
OLR Bill Analysis

sHB 6503 (as amended by House "A")*

AN ACT CONCERNING THE SITING OF ANAEROBIC DIGESTION FACILITIES ON FARMS.

SUMMARY

This bill makes changes in the law's siting and permitting exemption for on-farm anaerobic digestion (AD) facilities (§ 1). Among other things, it does the following:

1. requires an animal feeding operation (see BACKGROUND) that is collocated on a farm with an AD facility to maintain a comprehensive nutrient management plan;
2. increases an on-farm AD facility feed stock requirement for food scraps, food processing residuals, and soiled or unrecycled paper from 5% to 40% by volume; and
3. requires the Department of Energy and Environmental Protection (DEEP) commissioner to act within 180 days after receiving a solid waste permit application from an on-farm AD facility operator.

The bill also does the following with respect to organic material composting and food waste:

1. broadens the scope of the law requiring certain organic material generators to separate the materials from other solid waste and recycle them at composting facilities (§ 2);
2. requires the DEEP commissioner, by January 1, 2022, to (a) establish a voluntary pilot program for municipalities seeking to separate source-separated organic materials and (b) ensure that the materials are recycled at authorized composting facilities with capacity and that will accept them (see BACKGROUND) (§

- 2);
3. requires the DEEP commissioner to (a) participate in a reach out and education effort to municipalities, commercial entities, and school systems about using certain composting facilities and (b) report to the Environment Committee on its efforts (§ 3);
 4. reauthorizes the DEEP commissioner to adopt regulations on specifications for compost from source-separated organic materials and mixed municipal solid waste (PA 17-218 repealed a similar provision) (§ 4); and
 5. exempts, under certain circumstances, permitted solid waste facilities from needing to modify their permit in order to start receiving or storing a certain amount of containerized food scrap, food processing residuals, and soiled or unrecycled paper (§ 5).

*House Amendment "A" increases the time DEEP has to act on a solid waste permit application from an on-farm AD facility operator from 90 to 180 days. It also adds the organic material composting and food waste provisions (§§ 2-5).

EFFECTIVE DATE: October 1, 2021, except for the provisions concerning (1) on-farm AD facilities and (2) DEEP's reach out and education efforts and compost regulations, which are effective upon passage.

§ 1 — ON-FARM ANAEROBIC DIGESTION FACILITIES

Current law exempts certain AD facilities from the requirement that its operator obtain a permit from DEEP to construct and operate a solid waste facility. To be exempt, an AD facility must be collocated on a farm with an animal feeding operation (see BACKGROUND). The bill further requires that the animal feeding operation maintain a comprehensive nutrient management plan as developed by the U.S. Department of Agriculture's Natural Resources Conservation Service (i.e., a plan that minimizes adverse impacts of animal feeding operations on water quality and public health).

Under current law, an exempt AD facility must, among other things, use feed stock that is not more than 5% by volume food scraps, food processing residuals, and soiled or unrecycled paper. The bill increases this cap from 5% to 40%. As under current law, an exempt facility must also use feed stock that is at least 50% by volume farm generated organic waste from an animal feeding operation. Existing law allows the agriculture commissioner to inspect exempt AD facilities to ensure compliance with the feed stock requirements.

Under current law, if the DEEP commissioner determines that an AD facility is operating without a permit but is not collocated on a farm with an animal feeding operation or is processing more than the required percentage by volume of food scraps, food processing residuals, and soiled or unrecyclable paper, the facility's operator must apply to DEEP for a solid waste permit. The bill instead requires this if the commissioner determines an AD facility is not collocated on a farm with an animal feeding operation or is not in compliance with all the feed stock requirements. By law, the operator must file for a permit within five days after receiving notice of the commissioner's determination. The bill requires the DEEP commissioner to approve or deny the permit application within 180 days after receiving it.

Additionally, under the bill, for any permit application submitted to DEEP for an AD facility that is not collocated with an animal feeding operation but that is located on land used for farming, the DEEP commissioner must pre-approve or pre-deny the application within 180 days after receiving it. The 180 days applies to matters that are entirely within the commissioner's discretion or determination.

§ 2 — SOURCE-SEPARATED ORGANIC MATERIALS

The bill broadens the scope of the law requiring certain organic materials generators to separate the materials and recycle them at composting facilities by applying the law's requirements to smaller generators.

