



Substitute House Bill No. 6503

Public Act No. 21-16

AN ACT CONCERNING THE SITING OF ANAEROBIC DIGESTION FACILITIES ON FARMS AND THE EXPANDED USE AND ESTABLISHMENT OF CERTAIN COMPOST FACILITIES AND STANDARDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 22a-208cc of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) For the purposes of this section:

(1) "Farm-generated organic waste" means waste associated with animal feeding operations including, but not limited to, animal bedding, manure, urine, silage, leachate, wastewaters associated with egg or dairy production, animal feed waste and barnyard runoff; and

(2) "Animal feeding operation" means a lot or facility on a farm, other than an aquatic animal production facility, where animals have been, are currently, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period and where crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of such lot or facility.

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(b) An anaerobic digestion facility shall not be required to obtain a permit to construct and operate pursuant to section 22a-208a, as amended by this act, if such facility is collocated with an animal feeding operation conducted on land used for the purpose of farming, as defined in section 1-1, and such animal feeding operation maintains a comprehensive nutrient management plan, as developed by the Natural Resources Conservation Service of the United States Department of Agriculture:

(1) The feed stock for such anaerobic digestion facility is at least fifty per cent by volume farm-generated organic waste from an animal feeding operation and not more than [five] forty per cent by volume food scraps, food processing residuals and soiled or unrecyclable paper;

(2) The discharge of such anaerobic digestion facility that is not energy end products shall be beneficially used in accordance with the following: (A) The solid material end products are used for (i) animal bedding, (ii) soil or soil amendment, (iii) fertilizer, or (iv) other value-added products; and (B) the liquid material end products are used as fertilizer. Any land application in the state of any such discharge, including, but not limited to, phosphorus, shall be applied at an agronomic rate that is consistent with the nutrient management plan of the farm on which such anaerobic digestion facility is located; and

(3) Annually, on or before July thirty-first of each year, each animal feeding operation, that is collocated with an anaerobic digestion facility that is operating pursuant to this section without the permit that would otherwise be required pursuant to section 22a-208a, as amended by this act, shall submit to the Commissioner of Energy and Environmental Protection, in a form prescribed by the commissioner, the amount of farm-generated organic waste that is processed by such anaerobic digestion facility and shall indicate the amount of waste processed from such animal feeding operation and from other sources.

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(c) The Commissioner of Agriculture may inspect anaerobic digestion facilities that are operating pursuant to this section without the permit that would otherwise be required pursuant to section 22a-208a, as amended by this act, to ensure that such anaerobic digestion facilities are in compliance with subdivision (1) of subsection (b) of this section. If, in the course of conducting such inspection, the commissioner finds that any such facilities are not in compliance with such subdivision, the commissioner shall report such findings to the Commissioner of Energy and Environmental Protection.

(d) If the Commissioner of Energy and Environmental Protection determines that (1) an anaerobic digestion facility that is operating pursuant to this section without the permit that would otherwise be required pursuant to section 22a-208a, as amended by this act, is not collocated with the operation of an animal feeding operation conducted on land used for the purpose of farming, or (2) such anaerobic digestion facility is [processing more than five per cent by volume food scraps, food processing residuals and soiled or unrecyclable paper] not in compliance with the requirements of subdivision (1) of subsection (b) of this section, the operator of such anaerobic digestion facility shall apply for a permit from the commissioner pursuant to section 22a-208a, as amended by this act, not later than five days after receiving notice of the commissioner's determination pursuant to this subsection. Any such permit application submitted pursuant to this subsection shall be approved or denied by the commissioner not later than one hundred eighty days after receipt of such application. If such application for a permit pursuant to section 22a-208a, as amended by this act, is denied, such anaerobic digestion facility shall close not later than five days after receiving notice of such denial.

(e) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of this section.

(f) Notwithstanding any provision of the general statutes, any permit

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application submitted pursuant to section 22a-208a, as amended by this act, for such an anaerobic digestion facility that is not collocated with such an animal feeding operation but that is located on land used for the purpose of farming, as defined in section 1-1, shall be preapproved or predenied by the commissioner not later than one hundred eighty days after receipt by the commissioner concerning all matters that are entirely within the discretion or determination of the commissioner.

