

STATE OF NEW YORK

4744

2023-2024 Regular Sessions

IN ASSEMBLY

February 23, 2023

Introduced by M. of A. HYNDMAN -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to advanced recycling and advanced recycling facilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 1 and 7 of section 27-0303 of the environ-
2 mental conservation law, subdivision 1 as amended by chapter 671 of the
3 laws of 1986, and subdivision 7 as added by chapter 592 of the laws of
4 1981, are amended to read as follows:

5 1. "Disposal" means the abandonment, discharge, deposit, injection,
6 dumping, spilling, leaking or placing of any substance so that such
7 substance or any related constituent thereof may enter the environment.
8 Disposal also means the thermal destruction of waste or hazardous waste
9 and the burning of such wastes as fuel for the purpose of recovering
10 useable energy, but does not include post-use polymers and recovered
11 feedstocks converted at an advanced recycling facility or held at such a
12 facility prior to conversion through an advanced recycling process, as
13 such terms are defined pursuant to section 27-0701 of this article.

14 7. "Waste" means any garbage, refuse, sludge from a waste treatment
15 plant, water supply treatment plant or air pollution control facility,
16 and other discarded material, including solid, liquid, semisolid or
17 contained gaseous material resulting from industrial, commercial, mining
18 and agricultural operations and from community activities, but does not
19 include solid or dissolved material in domestic sewage[~~7~~]; or solid or
20 dissolved materials in irrigation return flows or industrial discharges
21 which are point sources subject to permits under article 17 of this
22 chapter[~~7~~]; or source, special nuclear or by-product material as defined
23 in the Atomic Energy Act of 1954, as amended (68 Stat. 923) except as
24 may be provided by existing agreements between the state and the federal
25 government; or post-use polymers and recovered feedstocks converted at

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 an advanced recycling facility as such terms are defined pursuant to
2 section 27-0701 of this article, or held at such facility prior to
3 conversion.

4 § 2. Subdivisions 1, 2 and 3 of section 27-0701 of the environmental
5 conservation law, subdivision 1 as amended by chapter 425 of the laws of
6 1977, subdivision 2 as amended by chapter 253 of the laws of 1988,
7 subdivision 3 as added by chapter 399 of the laws of 1973 and such
8 section as renumbered by chapter 425 of the laws of 1977, are amended
9 and eleven new subdivisions 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 are
10 added to read as follows:

11 1. "Solid waste" means all putrescible and non-putrescible materials
12 or substances discarded or rejected as being spent, useless, worthless
13 or in excess to the owners at the time of such discard or rejection,
14 [~~except~~] including but not limited to garbage, refuse, industrial and
15 commercial waste, sludges from air or water control facilities, rubbish,
16 ashes, contained gaseous material, incinerator residue, demolition and
17 construction debris, discarded automobiles and offal but not including
18 sewage and other highly diluted water carried materials or substances
19 [~~and~~], those in gaseous form, and post-use polymers and recovered feeds-
20 stocks converted at an advanced recycling facility or held at such a
21 facility prior to conversion through an advanced recycling process.

22 2. "Solid waste management facility" means any facility employed
23 beyond the initial solid waste collection process including, but not
24 limited to, transfer stations, baling facilities, rail haul or barge
25 haul facilities, processing systems, including resource recovery facili-
26 ties or other facilities for reducing solid waste volume, sanitary land-
27 fills, facilities for the disposal of construction and demolition
28 debris, plants and facilities for compacting, composting or pyrolization
29 of solid wastes, incinerators and other solid waste disposal, reduction
30 or conversion facilities, but does not include advanced recycling facil-
31 ities.

32 3. "Solid waste management" means the purposeful and systematic trans-
33 portation, storage, processing, recovery and disposal of solid waste
34 but does not include advanced recycling.

35 5. "Advanced recycling" means a manufacturing process for the conver-
36 sion of post-use polymers and recovered feedstocks into basic raw mate-
37 rials, feedstocks, chemicals, and other products through processes that
38 include pyrolysis, gasification, depolymerization, catalytic cracking,
39 reforming, hydrogenation, solvolysis, chemolysis and other similar tech-
40 nologies. The recycled products produced at advanced recycling facili-
41 ties include, but are not limited to, monomers, oligomers, plastics,
42 plastics and chemical feedstocks, basic and unfinished chemicals, waxes,
43 lubricants, coatings, and adhesives. "Advanced recycling" does not
44 include incineration of plastics or waste-to-energy processes, and
45 products sold as fuel are not recycled products. "Advanced recycling"
46 shall be considered "recycling". For purposes of this article and its
47 implementing regulations, "advanced recycling" shall not be considered
48 "solid waste management", "solid waste processing", "solid waste recov-
49 ery", "incineration", "treatment" or "waste-to-energy".

