

House Engrossed

solid waste; fees; rules

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

# HOUSE BILL 2367

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

1 point of transfer. A seller shall accept up to the number of new tires  
2 sold at that point of transfer annually and may accept additional tires  
3 from customers. The seller shall accept tires from a customer if the  
4 customer presents a receipt within thirty days ~~of~~ AFTER the date of  
5 purchase. This subsection does not apply to sellers of new motor  
6 vehicles.

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

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

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

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

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

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

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

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

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

1           ~~"~~It is unlawful to throw away a motor vehicle tire.  
2           Recycle all used tires.  
3           This retailer is required to accept scrap tires if any  
4           new or recapped tires are purchased here. When any new tire  
5           is purchased, an additional fee will be charged.~~"~~  
6           K. An advertisement or other printed promotional material related  
7           to the retail sale of tires shall contain the following notice in bold  
8           print:  
9           ~~"~~State or local taxes or surcharges for environmental  
10           protection will be an extra charge.~~"~~  
11           L. A credit of ~~ten cents~~ \$.10 per tire is allowed against the fee  
12           imposed by this article for expenses incurred by the payer of the fee for  
13           accounting for and reporting the fees.  
14           M. This section does not apply to a person whose retail sales of  
15           new motor vehicle tires are not in the ordinary course of business.  
16           N. THE DIRECTOR OF ENVIRONMENTAL QUALITY SHALL ESTABLISH BY RULE  
17           THE FEES, INCLUDING ANY ASSOCIATED MAXIMUM FEES, REQUIRED BY SUBSECTION A,  
18           B OR C OF THIS SECTION.  
19           ~~N~~. 0. For THE purposes of this section, "retail seller of new  
20           motor vehicle tires" and "wholesale seller of new motor vehicle tires"  
21           includes those persons who sell or lease new motor vehicles to others in  
22           the ordinary course of business.  
23           Sec. 2. Section 44-1303, Arizona Revised Statutes, is amended to  
24           read:  
25           44-1303. Waste tire collection sites; registration  
26           A. An owner or operator of a waste tire collection site, ~~within six~~  
27           ~~months after September 27, 1990,~~ shall register with the department of  
28           environmental quality and provide the department with information  
29           concerning the site's location and size and the approximate number of  
30           waste tires that are stored at the site and shall initiate steps to comply  
31           with this article.  
32           B. Any waste tire collection site that is established after ~~the~~  
33           ~~effective date of this amendment to this section~~ JULY 20, 2011 shall  
34           register with the department before beginning operation and shall pay a  
35           registration fee. After ~~the effective date of this amendment to this~~  
36           ~~section,~~ JULY 20, 2011, the director shall establish by rule a  
37           registration fee, 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           ~~director shall not increase that fee by rule without specific statutory~~  
41           ~~authority for the increase.~~ Registration fees shall be deposited,  
42           pursuant to sections 35-146 and 35-147, in the solid waste fee fund  
43           established by section 49-881.

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

3           44-1304.01. Storage, disposal, discard or abandonment of used  
4                                   motor vehicle tires; registration fees;  
5                                   violation; classification; exception

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

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

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

16           3. Within three feet of any property line.

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

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

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

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

29           8. Without prior registration of the site with the department of  
30 environmental quality. The registration shall be on a form approved by  
31 the department and shall include the site's location, the name of the  
32 owner of the property, the name of the owner or operator of the business  
33 storing the waste tires, if applicable, and the type and approximate  
34 quantity of waste tires stored at the site. For any waste tire collection  
35 site that is operating on September 26, 2008, the owner of the property  
36 shall register pursuant to this paragraph on or before November 25, 2008.  
37 For any person who stores one hundred or more used motor vehicle tires  
38 outdoors after ~~the effective date of this amendment to this section~~ JULY  
39 20, 2011, the operator shall pay a registration fee. After ~~the effective~~  
40 ~~date of this amendment to this section~~ JULY 20, 2011, the department shall  
41 establish by rule a registration fee, including a maximum fee. ~~As part of~~  
42 ~~the rule making process, there must be public notice and comment and a~~  
43 ~~review of the rule by the joint legislative budget committee. After~~  
44 ~~September 30, 2013, the department shall not increase that fee by rule~~

1 ~~without specific statutory authority for the increase.~~ Registration fees  
2 shall be deposited, pursuant to sections 35-146 and 35-147, in the solid  
3 waste fee fund established by section 49-881.

