

HB402 INTRODUCED



1 HB402
2 IM9HWW6-1
3 By Representatives Collins, Easterbrook
4 RFD: Commerce and Small Business
5 First Read: 02-Apr-24



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SYNOPSIS:

Under existing law, the disposal of solid wastes and the recycling of recyclable materials in this state are regulated under the Solid Wastes and Recyclable Materials Management Act.

This bill would define the term "mass balance attribution" as an optional chain of custody accounting method to record the input and output of materials.

This bill would provide that a recovered materials processing facility is a manufacturing facility for purposes of the Solid Wastes and Recyclable Materials Management Act.

A BILL
TO BE ENTITLED
AN ACT

Relating to solid waste; to amend Section 22-27-2, Code of Alabama 1975, to provide definitions; and to provide that recovered materials processing facilities are deemed manufacturing facilities for purposes of the Solid Wastes and Recyclable Materials Management Act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 22-27-2, Code of Alabama 1975, is



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29 amended to read as follows:

30 "§22-27-2

31 For the purpose of this article, the following terms
32 shall have the meanings respectively ascribed to them by this
33 section:

34 (1) AGENCY. Any controlling agency, public or private,
35 elected, appointed, or volunteer utilizing methods approved by
36 the health department or the department for the purpose of
37 controlling and supervising the collection or management of
38 solid wastes or recyclable materials.

39 (2) ALTERNATIVE COVER. Material other than earth used
40 to cover a landfill or sanitary landfill. An alternative cover
41 shall be approved by the Department of Environmental
42 Management in compliance with federal law and United States
43 Environmental Protection Agency rules or guidance to achieve a
44 level of performance equal to or greater than earthen cover
45 material.

46 (3) ASHES. The solid residue from burning of wood,
47 coal, coke, or other combustible material used for heating,
48 from incineration of solid wastes, or for the production of
49 electricity at electric generating plants.

50 (4) COAL COMBUSTION BY-PRODUCTS. Fly ash, bottom ash,
51 boiler slag, or flue gas emission control by-products which
52 result primarily from the combustion of coal or other fossil
53 fuels at electric generating plants.

54 (5) COMPOSTING OR COMPOST PLANT. An officially
55 controlled method or operation whereby putrescible solid
56 wastes are broken down through microbic action to a material



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57 offering no hazard or nuisance factors to public health or
58 well-being.

59 (6) DEPARTMENT. The Alabama Department of Environmental
60 Management.

61 (7) DIRECTOR. The Director of the Alabama Department of
62 Environmental Management or his or her designee.

63 (8) DISCHARGE. The accidental or intentional spilling,
64 leaking, pumping, emitting, emptying, or dumping of solid
65 waste, including leachate, into or on any land or water.

66 (9) DISPOSAL. The discharge, deposit, injection,
67 dumping, spilling, leaking, or placing of any solid waste into
68 or on any land or water so that the waste or any constituent
69 thereof may enter the environment or be emitted into the air
70 or discharged into any waters, including, but not limited to,
71 ground waters.

72 (10) FACILITY. All contiguous land, structures, and
73 other appurtenances used for the processing, treatment,
74 storage, or disposal of solid waste, or the recovery of
75 recyclable materials from solid waste, whether or not
76 authorized or permitted, including, but not limited to, waste
77 disposal areas and waste disposed therein.

78 (11) FINANCIAL ASSURANCE. A financial arrangement by
79 the owner or operator of a municipal solid waste landfill
80 which guarantees the availability of funds which may be used
81 to close, provide post-closure care, or conduct corrective
82 action at that facility if the owner or operator fails to
83 properly execute his or her responsibilities under this
84 article and any rules adopted by the department for closure,



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85 post-closure care, or corrective action and the terms of any
86 permit issued for operation of that facility.

87 (12) GARBAGE. Putrescible animal and vegetable wastes
88 resulting from the handling, preparation, cooking, and
89 consumption of food, including wastes from markets, storage
90 facilities, handling and sale of produce and other food
91 products and excepting such materials that may be serviced by
92 garbage grinders and handled as household sewage.

