

## CHAPTER 2017-167

### Committee Substitute for House Bill No. 335

An act relating to resource recovery and management; amending s. 403.703, F.S.; defining the terms “gasification,” “post-use polymer,” “pyrolysis,” and “pyrolysis facility” and revising definitions; amending s. 403.7045, F.S.; providing that certain pyrolysis facilities are exempt from certain resource recovery regulations; conforming a cross-reference; amending s. 403.7046, F.S.; requiring certain handlers of post-use polymers to certify to the Department of Environmental Protection; revising rule requirements relating to such certification; authorizing recovered materials dealers to use pyrolysis facilities for recovered materials or post-use polymers processing; amending ss. 171.205, 316.003, 377.709, and 487.048, F.S.; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (2) and (3) of section 403.703, Florida Statutes, are renumbered as subsections (3) and (2), respectively, present subsections (10) through (22) are renumbered as subsections (11) through (23), respectively, present subsection (23) is renumbered as subsection (25), present subsections (24) through (43) are renumbered as subsections (28) through (47), respectively, present subsections (27), (32), and (35) of that section are amended, and new subsections (10), (24), (26), and (27) are added to that section, to read:

403.703 Definitions.—As used in this part, the term:

(10) “Gasification” means a process through which post-use polymers are heated and converted to synthesis gas in an oxygen-deficient atmosphere, and then converted to crude oil, fuels, or chemical feedstocks.

(24) “Post-use polymer” means a plastic polymer that is derived from any domestic, commercial, or municipal activity and which might otherwise become waste if not converted to manufacture crude oil, fuels, or other raw materials or intermediate or final products using gasification or pyrolysis. As used in this part, post-use polymer may contain incidental contaminants or impurities, such as paper labels or metal rings. Post-use polymers intended to be converted as described in this subsection are not solid waste.

(26) “Pyrolysis” means a process through which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed, and then cooled, condensed, and converted to any of the following:

- (a) Crude oil, diesel, gasoline, home heating oil, or another fuel.
- (b) Feedstocks.
- (c) Diesel and gasoline blendstocks.

(d) Chemicals, waxes, or lubricants.

(e) Other raw materials or intermediate or final products.

(27) “Pyrolysis facility” means a facility that receives, separates, stores, and converts post-use polymers, using gasification or pyrolysis. A pyrolysis facility meeting the conditions of s. 403.7045(1)(e) is not a solid waste management facility.

(31)(27) “Recycling” means any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or intermediate or final products. Such raw materials or intermediate or final products include, but are not limited to, crude oil, fuels, and fuel substitutes.

(36)(32) “Solid waste” means sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Recovered materials as defined in subsection (28) and post-use polymers as defined in subsection (24) are not solid waste.

(39)(35) “Solid waste management facility” means any solid waste disposal area, volume reduction plant, transfer station, materials recovery facility, or other facility, the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste. The term does not include recovered materials processing facilities or pyrolysis facilities that meet the requirements of s. 403.7046, except the portion of such facilities, if any, which is used for the management of solid waste.

Section 2. Subsection (1) of section 403.7045, Florida Statutes, is amended to read:

403.7045 Application of act and integration with other acts.—

(1) The following wastes or activities may ~~shall~~ not be regulated pursuant to this act:

(a) Byproduct material, source material, and special nuclear material, the generation, transportation, disposal, storage, or treatment of which is regulated under chapter 404 or the federal Atomic Energy Act of 1954, ch. 1073, 68 Stat. 923, as amended.;

(b) Suspended solids and dissolved materials in domestic sewage effluent or irrigation return flows or other discharges which are point sources subject to permits pursuant to this chapter or s. 402 of the Clean Water Act, Pub. L. No. 95-217.;

(c) Emissions to the air from a stationary installation or source regulated under this chapter or the Clean Air Act, Pub. L. No. 95-95;

(d) Drilling fluids, produced waters, and other wastes associated with the exploration for, or development and production of, crude oil or natural gas which are regulated under chapter 377;

(e) Recovered materials, post-use polymers, or recovered materials processing facilities, or pyrolysis facilities, except as provided in s. 403.7046, if:

1. A majority of the recovered materials or post-use polymers at the facility are demonstrated to be sold, used, or reused within 1 year. As used in this subparagraph, the terms “used” or “reused” include, but are not limited to, the conversion of post-use polymers into crude oil, fuels, feedstocks, or other raw materials or intermediate or final products by gasification or pyrolysis, as defined in s. 403.703.

