



House of Representatives

General Assembly

File No. 528

January Session, 2021

Substitute House Bill No. 6503

House of Representatives, April 20, 2021

The Committee on Environment reported through REP. GRESKO of the 121st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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

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

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 Section 22a-208cc of the general statutes is repealed and the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

3 (a) For the purposes of this section:

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

8 (2) "Animal feeding operation" means a lot or facility on a farm, other
9 than an aquatic animal production facility, where animals have been,
10 are currently, or will be stabled or confined and fed or maintained for a
11 total of forty-five days or more in any twelve-month period and where
12 crops, vegetation, forage growth or post-harvest residues are not

13 sustained in the normal growing season over any portion of such lot or
14 facility.

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

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

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

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

44 (c) The Commissioner of Agriculture may inspect anaerobic digestion

45 facilities that are operating pursuant to this section without the permit
46 that would otherwise be required pursuant to section 22a-208a to ensure
47 that such anaerobic digestion facilities are in compliance with
48 subdivision (1) of subsection (b) of this section. If, in the course of
49 conducting such inspection, the commissioner finds that any such
50 facilities are not in compliance with such subdivision, the commissioner
51 shall report such findings to the Commissioner of Energy and
52 Environmental Protection.

53 (d) If the Commissioner of Energy and Environmental Protection
54 determines that (1) an anaerobic digestion facility that is operating
55 pursuant to this section without the permit that would otherwise be
56 required pursuant to section 22a-208a is not collocated with the
57 operation of an animal feeding operation conducted on land used for
58 the purpose of farming, or (2) such anaerobic digestion facility is
59 [processing more than five per cent by volume food scraps, food
60 processing residuals and soiled or unrecyclable paper] not in
61 compliance with the requirements of subdivision (1) of subsection (b) of
62 this section, the operator of such anaerobic digestion facility shall apply
63 for a permit from the commissioner pursuant to section 22a-208a not
64 later than five days after receiving notice of the commissioner's
65 determination pursuant to this subsection. Any such permit application
66 submitted pursuant to this subsection shall be approved or denied by
67 the commissioner not later than ninety days after receipt of such
68 application. If such application for a permit pursuant to section 22a-208a
69 is denied, such anaerobic digestion facility shall close not later than five
70 days after receiving notice of such denial.

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

73 (f) Notwithstanding any provision of the general statutes, any permit
74 application submitted pursuant to section 22a-208a for such an
75 anaerobic digestion facility that is not collocated with such an animal
76 feeding operation but that is located on land used for the purpose of
77 farming, as defined in section 1-1, shall be preapproved or predenied by

78 the commissioner not later than ninety days after receipt by the
79 commissioner concerning all matters that are entirely within the
80 discretion or determination of the commissioner.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-208cc

ENV *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Department of Energy and Environmental Protection	GF - Potential Cost	105,991	109,171
State Comptroller - Fringe Benefits ¹	GF - Potential Cost	42,714	43,996

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill makes changes in the law’s siting and permitting exemption for on-farm anaerobic digestion (AD) facilities.

Current law exempts certain AD facilities from the requirement that operators obtain a solid waste facilities permit from the Department of Energy and Environmental Protection (DEEP). Instead, the bill requires DEEP to approve or deny AD facilities permits application within 90 days. This may result in costs to DEEP of \$105,991 in FY 22 and \$109,171 in FY 23 to hire an Environmental Analyst I position, plus fringe benefits of \$42,714 in FY 22 and \$43,996 in FY 23 to perform initial determinations within the expedited timeframe specified in the bill, to the extent additional AD facility permits are received by DEEP in the upcoming biennium.

The agency currently employs eight full-time staff who work, on

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.3% of payroll in FY 22 and FY 23.

average, 170 days over a 12-18-month period to process solid waste facility-specific permits.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of AD permits received.

OLR Bill Analysis

sHB 6503

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.

Current law exempts certain AD facilities from the requirement that its operator obtain a permit from the Department of Energy and Environmental Protection (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 90 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 90 days after receiving it. The 90 days applies to matters that are entirely within the commissioner’s discretion or determination.

EFFECTIVE DATE: Upon passage

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.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute
Yea 32 Nay 0 (03/31/2021)