50 6. "Advanced recycling facility" means a manufacturing facility that
51 receives, stores and converts post-use polymers and recovered feedstocks
52 it receives using advanced recycling. An advanced recycling facility is
53 a manufacturing facility subject to applicable department manufacturing
54 regulations for air, water, waste, and land use. For purposes of this
55 article and its implementing regulations, advanced recycling facilities
56 shall not be considered "solid waste disposal facilities", "final

1 disposal facilities", "solid waste management facilities", "solid waste
2 processing facilities", "solid waste recovery facilities", "incinera-
3 tors" or "waste-to-energy facilities".

4 7. "Depolymerization" means a manufacturing process where post-use
5 polymers are broken into smaller molecules such as monomers and oligom-
6 ers or raw, intermediate, or final products, plastics and chemical
7 feedstocks, basic and unfinished chemicals, waxes, lubricants, and coat-
8 ings.

9 8. "Gasification" means a manufacturing process through which post-use
10 polymers or recovered feedstocks are heated in an oxygen-controlled
11 atmosphere and converted into syngas (carbon monoxide (CO) and hydrogen
12 (H₂)), followed by conversion into valuable raw, intermediate and final
13 products, including but not limited to plastic monomers, chemicals,
14 waxes, lubricants, coatings, plastic and chemical feedstocks that are
15 returned to economic utility in the form of raw materials or products.

16 9. "Mass balance attribution" means a chain of custody accounting
17 methodology with rules defined by a third-party certification system
18 that enables the attribution of the mass of advanced recycling feeds-
19 stocks to one or more advanced recycling products.

20 10. "Post-use polymer" means a plastic to which all of the following
21 apply:

22 (a) The plastic is derived from any industrial, commercial, agricul-
23 tural, or domestic activities, and includes pre-consumer recovered mate-
24 rials and post-consumer materials.

25 (b) The plastic has been sorted from solid waste and other regulated
26 waste but may contain residual amounts of waste such as organic material
27 and incidental contaminants or impurities (e.g., paper labels and metal
28 rings).

29 (c) The plastic is not mixed with solid waste or hazardous waste
30 onsite or during processing at the advanced recycling facility.

31 (d) The plastic's use or intended use is as a feedstock for the manu-
32 facturing of feedstocks, raw materials, or other intermediate products
33 or final products using advanced recycling.

34 (e) The plastic is processed at an advanced recycling facility or held
35 at such facility prior to processing.

36 11. "Pyrolysis" means a manufacturing process through which post-use
37 polymers or recovered feedstocks are heated in the absence of oxygen
38 until melted and thermally decomposed (non-catalytically or catalyt-
39 ically) and are then cooled, condensed, and converted into valuable raw
40 materials and intermediate and final products, including but not limited
41 to, plastic monomers, chemicals, naphtha, waxes, plastic and chemical
42 feedstocks that are returned to economic utility in the form of raw
43 materials and products.

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

47 (a) post-use polymers;

48 (b) materials for which the United States environmental protection
49 agency has made a non-waste determination or has otherwise determined
50 are feedstocks and not solid waste;

51 (c) recovered feedstock that does not include unprocessed municipal
52 solid waste; or

53 (d) recovered feedstock that is not mixed with solid waste or hazard-
54 ous waste onsite or during processing at an advanced recycling facility.

55 13. "Recycled plastics" or "recycled plastic" means products that are
56 produced (a) from mechanical recycling of pre-consumer recovered feeds-

1 tocks or plastics, and post-consumer plastics or (b) from the advanced
2 recycling of pre-consumer recovered feedstocks or plastics, and post-
3 consumer plastics via mass balance attribution under a third-party
4 certification system.

5 14. "Solvolysis" means a manufacturing process through which post-use
6 polymers are purified with the aid of solvents, while heated at low
7 temperatures and/or pressurized to make useful products, allowing addi-
8 tives and contaminants to be removed. The products of solvolysis shall
9 include monomers, intermediates, valuable chemicals, plastics and chemi-
10 cal feedstocks and raw materials. The process shall include but is not
11 limited to hydrolysis, aminolysis, ammonolysis, methanolysis and glyco-
12 lysis.

13 15. "Third-party certification system" means an international and
14 multi-national third-party certification system, which consists of a set
15 of rules for the implementation of mass balance attribution approaches
16 for advanced recycling of materials. Third-party certification systems
17 shall include, but are not limited to, international sustainability &
18 carbon certification; underwriter laboratories, SCS recycled content,
19 roundtable on sustainable biomaterials, ecoloop, and REDcert2.

20 § 3. Section 27-0707 of the environmental conservation law is amended
21 by adding a new subdivision 8 to read as follows:

22 8. Advanced recycling facilities shall be exempt from permitting and
23 regulatory requirements applicable to solid waste management facilities
24 under the authority of this article and from regulations under 6 NYCRR
25 Part 360 relating to solid waste management facilities, 6 NYCRR Part 361
26 relating to material recovery facilities, and 6 NYCRR Part 362 relating
27 to combustion, thermal treatment, transfer, and collection facilities.

28 § 4. This act shall take effect immediately.