

HOUSE BILL 108

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Christine Chandler

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO SOLID WASTE; ESTABLISHING A FEE SCHEDULE FOR FACILITIES CONDUCTING PERMITTED SOLID WASTE MANAGEMENT ACTIVITIES OR SEEKING A PERMIT FOR THE MANAGEMENT OF SOLID WASTE; CREATING THE SOLID WASTE PERMIT FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 74-9-8 NMSA 1978 (being Laws 1990, Chapter 99, Section 8, as amended by Laws 1991, Chapter 185,

.218971.2SAAIC March 10, 2021 (11:30am)

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Section 2 and also by Laws 1991, Chapter 194, Section 3) is amended to read:

"74-9-8. BOARD ADOPTION OF INITIAL REGULATIONS.--No later than December 31, 1991, the board shall adopt regulations under the authority of this section to:

A. implement, administer and enforce a program for the cost-effective and environmentally safe siting, construction, operation, maintenance, closure and post-closure care of solid waste facilities, including financial responsibility requirements for solid waste facility owners and operators and also including requirements that assure that the relative interests of the applicant, other owners of property likely to be affected and the general public will be considered prior to the issuance of a permit for a solid waste facility;

B. define the solid wastes that are considered special wastes;

C. establish specific requirements for the detoxification and disposal of special wastes;

D. establish classifications of solid waste facilities and define what types of solid waste may be processed or disposed of in each classification;

E. establish performance standards for the construction and operation of solid waste facilities that will assure protection of ground water quality from degradation by contaminants from solid waste facilities consistent with the

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provisions of the Water Quality Act and the regulations and standards established under that act by the water quality control commission, provided such regulations shall not allow permitting of any active solid waste facility larger than five hundred acres;

F. establish performance standards for transformation facilities that will assure protection of the state's environment;

G. establish requirements and procedures for the granting or denial of an application to modify a solid waste facility permit under Section 74-9-25 NMSA 1978;

H. establish requirements and procedures for commercial haulers to minimize littering and otherwise prevent degradation of the environment;

I. establish ~~[an applicant]~~ by rule a fee schedule for ~~[processing permit applications that is]~~ facilities conducting permitted solid waste management activities or seeking a permit for the management of solid waste and fee rates based on costs ~~[of application review]~~ incurred by the division, including administrative costs and ~~[also]~~ costs incurred for investigations of applicants by state departments and agencies other than the division. ~~[which regulation]~~ The rule shall provide for the reimbursement of these costs to the division or other department or agency from the fees charged Hf11→and shall also limit the fee to be not greater than five

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thousand dollars (\$5,000) per year. The rule shall contain a two-tier fee structure. The lower tier shall be available to a solid waste facility that only accepts waste from the city or county where the facility is permitted and serves a city or county with a population of fifteen thousand or fewer

~~and shall also limit the fee to be not greater than ten thousand dollars (\$10,000)]~~ No later than April 1 of each year, the director shall adjust the amount of fee rates in the fee schedule to account for inflation. The amounts shall be increased by the percentage of the preceding calendar year's increase of the consumer price index for all urban consumers, United States city average for all items, published by the United States department of labor. The amount of the increase, if any, shall be rounded to the nearest dollar;

J. establish requirements and procedures for a person to obtain a variance from the application of a substantive regulation to the person if the person files a written application for a variance with the director and demonstrates to the director's satisfaction that:

(1) application of the regulation would result in an arbitrary and unreasonable taking of the applicant's property or would impose an undue economic burden upon any lawful business, occupation or activity; and

(2) granting the variance will not result in any condition injurious to human health, safety or welfare or

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the environment;

K. assure that no variance will be granted under the provisions of Subsection J of this section until the director has considered the relative interests of the applicant, other owners of property likely to be affected and the general public and that any variance or renewal of a variance shall be granted for time periods and under conditions consistent with reasons for the ~~various~~ variance but within the following limitations:

(1) if the variance is granted on the grounds that there are no practicable means known or available for the adequate prevention of degradation of the environment or the risk to the public health, safety or welfare, it shall continue only until the necessary means for the prevention of the degradation or risk become known and available; or

(2) if the variance is granted on the grounds that it is justified to relieve or prevent hardship of a kind other than that provided for in Paragraph (1) of this subsection, it shall not be granted for more than one year;

L. establish a list of solid wastes that shall not be transferred, disposed of or transformed in a solid waste facility and prohibit the disposal or transformation of those solid wastes in solid waste facilities;

M. establish recordkeeping procedures for solid waste transfer, landfill disposal and transformation facilities

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that shall include requirements for recording the type, amount and origin of solid waste transferred, disposed of or transformed at the facility and that require operators of landfill disposal, solid waste transfer and transformation facilities within the state to:

(1) maintain records in a form required by the division and file them with the division indicating the type, amount, origin and location in a landfill disposal facility of solid waste accepted by the facility;

(2) maintain copies of the records required under Paragraph (1) of this subsection after closure in a manner and for the length of time prescribed by the division; and

(3) make all required records available for inspection by the division and the general public during normal business hours; and

N. require the division to establish a solid waste facility operator certification program."

SECTION 2. A new section of the Solid Waste Act is enacted to read:

"[NEW MATERIAL] SOLID WASTE PERMIT FUND--CREATED.--

A. The "solid waste permit fund" is created in the state treasury, which shall be administered by the division. All balances in the fund are appropriated to the division for the sole purpose of meeting necessary expenses in the

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administration and operation of the solid waste program. Any unexpended or unencumbered balance or income earned from the money in the fund remaining at the end of a fiscal year shall not revert to the general fund.

B. All fees collected pursuant to Section 74-9-8 NMSA 1978 shall be transmitted to the state treasurer for credit to the solid waste permit fund."

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