



General Assembly

Amendment

January Session, 2021

LCO No. 7441



Offered by:

REP. GRESKO, 121st Dist.

REP. HARDING, 107th Dist.

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To: Subst. House Bill No. 6503

File No. 528

Cal. No. 381

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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 Section 22a-208cc of the general statutes is repealed and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

5 (a) For the purposes of this section:

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

10 (2) "Animal feeding operation" means a lot or facility on a farm, other
11 than an aquatic animal production facility, where animals have been,
12 are currently, or will be stabled or confined and fed or maintained for a

13 total of forty-five days or more in any twelve-month period and where
14 crops, vegetation, forage growth or post-harvest residues are not
15 sustained in the normal growing season over any portion of such lot or
16 facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

187 Sec. 5. Subsection (d) of section 22a-208a of the general statutes is
188 repealed and the following is substituted in lieu thereof (*Effective October*
189 *1, 2021*):

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

208 permitted solid waste disposal area without modifying the permit for
209 such area. The commissioner may require a person who, or a
210 municipality that, requests such modification to provide public notice
211 of a proposed modification of a closure plan if the modification involves
212 any activity that would disrupt the solid waste or change the use of the
213 solid waste disposal area. A fee of five hundred dollars shall accompany
214 any request for such modification of a closure plan. The commissioner
215 may reduce or waive such fee in cases of financial hardship and may
216 modify such fee in accordance with regulations adopted in accordance
217 with chapter 54.

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

238 (3) Notwithstanding any provision of this section, the receipt of not
239 more than seventy-five tons per day of containerized food scrap, food
240 processing residuals and soiled or unrecyclable paper and the storage

241 of not more than one hundred fifty cubic yards of containerized food
 242 scrap, food processing residuals and soiled or unrecyclable paper at a
 243 facility permitted under this subsection shall not require a modification
 244 to any permit issued pursuant to this section. The receipt of such food
 245 scraps, food processing residuals and soiled or unrecyclable paper shall
 246 occur within a fully enclosed building, and such scraps, materials and
 247 paper shall remain containerized, except while being transferred, and
 248 shall be managed to control odor, leachate and attraction of vectors. The
 249 owner or operator of any such facility shall, not later than thirty days
 250 after adding such items for receipt by such facility, submit a written
 251 notification to the Commissioner of Energy and Environmental
 252 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)