**A** **BILL**

TO AMEND SECTION 44‑96‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SOLID WASTE POLICY AND MANAGEMENT, SO AS TO PROVIDE THAT POST‑USE POLYMERS AND RECOVERABLE FEEDSTOCKS USED IN PYROLYSIS AND GASIFICATION PROCESSES ARE “RECOVERED MATERIALS” AND ARE NOT “SOLID WASTE” FOR THE PURPOSES OF REGULATION BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL; BY ADDING SECTION 44‑96‑145 SO AS TO ADDRESS WHETHER A RECOVERED MATERIAL HAS BEEN ACCUMULATED SPECULATIVELY AND TO REGULATE RECOVERED MATERIALS THAT HAVE BEEN ACCUMULATED SPECULATIVELY AS SOLID WASTE; AND TO AMEND SECTION 44‑96‑340, RELATING TO SOLID WASTE INCINERATORS, SO AS TO INCREASE THE DAILY CAPACITY THAT MAY BE PERMITTED IN THIS STATE.

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

SECTION 1. A. Section 44‑96‑40 of the 1976 Code is amended by adding appropriately numbered items to read:

“( ) ‘Gasification’ means a process through which recoverable feedstocks are heated and converted into a fuel‑gas mixture in an oxygen‑deficient atmosphere and the mixture is converted to crude oil, diesel, gasoline, home heating oil or other fuels, chemicals, waxes, lubricants, chemical feedstocks, diesel and gasoline blendstocks, or other raw materials or intermediate or final products that are returned to the economic mainstream in the form of raw materials, products, or fuels. Gasification is not incineration, energy recovery, or treatment.

( ) ‘Gasification facility’ means a facility that receives, separates, stores, and converts post‑use polymers and recoverable feedstocks using gasification. A gasification facility is not a solid waste processing facility, solid waste management facility, or materials recovery facility.

( ) ‘Post‑use polymer’ means a plastic polymer to which all of the following apply:

(a) it is derived from any industrial, commercial, agricultural, or domestic activities;

(b) its use or intended use is to manufacture crude oil, fuels, feedstocks, blendstocks, raw materials, or other intermediate products or final products using pyrolysis or gasification; and

(c) it may contain incidental contaminants or impurities, such as paper labels or metal rings.

( ) ‘Pyrolysis’ means a 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, gasoline, home heating oil or other fuels, chemicals, waxes, lubricants, chemical feedstocks, diesel and gasoline blendstocks, or other raw materials or intermediate or final products that are returned to the economic mainstream in the form of raw materials, products, or fuels. Pyrolysis is not incineration, energy recovery, or treatment.

( ) ‘Pyrolysis facility’ means a facility that receives, separates, stores, and converts post‑use polymers using pyrolysis. A pyrolysis facility is not a solid waste processing facility, solid waste management facility, or materials recovery facility.

( )(a) ‘Recoverable feedstock’ means one or more of the following materials, derived from recoverable waste, that has been processed so that it may be used as feedstock in a gasification facility:

(i) post‑use polymers; or

(ii) materials for which the United States Environmental Protection Agency has made a nonwaste determination under 40 C.F.R. 241.3(c) or for which it has otherwise determined are not solid waste.

(b) Recoverable feedstock does not include unprocessed municipal solid waste.”

B. Section 44‑96‑40(34), (35), and (46) of the 1976 Code is amended to read:

“(34) ‘Recovered materials’ means those materials which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing. Recovered materials includes post‑use polymers and recoverable feedstocks that are processed at a pyrolysis or gasification facility, held at such facility prior to processing, or stored off site with the intent that they will be processed at a pyrolysis or gasification facility but before delivery to such a facility. At least seventy‑five percent by weight of the materials received during the previous calendar year must be used, reused, recycled, or transferred to a different site for use, reuse, or recycling in order to qualify as a recovered material.

(35) ‘Recovered Materials Processing Facility’ means a facility engaged solely in the recycling, storage, processing, and resale or reuse of recovered materials. The term includes pyrolysis and gasification facilities that process post‑use polymers or recoverable feedstocks. The term does not include a solid waste processing facility; however, solid waste generated by a recovered material processing facility is subject to all applicable laws and regulations relating to the solid waste. The term does not include facilities which thermally treat solid waste principally for volume reduction or for reduction of contaminants. Records must be kept documenting the amount by weight of materials that are received at the facility and used, reused, or recycled or transferred to another site for use, reuse, or recycling. Records must also be kept which clearly document the location of final disposition of the materials. Records must be made available for inspection by department personnel upon request.

(46) ‘Solid waste’ means any garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semi‑solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by‑product material as defined by the Atomic Energy Act of 1954, as amended. This term also does not include post‑use polymers and recoverable feedstocks that are processed at a pyrolysis or gasification facility, held at such facility prior to processing, or stored off site with the intent that they will be processed at a pyrolysis or gasification facility but before delivery to such a facility. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment. For the purposes of this chapter, this term excludes steel slag that is a product of the electric arc furnace steelmaking process; provided, that such steel slag is sold and distributed in the stream of commerce for consumption, use, or further processing into another desired commodity and is managed as an item of commercial value in a controlled manner and not as a discarded material or in a manner constituting disposal.”

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

“Section 44‑96‑145. (A) A recovered material is not accumulated speculatively if the person accumulating it can show that there is a known use, reuse, or recycling potential for the material, that the material can be feasibly sold, used, reused, or recycled and that during a calendar year commencing January first and ending December thirty-first of the same year, seventy‑five percent, by weight or volume, of the recovered material stored at a facility is recycled, sold, used, or reused. Any material that is accumulated speculatively and not in accordance with these requirements must be handled as solid waste.

(B) Proof of recycling, sale, use, or reuse shall be provided in the form of bills of sale, or other records showing adequate proof of movement of the material in question to a recognized recycling facility or for proper use or reuse from the accumulation point. In addition, proof must be provided that there is a known market or disposition for the recovered material. Persons claiming that they are owners or operators of recovered materials processing facilities must show that they have the necessary equipment to do so.”

SECTION 3. Section 44‑96‑340(A) of the 1976 Code is amended to read:

“(A) No solid waste incinerator with a daily capacity in excess of ~~six hundred~~ five thousand tons may be permitted within the State, nor may any solid waste incinerator with a daily capacity in excess of one hundred tons be permitted to be sited within three miles of another such facility.”

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

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