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

10 C. The attorney general may enforce this section.

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

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

16 44-1322. Disposal of lead acid batteries

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

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

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

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

25 (a) A permitted secondary lead smelter.

26 (b) A battery manufacturer.

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

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

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

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

35 (b) A permitted secondary lead smelter.

36 (c) A collection or recycling facility authorized by the federal  
37 environmental protection agency or the department of environmental  
38 quality.

39 D. THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL  
40 REGISTER COLLECTION AND RECYCLING FACILITIES THAT ACCEPT LEAD ACID  
41 BATTERIES. THE DIRECTOR SHALL REQUIRE COLLECTION AND RECYCLING FACILITIES  
42 THAT HANDLE LEAD ACID BATTERIES TO PAY AN INITIAL REGISTRATION FEE AND  
43 ANNUAL FEE ESTABLISHED BY RULE. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO

1 SECTIONS 35-146 AND 35-147, REGISTRATION FEES IN THE SOLID WASTE FEE FUND  
2 ESTABLISHED BY SECTION 49-881.

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

5 49-104. Powers and duties of the department and director

6 A. The department shall:

7 1. Formulate policies, plans and programs to implement this title  
8 to protect the environment.

9 2. Stimulate and encourage all local, state, regional and federal  
10 governmental agencies and all private persons and enterprises that have  
11 similar and related objectives and purposes, cooperate with those  
12 agencies, persons and enterprises and correlate department plans, programs  
13 and operations with those of the agencies, persons and enterprises.

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

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

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

22 6. Promote and coordinate the management of air resources to ensure  
23 their protection, enhancement and balanced utilization consistent with the  
24 environmental policy of this state.

25 7. Promote and coordinate the protection and enhancement of the  
26 quality of water resources consistent with the environmental policy of  
27 this state.

28 8. Encourage industrial, commercial, residential and community  
29 development that maximizes environmental benefits and minimizes the  
30 effects of less desirable environmental conditions.

31 9. Ensure the preservation and enhancement of natural beauty and  
32 man-made scenic qualities.

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

37 11. Promote and recommend methods for the recovery, recycling and  
38 reuse or, if recycling is not possible, the disposal of solid wastes  
39 consistent with sound health, scenic and environmental quality policies.  
40 The department shall report annually on its revenues and expenditures  
41 relating to the solid and hazardous waste programs overseen or  
42 administered by the department.

1           12. Prevent pollution through the regulation of the storage,  
2 handling and transportation of solids, liquids and gases that may cause or  
3 contribute to pollution.

4           13. Promote the restoration and reclamation of degraded or  
5 despoiled areas and natural resources.

6           14. Participate in the state civil defense program and develop the  
7 necessary organization and facilities to meet wartime or other disasters.

8           15. Cooperate with the Arizona-Mexico commission in the governor's  
9 office and with researchers at universities in this state to collect data  
10 and conduct projects in the United States and Mexico on issues that are  
11 within the scope of the department's duties and that relate to quality of  
12 life, trade and economic development in this state in a manner that will  
13 help the Arizona-Mexico commission to assess and enhance the economic  
14 competitiveness of this state and of the Arizona-Mexico region.

15           16. Unless specifically authorized by the legislature, ensure that  
16 state laws, rules, standards, permits, variances and orders are adopted  
17 and construed to be consistent with and ~~no~~ NOT more stringent than the  
18 corresponding federal law that addresses the same subject matter. This  
19 paragraph does not adversely affect standards adopted by an Indian tribe  
20 under federal law.

21           17. Provide administrative and staff support for the oil and gas  
22 conservation commission.

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

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

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

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

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

36           5. Contract with other agencies, including laboratories, in  
37 furthering any department program.

38           6. Use monies, facilities or services to provide matching  
39 contributions under federal or other programs that further the objectives  
40 and programs of the department.

41           7. Accept gifts, grants, matching monies or direct payments from  
42 public or private agencies or private persons and enterprises for  
43 department services and publications and to conduct programs that are  
44 consistent with the general purposes and objectives of this chapter.



1 Monies received pursuant to this paragraph shall be deposited in the  
2 department fund corresponding to the service, publication or program  
3 provided.

4 8. Provide for the examination of any premises if the director has  
5 reasonable cause to believe that a violation of any environmental law or  
6 rule exists or is being committed on the premises. The director shall  
7 give the owner or operator the opportunity for its representative to  
8 accompany the director on an examination of those premises. Within  
9 forty-five days after the date of the examination, the department shall  
10 provide to the owner or operator a copy of any report produced as a result  
11 of any examination of the premises.

