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HOUSE BILL 108

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

INTRODUCED BY

Christine Chandler

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,
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,

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1 construction, operation, maintenance, closure and post-closure
2 care of solid waste facilities, including financial
3 responsibility requirements for solid waste facility owners and
4 operators and also including requirements that assure that the
5 relative interests of the applicant, other owners of property
6 likely to be affected and the general public will be considered
7 prior to the issuance of a permit for a solid waste facility;

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

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

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

15 E. establish performance standards for the
16 construction and operation of solid waste facilities that will
17 assure protection of ground water quality from degradation by
18 contaminants from solid waste facilities consistent with the
19 provisions of the Water Quality Act and the regulations and
20 standards established under that act by the water quality
21 control commission, provided such regulations shall not allow
22 permitting of any active solid waste facility larger than five
23 hundred acres;

24 F. establish performance standards for
25 transformation facilities that will assure protection of the

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1 state's environment;

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

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

8 I. establish ~~[an applicant]~~ by rule a fee schedule
9 for ~~[processing permit applications that is]~~ facilities
10 conducting permitted solid waste management activities or
11 seeking a permit for the management of solid waste and fee
12 rates based on costs ~~[of application review]~~ incurred by the
13 division, including administrative costs and ~~[also]~~ costs
14 incurred for investigations of applicants by state departments
15 and agencies other than the division. ~~[which regulation]~~ The
16 rule shall provide for the reimbursement of these costs to the
17 division or other department or agency from the fees charged.
18 ~~[and shall also limit the fee to be not greater than ten~~
19 ~~thousand dollars (\$10,000)]~~ No later than April 1 of each year,
20 the director shall adjust the amount of fee rates in the fee
21 schedule to account for inflation. The amounts shall be
22 increased by the percentage of the preceding calendar year's
23 increase of the consumer price index for all urban consumers,
24 United States city average for all items, published by the
25 United States department of labor. The amount of the increase,

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1 if any, shall be rounded to the nearest dollar;

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

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

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

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

22 (1) if the variance is granted on the grounds
23 that there are no practicable means known or available for the
24 adequate prevention of degradation of the environment or the
25 risk to the public health, safety or welfare, it shall continue

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1 only until the necessary means for the prevention of the
2 degradation or risk become known and available; or

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

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

11 M. establish recordkeeping procedures for solid
12 waste transfer, landfill disposal and transformation facilities
13 that shall include requirements for recording the type, amount
14 and origin of solid waste transferred, disposed of or
15 transformed at the facility and that require operators of
16 landfill disposal, solid waste transfer and transformation
17 facilities within the state to:

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

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

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

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

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

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

9 A. The "solid waste permit fund" is created in the
10 state treasury, which shall be administered by the division.
11 All balances in the fund are appropriated to the division for
12 the sole purpose of meeting necessary expenses in the
13 administration and operation of the solid waste program. Any
14 unexpended or unencumbered balance or income earned from the
15 money in the fund remaining at the end of a fiscal year shall
16 not revert to the general fund.

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