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CS/HB 335, Engrossed 1

2017 Legislature

1
 2 An act relating to resource recovery and management;
 3 amending s. 403.703, F.S.; defining the terms
 4 "gasification," "post-use polymer," "pyrolysis," and
 5 "pyrolysis facility" and revising definitions;
 6 amending s. 403.7045, F.S.; providing that certain
 7 pyrolysis facilities are exempt from certain resource
 8 recovery regulations; conforming a cross-reference;
 9 amending s. 403.7046, F.S.; requiring certain handlers
 10 of post-use polymers to certify to the Department of
 11 Environmental Protection; revising rule requirements
 12 relating to such certification; authorizing recovered
 13 materials dealers to use pyrolysis facilities for
 14 recovered materials or post-use polymers processing;
 15 amending ss. 171.205, 316.003, 377.709, and 487.048,
 16 F.S.; conforming cross-references; providing an
 17 effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:
 20

21 Section 1. Present subsections (2) and (3) of section
 22 403.703, Florida Statutes, are renumbered as subsections (3) and
 23 (2), respectively, present subsections (10) through (22) are
 24 renumbered as subsections (11) through (23), respectively,
 25 present subsection (23) is renumbered as subsection (25),

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26 | present subsections (24) through (43) are renumbered as
27 | subsections (28) through (47), respectively, present subsections
28 | (27), (32), and (35) of that section are amended, and new
29 | subsections (10), (24), (26), and (27) are added to that
30 | section, to read:

31 | 403.703 Definitions.—As used in this part, the term:

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

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

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

49 | (a) Crude oil, diesel, gasoline, home heating oil, or
50 | another fuel.

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51 (b) Feedstocks.
 52 (c) Diesel and gasoline blendstocks.
 53 (d) Chemicals, waxes, or lubricants.
 54 (e) Other raw materials or intermediate or final products.
 55 (27) "Pyrolysis facility" means a facility that receives,
 56 separates, stores, and converts post-use polymers, using
 57 gasification or pyrolysis. A pyrolysis facility meeting the
 58 conditions of s. 403.7045(1)(e) is not a solid waste management
 59 facility.
 60 (31)~~(27)~~ "Recycling" means any process by which solid
 61 waste, or materials that would otherwise become solid waste, are
 62 collected, separated, or processed and reused or returned to use
 63 in the form of raw materials or intermediate or final products.
 64 Such raw materials or intermediate or final products include,
 65 but are not limited to, crude oil, fuels, and fuel substitutes.
 66 (36)~~(32)~~ "Solid waste" means sludge unregulated under the
 67 federal Clean Water Act or Clean Air Act, sludge from a waste
 68 treatment works, water supply treatment plant, or air pollution
 69 control facility, or garbage, rubbish, refuse, special waste, or
 70 other discarded material, including solid, liquid, semisolid, or
 71 contained gaseous material resulting from domestic, industrial,
 72 commercial, mining, agricultural, or governmental operations.
 73 Recovered materials as defined in subsection (28) and post-use
 74 polymers as defined in subsection (24) are not solid waste.
 75 (39)~~(35)~~ "Solid waste management facility" means any solid

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76 waste disposal area, volume reduction plant, transfer station,
 77 materials recovery facility, or other facility, the purpose of
 78 which is resource recovery or the disposal, recycling,
 79 processing, or storage of solid waste. The term does not include
 80 recovered materials processing facilities or pyrolysis
 81 facilities that meet the requirements of s. 403.7046, except the
 82 portion of such facilities, if any, which is used for the
 83 management of solid waste.

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

86 403.7045 Application of act and integration with other
 87 acts.—

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

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

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

99 (c) Emissions to the air from a stationary installation or
 100 source regulated under this chapter or the Clean Air Act, Pub.

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101 L. No. 95-95.~~7~~

102 (d) Drilling fluids, produced waters, and other wastes
 103 associated with the exploration for, or development and
 104 production of, crude oil or natural gas which are regulated
 105 under chapter 377,~~7~~~~or~~

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

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

116 2. The recovered materials or post-use polymers handled by
 117 the facility or the products or byproducts of operations that
 118 process recovered materials or post-use polymers are not
 119 discharged, deposited, injected, dumped, spilled, leaked, or
 120 placed into or upon any land or water by the owner or operator
 121 of the ~~such~~ facility so that the ~~such~~ recovered materials or
 122 post-use polymers, products or byproducts, or any constituent
 123 thereof may enter other lands or be emitted into the air or
 124 discharged into any waters, including groundwaters, or otherwise
 125 enter the environment such that a threat of contamination in

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126 excess of applicable department standards and criteria is
 127 caused.