93 (13) GENERATION. The act or process of producing solid
94 waste. Solid waste shall be considered to be generated at the
95 point that waste materials are first discarded or collected,
96 regardless of any subsequent materials recovery or recycling.

97 (14) HAZARDOUS WASTES. Those wastes defined in, and
98 regulated under, the Alabama Hazardous Waste Management and
99 Minimization Act of 1978, as amended.

100 (15) HEALTH DEPARTMENT. An approved county or district
101 health department, including the Alabama State Department of
102 Public Health and the affected state and county health
103 department.

104 (16) HEALTH OFFICER. The state or affected county
105 health officer or his or her designee.

106 (17) HOUSEHOLD WASTE. Any solid waste, including, but
107 not limited to, garbage, trash, and sanitary waste in septic
108 tanks derived from households, including single and multiple
109 residences, hotels and motels, bunkhouses, ranger stations,
110 crew quarters, campgrounds, picnic grounds, and day-use
111 recreational areas. Sanitary waste in septic tanks shall be
112 considered as household waste only when it is disposed in a



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113 landfill or unauthorized dump and its inclusion as a household
114 waste shall in no way prohibit or supersede the authority of
115 the board or the department to regulate onsite sewage systems
116 or the management of sanitary waste in septic tanks.

117 (18) INCINERATOR. A device designed to burn that
118 portion of garbage and rubbish which will be consumed at
119 temperatures generally ranging 1,600 degrees Fahrenheit or
120 over. The unburned residue from an incinerator, including
121 metal, glass, and the like shall be called ashes.

122 (19) INDUSTRIAL SOLID WASTE. Solid waste generated by
123 manufacturing or industrial processes that is not a hazardous
124 waste regulated under Chapters 22 to 30, inclusive, of this
125 title.

126 (20) INNOCENT LANDOWNER. An owner of real property upon
127 which there is located an unauthorized dump and who meets all
128 of the following conditions:

129 a. The solid waste was disposed of on the property
130 after the owner acquired title to the property or the waste
131 was disposed of before the owner acquired title to the
132 property and the owner lacked actual knowledge of the waste
133 after conducting reasonable due diligence or title was
134 acquired by bequest or devise.

135 b. The owner did not have knowledge that the waste was
136 being disposed of on the property or the owner took steps,
137 including, but not limited to, posting signs to prevent
138 disposal on the property.

139 c. The owner did not participate in or consent to the
140 disposal of solid waste on the property.



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141 d. The owner did not receive any financial benefit from
142 the disposal of solid waste on the property.

143 e. Title to the property was not transferred to the
144 owner for the purpose of evading liability for operating an
145 unauthorized dump.

146 f. The person or persons responsible for disposing of
147 the solid waste on the property, in doing so, were not acting
148 as an agent for the owner.

149 (21) LANDFILL. A method of compaction and earth or
150 alternative cover of solid wastes other than those containing
151 garbage or other putrescible wastes, including, but not
152 limited to, tree limbs and stumps, demolition materials,
153 incinerator residues, and like materials not constituting a
154 health or nuisance hazard, where cover need not be applied on
155 a per day used basis.

156 (22) MASS BALANCE ATTRIBUTION. A chain of custody
157 accounting methodology for optional use by manufacturers to
158 account for the input and output of materials.

159 a. Methodology may be defined by an optional
160 third-party certification system identified and approved by
161 the department.

162 b. A third-party certification system that enables the
163 attribution of the mass of chemical recycling feedstocks to
164 one or more chemical recycling products throughout the
165 manufacturing process may be utilized by any manufacturer
166 chemically processing, or recovering monomers, of recovered
167 materials, including pre-consumer or post-consumer plastics or
168 materials derived from pre-consumer or post-consumer plastics,



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169 for those products not sold as fuel to be considered recycled
170 content.

