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:

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

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

7. "Waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations and from community activities, but does not include solid or dissolved material in domestic sewage[~~,~~]**;** or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under article 17 of this chapter[~~,~~]**;** or source, special nuclear or by-product material as defined in the Atomic Energy Act of 1954, as amended (68 Stat. 923) except as may be provided by existing agreements between the state and the federal 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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an advanced recycling facility as such terms are defined pursuant to section 27-0701 of this article, or held at such facility prior to conversion.

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

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

2. "Solid waste management facility" means any facility employed beyond the initial solid waste collection process including, but not limited to, transfer stations, baling facilities, rail haul or barge haul facilities, processing systems, including resource recovery facilities or other facilities for reducing solid waste volume, sanitary landfills, facilities for the disposal of construction and demolition debris, plants and facilities for compacting, composting or pyrolization of solid wastes, incinerators and other solid waste disposal, reduction or conversion facilities, but does not include advanced recycling facilities.

3. "Solid waste management" means the purposeful and systematic transportation, storage, processing, recovery and disposal of solid waste , but does not include advanced recycling.

5. "Advanced recycling" means a manufacturing process for the conversion of post-use polymers and recovered feedstocks into basic raw materials, feedstocks, chemicals, and other products through processes that include pyrolysis, gasification, depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis, chemolysis and other similar technologies. The recycled products produced at advanced recycling facilities include, but are not limited to, monomers, oligomers, plastics, plastics and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, coatings, and adhesives. "Advanced recycling" does not include incineration of plastics or waste-to-energy processes, and products sold as fuel are not recycled products. "Advanced recycling" shall be considered "recycling". For purposes of this article and its implementing regulations, "advanced recycling" shall not be considered "solid waste management", "solid waste processing", "solid waste recovery", "incineration", "treatment" or "waste-to-energy".

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

disposal facilities", "solid waste management facilities", "solid waste processing facilities", "solid waste recovery facilities", "incinerators" or "waste-to-energy facilities".

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

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

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

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

(a) The plastic is derived from any industrial, commercial, agricultural, or domestic activities, and includes pre-consumer recovered materials and post-consumer materials.

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

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

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

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

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

12. "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:

(a) post-use polymers;

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

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

(d) recovered feedstock that is not mixed with solid waste or hazardous waste onsite or during processing at an advanced recycling facility.

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

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

14. "Solvolysis" means a manufacturing process through which post-use polymers are purified with the aid of solvents, while heated at low temperatures and/or pressurized to make useful products, allowing additives and contaminants to be removed. The products of solvolysis shall include monomers, intermediates, valuable chemicals, plastics and chemical feedstocks and raw materials. The process shall include but is not limited to hydrolysis, aminolysis, ammonoloysis, methanolysis and glycolysis.

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

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

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

§ 4. This act shall take effect immediately.