

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 375

An Act to amend and reenact § 10.1-1400 of the Code of Virginia, relating to advanced recycling; definition.

[S 1164]

Approved March 25, 2021

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 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" shall be subject to all applicable federal and state environmental laws and regulations.

"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.

"Depolymerization" means a manufacturing process in which post-use polymers are broken into smaller molecules, including monomers and oligomers; raw, intermediate, or final products; plastics and chemical feedstocks; basic and unfinished chemicals; crude oil; naphtha; liquid transportation fuels; waxes; lubricants; coatings; and other products.

"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 the applicant or have issued any environmental permit or license to the applicant within the past 10 years, in connection with the applicant's collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste;*
- 7. Any other information about the applicant and the key personnel that the Director may require that*

reasonably relates to the qualifications and ability of the key personnel or the applicant to lawfully and competently operate a solid waste management facility in Virginia; and

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

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

"Equity" includes both legal and equitable interests.

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

"Gasification" means a manufacturing process through which recovered feedstocks are heated and converted in an oxygen-deficient atmosphere into a fuel and gas mixture that is then 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.

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

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

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

1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or
2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

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

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

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

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

"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 can be used as feedstock in an advanced recycling facility:

1. *Post-use polymers.*
2. *Materials for which the U.S. 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 and is not mixed with solid waste or hazardous waste on site 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, semisolid, or contained gaseous material, resulting from industrial, commercial, mining, and agricultural operations, or community activities, but does not include (i) solid or dissolved material in domestic sewage; (ii) solid or dissolved material in irrigation return flows or in industrial discharges which that are sources subject to a permit from the State Water Control Board; or; (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended; or (iv) post-use polymers or recovered feedstocks that are (a) processed at an advanced recycling facility or (b) held at or held for the purpose of conversion at such advanced recycling facility prior to conversion.

"Solid waste management facility" means a site used for planned treating, long term long-term storage, or disposing of solid waste. A "solid waste management facility" may consist of several

treatment, storage, or disposal units.

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

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

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

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

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

"Waste management" means the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of waste or resource recovery. *"Waste management" does not include pyrolysis, gasification, depolymerization, solvolysis, or any other advanced recycling process if the source materials used in such process are composed of post-use polymers or recovered feedstocks.*

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