171 ~~(22)~~ (23) MATERIALS RECOVERY FACILITY. A solid waste
172 management facility that provides for the extraction from
173 solid waste of recyclable materials, materials suitable for
174 use as a fuel or soil amendment, or any combination of those
175 materials. A materials recovery facility shall be deemed to be
176 a solid waste treatment facility.

177 ~~(23)~~ (24) MEDICAL WASTE. A solid waste or combination of
178 solid wastes which because of its infectious characteristics
179 may either:

180 a. Cause, or significantly contribute to, an increase
181 in mortality or an increase in serious irreversible or
182 incapacitating reversible illness.

183 b. Pose a substantial present hazard or potential
184 hazard to human health or the environment when improperly
185 treated, stored, transported, disposed, or otherwise managed.

186 ~~(24)~~ (25) MUNICIPAL SOLID WASTE LANDFILL. A discrete
187 area of land or an excavation that receives household waste
188 and that is not a land application unit, surface impoundment,
189 injection well, or waste pile. A municipal solid waste
190 landfill may also receive other types of solid wastes, such as
191 commercial solid waste, nonhazardous sludge, conditionally
192 exempt small quantity generator waste, industrial solid waste,
193 construction/demolition waste, and rubbish. A municipal solid
194 waste landfill is a sanitary landfill.

195 ~~(25)~~ (26) PERSON. An individual, trust, firm, joint
196 stock company, corporation (including a government



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197 corporation), partnership, agent, agency, association, state,
198 municipality, commission, political subdivision of a state, an
199 interstate body, or other private or public legal entity.

200 ~~(26)~~ (27) PRIVATE SOLID WASTE MANAGEMENT FACILITY. A
201 solid waste management facility that is operated exclusively
202 by and for a private solid waste generator for the purpose of
203 accepting solid waste generated ~~on-site~~ onsite or by the
204 permittee.

205 ~~(27)~~ (28) PUBLIC SOLID WASTE MANAGEMENT FACILITY. A
206 solid waste management facility that accepts solid waste from
207 the public generally or for a fee or any solid waste
208 management facility that is not a private solid waste
209 management facility.

210 ~~(28)~~ (29) RECOVERED MATERIALS. Those materials which
211 have known recycling potential; which can be feasibly
212 recycled; which have been diverted or removed from the solid
213 waste stream for recycling, whether or not requiring
214 subsequent separation and processing; ~~and~~ which have a
215 substantial portion that is consistently used in the
216 manufacture of products which may otherwise be produced from
217 raw or virgin materials. Recovered materials shall not include
218 solvents or materials, except sawdust, bark, and paper
219 materials that are destined for incineration, energy recovery,
220 or any use which constitutes disposal. Recovered materials
221 shall only be those materials for which during the calendar
222 year, commencing on January 1, the amount of material recycled
223 or diverted from the solid waste stream for recycling and
224 transferred to a different site ~~for recycling~~ equals at least



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225 75 percent by weight or volume of the amount of that material
226 accumulated at the beginning of the period.

227 ~~(29)~~ (30) RECOVERED MATERIALS PROCESSING FACILITY. A
228 facility primarily engaged in the storage, processing, and
229 resale or reuse of recovered materials. A recovered materials
230 processing facility is a manufacturing facility and is not a
231 solid waste management facility; however, any solid waste
232 resulting from the operation of a facility shall be subject to
233 all applicable laws and regulations relating to solid waste
234 and shall be deemed to be generated for purposes of reporting
235 pursuant to solid waste reduction goals, at the point of
236 collection of the recovered materials from which the solid
237 waste resulted. A recovered material processing facility shall
238 provide notification to the department according to rules
239 adopted by the department not later than January 1, 2025.

240 ~~(30)~~ (31) RECYCLABLE MATERIALS. Those materials which
241 are capable of being recycled, whether or not the materials
242 have been diverted or removed from the solid waste stream.

