

# **WEST VIRGINIA LEGISLATURE**

**2024 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 603**

By Senator Woodrum

[Passed March 1, 2024; in effect from passage.]

1 AN ACT to amend and reenact §22-15-2 of the Code of West Virginia, 1931, as amended, relating  
2 to amending definition of “commercial solid waste facility”; amending definition to exclude  
3 solid waste facility that accepts solid waste collected by facility’s owner or operator, who is  
4 a Public Service Commission-certificated common carrier, for consolidation and  
5 subsequent transportation to disposal or recycling facility; providing that such facility  
6 comply with bonding and pre-siting notice requirements; and providing that such facility be  
7 located on site that contains a mixed waste processing and resource recovery facility that  
8 possesses a solid waste facility permit issued by Department of Environmental Protection.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 15. SOLID WASTE MANAGEMENT ACT.**

**§22-15-2. Definitions.**

1 Unless the context clearly requires a different meaning, as used in this article the terms:

2 "Advanced recycling" means a manufacturing process for the conversion of post-use  
3 polymers and recovered feedstocks into basic hydrocarbon raw materials, feedstocks, chemicals,  
4 and other products like waxes and lubricants through processes that include pyrolysis,  
5 gasification, depolymerization, catalytic cracking, hydrogenation, solvolysis, and other similar  
6 technologies. The recycled products produced at advanced recycling facilities include, but are not  
7 limited to, monomers, oligomers, plastics, plastics and chemical feedstocks, basic and unfinished  
8 chemicals, waxes, lubricants, coatings, and other basic hydrocarbons. Advanced recycling shall  
9 not be considered solid waste management or solid waste disposal.

10 "Advanced recycling facility" means a facility that receives, stores, and converts post-use  
11 polymers and recovered feedstocks it receives using advanced recycling. An advanced recycling  
12 facility is a manufacturing facility subject to applicable department manufacturing regulations for  
13 air, water, and land use. Advanced recycling facilities shall not be considered solid waste facilities.

14 "Agronomic rate" means the whole sewage sludge application rate, by dry weight,  
15 designed:

16 (1) To provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover  
17 crop, or vegetation on the land; and

18 (2) To minimize the amount of nitrogen in the sewage sludge that passes below the root  
19 zone of the crop or vegetation grown on the land to the groundwater.

20 "Applicant" means the person applying for a commercial solid waste facility permit or  
21 similar renewal permit and any person related to such person by virtue of common ownership,  
22 common management, or family relationships as the director may specify, including the following:  
23 Spouses, parents, children, and siblings.

24 "Approved solid waste facility" means a solid waste facility or practice which has a valid  
25 permit under this article.

26 "Back hauling" means the practice of using the same container to transport solid waste and  
27 to transport any substance or material used as food by humans, animals raised for human  
28 consumption, or reusable item which may be refilled with any substance or material used as food  
29 by humans.

30 "Bulking agent" means any material mixed and composted with sewage sludge.

31 "Catalytic cracking" is a manufacturing process through which post-use polymers are  
32 heated and melted in the absence of oxygen and then processed in the presence of a catalyst to  
33 produce valuable raw materials and intermediate and final products, including, but not limited to,  
34 plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic  
35 hydrocarbons.

36 "Class A facility" means a commercial solid waste facility which handles an aggregate of  
37 between 10,000 and 30,000 tons of solid waste per month. Class A facility includes two or more  
38 Class B solid waste landfills owned or operated by the same person in the same county, if the  
39 aggregate tonnage of solid waste handled per month by such landfills exceeds 9,999 tons of solid  
40 waste per month.

41 "Commercial recycler" means any person, corporation, or business entity whose operation

42 involves the mechanical separation of materials for the purpose of reselling or recycling at least 70  
43 percent by weight of the materials coming into the commercial recycling facility.

