

1 TO THE HONORABLE SENATE:

2 The Committee on Agriculture to which was referred Senate Bill No. 265
3 entitled “An act relating to the use of food residuals for farming” respectfully
4 reports that it has considered the same and recommends that the bill be
5 amended by striking out all after the enacting clause and inserting in lieu
6 thereof the following:

7 Sec. 1. 6 V.S.A. § 323 is amended to read:

8 § 323. DEFINITIONS

9 ~~When~~ As used in this chapter:

10 * * *

11 (2) “Commercial feed” means all materials except whole seeds unmixed
12 or physically altered entire unmixed seeds, when not adulterated within the
13 meaning of subsection 327(a) of this title, which are distributed for use as feed
14 or for mixing in feed. The Secretary by regulation may exempt from this
15 definition, or from specific provisions of this chapter, commodities such as
16 hay, straw, stover, silage, cobs, husks, hulls, and individual chemical
17 compounds or substances when such commodities, compounds, or substances
18 are not intermixed or mixed with other materials, and are not adulterated
19 within the meaning of subsection 327(a) of this title.

1 bulking agents, other forest materials, and other organics into a blend sufficient
2 to support composting activity that is provided for poultry to forage on.

3 (22) “Food residuals” has the same meaning as in 10 V.S.A. § 6602.

4 (23) “Poultry” means all domesticated birds of all ages that may be used
5 as human food or that produce eggs that may be used as human food and shall
6 include chickens, turkeys, geese, pheasant, Chukar partridge, and Coturnix
7 quail.

8 Sec. 2. 6 V.S.A. § 324 is amended to read:

9 § 324. REGISTRATION AND FEES

10 (a) ~~No~~ Except as provided under subsection (f) of this section, a person
11 shall not manufacture a commercial feed in this State unless that person has
12 first filed with the Vermont Agency of Agriculture, Food and Markets, in a
13 form and manner to be prescribed by rules by the Secretary:

14 (1) the name of the manufacturer;

15 (2) the manufacturer’s place of business;

16 (3) the location of each manufacturing facility; and

17 (4) any other information which the Secretary considers to be necessary.

18 (b) A person shall not distribute in this State a commercial feed that has not
19 been registered pursuant to the provisions of this chapter. Application shall be
20 in a form and manner to be prescribed by rule of the Secretary. The
21 application for registration of a commercial feed shall be accompanied by a

1 registration fee of \$105.00 per product. The registration fees, along with any
2 surcharges collected under subsection (c) of this section, shall be deposited in
3 the special fund created by subsection 364(e) of this title. Funds deposited in
4 this account shall be restricted to implementing and administering the
5 provisions of this title and any other provisions of the law relating to fertilizer,
6 lime, or seeds. If the Secretary so requests, the application for registration
7 shall be accompanied by a label or other printed matter describing the product.

8 (c) No person shall distribute in this State any feed required to be registered
9 under this chapter upon which the Secretary has placed a withdrawal from
10 distribution order because of nonregistration. A surcharge of \$10.00, in
11 addition to the registration fee required by subsection (b) of this section, shall
12 accompany the application for registration of each product upon which a
13 withdrawal from distribution order has been placed for reason of
14 nonregistration, and must be received before removal of the withdrawal from
15 distribution order.

16 (d) A person who generates and distributes food residuals for use for
17 compost foraging by poultry is not required to register the food residuals as a
18 commercial feed under this section provided that the food residuals are
19 distributed to a farm subject to the Required Agricultural Practices.

20 Sec. 3. 6 V.S.A. § 325 is amended to read:

21 § 325. LABELING

1 (a) A commercial feed, except for a customer-formula feed or food
2 residuals distributed to a farm under subsection 324(d) for compost foraging by
3 poultry, shall be accompanied by a label bearing the following information:

4 (1) the net weight;

5 (2) the product name and the brand name, if any, under which the
6 commercial feed is distributed;

7 (3) the guaranteed analysis as required by rule in section 329 of this
8 title;

9 (4) the common, usual name or collective term of each ingredient used
10 in the manufacture of the commercial feed;

11 (5) the name and principal mailing address of the manufacturer or the
12 person responsible for distributing the commercial feed;

13 (6) adequate directions for use for all commercial feeds containing drugs
14 and for such other feeds as the Secretary may require by rule as necessary for
15 their safe and effective use; and

16 (7) precautionary statements required to assure the safe and effective use
17 of the commercial feed.

