

House Engrossed

hazardous waste manifest resubmittals; fees

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

# HOUSE BILL 2215

AN ACT

AMENDING SECTIONS 49-282 AND 49-282.01, ARIZONA REVISED STATUTES;  
REPEALING SECTION 49-922.01, ARIZONA REVISED STATUTES; AMENDING SECTION  
49-930, ARIZONA REVISED STATUTES; RELATING TO HAZARDOUS WASTE FEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 49-282, Arizona Revised Statutes, is amended to  
3 read:

4 49-282. Water quality assurance revolving fund

5 A. ~~A~~ THE water quality assurance revolving fund is established to  
6 be administered by the director. The fund consists of monies from the  
7 following sources:

8 1. Monies appropriated by the legislature.

9 2. Fertilizer license fees allocated under section 3-272,  
10 subsection B, paragraph 2.

11 3. Pesticide registration fees allocated under section 3-351,  
12 subsection D, paragraph 2.

13 4. The tax on water use pursuant to section 42-5302.

14 5. Water quality assurance fees collected under section 45-616.

15 6. Industrial discharge registration fees collected under section  
16 49-209.

17 ~~7. Manifest resubmittal fees collected under section 49-922.01.~~

18 ~~8.~~ 7. Hazardous waste facility registration fees collected under  
19 section 49-929.

20 ~~9.~~ 8. Hazardous waste resource recovery facility registration fees  
21 collected under section 49-930.

22 ~~10.~~ 9. Monies recovered from responsible parties as remedial  
23 action costs.

24 ~~11.~~ 10. Monies received as costs for a review of remedial actions  
25 at the request of a person other than ~~the~~ THIS state.

26 ~~12.~~ 11. Monies received from the collection of corporate income  
27 taxes under title 43, chapter 11, article 2 as prescribed by subsection B  
28 of this section.

29 ~~13.~~ 12. Prospective purchaser agreement fees collected under  
30 section 49-285.01.

31 B. The water quality assurance revolving fund shall be assured of  
32 an annual funding amount of ~~eighteen million dollars~~ \$18,000,000. At the  
33 beginning of each fiscal year, the state treasurer shall transfer the sum  
34 of ~~fifteen million dollars~~ \$15,000,000 to the water quality assurance  
35 revolving fund from the corporate income tax as collected pursuant to  
36 title 43, chapter 11, article 2. As custodian of the fund, the director  
37 shall certify to the governor, the state treasurer, the president of the  
38 senate and the speaker of the house of representatives at the end of that  
39 fiscal year the amount of monies deposited in the water quality assurance  
40 revolving fund pursuant to subsection A, paragraphs 1 through ~~9~~ 8 of this  
41 section. At the end of the fiscal year the state treasurer shall adjust  
42 the ~~fifteen million dollar~~ \$15,000,000 transfer of corporate income tax so  
43 that, when combined with monies deposited in the fund during that fiscal  
44 year pursuant to subsection A, paragraphs 1 through ~~9~~ 8 of this section,  
45 the fund receives ~~eighteen million dollars~~ \$18,000,000 each fiscal year.

1 This adjustment shall occur as part of the year-end book closing process  
2 for that fiscal year. If sufficient monies from the corporate income tax  
3 are not available to make any necessary upward adjustments as part of the  
4 year-end book closing, the state treasurer shall transfer the monies  
5 necessary to achieve the ~~eighteen million dollar~~ \$18,000,000 funding level  
6 from the transaction privilege and severance tax clearing account pursuant  
7 to section 42-5029, subsection D, paragraph 4, to the water quality  
8 assurance revolving fund. Any transfers prescribed by this subsection  
9 shall not be deducted from the net proceeds distributed pursuant to  
10 section 43-206.

11 C. At the beginning of each fiscal year, the director of  
12 environmental quality shall contract with the department of water  
13 resources for the transfer of up to ~~eight hundred thousand dollars~~  
14 \$800,000 from the water quality assurance revolving fund to the Arizona  
15 water quality fund established by section 45-618 for support services for  
16 the water quality assurance revolving fund program. The support services  
17 provided for the water quality assurance revolving fund program shall be  
18 determined by the director of water resources in consultation with the  
19 director of environmental quality.

20 D. Monies in the fund are exempt from lapsing under section 35-190.  
21 Interest earned on monies in the fund shall be credited to the fund.

22 E. Monies from the water quality assurance revolving fund shall be  
23 used for the following purposes:

24 1. To provide state matching monies or to meet such other  
25 obligations as are prescribed by section 104 of CERCLA.

26 2. For all reasonable and necessary costs to implement this  
27 article, including:

28 (a) Taking remedial actions.

29 (b) Conducting investigations of an area to determine if a release  
30 or a threatened release of a hazardous substance exists.