Sec. 2. Section 22a-226e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) (1) On and after January 1, 2014, each commercial food wholesaler or distributor, industrial food manufacturer or processor, supermarket, resort or conference center that is located not more than twenty miles from an authorized source-separated organic material composting facility and that generates an average projected volume of not less than one hundred four tons per year of source-separated organic materials shall: (A) Separate such source-separated organic materials from other solid waste; and (B) ensure that such source-separated organic materials are recycled at any authorized source-separated organic material composting facility that has available capacity and that will accept such source-separated organic material.

(2) On and after January 1, 2020, each commercial food wholesaler or distributor, industrial food manufacturer or processor, supermarket, resort or conference center that is located not more than twenty miles from an authorized source-separated organic material composting facility and that generates an average projected volume of not less than fifty-two tons per year of source-separated organic materials shall: (A) Separate such source-separated organic materials from other solid waste; and (B) ensure that such source-separated organic materials are recycled at any authorized source-separated organic material composting facility that has available capacity and that will accept such source-separated organic material.

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(3) On and after January 1, 2022, each commercial food wholesaler or distributor, industrial food manufacturer or processor, supermarket, resort or conference center that is located not more than twenty miles from an authorized source-separated organic material composting facility and that generates an average projected volume of not less than twenty-six tons per year of source-separated organic materials shall: (A) Separate such source-separated organic materials from other solid waste; and (B) ensure that such source-separated organic materials are recycled at any authorized source-separated organic material composting facility that has available capacity and that will accept such source-separated organic material.

(b) Any such wholesaler, distributor, manufacturer, processor, supermarket, resort or conference center that performs composting of source-separated organic materials on site or treats source-separated organic materials via on-site organic treatment equipment permitted pursuant to the general statutes or federal law shall be deemed in compliance with the provisions of this section.

(c) Any permitted source-separated organic material composting facility that receives such source-separated organic materials shall report to the Commissioner of Energy and Environmental Protection, as part of such facility's reporting obligations, a summary of fees charged for receipt of such source-separated organic materials.

(d) Not later than January 1, 2022, the Commissioner of Energy and Environmental Protection shall establish a voluntary pilot program for any municipality that seeks to separate source-separated organic materials and ensure that such source-separated organic materials are recycled at authorized source-separated organic material composting facilities that have available capacity and that will accept such source-separated organic material.

Sec. 3. (NEW) (*Effective from passage*) The Commissioner of Energy

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and Environmental Protection shall engage in a reach out and education effort to: (1) Municipalities concerning the ability of each municipality to establish an aerated static pile composting facility in such municipality for the purpose of diverting food waste from such municipality's solid waste stream, and (2) commercial entities and school systems concerning the ability of such entities and systems to divert source-separated organic materials to facilities, as provided for in section 22a-226e of the general statutes, as amended by this act. Such effort concerning municipalities shall explain the potential fiscal and environmental benefits of such a facility for each municipality and the requisite permit application and procedures. Not later than February 1, 2022, the commissioner, in accordance with section 11-4a of the general statutes, shall submit a report to the joint standing committee of the General Assembly having cognizance of matters relating to the environment detailing such efforts to date, including, but not limited to, responses from such municipalities, entities and school systems and any efforts by such municipalities to establish such composting facilities as a result of such reach out efforts.

