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SENATE BILL NO. 1164

Offered January 13, 2021

Prefiled January 8, 2021

A *BILL to amend and reenact § 10.1-1400 of the Code of Virginia, relating to advanced recycling; definition; not considered solid waste management.*

Patrons—Hanger and Lewis; Delegate: Avoli

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1400 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-1400. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Advanced recycling" means a manufacturing process for the conversion of post-use polymers and recovered feedstocks into basic hydrocarbon raw materials, feedstocks, chemicals, liquid fuels, waxes, lubricants, or other products through processes that include pyrolysis, gasification, depolymerization, reforming, hydrogenation, solvolysis, catalytic cracking, and similar processes. "Advanced recycling" produces recycled products, including monomers, oligomers, plastics, plastics and chemical feedstocks, basic and unfinished chemicals, crude oil, naphtha, liquid transportation fuels, coatings, waxes, lubricants, and other basic hydrocarbons. "Advanced recycling" shall not be considered treatment, incineration, combustion, solid waste management, or resource recovery.

"Advanced recycling facility" means a facility that, using advanced recycling, receives, stores, and converts post-use polymers and recovered feedstocks that it receives. An "advanced recycling facility" is a manufacturing facility that is subject to applicable Department manufacturing regulations for air, water, waste, and land use. An "advanced recycling facility" shall not be considered a solid waste management facility, treatment facility, storage facility, disposal facility, resource recovery system, combustion facility, or incinerator.

"Applicant" means any and all persons seeking or holding a permit required under this chapter.

"Board" means the Virginia Waste Management Board.

"Composting" means the manipulation of the natural aerobic process of decomposition of organic materials to increase the rate of decomposition.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Disclosure statement" means a sworn statement or affirmation, in such form as may be required by the Director, which includes:

1. The full name and business address of all key personnel;

2. The full name and business address of any entity, other than a natural person, that collects, transports, treats, stores, or disposes of solid waste or hazardous waste in which any key personnel holds an equity interest of five percent or more;

3. A description of the business experience of all key personnel listed in the disclosure statement;

4. A listing of all permits or licenses required for the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste issued to or held by any key personnel within the past 10 years;

5. A listing and explanation of any notices of violation, prosecutions, administrative orders (whether by consent or otherwise), license or permit suspensions or revocations, or enforcement actions of any sort by any state, federal, or local authority, within the past 10 years, ~~which~~ *that* are pending or have concluded with a finding of violation or entry of a consent agreement, regarding an allegation of civil or criminal violation of any law, regulation, or requirement relating to the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste by any key personnel, and an itemized list of all convictions within 10 years of key personnel of any of the following crimes punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction: murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury; arson; burglary; theft and related crimes; forgery and fraudulent practices; fraud in the offering, sale, or purchase of securities; alteration of motor vehicle identification numbers; unlawful manufacture, purchase, use or transfer of firearms; unlawful possession or use of destructive devices or explosives; violation of the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) of Title 54.1; racketeering; or violation of antitrust laws;

6. A listing of all agencies outside the Commonwealth ~~which~~ *that* have regulatory responsibility over

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59 the applicant or have issued any environmental permit or license to the applicant within the past 10
60 years, in connection with the applicant's collection, transportation, treatment, storage, or disposal of solid
61 waste or hazardous waste;

62 7. Any other information about the applicant and the key personnel that the Director may require that
63 reasonably relates to the qualifications and ability of the key personnel or the applicant to lawfully and
64 competently operate a solid waste management facility in Virginia; and

65 8. The full name and business address of any member of the local governing body or planning
66 commission in which the solid waste management facility is located or proposed to be located, who
67 holds an equity interest in the facility.

68 "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid
69 waste into or on any land or water so that such solid waste or any constituent thereof may enter the
70 environment or be emitted into the air or discharged into any waters, including ground waters.

71 "Equity" includes both legal and equitable interests.

72 "Federal acts" means any act of Congress providing for waste management and regulations
73 promulgated thereunder.

74 *"Gasification" means a manufacturing process through which recovered feedstocks are heated and
75 converted in an oxygen-deficient atmosphere into a fuel and gas mixture that is then converted to crude
76 oil, diesel fuel, gasoline, home heating oil, ethanol, transportation fuel, other fuels, chemicals, waxes,
77 lubricants, chemical feedstocks, diesel and gasoline blendstocks, or other valuable raw, intermediate, or
78 final products that are returned to economic utility in the form of raw materials, products, or fuels.*

79 "Hazardous material" means a substance or material in a form or quantity ~~which~~ that may pose an
80 unreasonable risk to health, safety, or property when transported, and which the U.S. Secretary of
81 Transportation of the United States has so designated by regulation or order.