2. The recovered materials or post-use polymers handled by the facility or the products or byproducts of operations that process recovered materials or post-use polymers are not discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water by the owner or operator of ~~the such~~ facility so that ~~the such~~ recovered materials or post-use polymers, products or byproducts, or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment such that a threat of contamination in excess of applicable department standards and criteria is caused.

3. The recovered materials or post-use polymers handled by the facility are not hazardous wastes as defined in ~~under~~ s. 403.703, and rules adopted under this section ~~promulgated pursuant thereto~~.

4. The facility is registered as required in s. 403.7046.

(f) Industrial byproducts, if:

1. A majority of the industrial byproducts are demonstrated to be sold, used, or reused within 1 year.

2. The industrial byproducts are not discharged, deposited, injected, dumped, spilled, leaked, or placed upon any land or water so that such industrial byproducts, or any constituent thereof, may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment such that a threat of contamination in excess of applicable department standards and criteria or a significant threat to public health is caused.

3. The industrial byproducts are not hazardous wastes as defined in ~~under~~ s. 403.703 and rules adopted under this section.

Sludge from an industrial waste treatment works that meets the exemption requirements of this paragraph is not solid waste as defined in s. 403.703 s. 403.703(32).

Section 3. Subsection (1) and paragraph (b) of subsection (3) of section 403.7046, Florida Statutes, are amended to read:

403.7046 Regulation of recovered materials.—

(1) Any person who handles, purchases, receives, recovers, sells, or is an end user of recovered materials or post-use polymers shall annually certify to the department on forms provided by the department. The department may by rule exempt from this requirement generators of recovered materials or post-use polymers; persons who handle or sell recovered materials or post-use polymers as an activity which is incidental to the normal primary business activities of that person; or persons who handle, purchase, receive, recover, sell, or are end users of recovered materials or post-use polymers in small quantities as defined by the department. The department shall adopt rules for the certification of and reporting by such persons and shall establish criteria for revocation of such certification. Such rules shall be designed to elicit, at a minimum, the amount and types of recovered materials or post-use polymers handled by registrants, and the amount and disposal site, or name of person with whom such disposal was arranged, of any solid waste generated by such facility. By February 1 of each year, registrants shall report all required information to the department and to all counties from which it received materials. Such rules may provide for the department to conduct periodic inspections. The department may charge a fee of up to \$50 for each registration, which shall be deposited into the Solid Waste Management Trust Fund for implementation of the program.

(3) Except as otherwise provided in this section or pursuant to a special act in effect on or before January 1, 1993, a local government may not require a commercial establishment that generates source-separated recovered materials to sell or otherwise convey its recovered materials to the local government or to a facility designated by the local government, nor may the local government restrict such a generator's right to sell or otherwise convey such recovered materials to any properly certified recovered materials dealer who has satisfied the requirements of this section. A local government may not enact any ordinance that prevents such a dealer from entering into a contract with a commercial establishment to purchase, collect, transport, process, or receive source-separated recovered materials.

(b)1. Before engaging in business within the jurisdiction of the local government, a recovered materials dealer or pyrolysis facility must provide the local government with a copy of the certification provided for in this section. In addition, the local government may establish a registration process whereby a recovered materials dealer or pyrolysis facility must register with the local government before engaging in business within the jurisdiction of the local government. Such registration process is limited to requiring the dealer or pyrolysis facility to register its name, including the