12 9. Supervise sanitary engineering facilities and projects in this  
13 state, authority for which is vested in the department, and own or lease  
14 land on which sanitary engineering facilities are located, and operate the  
15 facilities, if the director determines that owning, leasing or operating  
16 is necessary for the public health, safety or welfare.

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

20 11. Define and prescribe reasonably necessary rules regarding the  
21 water supply, sewage disposal and garbage collection and disposal for  
22 subdivisions. The rules shall:

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

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

33 12. Prescribe reasonably necessary measures to prevent pollution of  
34 water used in public or semipublic swimming pools and bathing places and  
35 to prevent deleterious conditions at those places. The rules shall  
36 prescribe minimum standards for the design of and for sanitary conditions  
37 at any public or semipublic swimming pool or bathing place and provide for  
38 abatement as public nuisances of premises and facilities that do not  
39 comply with the minimum standards. The rules shall be developed in  
40 cooperation with the director of the department of health services and  
41 shall be consistent with the rules adopted by the director of the  
42 department of health services pursuant to section 36-136, subsection I,  
43 paragraph 10.

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

4           (a) Prescribe minimum standards for the design of sewage collection  
5 systems and treatment, disposal and reclamation systems and for operating  
6 the systems.

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

11           (c) Require that design documents for all sewage collection  
12 systems, sewage collection system extensions, treatment plants, processes,  
13 devices, equipment, disposal systems, on-site wastewater treatment  
14 facilities and reclamation systems be submitted with a fee for review to  
15 the department and may require that the design documents anticipate and  
16 provide for future sewage treatment needs.

17           (d) Require that construction, reconstruction, installation or  
18 initiation of any sewage collection system, sewage collection system  
19 extension, treatment plant, process, device, equipment, disposal system,  
20 on-site wastewater treatment facility or reclamation system conform with  
21 applicable requirements.

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

24           (a) Prescribe minimum standards for human excreta storage,  
25 handling, treatment, transportation and disposal and shall provide for  
26 inspection of premises, processes and vehicles and for abating as public  
27 nuisances any premises, processes or vehicles that do not comply with the  
28 minimum standards.

29           (b) Provide that vehicles transporting human excreta from privies,  
30 septic tanks, cesspools and other treatment processes shall be licensed by  
31 the department subject to compliance with the rules. The department may  
32 require payment of a fee as a condition of licensure. The department ~~may~~  
33 ~~SHALL~~ establish by rule a fee as a condition of licensure, including a  
34 maximum fee. ~~As part of the rulemaking process, there must be public~~  
35 ~~notice and comment and a review of the rule by the joint legislative~~  
36 ~~budget committee. The department shall not increase that fee by rule~~  
37 ~~without specific statutory authority for the increase.~~ The fees shall be  
38 deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee  
39 fund established by section 49-881.

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

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

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

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

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

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

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

19           18. Appoint a person with a background in oil and gas conservation  
20 to act on behalf of the oil and gas conservation commission and administer  
21 and enforce the applicable provisions of title 27, chapter 4 relating to  
22 the oil and gas conservation commission.

23           C. The department may:

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

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

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

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

37           3. Contract with private consultants for the purposes of assisting  
38 the department in reviewing applications for licenses, permits or other  
39 authorizations to determine whether an applicant meets the criteria for  
40 issuance of the license, permit or other authorization. If the department  
41 contracts with a consultant under this paragraph, an applicant may request  
42 that the department expedite the application review by requesting that the  
43 department use the services of the consultant and by agreeing to pay the  
44 department the costs of the consultant's services. Notwithstanding any

1 other law, monies paid by applicants for expedited reviews pursuant to  
2 this paragraph are appropriated to the department for use in paying  
3 consultants for services.

4 D. The director may:

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

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

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

16 49-706. Waste programs general permits; rules; fee

17 A. The department may establish a general permit for any permit or  
18 license issued pursuant to this chapter. The general permit consists of  
19 the following:

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

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

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

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

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

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

42 B. ~~After the effective date of this amendment to this section,~~ The  
43 director shall establish by rule fees for general permits pursuant to this  
44 section, including maximum fees. ~~As part of the rule making process,~~

1 ~~there must be public notice and comment and a review of the rule by the~~  
2 ~~joint legislative budget committee. After September 30, 2013, the~~  
3 ~~director shall not increase those fees by rule without specific statutory~~  
4 ~~authority for the increase.~~ Fees collected pursuant to this section shall  
5 be deposited, pursuant to sections 35-146 and 35-147, in the solid waste  
6 fee fund established by section 49-881.