44 "Commercial solid waste facility" means any solid waste facility that accepts solid waste  
45 generated by sources other than the owner or operator of the facility and does not include an  
46 approved solid waste facility owned and operated by a person for the sole purpose of the disposal,  
47 processing, or composting of solid waste created by that person or such person and other persons  
48 on a cost-sharing or nonprofit basis and does not include land upon which reused or recycled  
49 materials are legitimately applied for structural fill, road base, mine reclamation, and similar  
50 applications, and does not include any solid waste facility that accepts solid waste collected  
51 pursuant to and under a common carrier certificate of convenience and necessity issued by the  
52 Public Service Commission by the owner or operator (or its affiliate(s)) of the solid waste facility for  
53 consolidation and subsequent transport to a disposal or recycling facility: *Provided*, That the  
54 owner or operator of the solid waste facility shall comply with §22-15-12 and §22-15-13 of this  
55 code: *Provided, however*, That any such solid waste facility be located on a site that contains a  
56 mixed waste processing and resource recovery facility that possesses a solid waste facility permit  
57 from the Department of Environmental Protection.

58 "Compost" means a humus-like material resulting from aerobic, microbial, or thermophilic  
59 decomposition of organic materials.

60 "Composting" means the aerobic, microbial, or thermophilic decomposition of natural  
61 constituents of solid waste to produce a stable, humus-like material.

62 "Commercial composting facility" means any solid waste facility processing solid waste by  
63 composting, including sludge composting, organic waste or yard waste composting, but does not  
64 include a composting facility owned and operated by a person for the sole purpose of composting  
65 waste created by that person or such person and other persons on a cost-sharing or nonprofit  
66 basis and shall not include land upon which finished or matured compost is applied for use as a  
67 soil amendment or conditioner.

68 "Cured compost" or "finished compost" means compost which has a very low microbial or  
69 decomposition rate which will not reheat or cause odors when put into storage and that has been  
70 put through a separate aerated curing cycle stage of 30 to 60 days after an initial composting cycle  
71 or compost which meets all regulatory requirements after the initial composting cycle.

72 "Department" means the Department of Environmental Protection.

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

77 "Energy recovery incinerator" means any solid waste facility at which solid wastes are  
78 incinerated with the intention of using the resulting energy for the generation of steam, electricity,  
79 or any other use not specified herein.

80 "Gasification" means a manufacturing process through which recovered feedstocks are  
81 heated and converted into a fuel and gas mixture in an oxygen-deficient atmosphere and the  
82 mixture is converted into valuable raw materials and intermediate and final products, including, but  
83 not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks,  
84 and other basic hydrocarbons that are returned to economic utility in the form of raw materials and  
85 products.

86 "Hydrogenation" is a manufacturing process through which hydrogen is used to remove  
87 impurities from post-use polymers or recovered feedstock to enable further processing into  
88 valuable raw materials and intermediate and final products, including, but not limited to, plastic  
89 monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic  
90 hydrocarbons.

91 "Incineration technologies" means any technology that uses controlled flame combustion  
92 to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains  
93 little or no combustible materials, regardless of whether the purpose is processing, disposal,

94 electric or steam generation, or any other method by which solid waste is incinerated.

95 "Incinerator" means an enclosed device using controlled flame combustion to thermally  
96 break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no  
97 combustible materials.

98 "Landfill" means any solid waste facility used for the disposal of solid waste on or in the  
99 land for the purpose of permanent disposal. The facility is situated, for purposes of this article, in  
100 the county where the majority of the spatial area of the facility is located.

101 "Materials recovery facility" means any solid waste facility at which source-separated  
102 materials or materials recovered through a mixed waste processing facility are manually or  
103 mechanically shredded or separated for purposes of reuse and recycling, but does not include a  
104 composting facility.

105 "Mature compost" means compost which has been produced in an aerobic, microbial, or  
106 thermophilic manner and does not exhibit phytotoxic effects.