owner or operator of the dealer or pyrolysis facility, and, if the dealer or pyrolysis facility is a business entity, its general or limited partners, its corporate officers and directors, its permanent place of business, evidence of its certification under this section, and a certification that the recovered materials or post-use polymers will be processed at a recovered materials processing facility or pyrolysis facility satisfying the requirements of this section. The local government may not use the information provided in the registration application to compete unfairly with the recovered materials dealer until 90 days after receipt of the application. All counties, and municipalities whose population exceeds 35,000 according to the population estimates determined pursuant to s. 186.901, may establish a reporting process that must be limited to the regulations, reporting format, and reporting frequency established by the department pursuant to this section, which must, at a minimum, include requiring the dealer or pyrolysis facility to identify the types and approximate amount of recovered materials or post-use polymers collected, recycled, or reused during the reporting period; the approximate percentage of recovered materials or post-use polymers reused, stored, or delivered to a recovered materials processing facility or pyrolysis facility or disposed of in a solid waste disposal facility; and the locations where any recovered materials or post-use polymers were disposed of as solid waste. The local government may charge the dealer or pyrolysis facility a registration fee commensurate with and no greater than the cost incurred by the local government in operating its registration program. Registration program costs are limited to those costs associated with the activities described in this subparagraph. Any reporting or registration process established by a local government with regard to recovered materials or post-use polymers is governed by this section and department rules adopted pursuant thereto.

2. Information reported under this subsection which, if disclosed, would reveal a trade secret, as defined in s. 812.081, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. Subsection (2) of section 171.205, Florida Statutes, is amended to read:

171.205 Consent requirements for annexation of land under this part. Notwithstanding part I, an interlocal service boundary agreement may provide a process for annexation consistent with this section or with part I.

(2) If the area to be annexed includes a privately owned solid waste disposal facility as defined in s. 403.703 ~~s. 403.703(33)~~ which receives municipal solid waste collected within the jurisdiction of multiple local governments, the annexing municipality must set forth in its plan the effects that the annexation of the solid waste disposal facility will have on the other local governments. The plan must also indicate that the owner of the affected

solid waste disposal facility has been contacted in writing concerning the annexation, that an agreement between the annexing municipality and the solid waste disposal facility to govern the operations of the solid waste disposal facility if the annexation occurs has been approved, and that the owner of the solid waste disposal facility does not object to the proposed annexation.

Section 5. Subsection (28) of section 316.003, Florida Statutes, is amended to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(28) HAZARDOUS MATERIAL.—Any substance or material which has been determined by the secretary of the United States Department of Transportation to be capable of imposing an unreasonable risk to health, safety, and property. This term includes hazardous waste as defined in s. 403.703 ~~s. 403.703(13)~~.

Section 6. Paragraph (f) of subsection (2) of section 377.709, Florida Statutes, is amended to read:

377.709 Funding by electric utilities of local governmental solid waste facilities that generate electricity.—

(2) DEFINITIONS.—As used in this section, the term:

(f) “Solid waste facility” means a facility owned or operated by, or on behalf of, a local government for the purpose of disposing of solid waste, as ~~that term is defined in s. 403.703 s. 403.703(32)~~, by any process that produces heat and incorporates, as a part of the facility, the means of converting heat to electrical energy in amounts greater than actually required for the operation of the facility.

Section 7. Subsection (1) of section 487.048, Florida Statutes, is amended to read:

487.048 Dealer’s license; records.—

(1) Each person holding or offering for sale, selling, or distributing restricted-use pesticides must obtain a dealer’s license from the department. Application for the license shall be filed with the department by using a form prescribed by the department or by using the department’s website. The license must be obtained before entering into business or transferring ownership of a business. The department may require examination or other proof of competency of individuals to whom licenses are issued or of individuals employed by persons to whom licenses are issued. Demonstration of continued competency may be required for license renewal, as set by rule. The license shall be renewed annually as provided by rule. An annual license fee not exceeding \$250 shall be established by rule. However, a user

of a restricted-use pesticide may distribute unopened containers of a properly labeled pesticide to another user who is legally entitled to use that restricted-use pesticide without obtaining a pesticide dealer license. The exclusive purpose of distribution of the restricted-use pesticide is to keep it from becoming a hazardous waste as defined in s. 403.703 ~~s. 403.703(13)~~.

Section 8. This act shall take effect July 1, 2017.

Approved by the Governor June 26, 2017.

Filed in Office Secretary of State June 26, 2017.