

State Legislation: Scrap Recyclables Exempted from Tennessee Hazardous Waste Management Act



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Arkansas Environmental, Energy, and Water Law Blog

07/29/2016

The Tennessee Governor recently signed Senate Bill 2228 ("SB 2228") which adds recyclers of certain scrap material to the list of parties who are exempt from liability under the Tennessee Hazardous Waste Management Act of 1983.

The Bill amends Tennessee Code Annotated Section 58-2-604 and Section 68-212-202(a)(4)(E).

The Tennessee legislation incorporates language from amendments Congress enacted in 1999 to the Comprehensive Environmental Response Conservation Liability Act ("CERCLA"). The 1999 amendments to CERCLA exempted from Section 107(a)(3) the sale of scrap paper, glass, plastic, metals, textiles and rubber restockables. The legislation was known as the Superfund Recycling Equity Act and was intended to place traditional recyclable materials on an equal footing with their virgin, or primary, materials counterparts. (If certain procedural requirements were met.)

The SB 2228 exemption from the Tennessee Hazardous Waste Management Act accomplishes a similar exemption stating:

(iii) "Liable Party" does not include a party who is excluded from liability under the Superfund Recycling Equity Act, codified at 42 U.S.C. § 9627. . .

The Arkansas General Assembly had almost 15 years ago carved out an exemption to the State of Arkansas's Superfund type statute in response to the federal CERCLA amendments. Act 449 of 2001 which was drafted and sponsored by the Arkansas Environmental Federation and Arkansas Recyclers Association amended the Arkansas Remedial Action Trust Fund Act to utilize or to exempt from liability the same scrap materials.