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

9 49-747. Annual registration of solid waste landfills; fee;  
10 disposition of revenue

11 A. All solid waste landfills shall be registered annually with the  
12 department.

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

17 C. At the time of registration, the owner of a solid waste landfill  
18 shall pay to the department an annual fee. ~~After the effective date of~~  
19 ~~this amendment to this section,~~ The department shall establish by rule an  
20 annual fee, including a maximum fee. ~~As part of the rule making process,~~  
21 ~~there must be public notice and comment and a review of the rule by the~~  
22 ~~joint legislative budget committee. After September 30, 2013, the~~  
23 ~~department shall not increase that fee by rule without specific statutory~~  
24 ~~authority for the increase.~~

25 D. All monies collected pursuant to this section shall be  
26 deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee  
27 fund established by section 49-881. The director may authorize the  
28 expenditure of monies from the solid waste fee fund to pay the reasonable  
29 and necessary costs of administering the registration program pursuant to  
30 section 49-881.

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

33 49-761. Rulemaking authority for solid waste facilities;  
34 exemption; financial assurance; recycling  
35 facilities

36 A. The department shall adopt rules regarding the storage,  
37 processing, treatment and disposal of solid waste as prescribed by  
38 subsections B through M of this section. In adopting rules, the  
39 department shall consider the nature of the waste streams at the  
40 facilities to be regulated. The department shall also consider other  
41 applicable federal and state laws and rules in an effort to avoid  
42 practices or requirements that duplicate, are inconsistent with or will  
43 result in dual regulation with other applicable rules and laws.  
44 Facilities that obtain and maintain coverage under a general permit

1 established by the department pursuant to section 49-706 are exempt from  
2 rules adopted pursuant to this section. In adopting rules for solid waste  
3 facilities, the director may include requirements for corrective actions  
4 in response to a release, as defined in section 49-281, from a solid waste  
5 facility that violates or results in a violation of any provision of this  
6 chapter, rule adopted pursuant to this chapter or solid waste facility  
7 plan approved pursuant to this chapter. These rules shall be consistent  
8 with section 49-762.08, subsection B, subsection C, paragraphs 1 and 2 and  
9 subsections D and E.

10 B. For purposes of administering 42 United States Code section  
11 6945, as amended November 8, 1984, 40 C.F.R. part 258 is adopted by  
12 reference except as prescribed by paragraph 2 of this subsection. This  
13 subsection, as it applies to municipal solid waste landfills, governs if  
14 there is any conflict between this subsection and any other statute  
15 relating to solid waste. Municipal solid waste landfill facility plans  
16 submitted pursuant to section 49-762 shall comply with this subsection.  
17 In administering this subsection or in adopting or administering any rules  
18 adopted pursuant to this subsection, the department shall ensure that any  
19 discretion allowed to a director of an approved state pursuant to the  
20 federal regulations is maintained. The following apply to the  
21 department's administration of 42 United States Code section 6945 and to  
22 the department's adoption of rules for municipal solid waste landfills:

23 1. The department may adopt rules for municipal solid waste  
24 landfills. Rules adopted pursuant to this paragraph shall not be more  
25 stringent than or conflict with 40 C.F.R. part 258 for nonprocedural  
26 standards, except that the department may adopt aquifer protection  
27 standards that are more stringent than 40 C.F.R. part 258 if those  
28 standards are consistent with and not more stringent than standards  
29 developed pursuant to chapter 2, article 3 of this title, or if the  
30 standards are adopted pursuant to article 9 of this chapter. Rules  
31 adopted pursuant to this paragraph are effective on the concurrence of the  
32 administrator with this state's municipal solid waste landfill program.

33 2. 40 C.F.R. part 258, table I is not adopted in its entirety. The  
34 department shall use aquifer water quality standards that have been  
35 adopted by the department pursuant to section 49-223 and shall use those  
36 portions of table I that are more restrictive than the standards adopted  
37 pursuant to section 49-223.