18 (b) Customer-formula feed shall be accompanied by a label, invoice,
19 delivery slip, or other shipping document, bearing the following information:

20 (1) name and address of the manufacturer;

21 (2) name and address of the purchaser;

1 (3) date of delivery;

2 (4) the name of each commercial feed and each other ingredient used in
3 the mixture;

4 (5) adequate directions for use for all customer-formula feeds containing
5 drugs and for such other feeds as the Secretary may require by rule to assure
6 their safe and effective use;

7 (6) the direction for use and precautionary statements;

8 (7) when a drug-containing product is used:

9 (A) the purpose of the medication or a claim statement; and

10 (B) the established name of each active drug ingredient and the level
11 of each drug used in the final mixture; and

12 (8) the guaranteed analysis as required by rule pursuant to section 329 of
13 this title.

14 (c) For purposes of labeling customer-formula feeds, the guaranteed
15 analysis is not required when:

16 (1) one or more of the ingredients are provided to the manufacturer by
17 the final purchaser; or

18 (2) the manufacturer uses a guaranteed analysis provided by the final
19 purchaser as part of the specific instructions for blending a customer-formula
20 feed.

21 Sec. 4. 10 V.S.A. § 6001 is amended to read:

1 § 6001. DEFINITIONS

2 In this chapter:

3 * * *

4 (3)(A) “Development” means each of the following:

5 * * *

6 (D) The word “development” does not include:

7 (i) The construction of improvements for farming, logging, or
8 forestry purposes below the elevation of 2,500 feet.

9 * * *

10 (vii) The construction of improvements below the elevation of
11 2,500 feet for the onsite storage, preparation, and sale of compost, provided
12 that one of the following applies:

13 (I) The compost is produced from no more than 100 cubic
14 yards of material per year.

15 (II) The compost is principally produced from inputs grown or
16 produced on the farm.

17 (III) The compost is principally used on the farm where it was
18 produced.

19 (IV) The compost is produced on a farm primarily used for the
20 raising, feeding, or management of livestock, only from:

21 (aa) manure produced on the farm; and

1 (bb) unlimited clean, dry, high-carbon bulking agents from
2 any source;

3 (V) The compost is produced on a farm primarily used for the
4 raising, feeding, or management of livestock, only from:

5 (aa) manure produced on the farm;

6 (bb) up to 2,000 cubic yards per year of organic inputs
7 allowed under the Agency of Natural Resources' acceptable
8 management practices, including food residuals or manure from off the
9 farm, or both; and

10 (cc) unlimited clean, dry, high-carbon bulking agents from
11 any source.

12 (VI) The compost is produced on a farm primarily used for the
13 cultivation or growing of food, fiber, horticultural, or orchard crops, that
14 complies with the Agency of Natural Resources' solid waste management
15 rules, only from up to 5,000 cubic yards per year of total organic inputs
16 allowed under the Agency of Natural Resources' acceptable management
17 practices, including up to 2,000 cubic yards per year of food residuals.

18 * * *

19 (22) "Farming" means:

20 (A) the cultivation or other use of land for growing food, fiber,
21 Christmas trees, maple sap, or horticultural and orchard crops; or

1 (B) the raising, feeding, or management of livestock, poultry, fish, or
2 bees; or

3 (C) the operation of greenhouses; or

4 (D) the production of maple syrup; or

5 (E) the on-site storage, preparation, and sale of agricultural products
6 principally produced on the farm; or

7 (F) the on-site storage, preparation, production, and sale of fuel or
8 power from agricultural products or wastes principally produced on the farm;
9 or

10 (G) the raising, feeding, or management of four or more equines
11 owned or boarded by the farmer, including training, showing, and providing
12 instruction and lessons in riding, training, and the management of equines; or

13 (H) the practice of compost foraging, including the importation of
14 food residuals by a farm for use for compost foraging by poultry; or

15 (I) the production of compost on a farm subject to the Required
16 Agricultural Practices from up to 5,000 cubic yards per year of food residuals
17 imported onto the farm, provided that the compost is principally used on the
18 farm where it is produced.

19 * * *

20 (38) “Compost foraging” means a system or practice that incorporates
21 source separated food residuals, manure, other farm residuals, high carbon

1 bulking agents, other forest materials, and other organics into a blend sufficient
2 to support composting activity that is provided for poultry to forage on.

