

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill Number

By Delegates Hornby, Hite, Horst, Forsht, and Hardy

[Introduced January 30, 2024; Referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §22-15-2 of the Code of West Virginia, 1931, as amended, relating to
 2 amending the definition of a commercial solid waste facility to exclude a solid waste facility
 3 in which the owner or operator of same is consolidating collected solid waste for
 4 transportation and disposal.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. SOLID WASTE MANAGEMENT ACT

§22-15-2.

Definitions.

1 Unless the context clearly requires a different meaning, as used in this article the terms:

2 "Advanced recycling" means a manufacturing process for the conversion of post-use
 3 polymers and recovered feedstocks into basic hydrocarbon raw materials, feedstocks, chemicals,
 4 and other products like waxes and lubricants through processes that include pyrolysis,
 5 gasification, depolymerization, catalytic cracking, hydrogenation, solvolysis, and other similar
 6 technologies. The recycled products produced at advanced recycling facilities include, but are not
 7 limited to, monomers, oligomers, plastics, plastics and chemical feedstocks, basic and unfinished
 8 chemicals, waxes, lubricants, coatings, and other basic hydrocarbons. Advanced recycling shall
 9 not be considered solid waste management or solid waste disposal.

10 "Advanced recycling facility" means a facility that receives, stores, and converts post-use
 11 polymers and recovered feedstocks it receives using advanced recycling. An advanced recycling
 12 facility is a manufacturing facility subject to applicable department manufacturing regulations for
 13 air, water, and land use. Advanced recycling facilities shall not be considered solid waste facilities.

14 "Agronomic rate" means the whole sewage sludge application rate, by dry weight,
 15 designed:

16 (1) To provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover
 17 crop, or vegetation on the land; and

18 (2) To minimize the amount of nitrogen in the sewage sludge that passes below the root
 19 zone of the crop or vegetation grown on the land to the groundwater.

20 "Applicant" means the person applying for a commercial solid waste facility permit or
21 similar renewal permit and any person related to such person by virtue of common ownership,
22 common management, or family relationships as the director may specify, including the following:
23 Spouses, parents, children, and siblings.

24 "Approved solid waste facility" means a solid waste facility or practice which has a valid
25 permit under this article.

26 "Back hauling" means the practice of using the same container to transport solid waste and
27 to transport any substance or material used as food by humans, animals raised for human
28 consumption, or reusable item which may be refilled with any substance or material used as food
29 by humans.

30 "Bulking agent" means any material mixed and composted with sewage sludge.

31 "Catalytic cracking" is a manufacturing process through which post-use polymers are
32 heated and melted in the absence of oxygen and then processed in the presence of a catalyst to
33 produce valuable raw materials and intermediate and final products, including, but not limited to,
34 plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic
35 hydrocarbons.

36 "Class A facility" means a commercial solid waste facility which handles an aggregate of
37 between 10,000 and 30,000 tons of solid waste per month. Class A facility includes two or more
38 Class B solid waste landfills owned or operated by the same person in the same county, if the
39 aggregate tonnage of solid waste handled per month by such landfills exceeds 9,999 tons of solid
40 waste per month.

41 "Commercial recycler" means any person, corporation, or business entity whose operation
42 involves the mechanical separation of materials for the purpose of reselling or recycling at least 70
43 percent by weight of the materials coming into the commercial recycling facility.

44 "Commercial solid waste facility" means any solid waste facility which accepts solid waste
45 generated by sources other than the owner or operator of the facility and does not include an

46 approved solid waste facility owned and operated by a person for the sole purpose of the disposal,
47 processing, or composting of solid wastes created by that person or such person and other
48 persons on a cost-sharing or nonprofit basis and does not include land upon which reused or
49 recycled materials are legitimately applied for structural fill, road base, mine reclamation, and
50 similar applications and does not include any solid waste facility that accepts solid waste collected
51 by the owner or operator (or its affiliate(s)) of the solid waste facility for consolidation and
52 subsequent transport to a disposal or recycling facility: *Provided*, That the owner or operator of
53 such solid waste facility shall comply with §22-15-12 and §22-15-13n of this code.

54 "Compost" means a humus-like material resulting from aerobic, microbial, or thermophilic
55 decomposition of organic materials.

56 "Composting" means the aerobic, microbial, or thermophilic decomposition of natural
57 constituents of solid waste to produce a stable, humus-like material.

58 "Commercial composting facility" means any solid waste facility processing solid waste by
59 composting, including sludge composting, organic waste or yard waste composting, but does not
60 include a composting facility owned and operated by a person for the sole purpose of composting
61 waste created by that person or such person and other persons on a cost-sharing or nonprofit
62 basis and shall not include land upon which finished or matured compost is applied for use as a
63 soil amendment or conditioner.

64 "Cured compost" or "finished compost" means compost which has a very low microbial or
65 decomposition rate which will not reheat or cause odors when put into storage and that has been
66 put through a separate aerated curing cycle stage of 30 to 60 days after an initial composting cycle
67 or compost which meets all regulatory requirements after the initial composting cycle.