38 C. The department shall adopt rules for those solid waste land  
39 disposal facilities that are not municipal solid waste landfills and that  
40 are not regulated by the coal combustion residuals program established  
41 pursuant to article 11 of this chapter. Rules adopted pursuant to this  
42 subsection shall not be more stringent than or conflict with 40 C.F.R.  
43 part 257, subparts A and B for nonprocedural standards, except that the  
44 department may adopt aquifer protection standards that are more stringent

1 than 40 C.F.R. part 257, subparts A and B if these standards are  
2 consistent with and not more stringent than standards developed pursuant  
3 to chapter 2, article 3 of this title, or if the standards are adopted  
4 pursuant to article 9 of this chapter. In administering this subsection,  
5 the department shall ensure that any discretion allowed to a director of  
6 an approved state pursuant to the federal regulations is maintained in the  
7 department's rules. Aquifer protection provisions adopted pursuant to  
8 this subsection do not apply to an owner or operator of a solid waste  
9 facility if the owner or operator submits an administratively complete  
10 application for an aquifer protection permit pursuant to chapter 2,  
11 article 3 of this title before the date that the owner or operator is  
12 required to submit a solid waste facility plan.

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

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

21 2. Reasonably necessary rules regarding the storage, collection,  
22 transportation, treatment and disposal of biohazardous medical waste and  
23 medical sharps, beginning with the placement by the generator of the waste  
24 in containers for the purpose of waste collection. The department ~~may~~  
25 **SHALL** require payment of a fee for the licensure of a transporter of  
26 biohazardous medical waste. ~~After July 20, 2011,~~ The department shall  
27 establish by rule a fee for the licensure of a transporter of biohazardous  
28 medical waste, including a maximum fee. ~~As part of the rulemaking~~  
29 ~~process, there must be public notice and comment and a review of the rule~~  
30 ~~by the joint legislative budget committee. After September 30, 2013, the~~  
31 ~~department shall not increase that fee by rule without specific statutory~~  
32 ~~authority for the increase.~~ The fees shall be deposited, pursuant to  
33 sections 35-146 and 35-147, in the solid waste fee fund established by  
34 section 49-881. In the case of self-hauling of waste by the generator,  
35 all storage facilities under the generator's control and all waste  
36 handling practices including storage, treatment and transportation shall  
37 be in accordance with these rules. The department shall also adopt  
38 reasonably necessary rules regarding the tracking of biohazardous medical  
39 waste and medical sharps.

40 3. **RULES THAT REQUIRE FACILITIES THAT RECEIVE PLAN APPROVAL UNDER**  
41 **SECTION 49-762, SUBSECTION A, PARAGRAPH 3 TO PAY AN ANNUAL FEE AS**  
42 **ESTABLISHED BY RULE. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS**  
43 **35-146 AND 35-147, FEES IN THE SOLID WASTE FEE FUND ESTABLISHED BY SECTION**  
44 **49-881.**

1 E. The department may adopt reasonably necessary rules regarding  
2 the storage, collection, transportation, treatment and disposal of  
3 nonbiohazardous medical waste beginning with the placement by the  
4 generator of the waste in containers for the purpose of waste collection.  
5 In the case of self-hauling of the waste by the generator, all storage  
6 facilities under the generator's control and all waste handling practices  
7 including storage, treatment and transportation shall be in accordance  
8 with these rules.

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

14 G. The department shall adopt rules regarding the storage,  
15 processing, treatment or disposal of solid waste at solid waste facilities  
16 that are identified in section 49-762.01. The rules shall allow the owner  
17 or operator to certify compliance with the department's statutes and rules  
18 instead of obtaining a solid waste facility plan approval. The rules  
19 shall provide that the applicant at its option may request approval of a  
20 solid waste facility plan rather than certifying compliance.

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

26 I. The department shall adopt reasonably necessary rules  
27 establishing minimum standards for storing, collecting, transporting,  
28 disposing and reclaiming solid waste, including garbage, trash, rubbish,  
29 manure and other objectionable wastes. These rules shall provide for  
30 inspecting premises, containers, processes, equipment and vehicles, and  
31 for abating as environmental nuisances any premises, containers,  
32 processes, equipment or vehicles that do not comply with the minimum  
33 standards of these rules. The rules adopted pursuant to this subsection  
34 do not apply to sites that are either regulated by section 49-762,  
35 49-762.01 or 49-762.02 or exempted from the definition of solid waste  
36 facility in section 49-701 or from the definition of solid waste in  
37 section 49-701.01. Notwithstanding any other provision of this  
38 subsection, rules adopted pursuant to this subsection shall apply to  
39 defining environmental nuisances pursuant to section 49-141.

