

HOUSE BILL REPORT

SSB 5797

As Passed House:

April 9, 2009

Title: An act relating to exemptions from solid waste handling permit requirements.

Brief Description: Regarding exemptions from solid waste handling permit requirements.

Sponsors: Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Haugen, Ranker, Brandland and Hatfield).

Brief History:

Committee Activity:

Ecology & Parks: 3/13/09, 3/20/09 [DP];

General Government Appropriations: 3/26/09 [DP].

Floor Activity

Passed House: 4/9/09, 97-0.

Brief Summary of Substitute Bill

- Exempts anaerobic digesters from solid waste permitting if the anaerobic digester meets certain requirements.
- Requires the Department of Ecology and the Washington State Department of Agriculture, in consultation with the Department of Health, to issue guidelines for anaerobic codigestion of livestock manure and organic waste-derived material.

HOUSE COMMITTEE ON ECOLOGY & PARKS

Majority Report: Do pass. Signed by 13 members: Representatives Upthegrove, Chair; Rolfes, Vice Chair; Short, Ranking Minority Member; Chase, Dickerson, Dunshee, Eddy, Finn, Hudgins, Kristiansen, Morris, Orcutt and Shea.

Staff: Jaclyn Ford (786-7339)

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass. Signed by 15 members: Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Armstrong, Blake, Crouse, Dunshee, Hudgins, Kenney, Pedersen, Sells, Short, Van De Wege and Williams.

Staff: Owen Rowe (786-7391)

Background:

Solid Waste Permits.

Most facilities that handle solid waste must maintain a solid waste handling permit from the jurisdictional health department which can issue a permit only after consulting with the Department of Ecology (DOE). Some solid waste handling facilities are exempt from this requirement. These include facilities that present little or no environmental risk, or that satisfy environmental performance requirements established for similar facilities. Similarly, a local health department may defer permitting requirements for certain facilities that have obtained other permits that regulate air, water, or the environment.

Anaerobic Digestion.

Anaerobic digestion is a series of processes in which microorganisms break down biodegradable material in the absence of oxygen. It is particularly suited to wet organic material and is commonly used for effluent and sewage treatment. A codigestion or cofermentation plant is typically an agricultural anaerobic digester that accepts two or more input materials for simultaneous digestion.

Anaerobic digestion facilities produce biogas. The methane in biogas can then be burned to produce both heat and electricity. Excess electricity can be sold to suppliers or put into the local grid.

Digestate is composed of the remnants of the original material put into the digesters that the microbes cannot use. Digestate can come in three forms: fibrous, liquor, or a sludge-based combination of the two. Digestate liquor may be used as a soil fertilizer.

Summary of Bill:

Anaerobic digesters are exempted from solid waste permitting requirements, provided that the digesters comply with specified conditions.

By August 1, 2009 the DOE and the Washington State Department of Agriculture (WSDA), in consultation with the Department of Health, must issue guidelines for anaerobic codigestion of livestock manure and organic waste-derived material, explaining the steps necessary for a digester owner or operator to meet conditions for the exemption.

Those conditions are:

- Digesters must process at least 50 percent livestock manure by volume.
- Digesters may process no more than 30 percent imported organic waste-derived material by volume. Any imported organic waste-derived material must be preconsumer in nature and, if likely to contain animal by-products, be source-

separated at a facility licensed to process food by the U.S. Department of Agriculture (USDA), the U.S. Food and Drug Administration (FDA), the WSDA, or another applicable regulatory agency. Any imported bovine processing waste must be from animals approved by the USDA inspectors and cannot contain risk material. Sheep carcasses or sheep processing waste can not be fed into the digester. Imported organic waste-derived material must be fed into the digester within 36 hours of receipt.

- Digester owners or operators must handle imported organic waste-derived materials to protect surface water and groundwater. Storage and handling of imported organic waste-derived materials must comply with best farm management practices. Structures used to receive or store organic waste-derived materials must either: (1) comply with the Natural Resources Conservation Service's conservation practice standard code 313; (2) be certified to be effective by a representative of the Natural Resources Conservation Service; or (3) meet applicable construction industry standards adopted by the American Concrete Institute or the American Institute of Steel construction.
- Digester owners or operators must control nuisance odors and manage operations to minimize attraction of flies, rodents, and other vectors.
- Digestate from digesters must be managed in accordance with a dairy nutrient management plan or meet quality standards for pathogens, nutrient testing, and metals before it is distributed for off-farm use or sent to an off-site permitted compost facility for further treatment to meet compost quality standards.
- Digester owners or operators must allow inspection by the DOE or the jurisdictional health department at reasonable times to verify compliance.
- Digester owners or operators must notify the DOE or the jurisdictional health department at least 30 days prior to operating the digester under the conditions for the exemption.
- The digester owner or operator must submit an annual report quantifying and characterizing nonmanure waste received and including test data if compliance testing was required.
- Digestate from a digester operated in compliance with the conditions is not subject to solid waste permitting requirements.

A digester that is not operated in compliance with the conditions may be subject to solid waste permitting requirements, and violations of conditions are subject to \$1,000 per day penalty provisions applying to violations of other, existing exemptions to solid waste permitting requirements. The DOE is authorized to issue an appropriate order to a person violating a condition of this exemption and other existing exemptions to solid waste permitting requirements to ensure compliance with exemption conditions. Orders may be appealed to the Pollution Control Hearings Board under established procedures.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Ecology & Parks):

(In support) The bill protects human health and the environment. This bill will allow farmers to operate under their dairy nutrient management plans, which they prefer. This will help dairymen all over the state. There has been positive research done on anaerobic digesters. Other dairymen should use digesters. There are many farmers that want to put digesters on their farm and this bill will allow more efficient use of waste and organic material. Digesters are another source of revenue for farmers and this bill will help famers put digesters on their farms. The definitions could be tighter. This bill will help the economic viability of farmers.

(Opposed) None.

Staff Summary of Public Testimony (General Government Appropriations):

(In support) Several dairy farmers in King, Whatcom, Snohomish, and Skagit counties are interested in using this anaerobic digester technology. The key to this legislation is that farmers are already regulated by the Department of Agriculture in how they are able to manage cow manure. This bill allows farmers, after meeting conditions outlined in this bill, to stay under their current regulatory jurisdiction. We have a concern that when creating an exemption in solid waste permitting requirements there are impacts to environmental quality, public health, and market situations. However, the language that ties these exemptions to nutrient waste management plans for farms and livestock keeps the exemptions properly restricted to agricultural uses. The scope is appropriate for these projects.

(Opposed) None.

Persons Testifying (Ecology & Parks): Laurie Davies, Department of Ecology; Andy Werkhoven, Werkhoven Dairy Inc.; Darryl Vander Haak, Vander Haak Dairy; Daryl Maas, Farm Power Northwest; Jerry Smedes, Cedar Grove Composting; and Jeff Canaan, Washington State Department of Agriculture.

Persons Testifying (General Government Appropriations): Daryl Maas, Farm Power; and Jerry Smedes, Cedar Grove Composting.

Persons Signed In To Testify But Not Testifying (Ecology & Parks): None.

Persons Signed In To Testify But Not Testifying (General Government Appropriations): None.