**A** **BILL**

TO AMEND SECTION 44‑96‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF TERMS USED IN THE “SOUTH CAROLINA SOLID WASTE POLICY AND MANAGEMENT ACT OF 1991”, SO AS TO REVISE THE DEFINITION OF “SOLID WASTE MANAGEMENT FACILITY” TO EXEMPT A WASTE TO ENERGY FACILITY FROM THIS DEFINITION AND TO DEFINE “WASTE TO ENERGY FACILITY”; AND BY ADDING SECTION 44‑96‑345 SO AS TO PROVIDE THAT THESE FACILITIES WITH A DAILY CAPACITY IN EXCESS OF SIX HUNDRED TONS MAY NOT BE PERMITTED, TO PROVIDE AN EXCEPTION, AND TO PROVIDE OTHER APPLICATION, PERMITTING, SITING, FACILITY DESIGN, AND OPERATIONAL REQUIREMENTS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44‑96‑40(49) of the 1976 Code is amended to read:

“(49) ‘Solid waste management facility’ means ~~any~~ a solid waste disposal area, volume reduction plant, transfer station, or other facility, the purpose of which is the storage, collection, transportation, treatment, utilization, processing, recycling, or disposal, or any combination ~~thereof~~ of these purposes, of solid waste. The term does not include a recovered materials processing facility, a waste to energy facility, or facilities ~~which~~ that use or ship recovered materials, except that portion of ~~the facilities which is managing~~ a facility that manages solid waste.”

SECTION 2. Section 44‑96‑40(72) through (74) of the 1976 Code is amended to read:

“(72) ‘Waste to energy facility’ is defined as a facility that uses municipal solid waste and nonhazardous solid waste as a fuel source and generates at least 0.5 megawatt hours (net electric) per ton of waste or the steam equivalent of daily waste throughput, or an equivalent efficiency as determined by the department.

(73) ‘Waters of the State’ means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction.

~~(73)~~(74) ‘White goods’ include refrigerators, ranges, water heaters, freezers, dishwashers, trash compactors, washers, dryers, air conditioners, and commercial large appliances.

~~(74)~~(75) ‘Yard trash’ means solid waste consisting solely of vegetative matter resulting from landscaping maintenance.”

SECTION 3. Article 2, Chapter 96, Title 44 of the 1976 Code is amended by adding:

“Section 44‑96‑345. (A) Notwithstanding any other provision of law or regulation, no waste to energy facility with a daily capacity in excess of six hundred tons may be permitted within the State, except for a waste to energy facility that obtains tonnage in excess of six hundred tons per day from an existing Class 3 landfill, waste to energy facility, or solid waste incinerator. Any Class 3 landfill, waste to energy facility, or solid waste incinerator relinquishing tonnage may only receive a tonnage increase five years after the date of reducing tonnage if all other requirements for tonnage increases are met. No waste to energy facility with a daily capacity in excess of one hundred tons may be permitted to be sited within seventy‑five miles of another waste to energy facility.

(B) The department may promulgate, in addition to regulations generally applicable to all solid waste management facilities, regulations governing the siting, design, construction, operation, closure, and postclosure activities of all waste to energy facilities, other than facilities specifically regulated under other provisions of this article or other applicable provisions of law. The department may, by regulation, exempt certain facilities from all or part of the requirements of this section.

(C) In issuing a permit for a waste to energy facility, the department may apply any provision of R. 61‑107.12 not inconsistent with this section with regard to the following requirements:

(1) the submission by the permit applicant of the following documents:

(a) an engineering report including, but not limited to, a description of the facility, the process and equipment to be used, the proposed service area, the types and quantities of wastes to be treated, and storage of waste;

(b) engineering plans and specifications including, but not limited to, a description of the process equipment specifications, instrumentation and control diagrams, and performance specifications for all major equipment and control centers;

(c) a personnel training program;

(d) an ash management plan including, but not limited to, an identification of the facility approved by the department that will receive the residue and a certification that the facility will have adequate capacity to handle the residue;

(e) an air quality monitoring plan;

(f) a description of the manner in which waste waters, if any, from the facility will be managed;

(g) a quality assurance and quality control report;

(h) a contingency plan describing a technically and financially feasible course of action to be taken in response to contingencies which may occur during construction and operation of the facility;

(i) an operation plan describing how the facility will meet all applicable regulatory requirements;

(j) a draft operation and maintenance manual; and

(k) a closure plan;

(2) locational criteria; however, the department shall grant exemptions from this criteria upon a demonstration by the permit applicant of circumstances that warrant an exemption;

(3) facility design and operational requirements including, but not limited to, access controls, recordkeeping and reporting requirements, receipt and handling of solid waste, process changes, emergency preparedness, and guidelines for identifying items or materials that should be removed prior to incineration;

(4) air and water quality monitoring requirements;

(5) closure and postclosure requirements;

(6) financial responsibility requirements;

(7) personnel training requirements;

(8) ash residue requirements including, but not limited to, testing requirements and procedures, the contents of an ash management plan, handling, storage, reuse or recycling, transportation, and disposal of the ash; and

(9) corrective action requirements.

(D) The developer of a waste to energy facility shall before beginning operations enter into an agreement with the county where the facility is sited. The agreement must address water use, sources of waste, infrastructure improvements, emergency services, traffic patterns, and local recycling. The agreement also may address architectural design, landscaping, and noise limitations.”

SECTION 4. This act takes effect upon approval by the Governor.

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