Under current law, commercial food wholesalers or distributors, industrial food manufacturers or processors, supermarkets, resorts, or

conference centers generating an annual average projected volume of at least 52 tons of source-separated organic materials must (1) separate the materials from other solid waste and (2) recycle them at a permitted source-separated organic material composting facility located within 20 miles of the generation site that has available capacity and is willing to accept them.

Beginning January 1, 2022, the bill applies these requirements to generators (1) generating an annual average projected volume of at least 26 tons of source-separated organic materials a year and (2) located within 20 miles of an authorized source-separated organic material composting facility. Consequently, the bill likely increases the number of facilities that must comply with this requirement.

By law, generators may comply with the requirements by composting the organic materials or treating it with certain organic treatment equipment on-site.

§ 3 — DEEP REACH OUT AND EDUCATION CAMPAIGN

The bill requires the DEEP commissioner to participate in a reach out and education campaign on using certain composting facilities to divert food waste from the waste stream.

Under the bill, the commissioner must engage with municipalities about (1) their ability to establish an aerated static pile composting facility to divert food waste from the municipal solid waste stream, including the permit application and procedures involved, and (2) the potential fiscal and environmental benefits of the composting facility. Aerated static pile composting generally involves organic waste mixed in a large pile with layers of certain loosely piled materials such as wood chips or shredded newspaper to allow air to pass through the pile.

The bill requires the commissioner to also engage with commercial entities and school systems about how they can divert source-separated organic materials to authorized composting facilities specifically designed to accept them.

The bill also requires the DEEP commissioner, by February 1, 2022, to report to the Environment Committee on its efforts, including (1) responses from municipalities, entities, and school systems and (2) municipalities' efforts to establish composting facilities resulting from DEEP's reaching out.

§ 4 — COMPOST REGULATIONS

The bill allows the DEEP commissioner to adopt regulations providing specifications for the production, quality, and use of compost made from source-separated organic materials and mixed municipal solid waste. These regulations must be made in consultation with the agriculture commissioner, Connecticut Agricultural Experiment Station, UConn extension service, and the Department of Public Health.

Under the bill, these regulations must have provisions that do the following:

1. promote composting processes;
2. provide clean, high-quality, nontoxic, and marketable end-product;
3. protect land and water resources from contaminants;
4. prevent adverse environmental and public health effects from composting operations or applying its product;
5. set maximum allowable levels of toxic and other contaminants in the composting product;
6. include contaminant testing criteria;
7. have at least two classes of compost, with a (a) Class I made from only compostable source-separated organic materials such as food waste, grass clippings, and yard waste and (b) Class II made from mixed municipal solid waste with compostable organic materials that were not separated at generation;

8. set maximum allowable contaminant levels for Class I compost that will allow for its unrestricted use; and
9. ban using Class II compost for agricultural or horticultural purposes unless it meets the maximum allowable contaminant levels for Class I compost, as determined by the regulations' testing criteria.

§ 5 — SOLID WASTE FACILITY PERMITS

Current law generally prohibits anyone with a solid waste facility permit from altering the facility's design or operation without obtaining a permit modification from DEEP.

The bill exempts a facility from this requirement if it is adding the following to its operation:

1. receiving up to 75 tons per day of containerized food scrap, food processing residuals, and soiled or unrecycled paper or
2. storing up to 150 cubic yards of this containerized material.

To qualify for the bill's exemption, receiving these scraps, residuals, and paper must (1) occur in a fully enclosed building; (2) stay containerized, except when being transferred; and (3) be managed to control odor, leachate, and vector (e.g., insects or rodents) attraction.

The bill requires a facility's owner or operator to, within 30 days after adding these items for receipt, provide written notice to the DEEP commissioner about it.

BACKGROUND

Animal Feeding Operation

By law, an animal feeding operation is an on-farm lot or facility, other than an aquatic animal production facility, where (1) animals have been, are currently, or will be stabled or confined and fed or maintained for a total of at least 45 days in a 12-month period and (2) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or

facility.

Organic Material and Composting Facilities

By law, “source-separated organic material” includes such things as food scraps, food processing residue, and soiled or unrecyclable paper that are separated, at generation, from nonorganic material (CGS § 22a-207(30)).

A “composting facility” is land, appurtenances, structures, or equipment where organic materials originating from another process or location and separated at generation from nonorganic material are recovered through accelerated biological decomposition under controlled aerobic or anaerobic conditions (CGS § 22a-207(29)).

Related Bill

sSB 930 (File 557), favorably reported by the Environment Committee, contains the same organic material composting and food waste provisions as this bill.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 32 Nay 0 (03/31/2021)