107 "Mixed solid waste" means solid waste from which materials sought to be reused or  
108 recycled have not been source-separated from general solid waste.

109 "Mixed waste processing facility" means any solid waste facility at which materials are  
110 recovered from mixed solid waste through manual or mechanical means for purposes of reuse,  
111 recycling, or composting.

112 "Municipal solid waste incineration" means the burning of any solid waste collected by any  
113 municipal or residential solid waste disposal company.

114 "Open dump" means any solid waste disposal which does not have a permit under this  
115 article, or is in violation of state law, or where solid waste is disposed in a manner that does not  
116 protect the environment.

117 "Person" or "persons" means any industrial user, public or private corporation, institution,  
118 association, firm, or company organized or existing under the laws of this or any other state or  
119 country; State of West Virginia; governmental agency, including federal facilities; political

120 subdivision; county commission; municipal corporation; industry; sanitary district; public service  
121 district; drainage district; soil conservation district; watershed improvement district; partnership;  
122 trust; estate; person or individual; group of persons or individuals acting individually or as a group;  
123 or any legal entity whatever.

124 "Post-use polymer" means a plastic to which all the following apply:

125 (1) The plastic is derived from any industrial, commercial, agricultural, or domestic  
126 activities;

127 (2) It is not mixed with solid waste or hazardous waste onsite or during processing at the  
128 advanced recycling facility;

129 (3) The plastic's use or intended use is as a feedstock for the manufacturing of plastic and  
130 chemical feedstocks, other basic hydrocarbons, raw materials, or other intermediate products or  
131 final products using advanced recycling;

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

135 (5) The plastic is processed at an advanced recycling facility or held at the facility prior to  
136 processing.

137 "Publicly owned treatment works" means any treatment works owned by the state or any  
138 political subdivision thereof, any municipality or any other public entity which processes raw  
139 domestic, industrial, or municipal sewage by any artificial or natural processes in order to remove  
140 or so alter constituents as to render the waste less offensive or dangerous to the public health,  
141 comfort, or property of any of the inhabitants of this state before the discharge of the plant effluent  
142 into any of the waters of this state, and which produces sewage sludge.

143 "Pyrolysis" means a manufacturing process through which post-use polymers are heated  
144 in the absence of oxygen until melted and thermally decomposed and are then cooled,  
145 condensed, and converted into valuable raw materials and intermediate and final products,

146 including, but not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical  
147 feedstocks, and other basic hydrocarbons, that are returned to economic utility in the form of raw  
148 materials or products.

149 "Recovered feedstock" means one or more of the following materials that has been  
150 processed so that it may be used as feedstock in an advanced recycling facility:

151 (1) Post-use polymers;

152 (2) Materials for which the United States Environmental Protection Agency has made a  
153 nonwaste determination pursuant to 40 C.F.R. 241.3(c), or has otherwise determined are  
154 feedstocks and not solid waste;

155 (3) Recovered feedstock does not include unprocessed municipal solid waste;

156 (4) Recovered feedstock is not mixed with solid waste or hazardous waste onsite or during  
157 processing at an advanced recycling facility.

158 "Recycling facility" means any solid waste facility for the purpose of recycling at which  
159 neither land disposal nor biological, chemical, or thermal transformation of solid waste occurs:  
160 *Provided*, That mixed waste recovery facilities, sludge processing facilities, and composting  
161 facilities are not considered recycling facilities nor considered to be reusing or recycling solid  
162 waste within the meaning of this article, §22-15A-1 *et seq.* and §22C-4-1 *et seq.* of this code.

163 "Sewage sludge" means solid, semisolid, or liquid residue generated during the treatment  
164 of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic  
165 septage, scum, or solids removed in primary, secondary, or advanced wastewater treatment  
166 processes and a material derived from sewage sludge. "Sewage sludge" does not include ash  
167 generated during the firing of sewage sludge in a sewage sludge incinerator.