40 J. The department shall adopt rules relating to financial assurance  
41 requirements. The rules shall indicate the types of financial assurance  
42 mechanisms to be required and the content, terms and conditions of each  
43 financial mechanism, including circumstances under which the department  
44 may take action on the financial assurance mechanism for facility closure,



1 postclosure care if necessary and corrective action for known releases.  
2 THE DEPARTMENT SHALL ESTABLISH FEES IN RULE. THE DEPARTMENT SHALL  
3 DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, FEES IN THE SOLID WASTE  
4 FEE FUND ESTABLISHED BY SECTION 49-881. The financial assurance  
5 mechanisms shall include all of the following:

- 6 1. Surety bond.
- 7 2. Certificate of deposit.
- 8 3. Trust fund with pay-in period.
- 9 4. Letter of credit.
- 10 5. Insurance policy.
- 11 6. Certificate of self-insurance.
- 12 7. Deposit with the state treasurer.
- 13 8. Evidence of ability to meet any of the following:
  - 14 (a) Corporate financial test.
  - 15 (b) Local government financial test.
  - 16 (c) Corporate guarantee test.
  - 17 (d) Local government guarantee test.
  - 18 (e) Political subdivision financial test that shall require the  
19 department to consider the entity's bond rating, income stream, assets,  
20 liabilities and assessed valuation of taxable property.
- 21 9. Multiple financial assurance mechanisms.
- 22 10. Additional financial assurance mechanisms that may be  
23 acceptable to the director.

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

26 L. The director may adopt rules that prescribe standards to be used  
27 in determining if a solid waste facility includes significant solid waste  
28 transfer activities that warrant the facility's regulation as a transfer  
29 facility.

30 M. The department shall adopt facility design, construction,  
31 operation, closure and postclosure maintenance rules for biosolids  
32 processing facilities and ~~household~~ waste composting facilities that must  
33 obtain plan approval pursuant to section 49-762. THE DEPARTMENT SHALL  
34 REQUIRE FACILITIES THAT RECEIVE PLAN APPROVAL PURSUANT TO SECTION 49-762  
35 TO PAY AN ANNUAL FEE. THE DEPARTMENT SHALL ESTABLISH BY RULE THE ANNUAL  
36 FEE. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND  
37 35-147, FEES IN THE SOLID WASTE FEE FUND ESTABLISHED BY SECTION 49-881.

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

40 49-762. Facilities requiring solid waste facility plans:  
41 exemption

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

1           1. Solid waste land disposal facilities except those facilities  
2 regulated by 40 Code of Federal Regulations part 257, subpart D or the  
3 coal combustion residuals program THAT IS established pursuant to article  
4 11 of this chapter and THAT IS approved by the United States environmental  
5 protection agency in accordance with 42 United States Code section  
6 6945(d)(1).

7           2. Biosolids processing facilities.

8           3. Medical waste facilities.

9           4. Special waste facilities.

10          5. Municipal solid waste landfills.

11          6. Commercial or government-owned ~~household~~ waste composting  
12 facilities.

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

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

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

21           49-762.03. Solid waste facility plan approval

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

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

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

40          B. For a solid waste facility subject to site approval pursuant to  
41 section 49-767, a solid waste facility plan shall not be submitted to the  
42 department until the site for the solid waste facility has been approved  
43 pursuant to section 49-767. For all new solid waste landfills, a solid

1 waste facility plan shall provide evidence of compliance with or the  
2 inapplicability of city, town or county zoning ordinances.

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

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

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

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

31 G. The department may contract with private consultants for the  
32 purposes of assisting the department in reviewing solid waste facility  
33 plan approvals to determine whether a facility meets the criteria of  
34 section 49-762.04. The department shall pay the consultant for the  
35 services rendered by the consultant from fees paid by the applicant. If  
36 the department contracts with a consultant under this section, an  
37 applicant may request that the department expedite the application review  
38 by requesting that the department use the services of the consultant and  
39 by agreeing to pay the department the costs of the consultant's services.  
40 Notwithstanding section 49-881, fees collected by the department for  
41 expedited plan review shall be deposited, pursuant to sections 35-146 and  
42 35-147, in the solid waste fee fund established by section 49-881 and used  
43 for payment of the costs of the consultant services. Fees received for  
44 the purpose of expedited plan review are not subject to appropriation.

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

3           49-762.05. Self-certification procedures; rules

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

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

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

14           2. A demonstration of financial assurance in accordance with  
15 section 49-770.

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

18           4. A demonstration of the issuance of other environmental permits  
19 that are required by statute.

