



House of Representatives

File No. 625

General Assembly

January Session, 2021

(Reprint of File No. 528)

Substitute House Bill No. 6503
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 28, 2021

**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:

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 Section 22a-208cc of the general statutes is repealed and the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, as
17 amended by this act, if such facility is collocated with an animal feeding
18 operation conducted on land used for the purpose of farming, as defined
19 in section 1-1, and such animal feeding operation maintains a
20 comprehensive nutrient management plan, as developed by the Natural
21 Resources Conservation Service of the United States Department of
22 Agriculture:

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

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

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

43 digestion facility and shall indicate the amount of waste processed from
44 such animal feeding operation and from other sources.

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

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

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

75 (f) Notwithstanding any provision of the general statutes, any permit
76 application submitted pursuant to section 22a-208a, as amended by this
77 act, for such an anaerobic digestion facility that is not collocated with
78 such an animal feeding operation but that is located on land used for the
79 purpose of farming, as defined in section 1-1, shall be preapproved or
80 pre denied by the commissioner not later than one hundred eighty days
81 after receipt by the commissioner concerning all matters that are entirely
82 within the discretion or determination of the commissioner.

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

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

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

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

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

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

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

136 Sec. 3. (NEW) (*Effective from passage*) The Commissioner of Energy
137 and Environmental Protection shall engage in a reach out and education
138 effort to: (1) Municipalities concerning the ability of each municipality

139 to establish an aerated static pile composting facility in such
140 municipality for the purpose of diverting food waste from such
141 municipality's solid waste stream, and (2) commercial entities and
142 school systems concerning the ability of such entities and systems to
143 divert source-separated organic materials to facilities, as provided for in
144 section 22a-226e of the general statutes, as amended by this act. Such
145 effort concerning municipalities shall explain the potential fiscal and
146 environmental benefits of such a facility for each municipality and the
147 requisite permit application and procedures. Not later than February 1,
148 2022, the commissioner, in accordance with section 11-4a of the general
149 statutes, shall submit a report to the joint standing committee of the
150 General Assembly having cognizance of matters relating to the
151 environment detailing such efforts to date, including, but not limited to,
152 responses from such municipalities, entities and school systems and any
153 efforts by such municipalities to establish such composting facilities as
154 a result of such reach out efforts.

155 Sec. 4. (NEW) (*Effective from passage*) The Commissioner of Energy
156 and Environmental Protection, in consultation with the Commissioner
157 of Agriculture, the Connecticut Agricultural Experiment Station, The
158 University of Connecticut Extension Service and the Department of
159 Public Health, may adopt regulations, in accordance with the provisions
160 of chapter 54 of the general statutes, to provide specifications for the
161 production, quality and use of compost made from source-separated
162 organic materials and mixed municipal solid waste. Such regulations
163 shall contain provisions that: (1) Promote composting processes, (2)
164 provide a clean, high-quality, nontoxic and marketable end product, (3)
165 provide for the protection of land and water resources from
166 contaminants and the prevention of adverse environmental and public
167 health effects resulting from the composting operations or such product
168 application, (4) provide for maximum allowable levels of toxic
169 contaminants and other contaminants in the composting product, (5)
170 include testing criteria for such contaminants, (6) establish not less than
171 two classes of compost made from source-separated organic materials
172 and mixed municipal solid waste, as follows: (A) Class I compost made

173 only from compostable source-separated organic materials, such as food
174 waste, grass clippings and yard waste, that were separated from
175 municipal solid waste at the source of generation, and (B) Class II
176 compost made from mixed municipal solid waste that contains
177 compostable organic materials that were not separated at the source of
178 generation, (7) establish the maximum allowable contaminant levels for
179 Class I compost at a level that will allow unrestricted use of such
180 compost, and (8) prohibit the use of Class II compost for agricultural or
181 horticultural purposes unless such Class II compost meets the
182 maximum allowable contaminant levels established for Class I compost,
183 as determined by the testing criteria established pursuant to subdivision
184 (5) of this section.