168 "Sewage sludge processing facility" is a solid waste facility that processes sewage sludge  
169 for: (A) Land application; (B) incineration; or (C) disposal at an approved landfill. Such processes  
170 include, but are not limited to, composting, lime stabilization, thermophilic, microbial, and  
171 anaerobic digestion.



172 "Secretary" means the Secretary of the Department of Environmental Protection or such  
173 other person to whom the secretary has delegated authority or duties pursuant to §22-1-1 *et seq.*  
174 of this code.

175 "Sludge" means any solid, semisolid, residue, or precipitate, separated from or created by  
176 a municipal, commercial, or industrial waste treatment plant, water supply treatment plant, air  
177 pollution control facility, or any other such waste having similar origin.

178 "Solid waste" means any garbage, paper, litter, refuse, cans, bottles, waste processed for  
179 the express purpose of incineration; sludge from a waste treatment plant; water supply treatment  
180 plant or air pollution control facility; and other discarded materials, including offensive or unsightly  
181 matter, solid, liquid, semisolid, or contained liquid or gaseous material resulting from industrial,  
182 commercial, mining, or community activities but does not include solid or dissolved material in  
183 sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are  
184 point sources and have permits under §22-5A-1 *et seq.* of this code, or source, special nuclear, or  
185 byproduct material as defined by the Atomic Energy Act of 1954, as amended, including any  
186 nuclear or byproduct material considered by federal standards to be below regulatory concern, or  
187 a hazardous waste either identified or listed under §22-5E-1 *et seq.* of this code or refuse, slurry,  
188 overburden, or other wastes or material resulting from coal-fired electric power or steam  
189 generation, the exploration, development, production, storage, and recovery of coal, oil, and gas,  
190 and other mineral resources placed or disposed of at a facility which is regulated under chapter 22,  
191 chapter 22A, or chapter 22B of this code, so long as placement or disposal is in conformance with  
192 a permit issued pursuant to those chapters, or post-use polymers and recovered feedstocks  
193 converted at an advanced recycling facility or held at the facility prior to conversion.

194 "Solid waste disposal" means the practice of disposing of solid waste including placing,  
195 depositing, dumping, throwing, or causing any solid waste to be placed, deposited, dumped, or  
196 thrown.

197 "Solid waste disposal shed" means the geographical area which the solid waste

198 management board designates and files in the state register pursuant to §16-26-8 of this code.

199 "Solid waste facility" means any system, facility, land, contiguous land, improvements on  
200 the land, structures, or other appurtenances or methods used for processing, recycling, or  
201 disposing of solid waste, including landfills, transfer stations, materials recovery facilities, mixed  
202 waste processing facilities, sewage sludge processing facilities, commercial composting facilities,  
203 and other such facilities not herein specified, but not including land upon which sewage sludge is  
204 applied in accordance with §22-15-20 of this code. The facility shall be deemed to be situated, for  
205 purposes of this article, in the county where the majority of the spatial area of the facility is located:  
206 *Provided*, That a salvage yard, licensed and regulated pursuant to the terms of §17-23-1 *et seq.* of  
207 this code, is not a solid waste facility and an advanced recycling facility is not a solid waste facility.

208 "Solid waste facility operator" means any person or persons possessing or exercising  
209 operational, managerial, or financial control over a commercial solid waste facility, whether or not  
210 the person holds a certificate of convenience and necessity or a permit for the facility.

211 "Solvolysis" means a manufacturing process through which post-use polymers are purified  
212 with the aid of solvents, while heated at low temperatures and/or pressurized to make useful  
213 products, allowing additives and contaminants to be separated. The products of solvolysis include  
214 monomers, intermediates, valuable chemicals, and raw materials. The process includes, but is not  
215 limited to, hydrolysis, aminolysis, ammonolysis, methanolysis, and glycolysis.

216 "Source-separated materials" means materials separated from general solid waste at the  
217 point of origin for the purpose of reuse and recycling but does not mean sewage sludge.