128 3. The recovered materials or post-use polymers handled by
 129 the facility are not hazardous wastes as defined in ~~under~~ s.
 130 403.703~~7~~ and rules adopted under this section ~~promulgated~~
 131 ~~pursuant thereto~~.

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

133 (f) Industrial byproducts, if:

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

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

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

147

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

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151 Section 3. Subsection (1) and paragraph (b) of subsection
 152 (3) of section 403.7046, Florida Statutes, are amended to read:
 153 403.7046 Regulation of recovered materials.—
 154 (1) Any person who handles, purchases, receives, recovers,
 155 sells, or is an end user of recovered materials or post-use
 156 polymers shall annually certify to the department on forms
 157 provided by the department. The department may by rule exempt
 158 from this requirement generators of recovered materials or post-
 159 use polymers; persons who handle or sell recovered materials or
 160 post-use polymers as an activity which is incidental to the
 161 normal primary business activities of that person; or persons
 162 who handle, purchase, receive, recover, sell, or are end users
 163 of recovered materials or post-use polymers in small quantities
 164 as defined by the department. The department shall adopt rules
 165 for the certification of and reporting by such persons and shall
 166 establish criteria for revocation of such certification. Such
 167 rules shall be designed to elicit, at a minimum, the amount and
 168 types of recovered materials or post-use polymers handled by
 169 registrants, and the amount and disposal site, or name of person
 170 with whom such disposal was arranged, of any solid waste
 171 generated by such facility. By February 1 of each year,
 172 registrants shall report all required information to the
 173 department and to all counties from which it received materials.
 174 Such rules may provide for the department to conduct periodic
 175 inspections. The department may charge a fee of up to \$50 for

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176 | each registration, which shall be deposited into the Solid Waste
 177 | Management Trust Fund for implementation of the program.

178 | (3) Except as otherwise provided in this section or
 179 | pursuant to a special act in effect on or before January 1,
 180 | 1993, a local government may not require a commercial
 181 | establishment that generates source-separated recovered
 182 | materials to sell or otherwise convey its recovered materials to
 183 | the local government or to a facility designated by the local
 184 | government, nor may the local government restrict such a
 185 | generator's right to sell or otherwise convey such recovered
 186 | materials to any properly certified recovered materials dealer
 187 | who has satisfied the requirements of this section. A local
 188 | government may not enact any ordinance that prevents such a
 189 | dealer from entering into a contract with a commercial
 190 | establishment to purchase, collect, transport, process, or
 191 | receive source-separated recovered materials.

192 | (b)1. Before engaging in business within the jurisdiction
 193 | of the local government, a recovered materials dealer or
 194 | pyrolysis facility must provide the local government with a copy
 195 | of the certification provided for in this section. In addition,
 196 | the local government may establish a registration process
 197 | whereby a recovered materials dealer or pyrolysis facility must
 198 | register with the local government before engaging in business
 199 | within the jurisdiction of the local government. Such
 200 | registration process is limited to requiring the dealer or

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201 pyrolysis facility to register its name, including the owner or
202 operator of the dealer or pyrolysis facility, and, if the dealer
203 or pyrolysis facility is a business entity, its general or
204 limited partners, its corporate officers and directors, its
205 permanent place of business, evidence of its certification under
206 this section, and a certification that the recovered materials
207 or post-use polymers will be processed at a recovered materials
208 processing facility or pyrolysis facility satisfying the
209 requirements of this section. The local government may not use
210 the information provided in the registration application to
211 compete unfairly with the recovered materials dealer until 90
212 days after receipt of the application. All counties, and
213 municipalities whose population exceeds 35,000 according to the
214 population estimates determined pursuant to s. 186.901, may
215 establish a reporting process that must be limited to the
216 regulations, reporting format, and reporting frequency
217 established by the department pursuant to this section, which
218 must, at a minimum, include requiring the dealer or pyrolysis
219 facility to identify the types and approximate amount of
220 recovered materials or post-use polymers collected, recycled, or
221 reused during the reporting period; the approximate percentage
222 of recovered materials or post-use polymers reused, stored, or
223 delivered to a recovered materials processing facility or
224 pyrolysis facility or disposed of in a solid waste disposal
225 facility; and the locations where any recovered materials or

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226 | post-use polymers were disposed of as solid waste. The local
 227 | government may charge the dealer or pyrolysis facility a
 228 | registration fee commensurate with and no greater than the cost
 229 | incurred by the local government in operating its registration
 230 | program. Registration program costs are limited to those costs
 231 | associated with the activities described in this subparagraph.
 232 | Any reporting or registration process established by a local
 233 | government with regard to recovered materials or post-use
 234 | polymers is governed by this section and department rules
 235 | adopted pursuant thereto.