185 Sec. 5. Subsection (d) of section 22a-208a of the general statutes is
186 repealed and the following is substituted in lieu thereof (*Effective October*
187 *1, 2021*):

188 (d) (1) No person or municipality that holds a permit issued under
189 this section shall alter the design or method of operation of the
190 permitted facility without first obtaining a modified permit. For the
191 purposes of this section and sections 22a-208, 22a-208b, 22a-220a, 22a-
192 225 and 22a-226, "alter" means to change to any substantive degree the
193 design, capacity, volume process or operation of a solid waste facility
194 and includes, but is not limited to, changes in the approved capacity or
195 composition of solid waste disposed of, processed, reduced, stored or
196 recycled at the facility. For purposes of this section, "alter" does not
197 include the addition of not more than seventy-five tons per day of
198 mattresses and items designated by the commissioner for recycling
199 pursuant to section 22a-241b and any regulation adopted pursuant to
200 said section, except storage batteries and waste oil, provided the
201 permitted storage capacity of such solid waste facility is not exceeded.
202 The owner or operator of any such facility shall, not later than thirty
203 days after adding such recyclable items, submit a written notification to
204 the commissioner describing such addition. The commissioner may
205 approve, in writing, a modification of a closure plan for a closed
206 permitted solid waste disposal area without modifying the permit for

207 such area. The commissioner may require a person who, or a
208 municipality that, requests such modification to provide public notice
209 of a proposed modification of a closure plan if the modification involves
210 any activity that would disrupt the solid waste or change the use of the
211 solid waste disposal area. A fee of five hundred dollars shall accompany
212 any request for such modification of a closure plan. The commissioner
213 may reduce or waive such fee in cases of financial hardship and may
214 modify such fee in accordance with regulations adopted in accordance
215 with chapter 54.

216 (2) Changes in design, processes or operations, including the addition
217 of thermal oxidizers or other air pollution control equipment, made to
218 mitigate, correct or abate odors from a solid waste facility that is owned
219 or operated by the Materials Innovation and Recycling Authority and
220 that contracts with more than fifty municipalities, shall not be
221 considered an alteration requiring a modified permit or minor permit
222 amendment under this chapter. In addition, notwithstanding any
223 provision of the general statutes or regulation adopted pursuant to said
224 statutes, any such change shall not be considered a modification or new
225 stationary source requiring a permit to construct or operate under
226 chapter 446c or under any regulation adopted pursuant to chapter 446c,
227 unless such change is a major modification or a major stationary source
228 requiring a permit under the federal Clean Air Act Amendments of
229 1990. Any person making any such change to an odor control system at
230 such a facility shall, not more than thirty days after making such change,
231 submit a written report to the commissioner fully describing the
232 changes made and the reason for such changes for the commissioner's
233 review and comment. Nothing in this subdivision shall affect the
234 commissioner's authority to take any other action to enforce the
235 requirements of this title.

236 (3) Notwithstanding any provision of this section, the receipt of not
237 more than seventy-five tons per day of containerized food scrap, food
238 processing residuals and soiled or unrecyclable paper and the storage
239 of not more than one hundred fifty cubic yards of containerized food
240 scrap, food processing residuals and soiled or unrecyclable paper at a

241 facility permitted under this subsection shall not require a modification
242 to any permit issued pursuant to this section. The receipt of such food
243 scraps, food processing residuals and soiled or unrecyclable paper shall
244 occur within a fully enclosed building, and such scraps, materials and
245 paper shall remain containerized, except while being transferred, and
246 shall be managed to control odor, leachate and attraction of vectors. The
247 owner or operator of any such facility shall, not later than thirty days
248 after adding such items for receipt by such facility, submit a written
249 notification to the Commissioner of Energy and Environmental
250 Protection describing such addition.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-208cc
Sec. 2	<i>October 1, 2021</i>	22a-226e
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>October 1, 2021</i>	22a-208a(d)

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: None

Municipal Impact: None

Explanation

The bill alters 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 permit applications within 180 days. This has no fiscal impact as it is anticipated that existing agency staff can perform the permit review and make determinations within the specified timeframe.

House "A" altered the underlying bill by increasing, from 90 to 180 days, the time DEEP has to make an AD permit determination.

The agency currently employs eight full-time staff who work, on average, 170 days over a 12-18-month period to process solid waste facility-specific permits.

The bill makes other changes which are not anticipated to result in a fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

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)