68 "Department" means the Department of Environmental Protection.

69 "Depolymerization" means a manufacturing process where post-use polymers are broken
70 into smaller molecules such as monomers and oligomers or raw, intermediate, or final products,
71 plastics and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, coatings,

72 and other basic hydrocarbons.

73 "Energy recovery incinerator" means any solid waste facility at which solid wastes are
74 incinerated with the intention of using the resulting energy for the generation of steam, electricity,
75 or any other use not specified herein.

76 "Gasification" means a manufacturing process through which recovered feedstocks are
77 heated and converted into a fuel and gas mixture in an oxygen-deficient atmosphere and the
78 mixture is converted into valuable raw materials and intermediate and final products, including, but
79 not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks,
80 and other basic hydrocarbons that are returned to economic utility in the form of raw materials and
81 products.

82 "Hydrogenation" is a manufacturing process through which hydrogen is used to remove
83 impurities from post-use polymers or recovered feedstock to enable further processing into
84 valuable raw materials and intermediate and final products, including, but not limited to, plastic
85 monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic
86 hydrocarbons.

87 "Incineration technologies" means any technology that uses controlled flame combustion
88 to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains
89 little or no combustible materials, regardless of whether the purpose is processing, disposal,
90 electric or steam generation, or any other method by which solid waste is incinerated.

91 "Incinerator" means an enclosed device using controlled flame combustion to thermally
92 break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no
93 combustible materials.

94 "Landfill" means any solid waste facility used for the disposal of solid waste on or in the
95 land for the purpose of permanent disposal. Such facility is situated, for purposes of this article, in
96 the county where the majority of the spatial area of such facility is located.

97 "Materials recovery facility" means any solid waste facility at which source-separated

98 materials or materials recovered through a mixed waste processing facility are manually or
99 mechanically shredded or separated for purposes of reuse and recycling, but does not include a
100 composting facility.

101 "Mature compost" means compost which has been produced in an aerobic, microbial, or
102 thermophilic manner and does not exhibit phytotoxic effects.

103 "Mixed solid waste" means solid waste from which materials sought to be reused or
104 recycled have not been source-separated from general solid waste.

105 "Mixed waste processing facility" means any solid waste facility at which materials are
106 recovered from mixed solid waste through manual or mechanical means for purposes of reuse,
107 recycling, or composting.

108 "Municipal solid waste incineration" means the burning of any solid waste collected by any
109 municipal or residential solid waste disposal company.

110 "Open dump" means any solid waste disposal which does not have a permit under this
111 article, or is in violation of state law, or where solid waste is disposed in a manner that does not
112 protect the environment.

113 "Person" or "persons" means any industrial user, public or private corporation, institution,
114 association, firm, or company organized or existing under the laws of this or any other state or
115 country; State of West Virginia; governmental agency, including federal facilities; political
116 subdivision; county commission; municipal corporation; industry; sanitary district; public service
117 district; drainage district; soil conservation district; watershed improvement district; partnership;
118 trust; estate; person or individual; group of persons or individuals acting individually or as a group;
119 or any legal entity whatever.

120 "Post-use polymer" means a plastic to which all the following apply:

121 (1) The plastic is derived from any industrial, commercial, agricultural, or domestic
122 activities;

123 (2) It is not mixed with solid waste or hazardous waste onsite or during processing at the

124 advanced recycling facility;

125 (3) The plastic's use or intended use is as a feedstock for the manufacturing of plastic and
126 chemical feedstocks, other basic hydrocarbons, raw materials, or other intermediate products or
127 final products using advanced recycling;

128 (4) The plastic has been sorted from solid waste and other regulated waste but may
129 contain residual amounts of solid waste such as organic material and incidental contaminants or
130 impurities (e.g., paper labels and metal rings); and,

131 (5) The plastic is processed at an advanced recycling facility or held at such facility prior to
132 processing.

133 "Publicly owned treatment works" means any treatment works owned by the state or any
134 political subdivision thereof, any municipality or any other public entity which processes raw
135 domestic, industrial, or municipal sewage by any artificial or natural processes in order to remove
136 or so alter constituents as to render the waste less offensive or dangerous to the public health,
137 comfort, or property of any of the inhabitants of this state before the discharge of the plant effluent
138 into any of the waters of this state, and which produces sewage sludge.

139 "Pyrolysis" means a manufacturing process through which post-use polymers are heated
140 in the absence of oxygen until melted and thermally decomposed and are then cooled,
141 condensed, and converted into valuable raw materials and intermediate and final products,
142 including, but not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical
143 feedstocks, and other basic hydrocarbons, that are returned to economic utility in the form of raw
144 materials or products.

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

147 (1) Post-use polymers;

148 (2) Materials for which the United States Environmental Protection Agency has made a
149 nonwaste determination pursuant to 40 C.F.R. 241.3(c), or has otherwise determined are

150 feedstocks and not solid waste;

151 (3) Recovered feedstock does not include unprocessed municipal solid waste;

152 (4) Recovered feedstock is not mixed with solid waste or hazardous waste onsite or during
153 processing at an advanced recycling facility.