236 | 2. Information reported under this subsection which, if
 237 | disclosed, would reveal a trade secret, as defined in s.
 238 | 812.081, is confidential and exempt from s. 119.07(1) and s.
 239 | 24(a), Art. I of the State Constitution. This subparagraph is
 240 | subject to the Open Government Sunset Review Act in accordance
 241 | with s. 119.15 and shall stand repealed on October 2, 2021,
 242 | unless reviewed and saved from repeal through reenactment by the
 243 | Legislature.

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

246 | 171.205 Consent requirements for annexation of land under
 247 | this part.—Notwithstanding part I, an interlocal service
 248 | boundary agreement may provide a process for annexation
 249 | consistent with this section or with part I.

250 | (2) If the area to be annexed includes a privately owned

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251 solid waste disposal facility as defined in s. 403.703 ~~s.~~
 252 ~~403.703(33)~~ which receives municipal solid waste collected
 253 within the jurisdiction of multiple local governments, the
 254 annexing municipality must set forth in its plan the effects
 255 that the annexation of the solid waste disposal facility will
 256 have on the other local governments. The plan must also indicate
 257 that the owner of the affected solid waste disposal facility has
 258 been contacted in writing concerning the annexation, that an
 259 agreement between the annexing municipality and the solid waste
 260 disposal facility to govern the operations of the solid waste
 261 disposal facility if the annexation occurs has been approved,
 262 and that the owner of the solid waste disposal facility does not
 263 object to the proposed annexation.

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

266 316.003 Definitions.—The following words and phrases, when
 267 used in this chapter, shall have the meanings respectively
 268 ascribed to them in this section, except where the context
 269 otherwise requires:

270 (28) HAZARDOUS MATERIAL.—Any substance or material which
 271 has been determined by the secretary of the United States
 272 Department of Transportation to be capable of imposing an
 273 unreasonable risk to health, safety, and property. This term
 274 includes hazardous waste as defined in s. 403.703 ~~s.~~
 275 ~~403.703(13)~~.

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276 Section 6. Paragraph (f) of subsection (2) of section
 277 377.709, Florida Statutes, is amended to read:

278 377.709 Funding by electric utilities of local
 279 governmental solid waste facilities that generate electricity.—

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

281 (f) "Solid waste facility" means a facility owned or
 282 operated by, or on behalf of, a local government for the purpose
 283 of disposing of solid waste, as ~~that term is~~ defined in s.
 284 403.703 ~~s. 403.703(32)~~, by any process that produces heat and
 285 incorporates, as a part of the facility, the means of converting
 286 heat to electrical energy in amounts greater than actually
 287 required for the operation of the facility.

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

290 487.048 Dealer's license; records.—

291 (1) Each person holding or offering for sale, selling, or
 292 distributing restricted-use pesticides must obtain a dealer's
 293 license from the department. Application for the license shall
 294 be filed with the department by using a form prescribed by the
 295 department or by using the department's website. The license
 296 must be obtained before entering into business or transferring
 297 ownership of a business. The department may require examination
 298 or other proof of competency of individuals to whom licenses are
 299 issued or of individuals employed by persons to whom licenses
 300 are issued. Demonstration of continued competency may be

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301 required for license renewal, as set by rule. The license shall
302 be renewed annually as provided by rule. An annual license fee
303 not exceeding \$250 shall be established by rule. However, a user
304 of a restricted-use pesticide may distribute unopened containers
305 of a properly labeled pesticide to another user who is legally
306 entitled to use that restricted-use pesticide without obtaining
307 a pesticide dealer license. The exclusive purpose of
308 distribution of the restricted-use pesticide is to keep it from
309 becoming a hazardous waste as defined in s. 403.703 ~~s.~~
310 ~~403.703(13)~~.

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