

**CHAPTER 67****( HB 45 )**

AN ACT relating to resource recovery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 224.1-010 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

- (1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;
- (2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;
- (3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;
- (4) "Closure" means the time at which a waste treatment, storage, or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;
- (5) "Compost" means solid waste which has undergone biological decomposition of organic matter, been disinfected using composting or similar technologies, been stabilized to a degree which is potentially beneficial to plant growth and which is approved for use or sale as a soil amendment, artificial topsoil, growing medium amendment, or other similar uses;
- (6) "Composting" means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner:
  - (a) "Composting" may include a process which creates an anaerobic zone within the composting material;
  - (b) "Composting" does not include simple exposure of solid waste under uncontrolled conditions resulting in natural decay;
- (7) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;
- (8) "Cabinet" means the Energy and Environment Cabinet;
- (9) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;
- (10) "District" means an air pollution control district as provided for in KRS Chapter 77;
- (11) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;
- (12) "Generator" means any person, by site, whose act or process produces waste;

- (13) "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials;
- (14) "Municipal solid waste disposal facility" means any type of waste site or facility where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Federal Resource Conservation and Recovery Act of 1976, as amended, and includes, but is not limited to, incinerators and waste-to-energy facilities that burn municipal solid waste, and contained and residential landfills, but does not include *an advanced recycling facility* or a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary, or a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth;
- (15) "Municipal solid waste reduction" means source reduction, waste minimization, reuse, recycling, composting, and materials recovery;
- (16) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;
- (17) "Post-closure monitoring and maintenance" means the routine care, maintenance, and monitoring of a solid waste or hazardous waste treatment, storage, or disposal facility following closure of the facility;
- (18) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;
- (19) "Recovered material" means those materials, including but not limited to compost, which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis. Notwithstanding any provision of law to the contrary, tire-derived fuel, as defined in subsection (53) of this section, shall be considered a recovered material;
- (20) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material, but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to this chapter and administrative regulations adopted by the cabinet;
- (21) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the cabinet, but does not include the incineration or combustion of materials for the recovery of energy;
- (22) "Refuse-derived fuel" means a sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable materials for recycling and the removal of nonprocessables such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product;
- (23) "Secretary" means the secretary of the Energy and Environment Cabinet;
- (24) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes, or other wastes;
- (25) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage, or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;

- (26) "Waste site or facility" means any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility, *or an advanced recycling facility*, or the combustion of processed waste in a utility boiler;
- (27) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;
- (28) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;
- (29) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;
- (30) "Waste" means:
- (a) "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse, and overburden), agricultural operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, *post-use polymers or recovered feedstocks*, tire-derived fuel, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):
    1. "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and campgrounds, but it does not include tire-derived fuel;
    2. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding tire-derived fuel and household and industrial solid waste;
    3. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products, except tire-derived fuel; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and
    4. "Municipal solid waste" means household solid waste and commercial solid waste; and
  - (b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;

- (31) "Waste management district" means any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580);
- (32) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;
- (33) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes;
- (34) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing, or recovery of any natural resource which may be discharged into water;
- (35) "NPDES" means National Pollutant Discharge Elimination System;
- (36) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of waste during its transportation from the point of generation to the point of disposal, treatment, or storage;
- (37) "Open dump" means any facility or site for the disposal of solid waste which does not have a valid permit issued by the cabinet or does not meet the environmental performance standards established under regulations promulgated by the cabinet;
- (38) "Solid waste management" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment, and disposal, which shall be in accordance with a cabinet-approved county or multicounty solid waste management plan;
- (39) "Solid waste management area" or "area" means any geographical area established or designated by the cabinet in accordance with the provisions of this chapter;
- (40) "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility *or advanced recycling facility, both of which are otherwise* ~~is~~ subject to regulation pursuant to *this* ~~the~~ chapter for control of environmental impacts and to prevent any public nuisance;
- (41) "Hazardous constituent" shall conform to the requirements of the Resource Conservation and Recovery Act (RCRA), as amended;
- (42) "Land disposal" includes but is not limited to any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave;
- (43) "Key personnel" means an officer, partner, director, manager, or shareholder of five percent (5%) or more of stock or financial interest in a corporation, partnership, or association or parent, subsidiary, or affiliate corporation and its officers, directors, or shareholders of five percent (5%) or more of stock or financial interest;
- (44) "Universal collection" means a municipal solid waste collection system which is established by ordinance and approved by the cabinet and requires access for each household or solid waste generator in a county. A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates a solid waste management facility for its exclusive use may be excluded from participation;
- (45) "Governing body" means a county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the provisions of KRS 65.180 to 65.192, a special district

created pursuant to the provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to KRS 109.082;

