

ANNUAL REPORT ON IMPORTATION OF FOOD RESIDUALS FOR FARMING

2021 Act No. 41

Submitted to the:

Senate Committee on Natural Resources and Energy

House Committee on Environment and Energy

Senate Committee on Agriculture

House Committee on Agriculture, Food Resiliency, and Forestry

By the:

The Vermont Agency of Agriculture, Food & Markets

Public Health and Agricultural Resource Management Division

January 6, 2023

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Re: Act 41 Section 8, REPORT ON IMPORTATION OF FOOD RESIDUALS FOR FARMING

Date: January 6, 2023

To: Senator Christopher Bray, Senate Committee on Natural Resources and Energy
Representative Amy Sheldon, House Committee on Environment and Energy
Senator Bobby Starr, Senate Committee on Agriculture
Representative David Durfee, House Committee Agriculture, Food Resiliency, and Forestry

From: Stephanie Smith, Assistant Director Public Health and Agricultural Resource Management, VAAFAM

Introduction

The Agency of Agriculture, Food and Markets (AAFAM) respectfully submits this report as required under Section 8 of Act 41 enacted on May 20, 2021, addressing the importation of food residuals for farming as defined in 10 V.S.A. § 6001(22)(H).¹ Specifically, this report addresses the following:

- (1) an inventory of the operators of farms that are producing compost under 10 V.S.A. § 6001(22)(H), including the estimated volume of food residuals imported onto farms;
- (2) a status report on the rulemaking required under 6 V.S.A. § 5133 and any subsequent amendment to those rules;
- (3) an accounting of any complaints regarding or enforcement actions brought against a farm producing compost under 10 V.S.A. § 6001(22)(H); and
- (4) any additional information that the Secretary determines is relevant to the administration of compost production under 10 V.S.A. § 6001(22)(H)

(1) Inventory of the operators of farms that are producing compost under 10 V.S.A. § 6001(22)(H), including the estimated volume of food residuals imported onto farms

Using a list of previously certified solid waste facilities (Table 1) provided by Agency of Natural Resources (ANR), and a list generated by AAFAM of farms possibly covered under 10 V.S.A. § 6001(22)(H) (Table 2), AAFAM contacted these businesses to understand their scale and operations, and conducted several informational site visits to further understand the logistics of these operations. Of the farms either visited or contacted, each received less than 2,000 cubic yards of food residuals annually for the production of compost. In addition, most of the farms principally use the compost on-site and either do not sell any compost at all or, only sell a very small percentage (10-20%). Of the previously certified solid waste facilities, only one is a small farm raising or managing poultry. However, this farm does not use the poultry in the compost production process. With regards to the farms in Table 2, a majority are small farms raising or managing poultry which are

¹ (H) the importation of 2,000 cubic yards per year or less of food residuals or food processing residuals onto a farm for the production of compost, provided that: (i) the compost is principally used on the farm where it is produced; or (ii) the compost is produced on a small farm that raises or manages poultry.



also involved in the compost production process. AAFM is aware that the lists provided in Tables 1 and 2 may be incomplete but, is actively working to identify additional farms covered under 10 V.S.A. § 6001(22)(H).

(2) Status report on the rulemaking required under 6 V.S.A. § 5133 and any subsequent amendment to those rules

AAFM continues to work on drafting a rule that meets statutory requirements and is reasonably tailored to meet the realities of on-farm composting operations. To inform the rulemaking process, AAFM continues to gather input from various entities who are actively involved in the on-farm composting arena. A timeline of AAFM’s engagement can be found in Table 3. Further, AAFM conducted site visits and participated in workshops and conferences. As a result of this information gathering, AAFM discovered a host of complex issues including:

- Physical contaminants in the imported food residuals to farms such as “compostable” products, residential/commercial trash, and tableware.
- Resource constraints that prevent farmers from effectively removing physical contaminants from the imported food residuals.
- Previously certified facilities under ANR that may not meet proposed standards addressing composting on bedrock and separation distances to natural or man-made resources but have been permitted by ANR to operate.
- Farm operations accepting animal carcasses and slaughterhouse with other food residuals.
- Individuals unable to consistently manage on-farm composting operations due to an abundance of other responsibilities in operating a farm, a lack of resources, or challenges with functioning equipment.
- Chemical contaminant concerns with imported materials from industrial processes.

Additionally, AAFM realized it has no specific enforcement capabilities in 6 V.S.A. Chapter 218. Without explicit enforcement power in Chapter 218, AAFM is limited to the general powers of the Secretary provided in 6 V.S.A. Chapter 1. AAFM will determine whether certain provisions of the rule might be included in an amendment to the Required Agricultural Practices Rule which would enable it to utilize the enforcement provisions of 6 V.S.A. Chapter 215. Lastly, while AAFM has authority to regulate an on-farm compost operation, ANR regulates haulers of food residuals and generators. This provides AAFM the opportunity to work with ANR to educate haulers and generators about “source separation”. With a concerted effort, AAFM hopes to reduce the amount of physical contaminants being imported onto farms and the burden placed on farms therefrom. As AAFM continues to discover issues it will modify the draft rule accordingly. These issues and the current resolutions can be found in Table 4 of this report.

Currently, sections of the draft rule include: applicability; registration requirements; siting and design requirements including proposed setbacks; compost management and testing; recordkeeping and reporting requirements; prohibitions; inspections; and enforcement. While AAFM continues to resolve these issues, it will look to issue guidance to on-farm compost operations in the interim.

(3) Accounting of any complaints regarding or enforcement actions brought against a farm producing compost under 10 V.S.A. § 6001(22)(H).