154 "Recycling facility" means any solid waste facility for the purpose of recycling at which
155 neither land disposal nor biological, chemical, or thermal transformation of solid waste
156 occurs: *Provided*, That mixed waste recovery facilities, sludge processing facilities, and
157 composting facilities are not considered recycling facilities nor considered to be reusing or
158 recycling solid waste within the meaning of this article, §22-15A-1 *et seq.* and §22C-4-1 *et seq.* of
159 this code.

160 "Sewage sludge" means solid, semisolid, or liquid residue generated during the treatment
161 of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic
162 septage, scum, or solids removed in primary, secondary, or advanced wastewater treatment
163 processes and a material derived from sewage sludge. "Sewage sludge" does not include ash
164 generated during the firing of sewage sludge in a sewage sludge incinerator.

165 "Sewage sludge processing facility" is a solid waste facility that processes sewage sludge
166 for: (A) Land application; (B) incineration; or (C) disposal at an approved landfill. Such processes
167 include, but are not limited to, composting, lime stabilization, thermophilic, microbial, and
168 anaerobic digestion.

169 "Secretary" means the Secretary of the Department of Environmental Protection or such
170 other person to whom the secretary has delegated authority or duties pursuant to §22-1-1 *et seq.*
171 of this code.

172 "Sludge" means any solid, semisolid, residue, or precipitate, separated from or created by
173 a municipal, commercial, or industrial waste treatment plant, water supply treatment plant, air
174 pollution control facility, or any other such waste having similar origin.

175 "Solid waste" means any garbage, paper, litter, refuse, cans, bottles, waste processed for

176 the express purpose of incineration; sludge from a waste treatment plant; water supply treatment
177 plant or air pollution control facility; and other discarded materials, including offensive or unsightly
178 matter, solid, liquid, semisolid, or contained liquid or gaseous material resulting from industrial,
179 commercial, mining, or community activities but does not include solid or dissolved material in
180 sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are
181 point sources and have permits under §22-5A-1 *et seq.* of this code, or source, special nuclear, or
182 byproduct material as defined by the Atomic Energy Act of 1954, as amended, including any
183 nuclear or byproduct material considered by federal standards to be below regulatory concern, or
184 a hazardous waste either identified or listed under §22-5E-1 *et seq.* of this code or refuse, slurry,
185 overburden, or other wastes or material resulting from coal-fired electric power or steam
186 generation, the exploration, development, production, storage, and recovery of coal, oil, and gas,
187 and other mineral resources placed or disposed of at a facility which is regulated under Chapter
188 22, Chapter 22A, or Chapter 22B of this code, so long as placement or disposal is in conformance
189 with a permit issued pursuant to such chapters, or post-use polymers and recovered feedstocks
190 converted at an advanced recycling facility or held at such facility prior to conversion.

191 "Solid waste disposal" means the practice of disposing of solid waste including placing,
192 depositing, dumping, throwing, or causing any solid waste to be placed, deposited, dumped, or
193 thrown.

194 "Solid waste disposal shed" means the geographical area which the solid waste
195 management board designates and files in the state register pursuant to §16-26-8 of this code.

196 "Solid waste facility" means any system, facility, land, contiguous land, improvements on
197 the land, structures, or other appurtenances or methods used for processing, recycling, or
198 disposing of solid waste, including landfills, transfer stations, materials recovery facilities, mixed
199 waste processing facilities, sewage sludge processing facilities, commercial composting facilities,
200 and other such facilities not herein specified, but not including land upon which sewage sludge is
201 applied in accordance with §22-15-20 of this code . Such facility shall be deemed to be situated,

202 for purposes of this article, in the county where the majority of the spatial area of such facility is
203 located: *Provided*, That a salvage yard, licensed and regulated pursuant to the terms of §17-23-
204 1 *et seq.* of this code, is not a solid waste facility and an advanced recycling facility is not a solid
205 waste facility.

206 "Solid waste facility operator" means any person or persons possessing or exercising
207 operational, managerial, or financial control over a commercial solid waste facility, whether or not
208 such person holds a certificate of convenience and necessity or a permit for such facility.

209 "Solvolysis" means a manufacturing process through which post-use polymers are purified
210 with the aid of solvents, while heated at low temperatures and/or pressurized to make useful
211 products, allowing additives and contaminants to be separated. The products of solvolysis include
212 monomers, intermediates, valuable chemicals, and raw materials. The process includes, but is not
213 limited to, hydrolysis, aminolysis, ammonolysis, methanolysis, and glycolysis.

214 "Source-separated materials" means materials separated from general solid waste at the
215 point of origin for the purpose of reuse and recycling but does not mean sewage sludge.

NOTE: The purpose of this bill is to amend the definition of "commercial solid waste facility" to exclude any solid waste facility that accepts solid waste collected by the owner or operator (or its affiliate(s)) of the solid waste facility for consolidation and subsequent transport to a disposal or recycling facility.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.