31 (c) Conducting remedial investigations, feasibility studies, health  
32 effect studies and risk assessments.

33 (d) Identifying and investigating potentially responsible parties  
34 and allocating liability among the responsible parties.

35 (e) Funding orphan shares.

36 (f) Participating in the allocation process, administrative appeals  
37 and court actions.

38 (g) Funding the community advisory boards and other community  
39 involvement activities.

40 (h) Remediating pollutants if necessary to remediate a hazardous  
41 substance.

42 3. For the reasonable and necessary costs of monitoring, assessing,  
43 identifying, locating and evaluating the degradation, destruction, loss of  
44 or threat to the waters of the state resulting from a release of a  
45 hazardous substance to the environment.

- 1           4. For the reasonable and necessary costs of administering the  
2 fund.
- 3           5. For the reasonable and necessary costs of administering the  
4 industrial discharge registration program under section 49-209.
- 5           6. For the costs of the water quality monitoring program described  
6 in section 49-225.
- 7           7. For compliance monitoring, investigation and enforcement  
8 activities pertaining to generating, transporting, treating, storing and  
9 disposing of hazardous waste. The amount to be used pursuant to chapter 5  
10 of this title is limited to the amount received in the prior fiscal year  
11 from the hazardous waste facility registration fee.
- 12           8. For emergency response use as prescribed in section 49-282.02.
- 13           9. For all reasonable and necessary costs of the preparation and  
14 execution of prospective purchaser agreements.
- 15           10. For all reasonable and necessary costs of the voluntary  
16 remediation program.
- 17           11. To reimburse a political subdivision of this state for its  
18 reasonable, necessary and cost-effective remedial action costs incurred in  
19 response to a release or threat of a release of a hazardous substance or  
20 pollutants that presents an immediate and substantial endangerment to the  
21 public health or the environment. The political subdivision is not  
22 eligible for reimbursement until it has taken all reasonable efforts to  
23 obtain reimbursement from the responsible party and the federal  
24 government. ~~No NOT more than two hundred fifty thousand dollars~~ \$250,000  
25 may be spent from the fund for this purpose in any fiscal year.
- 26           12. For all reasonable and necessary costs incurred by the  
27 department pursuant to section 49-282.04 and the department of water  
28 resources pursuant to section 45-605 for well inspections, remedial  
29 actions and review and approval of well construction necessary to prevent  
30 vertical cross-contamination. The director of environmental quality and  
31 the director of water resources shall enter into an agreement for the  
32 transfer of these costs.
- 33           13. For actions that are taken pursuant to section 49-282.03 before  
34 the selection of a remedy.
- 35           14. For the reasonable and necessary costs of the conveyance, use  
36 or discharge of water remediated as part of a remedy under this article.
- 37           15. For the reasonable and necessary costs incurred by the  
38 department of health services at the request of the director of  
39 environmental quality to assess and evaluate the effect of a release or  
40 threatened release of hazardous substances to the public health or welfare  
41 and the environment. The director of environmental quality and the  
42 director of the department of health services shall enter into an  
43 agreement for the transfer of these costs. The assessment and evaluation  
44 by the department of health services may include:
- 45           (a) Performing health effect studies and risk assessments.

1 (b) Evaluating and calculating cleanup standards.

2 (c) Assisting in communicating health and risk issues to the  
3 public.

4 16. For the reasonable and necessary costs incurred by the  
5 department of law to provide legal services at the request of the director  
6 of environmental quality.

7 17. For the reasonable and necessary costs of contracting for the  
8 goods and services to enable the director to implement this article.

9 18. For remediation demonstration projects that use bioremediation  
10 or other alternative technologies. The department may not use more than  
11 ~~five hundred thousand dollars~~ \$500,000 in a fiscal year pursuant to this  
12 paragraph.

13 F. Any political subdivision of this state that uses, used or may  
14 use waters of the state for drinking water purposes or any state agency,  
15 regardless of whether the political subdivision or state agency is a  
16 responsible party, may apply to the director for monies from the fund to  
17 be used for remedial action. An application to the fund for remedial  
18 action costs shall not be treated as an admission that a political  
19 subdivision or an agency of ~~the~~ THIS state is a responsible party, but a  
20 political subdivision or a state agency that is a responsible party is  
21 liable for remedial action costs in the same manner, including  
22 reimbursement of the fund, as any other responsible party. The political  
23 subdivision shall commit a local matching amount at least equal to the  
24 amount sought from the fund.