AAFM has not received any complaints against a farm producing compost under 10 V.S.A. § 6001(22)(H) since the last report. AAFM staff also sent an inquiry to DEC staff regarding any complaints against farms producing compost under 10 V.S.A. § 6001(22)(H). DEC staff replied they had not received any complaints relevant to the reporting period.

(4) Additional information that the Secretary determines is relevant to the administration of compost production under 10 V.S.A. § 6001(22)(H).

As authorized under Sec.5a of Act 145, AAFM hired an Agricultural Resource Management Specialist II in September of 2022 to work as the lead in implementing the Residuals Management Program. The position is funded by registration fees of soil amendments under 6 V.S.A. Chapter 28 and dosage form animal health products and feed supplements under 6 V.S.A. Chapter 26. AAFM does not have authority to charge a fee for the registration of a farm importing food residuals for the production of compost. AAFM is working to establish the infrastructure to administer the program. The administrative infrastructure includes registration forms, siting plans, compost management plans, inspection forms, reporting forms, and webpage content. This infrastructure will enable staffing to administer the program registration process including determining applicability of 10 V.S.A. § 6001(22)(H), reviewing application submissions for completeness and acceptance, to conduct inspections, enforce the rules, and the needed expertise to provide outreach and education about program requirements.

Tables

Table 1. Previously Certified Solid Waste Facilities

Site	SWFacID	SWFac Size	Town	Estimated Annual Amount of Food Residuals Imported (Cubic Yards)	Small farm raising or managing poultry	Compost principally used on-site
Hudak Farm	FR580	Small	Swanton	700	No	Yes
Kingdom View Compost	CA950	Small	Lyndonville	1,250	No	Yes
Mar-Jo Acres Compost	OL350	Small	Irasburg	1,800	No	Yes
Sunrise Farm	WS998	Medium	Hartford	250	No	Yes

Table 2. Farms Importing Food Residuals for the Production of Compost

Farm	Town	Estimated Annual Amount of Food Residuals Imported Annually (Cubic Yards)	Small farm raising or managing poultry	Compost principally used on-site
Black Dirt Farm	Stannard	1,000	Yes	Unknown
Clouds Path Farm	Sheffield	960	Yes	Yes
Dog River Farm	Berlin	26	Yes	Yes
Fisk Haines Farm ²	Danby	>10	Yes	No
Perfect Circle Farm	Berlin	840	Yes	Unknown
Sweet Blue Farm	Morrisville	Unknown	Yes	Unknown
Vermont Compost Company ³	Montpelier	1,500	Yes	No
VT Youth Conservation Corps Farm	Richmond	150	Yes	Yes

Table 3. Timeline of Engagement

Action	Time
Shared draft of Agricultural Residuals Management Rule	-Rural Vermont and Poultry Farmers for compost Foraging 12/2/21 -Compost Association of Vermont (CAV), 12/16/21 -Agency of Natural Resources 12/16/21, and reviewed on 2/23/22
AAFM received proposal addressing on-farm composting from Poultry Farmers for Compost Foraging	April 2022
AAFM was a contributing partner in reviewing document: PARTNERING FARMS AND COMMUNITIES: A Regulatory and Start-Up Guide for On-Farm Food Scrap Composting.	Reviewed in Fall of 2021. Guide released in May of 2022.
AAFM attended the Vermont Organics Recycling conference	May 5, 2022
AAFM attended site informational site at Sunrise Farm hosted by CAV	October 19, 2022
AAFM participated in a CAV “Tea Talk” to discussed Agricultural regulations as they pertain to on-farm food residual composting.	November 4, 2022
AAFM is also a steering committee member for a USDA Rural Utility Services Solid Waste Management Grant funded project being led by CAV. Partner farms for the grant include Ascutney Village Farm, SUSU Community Farm, Firefly Farm	

² Fisk Haines Farm imports a small volume of food residuals from the local community but do not produce compost.

³ Vermont Compost Company also operates a Certified Medium Categorical Composting Facility located on Vincent Flats in East Montpelier.

Table 4. Issues and Resolutions in Rule

Issue	Resolution
Physical contaminants in the imported food residuals to farms such as “compostable” products, residential/commercial trash, and tableware.	AAFM is continuing to work on a resolution to this issue as it does not have authority to regulate haulers but will work with ANR to educate haulers and generators about “source separation”. With a concerted effort, AAFM hopes to reduce the amount of physical contaminants being imported onto farms and the burden placed on farms therefrom.
Resource constraints that prevent farmers from effectively removing physical contaminants from the imported food residuals.	AAFM will work with ANR to educate haulers and generators on effective source separation and potentially prevent certain haulers from delivering food residuals to farms.
ANR certified facilities that may not meet proposed standards addressing composting on bedrock and separation distances to natural or man-made resources but have been permitted by ANR to operate.	AAFM will propose that sites previously certified by ANR may continue to operate under such certification, with exceptions, until such time they can meet AAFM’s regulatory framework.
Farm operations accepting animal carcasses and slaughterhouse waste with other food residuals.	AAFM will propose that sites under its jurisdiction no longer accept these inputs onto their farms.
Inability of small scale on-farm composting operations to meet certain requirements, such as reporting and testing requirements, whether due to a lack of resources, funding, or time.	AAFM has included a provision in the draft rule which will exempt a class of small scale on-farm compost operations from certain provisions of the rule in order to alleviate over burdensome regulatory oversight on these operations.
Chemical contaminant concerns with imported materials from industrial processes.	AAFM has included provisions in the draft rule that will seek to prohibit farms from importing certain materials that are likely to contain chemical contaminants.