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

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

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

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

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

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

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

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

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

19 49-802. Federal used oil program; incorporation by reference;  
20 rulemaking

21 A. The department shall administer 42 United States Code section  
22 6935, as amended on January 1, 1997, as the used oil program for this  
23 state. For that purpose, 40 Code of Federal Regulations part 279, as  
24 amended on January 1, 1997, is adopted by reference. For purposes of this  
25 program, the United States, the environmental protection agency and the  
26 administrator shall be applied to mean this state, the department and the  
27 director, respectively.

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

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

39 1. A used oil collection center, as defined in 40 Code of Federal  
40 Regulations part 279, shall register with the department by obtaining an  
41 identification number from the department. A request for an  
42 identification number shall include:

- 43 (a) The company name.  
44 (b) The name of the owner of the company.

1 (c) The mailing address and telephone number of the company.

2 (d) The location of the collection center.

3 (e) A description of the type of used oil activity at the company.

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

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

17 4. ~~Beginning January 1, 1998,~~ Each person who burns used oil fuel  
18 in devices identified in 40 Code of Federal Regulations section  
19 279.61(a)(1) through (3) shall submit to the department a written annual  
20 report. The report shall be submitted to the department by February 1 for  
21 the previous calendar year and shall contain the following information:

22 (a) The name, address and telephone number of the person reporting.

23 (b) The name, address and telephone number of the burner facility.

24 (c) The United States environmental protection agency  
25 identification number of the burner facility.

26 (d) The total volume of on-specification used oil burned.

27 (e) The period being reported.

28 (f) The total volume of self-generated used oil burned on site.

29 (g) The total volume of used oil fuel burned.

30 (h) A summary of the tracking information required to be kept  
31 pursuant to 40 Code of Federal Regulations part 279.

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

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

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

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

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

5 49-836. Solid waste landfill disposal fees

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

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

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

24 (a) By actual volume or weight.

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

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

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

1 C. A person who for a fee disposes of waste in a solid waste  
2 landfill that is not regulated by the department shall keep accurate  
3 records of the waste disposed of in those landfills and shall remit a fee  
4 to the department at the same rate and in the same manner as provided in  
5 subsection A of this section OR RULES ADOPTED PURSUANT TO SUBSECTION G OF  
6 THIS SECTION.

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

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

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

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

23 3. Material produced in connection with a mining or metallurgical  
24 operation.

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

29 G. THE DEPARTMENT SHALL ESTABLISH BY RULE THE SOLID WASTE LANDFILL  
30 DISPOSAL FEES.

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

33 49-855. Best management practices; fee; criteria

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

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

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

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



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

3           4. Consistency with other federal and state laws, rules and  
4 regulations in an effort to avoid practices or requirements that  
5 duplicate, are inconsistent with or result in dual regulation under other  
6 federal and state laws, rules and regulations.

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

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

14           2. A fee for each ton of special waste that is transported to a  
15 facility in this state for treatment, storage or disposal. ~~After the~~  
16 ~~effective date of this amendment to this section,~~ The department shall  
17 establish by rule a fee for each ton of special waste that is transported  
18 to a facility in this state for treatment, storage or disposal, including  
19 a maximum fee. ~~As part of the rule making process, there must be public~~  
20 ~~notice and comment and a review of the rule by the joint legislative~~  
21 ~~budget committee. After September 30, 2013, the department shall not~~  
22 ~~increase that fee by rule without specific statutory authority for the~~  
23 ~~increase.~~ The fees shall be deposited, pursuant to sections 35-146 and  
24 35-147, in the solid waste fee fund established by section 49-881.

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

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

33           1. The additional regulation is necessary to protect public health  
34 or the environment.

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

37           3. The additional regulation is technically feasible.

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

43           G. THE DEPARTMENT SHALL REQUIRE FACILITIES THAT GENERATE, TRANSPORT  
44 OR RECEIVE SPECIAL WASTE TO PAY AN ANNUAL FEE. THE DEPARTMENT SHALL

1 ESTABLISH BY RULE AN ANNUAL FEE. THE DEPARTMENT SHALL DEPOSIT, PURSUANT  
2 TO SECTIONS 35-146 AND 35-147, FEES IN THE SOLID WASTE FEE FUND  
3 ESTABLISHED BY SECTION 49-881. FACILITIES THAT PAY REGISTRATION FEES  
4 PURSUANT TO SECTION 49-747 ARE EXEMPT FROM THE FEE PRESCRIBED BY THIS  
5 SECTION.

