

**Arizona Department of Environmental Quality  
Waste Programs Division  
Hazardous Waste Fees**

December 8, 2010

**Hazardous Waste Program**

The Hazardous Waste Management Fund (HWMF), created in 1991, is funded by fees assessed to hazardous waste generators and hazardous waste handlers. The current fee structure is insufficient to support the needs of the Hazardous Waste Program. In the past, ADEQ utilized General Fund and Air Quality Fee Fund monies to address the significant gap between revenue and program cost. This option, however, is no longer available because of the Air Quality Program's own operating needs and the fact that ADEQ no longer receives General Fund monies.

In FY2010, the Hazardous Waste Management Fund generated approximately \$357,000 and the fees need to increase by approximately \$1.4 million dollars to make the Hazardous Waste Program self-sufficient.

Below is a description of the proposed fee increases.

Fee Name	Current Fee	Proposed Fee
HW Permit Review Hourly Rate A.R.S. § 49-922(B)(5)	\$95.29/hour	\$138.54/hour
HW Generation Fee A.R.S. § 49-931(A)	\$4 - \$40/ton	\$27 - \$270/ton
Elimination of 50% pollution prevention discount on hazardous waste generation fees A.R.S. § 49-931(A)(4)	50% discount	0% discount

The proposed fee increases in conjunction with the federal RCRA grant will allow ADEQ to secure funding for 12 core program positions (inspections and permitting) and 12.55 support positions (full time RCRA attorney, hydrologist, pollution prevention staff, records management staff, budget and database support staff).

The hazardous waste program regulates a universe of over 1,500 facilities: 259 large quantity generators, 925 small quantity generators, 13 treatment, storage, and disposal facilities, and 323 transporters of hazardous waste. These facilities include metal platers, chemical manufacturers, laboratories, explosive and munitions manufacturers, pesticide manufacturers, and military installations. Examples of regulated waste streams are: toxic waste (arsenic, cadmium, chromium, lead, mercury), corrosive waste (acids and bases), ignitable waste (xylene, toluene, benzene, solvents), and reactive waste (1.1 and 1.3 explosives and munitions, oxidizers, cyanides). In addition, the hazardous waste program manages documentation such as notifications and manifests submitted by over 1,600 registered conditionally exempt small quantity generators.

**Impact of not funding:**

Failure to adequately staff and fund the program may cause the loss of the U.S. EPA-delegated Hazardous Waste Program and approximately \$1.4 million in federal dollars. Without an increase in hazardous waste fee revenue, Arizona will be unable to fund the Hazardous Waste match requirement for Arizona's U.S. EPA grant and may be forced to tender the program to U.S. EPA Region 9 in San Francisco.

If the program reverts back to U.S. EPA,

- *Delay in federal program implementation:* EPA currently does not have the staff to perform hazardous waste inspections and permitting activities in Arizona; therefore, there could be a significant period of time during which there would be no hazardous waste oversight in Arizona, including responding to citizens' complaints regarding hazardous waste issues. In terms of permitting activities, ADEQ is held to specific licensing time frames to issue hazardous waste permits in a timely manner; EPA would not be bound by Arizona's rules on licensing time frames. EPA administration of the hazardous waste program would most certainly result in a delay of statutorily mandated permit processing, causing Arizona businesses to delay start-up, expansion or modification.
- *Loss of local control over enforcement and permitting decisions:* Hazardous waste enforcement and permitting are inexact processes. ADEQ engages heavily with the regulated community during these processes. Arizona businesses could suffer from the inability to engage with the regulators in a timely manner at a convenient location since they would have to engage with EPA staff in San Francisco. Furthermore, the regulated community could no longer take advantage of ADEQ's efforts to educate regulated entities about enforcement policies. ADEQ developed the Compliance and Enforcement Handbook, which is available to the public, with the purpose of promoting appropriate, consistent, and timely enforcement of Arizona's environmental statutes and rules in a manner that is transparent to all who are affected, including the regulated community. EPA does not have a similar guidance document that is tailored to the needs of Arizona businesses.
- *Loss of control over other hazardous waste activities:* RCRA has numerous reporting requirements for generators of hazardous waste. Because Arizona has the authority to implement the hazardous waste program, the business community in Arizona submits documentation to and requests required information (e.g., EPA identification numbers) from ADEQ. Absent an Arizona-specific hazardous waste program, Arizona businesses will be forced to submit reports to and request needed information from EPA in San Francisco. ADEQ receives hundreds of calls each month from Arizona hazardous waste generators, requesting compliance assistance. This service to Arizona businesses would no longer be available.
- *Arizona businesses will be subject to EPA's Administrative Penalty Authority:* ADEQ must file a civil complaint in order to seek penalties for violations of the Arizona Hazardous Waste Management Act. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), gives the Administrator of EPA the authority to issue an order assessing a civil penalty. EPA's

administrative penalty authority places the burden on the responsible party to contest EPA's alleged violations. Furthermore, EPA's maximum civil penalty for each day of violation is \$37,500, while ADEQ's maximum civil penalty is \$25,000 for each day of violation.

- *Loss of rulemaking oversight:* A.R.S. § 49-922 requires the Director to adopt rules to establish a hazardous waste program. Hazardous waste rules adopted by ADEQ currently go through the GRCC and stakeholder review processes. When EPA adopts a new regulation, Arizona currently has the authority to review the regulation and decide whether to propose it for adoption. If the hazardous waste program is reverted to EPA, Arizona would lose the ability to decide whether to adopt federal regulations; future EPA regulations would become effective in Arizona at the same time they became effective nationwide.
- *Loss of compliance assistance outreach to regulated community:* Throughout the year, ADEQ staff participate in numerous conferences and training seminars with the goal of educating the regulated community about ADEQ hazardous waste requirements and policies. It is unlikely that EPA would schedule trips to Arizona for staff to participate on short-term outreach events.

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