82 "Hazardous substance" means a substance listed under United States Public Law 96-510, entitled the
83 federal Comprehensive Environmental Response Compensation and Liability Act, P.L. 96-510.

84 "Hazardous waste" means a solid waste or combination of solid waste ~~which~~, that because of its
85 quantity, concentration or physical, chemical, or infectious characteristics, may:

86 1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible
87 or incapacitating illness; or

88 2. Pose a substantial present or potential hazard to human health or the environment when
89 improperly treated, stored, transported, disposed of, or otherwise managed.

90 "Hazardous waste generation" means the act or process of producing hazardous waste.

91 "Household hazardous waste" means any waste material derived from households (including single
92 and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic
93 grounds, and day-use recreation areas) which, except for the fact that it is derived from a household,
94 would be classified as a hazardous waste, including ~~but not limited to~~, nickel, cadmium, mercuric oxide,
95 manganese, zinc-carbon or lead batteries; solvent-based paint, paint thinner, paint strippers, or other paint
96 solvents; any product containing trichloroethylene, toxic art supplies, used motor oil and unusable
97 gasoline or kerosene, fluorescent or high intensity light bulbs, ammunition, fireworks, banned pesticides,
98 or restricted-use pesticides as defined in § 3.2-3900. All empty household product containers and any
99 household products in legal distribution, storage, or use shall not be considered household hazardous
100 waste.

101 "Key personnel" means the applicant itself and any person employed by the applicant in a managerial
102 capacity, or empowered to make discretionary decisions, with respect to the solid waste or hazardous
103 waste operations of the applicant in Virginia, but ~~shall~~ does not include employees exclusively engaged
104 in the physical or mechanical collection, transportation, treatment, storage, or disposal of solid or
105 hazardous waste and such other employees as the Director may designate by regulation. If the applicant
106 has not previously conducted solid waste or hazardous waste operations in Virginia, the term "key
107 personnel" also includes any officer, director, or partner of the applicant, or any holder of five percent
108 or more of the equity or debt of the applicant. If any holder of five percent or more of the equity or
109 debt of the applicant or of any key personnel is not a natural person, the term "key personnel" includes
110 all key personnel of that entity, provided that where such entity is a chartered lending institution or a
111 reporting company under the Federal Securities Exchange Act of 1934, the term "key personnel" does
112 not include key personnel of such entity. Provided further that the term "key personnel" means the chief
113 executive officer of any agency of the United States or of any agency or political subdivision of the
114 Commonwealth; and all key personnel of any person, other than a natural person, that operates a landfill
115 or other facility for the disposal, treatment, or storage of nonhazardous solid waste under contract with
116 or for one of those governmental entities.

117 "Manifest" means the form used for identifying the quantity, composition, origin, routing, and
118 destination of hazardous waste during its transportation from the point of generation to the point of
119 disposal, treatment, or storage of such hazardous waste.

120 "Mixed radioactive waste" means radioactive waste that contains a substance ~~which~~ that renders the

mixture a hazardous waste.

"Open dump" means a site on which any solid waste is placed, discharged, deposited, injected, dumped, or spilled so as to create a nuisance or present a threat of a release of harmful substances into the environment or present a hazard to human health.

"Person" includes an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

"Post-use polymer" means a plastic polymer that:

1. Is derived from any industrial, commercial, agricultural, or domestic activity.

2. Is processed at an advanced recycling facility or held at such facility prior to processing.

3. Is used or intended for use as a feedstock to manufacture crude oil, fuels, feedstocks, blendstocks, raw materials, or other intermediate products or final products, using advanced recycling.

4. Is not mixed with solid waste or hazardous waste on site or during processing at the advanced recycling facility at which it is processed.

5. Has been sorted from solid waste and other regulated waste but may contain residual amounts of (i) solid wastes, such as organic material, and (ii) incidental contaminants or impurities, such as paper labels or metal rings.

"Pyrolysis" means a manufacturing process through which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed and are then cooled, condensed, and converted to crude oil, diesel fuel, gasoline, home heating oil, ethanol, transportation fuel, other fuels, chemicals, waxes, lubricants, chemical feedstocks, diesel and gasoline blendstocks, or other valuable raw, intermediate, or final products that are returned to economic utility in the form of raw materials, products, or fuels.