243 ~~(31)~~ (32) RECYCLING. Any process by which materials are
244 collected, separated, stored, recovered, or processed and
245 reused or returned to use in the form of raw materials or
246 products, but does not include the use of materials as a fuel,
247 or for any use which constitutes disposal.

248 ~~(32)~~ (33) RUBBISH. Nonputrescible solid wastes,
249 excluding ashes, consisting of both combustible and
250 noncombustible wastes. Combustible rubbish includes paper,
251 rags, cartons, wood, furniture, rubber, plastics, yard
252 trimmings, leaves, and similar materials. Noncombustible



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253 rubbish includes glass, crockery, metal cans, metal furniture,
254 and like materials which will not burn at ordinary incinerator
255 temperatures, not less than 1,600 degrees Fahrenheit.

256 ~~(33)~~ (34) SANITARY LANDFILL. A controlled area of land
257 upon which solid waste is deposited and is compacted and
258 covered with earth or an alternative cover each day as
259 deposited, with no on-site burning of wastes, and so located,
260 contoured, and drained that it will not constitute a source of
261 water pollution as determined by the department.

262 ~~(34)~~ (35) SOLID WASTE. Any garbage, rubbish,
263 construction or demolition debris, ash, or sludge from a waste
264 treatment facility, water supply plant, or air pollution
265 control facility, and any other discarded materials, including
266 solid, liquid, semisolid, or contained gaseous material
267 resulting from industrial, commercial, mining, or agricultural
268 operations or community activities, or materials intended for
269 or capable of recycling, but which have not been diverted or
270 removed from the solid waste stream. The term "solid waste"
271 does not include recovered materials, solid or dissolved
272 materials in domestic sewage, solid or dissolved ~~material~~
273 materials in irrigation return flows, or industrial discharges
274 which are point sources subject to the National Pollutant
275 Discharge Elimination System permits under the Federal Water
276 Pollution Control Act, as amended, or the Alabama Waste
277 Pollution Control Act, as amended; or source, special,
278 nuclear, or by-product materials as defined by the Atomic
279 Energy Act of 1954, as amended. Also excluded from this
280 definition are land applications of crop residues, animal



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281 manure, and ash resulting exclusively from the combustion of
282 wood during accepted agricultural operations, waste from
283 silvicultural operations, or refuse as defined and regulated
284 pursuant to the Alabama Surface Mining Act of 1969, Article 1,
285 commencing with Section 9-16-1, of Chapter 16 of Title 9.

286 ~~(35)~~ (36) SOLID WASTE DISPOSAL FACILITY. Any landfill or
287 part of a facility where final deposition of solid waste
288 occurs and at which waste may remain after closure.

289 ~~(36)~~ (37) SOLID WASTE MANAGEMENT. The systematic control
290 of solid waste, including its storage, processing, treatment,
291 recovery of materials from solid waste, or disposal.

292 ~~(37)~~ (38) SOLID WASTE MANAGEMENT FACILITY. Any solid
293 waste volume reduction plant, transfer station, material
294 recovery facility, or other facility, the purpose of which is
295 the storage, treatment, utilization, processing, disposal, or
296 recovery of materials from solid waste, or any combination
297 thereof.

298 ~~(38)~~ (39) UNAUTHORIZED DUMP. Any collection of solid
299 wastes either dumped or caused to be dumped or placed on any
300 public or private property, whether or not regularly used, and
301 not having a permit from the department. Abandoned
302 automobiles, large appliances, or similar large items of solid
303 waste shall be considered an unauthorized dump within the
304 meaning of this article. The careless littering of a
305 relatively few, smaller individual items such as tires,
306 bottles, cans, and the like shall not be considered an
307 unauthorized dump, unless the accumulation of solid waste
308 poses a threat to human health or the environment. An



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309 unauthorized dump shall also mean any solid waste disposal
310 site which does not meet the regulatory provisions of this
311 article."

312 Section 2. This act shall become effective on October
313 1, 2024.