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

8 49-857. Special waste management plans; director; approval;  
9 fee

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

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

14 1. A complete solid waste facility plan pursuant to section 49-762  
15 that includes a special waste management plan component that complies with  
16 best management practices adopted pursuant to section 49-855 for each  
17 special waste for that portion of the facility that is engaged in the  
18 treatment, storage or disposal of special waste.

19 2. Evidence of compliance with permit filing requirements pursuant  
20 to this title.

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

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

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

35 49-881. Solid waste fee fund; uses; exemption

36 A. The solid waste fee fund is established. The director shall  
37 administer the fund. The fund consists of legislative appropriations,  
38 donations, gifts, grants, registration fees collected pursuant to sections  
39 44-1303 and 44-1304.01, waste tire administrative monies distributed  
40 pursuant to section 44-1305, subsection B, paragraph 1, LEAD ACID BATTERY  
41 COLLECTION AND RECYCLING FEES COLLECTED PURSUANT TO SECTION 44-1322,  
42 licensure fees collected pursuant to section 49-104, subsection B,  
43 paragraph 14, subdivision (b), solid waste general permit fees collected  
44 pursuant to section 49-706, solid waste landfill registration fees from

1 section 49-747, licensure fees collected pursuant to section 49-761,  
2 subsection D, ~~paragraph~~ PARAGRAPHS 2 AND 3 AND SUBSECTIONS H, J AND M,  
3 solid waste fees collected pursuant to section 49-762.03, subsection F,  
4 SECTION 49-802, SUBSECTION B, special waste management plan fees collected  
5 pursuant to section 49-857, special waste management fees collected  
6 pursuant to section 49-863, private consultants expedited plan review fees  
7 collected pursuant to section 49-762.03, subsection G, self-certification  
8 filing fees collected pursuant to section 49-762.05, subsection H, solid  
9 waste landfill disposal fees collected pursuant to section 49-836, special  
10 waste fees collected pursuant to section 49-855, subsection C, paragraph 2  
11 and coal combustion residuals permit processing fees and annual fees  
12 collected pursuant to section 49-891.

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

16 C. On notice from the director, the state treasurer shall invest  
17 and divest monies in the fund as provided in section 35-313, and monies  
18 earned from investment shall be credited to the fund. Monies deposited in  
19 the fund are exempt from the provisions of section 35-190 relating to  
20 lapsing of appropriations.

21 Sec. 17. Legislative intent

22 A. The legislature intends that the director of the department of  
23 environmental quality base fees that are adopted or revised by rule  
24 pursuant to any of the following sections on the department's direct and  
25 indirect costs associated with the type of activity or facility that is  
26 assessed a fee:

- 27 1. Section 44-1302, Arizona Revised Statutes, as amended by this  
28 act.
- 29 2. Section 44-1303, Arizona Revised Statutes, as amended by this  
30 act.
- 31 3. Section 44-1304.01, Arizona Revised Statutes, as amended by this  
32 act.
- 33 4. Section 44-1322, Arizona Revised Statutes, as amended by this  
34 act.
- 35 5. Section 49-104, subsection B, paragraph 14, subdivision (b),  
36 Arizona Revised Statutes, as amended by this act.
- 37 6. Section 49-706, Arizona Revised Statutes, as amended by this  
38 act.
- 39 7. Section 49-747, Arizona Revised Statutes, as amended by this  
40 act.
- 41 8. Section 49-761, Arizona Revised Statutes, as amended by this  
42 act.
- 43 9. Section 49-762.03, Arizona Revised Statutes, as amended by this  
44 act.

- 1           10. Section 49-762.05, Arizona Revised Statutes, as amended by this  
2 act.  
3           11. Section 49-802, Arizona Revised Statutes, as amended by this  
4 act.  
5           12. Section 49-836, Arizona Revised Statutes, as amended by this  
6 act.  
7           13. Section 49-855, Arizona Revised Statutes, as amended by this  
8 act.  
9           14. Section 49-857, Arizona Revised Statutes, as amended by this  
10 act.  
11           15. Section 49-891, Arizona Revised Statutes.  
12           B. The legislature further intends that any fees adopted or revised  
13 by rule as outlined in subsection A of this section be consistent with the  
14 director's duty to adopt fees that are fairly assessed and impose the  
15 least burden and cost to the parties subject to the fees as prescribed by  
16 section 49-104, subsection B, paragraph 17, Arizona Revised Statutes, as  
17 amended by this act.  
18           Sec. 18. Emergency  
19           This act is an emergency measure that is necessary to preserve the  
20 public peace, health or safety and is operative immediately as provided by  
21 law.