"Radioactive waste" or "nuclear waste" includes:

1. "Low-level radioactive waste" material that:

a. Is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or by-product material as defined in section § 11(e)(2) of the Atomic Energy Act of 1954 (42 U.S.C. § 2014(e)(2)); and

b. The Nuclear Regulatory Commission, consistent with existing law, classifies as low-level radioactive waste; or

2. "High-level radioactive waste," which means:

a. The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

b. Other highly radioactive material that the Nuclear Regulatory Commission, consistent with existing law, determines by rule requires permanent isolation.

"Recovered feedstock" means one or more of the following materials that has been processed so that it may be used as feedstock in an advanced recycling facility:

1. Post-use polymers.

2. Materials for which the United States Environmental Protection Agency has made a nonwaste determination under 40 C.F.R. 241.3(c) or has otherwise determined are feedstocks and not solid waste.

"Recovered feedstock" does not include unprocessed municipal solid waste. "Recovered feedstock" is not mixed with solid waste or hazardous waste onsite or during processing at an advanced recycling facility.

"Recycling residue" means the (i) nonmetallic substances, including ~~but not limited to~~ plastic, rubber, and insulation, ~~which that~~ remain after a shredder has separated for purposes of recycling the ferrous and nonferrous metal from a motor vehicle, appliance, or other discarded metallic item and (ii) organic waste remaining after removal of metals, glass, plastics, and paper ~~which that~~ are to be recycled as part of a resource recovery process for municipal solid waste resulting in the production of a refuse derived fuel.

"Resource conservation" means reduction of the amounts of solid waste that are generated, reduction of overall resource consumption, and utilization of recovered resources.

"Resource recovery" means the recovery of material or energy from solid waste.

"Resource recovery system" means a solid waste management system ~~which that~~ provides for collection, separation, recycling, and recovery of solid wastes, including disposal of nonrecoverable waste residues.

"Sanitary landfill" means a disposal facility for solid waste so located, designed, and operated that it does not pose a substantial present or potential hazard to human health or the environment, including pollution of air, land, surface water, or ground water.

"Sludge" means any solid, semisolid, or liquid wastes with similar characteristics and effects generated from a public, municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, air pollution control facility, or any other ~~waste producing~~ waste-producing facility.

"Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid,

182 semisolid, or contained gaseous material, resulting from industrial, commercial, mining, and agricultural
183 operations, or community activities, but does not include (i) solid or dissolved material in domestic
184 sewage; (ii) solid or dissolved material in irrigation return flows or in industrial discharges ~~which that~~
185 are sources subject to a permit from the State Water Control Board, ~~or~~; (iii) source, special nuclear, or
186 by-product material as defined by the Federal Atomic Energy Act of 1954, as amended; *or (iv) post-use*
187 *polymers or recovered feedstocks that are (a) processed at an advanced recycling facility, (b) held at or*
188 *held for the purpose of conversion at such advanced recycling facility prior to conversion, or (c) stored*
189 *off site with the intent that they will be processed at an advanced recycling facility but before delivery*
190 *to such a facility.*

191 "Solid waste management facility" means a site used for planned treating, ~~long term~~ long-term
192 storage, or disposing of solid waste. A "solid waste management facility" may consist of several
193 treatment, storage, or disposal units.

194 "Solvolyis" means a manufacturing process through which post-use polymers are purified with the
195 aid of solvents, allowing additives and contaminants to be removed. The products of solvolysis are
196 polymers capable of being recycled or reused without first being reverted to a monomer. "Solvolyis"
197 includes hydrolysis, aminolysis, ammonolysis, methanolysis, and glycolysis.

198 "Transport" or "transportation" means any movement of property and any packing, loading, or
199 unloading or storage incidental thereto.

200 "Treatment" means any method, technique, or process, including incineration or neutralization,
201 designed to change the physical, chemical, or biological character or composition of any waste to
202 neutralize it or to render it less hazardous or nonhazardous, safer for transport, amenable to recovery or
203 storage, or reduced in volume.

204 "Vegetative waste" means decomposable materials generated by yard and lawn care or land-clearing
205 activities and includes, but is not limited to, leaves, grass trimmings, and woody wastes such as shrub
206 and tree prunings, bark, limbs, roots, and stumps.

207 "Waste" means any solid, hazardous, or radioactive waste as defined in this section.

208 "Waste management" means the collection, source separation, storage, transportation, transfer,
209 processing, treatment, and disposal of waste or resource recovery. "Waste management" does not include
210 pyrolysis, gasification, depolymerization, solvolysis, or any other advanced recycling process.

211 "Yard waste" means decomposable waste materials generated by yard and lawn care and includes
212 leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings. "Yard waste" ~~shall~~ does not
213 include roots or stumps that exceed six inches in diameter.