- (46) "Convenience center" means a facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes;
- (47) "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation;
- (48) "Collection box" means an unmanned receptacle utilized to collect municipal solid waste;
- (49) "Newsprint" means that class or kind of paper chiefly used for printing newspapers and weighing more than twenty-four and one-half (24 1/2) pounds, but less than thirty-five (35) pounds for five hundred (500) sheets of paper two (2) feet by three (3) feet in size, on rolls that are not less than thirteen (13) inches wide and twenty-eight (28) inches in diameter and having a brightness of less than sixty (60);
- (50) "Postconsumer waste paper" means discarded paper after it has served its intended use by a publisher;
- (51) "Publisher" means a person engaged in the business of publishing newspapers, advertisement flyers, telephone books, and other printed material;
- (52) "Recycled content" means the proportion of fiber in newsprint that is derived from postconsumer waste paper;
- (53) "Tire-derived fuel" or "TDF" means a product made from waste tires to the exact specifications of a system designed to accept tire-derived fuel as a primary or supplemental fuel source, that have been reduced to particle sizes not greater than two (2) inches by two (2) inches and that is destined for transportation from the waste tire processor for use as a fuel. "Tire-derived fuel" shall not mean refuse-derived fuel;~~and~~
- (54) "Industrial energy facility" means a facility that produces transportation fuels, synthetic natural gas, chemicals, or electricity through a gasification process using coal, coal waste, or biomass resources, and costing in excess of seven hundred fifty million dollars (\$750,000,000) at the time of construction;
- (55) *"Advanced recycling" means a manufacturing process for the conversion of post-use polymers and recovered feedstocks into basic hydrocarbon raw materials, feedstocks, chemicals, and other products through processes that include pyrolysis, gasification, depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis, and other similar technologies. "Advanced recycling" does not include energy recovery or the conversion of post-use polymers into fuel substitutes for use in energy production;*
- (56) *"Advanced recycling facility" means a manufacturing facility that receives, stores, and converts post-use polymers and recovered feedstocks it receives using advanced recycling;*
- (57) *"Depolymerization" means a manufacturing process where post-use polymers are broken into smaller molecules such as monomers and oligomers or raw, intermediate, or final products, plastics and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, coatings, and other basic hydrocarbons;*
- (58) *"Gasification" means a process through which post-use polymers and recovered feedstocks are heated and converted into a fuel and gas mixture in an oxygen-deficient atmosphere, and then converted into raw, intermediate, and final products;*
- (59) *"Post-use polymer" means a plastic polymer that:*
  - (a) *Is derived from any industrial, commercial, agricultural, or domestic activities;*
  - (b) *Is not mixed with solid waste or hazardous waste onsite or during processing at the advanced recycling facility;*
  - (c) *Has a use or intended use as a feedstock for the manufacturing of other feedstocks, raw materials, intermediate products, or final products using advanced recycling;*
  - (d) *Has been sorted from solid waste and other regulated waste, but may contain residual amounts of solid waste and incidental contaminants or impurities; and*
  - (e) *Is processed at an advanced recycling facility or held at such facility prior to processing;*
- (60) *"Pyrolysis" means a manufacturing 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 into raw materials, intermediate products, or final products;*

- (61) (a) *"Recovered feedstock" means one (1) or more of the following materials that has been processed so that it may be used as feedstock in an advanced recycling facility:*
1. *Post-use polymers; and*
  2. *Materials for which the United States Environmental Protection Agency has made a nonwaste determination pursuant to applicable federal requirements or has otherwise determined are feedstocks and not solid waste.*
- (b) *"Recovered feedstock" does not include:*
1. *Unprocessed municipal solid waste; or*
  2. *Material that is mixed with solid waste or hazardous waste onsite or during processing at an advanced recycling facility; and*
- (62) *"Solvolyis" means a manufacturing process through which post-use polymers are purified with the aid of solvents while heated at low temperatures or pressurized to make raw materials, intermediate products, or final products, while allowing additives and contaminants to be removed. "Solvolyis" includes but is not limited to hydrolysis, aminolysis, ammonolysis, methanolysis, and glycolysis.*

➔Section 2. KRS 109.012 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Board of directors" or "board" means the governing body of a solid waste management district;
- (2) "City" means an existing city of any class;
- (3) "County" means the governing body of a county, including urban-county governments;
- (4) "Cabinet" means the Energy and Environment Cabinet;
- (5) "Franchise" means a franchise, contract, right, authorization, or privilege granted by a local government for provision of solid waste management services;
- (6) "Local government" means a city, county, urban-county government, charter county government, consolidated local government, or unified local government or a solid waste management district created pursuant to KRS Chapter 109;
- (7) "Long-term contract" means a contract of sufficient duration to assure the viability of a resource recovery facility to the extent that such viability depends upon solid waste supply;
- (8) "Recovered material" means those materials which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis;
- (9) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to KRS Chapter 224 and administrative regulations adopted by the cabinet;
- (10) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;
- (11) "Service company" means any person or entity duly authorized by an agency of the Commonwealth of Kentucky pursuant to the Kentucky Revised Statutes, or administrative regulations promulgated thereunder, for the provision of solid waste management services;
- (12) "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining waste, coal mining by-products, refuse and overburden), agricultural operations, and from community activities, but does not include those materials including but not limited to sand, soil, rock, gravel, or bridge

debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, *post-use polymers or recovered feedstocks as those terms are defined in Section 1 of this Act*, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditions, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

- (a) "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunk houses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and camp grounds;
  - (b) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding household and industrial solid waste;
  - (c) "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including but not limited to waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and
  - (d) "Municipal solid waste" means household solid waste and commercial solid waste;
- (13) "Solid waste management" or "solid waste management services" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment, and disposal, which shall be in accordance with a cabinet approved county or multicounty solid waste management plan of the cabinet. For the purposes of subsection (5) of this section and KRS 109.0417, "solid waste management services" additionally includes collection, storage, transportation, transfer, processing, treatment, and disposal of special wastes, as designated by KRS 224.50-760, and *curbside collection of recovered material, but does not include advanced recycling as defined in Section 1 of this Act*;
- (14) "Solid waste management area" or "area" means any geographical area established or, designated by the cabinet in accordance with the provisions of KRS Chapter 224;
- (15) "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance, *or an advanced recycling facility as defined in Section 1 of this Act*; and
- (16) "Waste management district" means any county or group of counties electing to form under the provisions of KRS 109.115 and operate in conformance with the provisions of this chapter and with Section 4006 of the Resource Conservation and Recovery Act of 1976, as amended (P.L. 94-580).

➔Section 3. Nothing in this Act shall be construed as creating additional entities, equipment, or processes eligible to receive tax credits pursuant to KRS 141.390.

**Signed by Governor March 31, 2022.**