Sec. 4. (NEW) (*Effective from passage*) The Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Agriculture, the Connecticut Agricultural Experiment Station, The University of Connecticut Extension Service and the Department of Public Health, may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to provide specifications for the production, quality and use of compost made from source-separated organic materials and mixed municipal solid waste. Such regulations shall contain provisions that: (1) Promote composting processes, (2) provide a clean, high-quality, nontoxic and marketable end product, (3) provide for the protection of land and water resources from contaminants and the prevention of adverse environmental and public health effects resulting from the composting operations or such product application, (4) provide for maximum allowable levels of toxic

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contaminants and other contaminants in the composting product, (5) include testing criteria for such contaminants, (6) establish not less than two classes of compost made from source-separated organic materials and mixed municipal solid waste, as follows: (A) Class I compost made only from compostable source-separated organic materials, such as food waste, grass clippings and yard waste, that were separated from municipal solid waste at the source of generation, and (B) Class II compost made from mixed municipal solid waste that contains compostable organic materials that were not separated at the source of generation, (7) establish the maximum allowable contaminant levels for Class I compost at a level that will allow unrestricted use of such compost, and (8) prohibit the use of Class II compost for agricultural or horticultural purposes unless such Class II compost meets the maximum allowable contaminant levels established for Class I compost, as determined by the testing criteria established pursuant to subdivision (5) of this section.

Sec. 5. Subsection (d) of section 22a-208a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(d) (1) No person or municipality that holds a permit issued under this section shall alter the design or method of operation of the permitted facility without first obtaining a modified permit. For the purposes of this section and sections 22a-208, 22a-208b, 22a-220a, 22a-225 and 22a-226, "alter" means to change to any substantive degree the design, capacity, volume process or operation of a solid waste facility and includes, but is not limited to, changes in the approved capacity or composition of solid waste disposed of, processed, reduced, stored or recycled at the facility. For purposes of this section, "alter" does not include the addition of not more than seventy-five tons per day of mattresses and items designated by the commissioner for recycling pursuant to section 22a-241b and any regulation adopted pursuant to

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said section, except storage batteries and waste oil, provided the permitted storage capacity of such solid waste facility is not exceeded. The owner or operator of any such facility shall, not later than thirty days after adding such recyclable items, submit a written notification to the commissioner describing such addition. The commissioner may approve, in writing, a modification of a closure plan for a closed permitted solid waste disposal area without modifying the permit for such area. The commissioner may require a person who, or a municipality that, requests such modification to provide public notice of a proposed modification of a closure plan if the modification involves any activity that would disrupt the solid waste or change the use of the solid waste disposal area. A fee of five hundred dollars shall accompany any request for such modification of a closure plan. The commissioner may reduce or waive such fee in cases of financial hardship and may modify such fee in accordance with regulations adopted in accordance with chapter 54.

(2) Changes in design, processes or operations, including the addition of thermal oxidizers or other air pollution control equipment, made to mitigate, correct or abate odors from a solid waste facility that is owned or operated by the Materials Innovation and Recycling Authority and that contracts with more than fifty municipalities, shall not be considered an alteration requiring a modified permit or minor permit amendment under this chapter. In addition, notwithstanding any provision of the general statutes or regulation adopted pursuant to said statutes, any such change shall not be considered a modification or new stationary source requiring a permit to construct or operate under chapter 446c or under any regulation adopted pursuant to chapter 446c, unless such change is a major modification or a major stationary source requiring a permit under the federal Clean Air Act Amendments of 1990. Any person making any such change to an odor control system at such a facility shall, not more than thirty days after making such change, submit a written report to the commissioner fully describing the

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changes made and the reason for such changes for the commissioner's review and comment. Nothing in this subdivision shall affect the commissioner's authority to take any other action to enforce the requirements of this title.

(3) Notwithstanding any provision of this section, the receipt of not more than seventy-five tons per day of containerized food scrap, food processing residuals and soiled or unrecyclable paper and the storage of not more than one hundred fifty cubic yards of containerized food scrap, food processing residuals and soiled or unrecyclable paper at a facility permitted under this subsection shall not require a modification to any permit issued pursuant to this section. The receipt of such food scraps, food processing residuals and soiled or unrecyclable paper shall occur within a fully enclosed building, and such scraps, materials and paper shall remain containerized, except while being transferred, and shall be managed to control odor, leachate and attraction of vectors. The owner or operator of any such facility shall, not later than thirty days after adding such items for receipt by such facility, submit a written notification to the Commissioner of Energy and Environmental Protection describing such addition.

Approved May 26, 2021