
25 ~~process, there must be public notice and comment and a review of the rule~~
26 ~~by the joint legislative budget committee. After September 30, 2013, the~~
27 ~~department shall not increase that fee by rule without specific statutory~~
28 ~~authority for the increase.~~ Hazardous waste that is disposed at a
29 facility that is owned or operated by the same person ~~who~~ THAT generates
30 the waste is exempt from the fee in this paragraph.

31 3. A person ~~who~~ THAT generates hazardous waste that is retained on
32 site for disposal or that is shipped off site for disposal to a facility
33 that is owned or operated by that generator shall pay a fee for each ton
34 of hazardous waste delivered to the disposal facility. ~~After the~~
35 ~~effective date of this amendment to this section,~~ The department shall
36 establish by rule a fee for each ton of hazardous waste delivered to the
37 disposal facility, including a maximum fee. ~~As part of the rule making~~
38 ~~process, there must be public notice and comment and a review of the rule~~
39 ~~by the joint legislative budget committee. After September 30, 2013, the~~
40 ~~department shall not increase that fee by rule without specific statutory~~
41 ~~authority for the increase.~~

42 ~~4. Until July 1, 2012, in lieu of the fees prescribed in paragraphs~~
43 ~~1 and 3 of this subsection, a person who generates hazardous waste and who~~
44 ~~complies with the pollution prevention planning requirements of article 4~~
45 ~~of this chapter shall pay one-half of the prescribed fee for each ton of~~

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

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

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

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

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

27 F. For the purposes of this section:

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

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

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

APPROVED BY THE GOVERNOR MARCH 30, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 30, 2022.