25 G. The director of environmental quality shall prepare and submit a  
26 budget for the water quality assurance revolving fund program and the  
27 director of water resources shall prepare and submit a budget for the  
28 Arizona water quality fund with the departments' budgets that are required  
29 pursuant to section 35-111. The committees on appropriations of the house  
30 of representatives and the senate shall review the water quality assurance  
31 revolving fund budget and the Arizona water quality fund budget to ensure  
32 that the departments' expenditures are made in accordance with the  
33 legislature's intent and that the departments are making adequate progress  
34 toward accomplishing that intent.

35 Sec. 2. Section 49-282.01, Arizona Revised Statutes, is amended to  
36 read:

37 49-282.01. Maximum annual payments of fees and taxes by mines  
38 to water quality assurance revolving fund;  
39 definitions

40 A. Notwithstanding any other law, a person engaging in mining is  
41 not required to pay fees and taxes listed in section 49-282, subsection A,  
42 paragraphs 2 through ~~9~~ 8 in excess of the lesser of:

43 1. ~~Ten thousand dollars~~ \$10,000 in a calendar year per individual  
44 mining site.

1           2. ~~Twenty-five thousand dollars~~ \$25,000 in a calendar year per  
2 mining entity.

3           B. A person who pays such fees and taxes for mining facilities or  
4 activities in the amount specified in subsection A of this section may  
5 submit evidence of such payment to the appropriate entity in lieu of  
6 paying additional fees and taxes for that calendar year for mining  
7 facilities or activities.

8           C. If a mining facility or activity is owned or operated by more  
9 than one person, the payment of fees or the compliance with this section  
10 for the facility or activity by one person constitutes compliance by all  
11 other owners and operators.

12           D. For THE purposes of this section:

13           1. "Individual mining site" means a mining facility or activity or  
14 group of mining activities or facilities located in a contiguous  
15 geographical area and owned or operated by the same person.

16           2. "Mining" means the exploration, extraction, beneficiation and  
17 processing, including smelting and refining, of ores and minerals and all  
18 incidental activities.

19           3. "Mining entity" means a person who owns or operates more than  
20 one individual mining site in this state.

21           Sec. 3. Repeal

22           Section 49-922.01, Arizona Revised Statutes, is repealed.

23           Sec. 4. Section 49-930, Arizona Revised Statutes, is amended to  
24 read:

25           49-930. Annual registration of hazardous waste resource  
26 recovery facilities; fee; maximum annual payment of  
27 fees and taxes; disposition of revenue; definitions

28           A. All hazardous waste resource recovery facilities shall register  
29 annually with the department at the time and in the manner prescribed by  
30 the director. The registration is valid for one year ~~from~~ AFTER the date  
31 of registration.

32           B. The application for registration shall be accompanied by a  
33 registration fee of ~~one thousand five hundred dollars~~ \$1,500 plus ~~two~~  
34 ~~dollars~~ \$2 per ton of hazardous waste received for resource recovery  
35 during the preceding calendar year, except that a person engaging in  
36 hazardous waste resource recovery is not required to pay fees and taxes  
37 listed in section 49-282, subsection A, paragraphs 2 through ~~9~~ 8 in  
38 excess of the lesser of:

39           1. ~~Ten thousand dollars~~ \$10,000 in a calendar year per individual  
40 hazardous waste resource recovery site.

41           2. ~~Twenty-five thousand dollars~~ \$25,000 in a calendar year per  
42 hazardous waste resource recovery entity.

43           C. A person who pays such fees and taxes for hazardous waste  
44 resource recovery facilities in the amount specified in subsection B of  
45 this section may submit evidence of such payment to the appropriate entity

1 in lieu of paying additional fees and taxes for that calendar year for  
2 hazardous waste resource recovery facilities.

3 D. If a hazardous waste resource recovery facility is owned or  
4 operated by more than one person, the payment of fees or the compliance  
5 with this section for the facility by one person constitutes compliance by  
6 all other owners and operators.

7 E. All monies collected under this section shall be deposited in  
8 the water quality assurance revolving fund established by section  
9 49-282. The director may authorize expenditures from the fund, pursuant  
10 to section 49-282, subsection E, to pay the reasonable and necessary costs  
11 of administering the registration program.

12 F. For THE purposes of this section:

13 1. "Hazardous waste resource recovery entity" means a person ~~who~~  
14 THAT owns or operates more than one individual hazardous waste resource  
15 recovery site in this state.

16 2. "Hazardous waste resource recovery facility" means a facility  
17 that receives for recovery of material resources fifty or more tons per  
18 year of hazardous waste generated by a facility owned by a person other  
19 than the owner of the facility receiving the hazardous waste for recovery  
20 of material resources.

21 3. "Individual hazardous waste resource recovery site" means a  
22 hazardous waste resource recovery facility or group of hazardous waste  
23 resource recovery facilities located in a contiguous geographical area and  
24 owned or operated by the same person.