

# FINAL BILL REPORT

## SSB 5797

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Synopsis as Enacted

**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).

**Senate Committee on Agriculture & Rural Economic Development**  
**House Committee on Ecology & Parks**  
**House Committee on General Government Appropriations**

**Background:** Anaerobic digesters are structures designed to compost (or "digest") livestock manure and other organic waste while limiting access to oxygen, creating methane and other gases that are then burned as fuel to generate electricity. Use of organic solid waste (including food processing waste) as feedstock in anaerobic digesters has raised issues regarding applicability of the state Solid Waste Management Act, which includes several permitting requirements for handling and disposal of solid waste.

The Natural Resources Conservation Service (NRCS), an agency of the U.S. Department of Agriculture (USDA), provides technical assistance to private land owners and managers. The NRCS has adopted standards regarding design, construction, and operation of anaerobic digesters and waste storage facilities.

**Summary:** An anaerobic digester that complies with certain conditions is exempt from solid waste permitting requirements. To qualify for the exemption, the digester or its owner or operator:

- must provide the Department of Ecology (DOE) or jurisdictional health department with notice of intent to operate under the exemption conditions, and comply with guidelines issued by DOE and the Washington State Department of Agriculture (WSDA);
- must process at least 50 percent livestock manure;
- may process no more than 30 percent imported organic waste-derived material and comply with restrictions regarding use of that material as feedstock;
- must comply with NRCS design and operating standards;
- must allow inspection by DOE or the jurisdictional health department to verify compliance with exemption conditions; and

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- must submit an annual report to DOE or the jurisdictional health department concerning use of nonmanure feedstock and any required compliance testing.

Waste Used as Feedstock. "Organic waste-derived material," broadly defined to include varied vegetative, wood, food, and composting wastes, with exceptions and restrictions, originating off of the farm or other site where the digester is being operated must:

- be preconsumer in nature;
- be fed into the digester within 36 hours of receipt at the digester;
- if likely to contain animal byproducts, be previously source-separated at a facility licensed to process food;
- if containing bovine processing waste, be from animals approved by USDA inspectors and not contain certain risk material;
- if containing sheep carcasses or sheep processing waste, not be fed into the digester;
- be stored and handled to protect surface water and groundwater;
- be received or stored in structures complying with an NRCS standard, be approved by an NRCS representative, or meet certain construction industry standards; and
- be managed to prevent migration of odors beyond property boundaries and minimize attraction of flies, rodents, and other vectors.

Digestate. "Digestate," defined as substances remaining following anaerobic digestion of organic material in a digester, must:

- be managed under a dairy nutrient management plan addressing management and use of digestate;
- meet certain compost quality standards or be sent to an off-site facility for further treatment to meet compost quality standards; or
- be processed or managed in an alternate manner approved by DOE.

Digestate managed under a dairy nutrient management plan addressing management and use of digestate is no longer considered a solid waste, and use of digestate from a digester that complies with exemption conditions is exempt from solid waste permitting requirements.

Guidelines. By August 1, 2009, DOE and WSDA, in consultation with the Department of Health, must issue guidelines for anaerobic codigestion of livestock manure and organic waste-derived material, explaining steps necessary to meet exemption conditions.

Failure to Comply. A digester that does not comply with exemption conditions may be subject to solid waste permitting requirements and penalties.

DOE may issue an order to a person violating an exemption condition and other, existing exemptions to solid waste permitting requirements to ensure compliance with conditions. Orders may be appealed to the Pollution Control Hearings Board under established procedures.

**Votes on Final Passage:**

Senate	46	1
House	97	0

**Effective:** July 26, 2009