3 (39) “Farm” for the purposes of subdivision (22)(H) of this section
4 means a parcel or parcels of land owned, leased, or managed by a person and
5 devoted primarily to farming and that meets the threshold criteria as
6 established under the Required Agricultural Practices.

7 (40) “Food residuals” has the same meaning as in section 6602 of this
8 title.

9 (41) “Principally used” means, for purposes of 10 V.S.A. §
10 6001(3)(D)(vi)(III) or 6001(22)(I), that more than 50 percent, either by volume
11 or weight, of the compost produced on the farm is physically and permanently
12 incorporated into the native soils on the farm as a soil enhancement and is not
13 removed or sold at any time thereafter.

14 Sec. 5. Section 2 of the Agency of Agriculture, Food and Markets,

15 Vermont Required Agricultural Practices Rule for the Agricultural

16 Nonpoint Source Pollution Control Program is amended to read:

17 Section 2. Definitions

18 * * *

19 2.16 Farming means:

20 (a) the cultivation or other use of land for growing food, fiber, Christmas
21 trees, maple sap, or horticultural, viticultural, and orchard crops; or

1 (b) the raising, feeding, or management of livestock, poultry, fish, or bees;

2 or

3 (c) the operation of greenhouses; or

4 (d) the production of maple syrup; or

5 (e) the on-site storage, preparation, and sale of agricultural products

6 principally produced on the farm; or

7 (f) the on-site storage, preparation, production, and sale of fuel or power

8 from agricultural products or wastes principally produced on the farm; or

9 (g) the raising, feeding, or management of four or more equines owned or

10 boarded by the farmer, including training, showing, and providing instruction

11 and lessons in riding, training, and the management of equines;

12 (h) the practice of compost foraging, including the importation of food

13 residuals by a farm for use for compost foraging by poultry; or

14 (i) the production of compost on a farm from up to 5,000 cubic yards per

15 year of food residuals imported onto the farm, provided that the compost is

16 principally used on the farm where it is produced.

17 * * *

18 2.44 “Compost foraging” means a system or practice that incorporates

19 source separated food residuals, manure, other farm residuals, high carbon

20 bulking agents, other forest materials, and other organics into a blend sufficient

21 to support composting activity that is provided for poultry to forage on.

1 2.45 “Food residual” means source separated and uncontaminated material
2 that is derived from processing or discarding of food and that is recyclable, in a
3 manner consistent with 10 V.S.A. § 6605k. Food residual may include
4 preconsumer and postconsumer food scraps. “Food residual” does not mean
5 meat and meat-related products when the food residuals are composted by a
6 resident on site.

7 2.46 “Principally used” means that more than 50 percent, either by
8 volume or weight, of the compost produced on the farm is physically and
9 permanently incorporated into the native soils on the farm as a soil
10 enhancement and is not removed or sold at any time thereafter.

11 Sec. 6. 6 V.S.A. chapter 218 is added to read:

12 CHAPTER 218. AGRICULTURAL RESIDUALS MANAGEMENT

13 § 5131. PURPOSE

14 The purpose of this chapter is to establish a program for the management of
15 food residuals or food processing residuals imported by or managed on a farm
16 in Vermont.

17 § 5132. DEFINITIONS

18 As used in this chapter:

19 (1) “Agency” means the Agency of Agriculture, Food and Markets.

20 (2) “Compost” means a stable humus-like material produced by the
21 controlled biological decomposition of organic matter through active

1 management, but shall not mean sewage, septage, or materials derived from
2 sewage or septage.

3 (3) “Compost foraging” means a system or practice that incorporates
4 source separated food residuals, manure, other farm residuals, high carbon
5 bulking agents, other forest materials, and other organics into a blend sufficient
6 to support composting activity that is provided for poultry to forage on.

7 (4) “Farm” means a parcel or parcels of land owned, leased, or managed
8 by a person and devoted primarily to farming that meets the threshold criteria
9 for regulation under the Required Agricultural Practices.

10 (5) “Farming” has the same meaning as in 10 V.S.A. § 6001(22).

11 (6) “Food processing residuals” mean the remaining organic material
12 from a food processing plant and may include whey and other dairy, cheese
13 making, and ice cream residuals or residuals from any food manufacturing
14 process excluding livestock or poultry slaughtering and rendering operations.

15 “Food processing residuals” do not include food residuals from markets,
16 groceries, or restaurants.

17 (7) “Food residuals” mean source separated and uncontaminated
18 material that is derived from processing or discarding of food and that is
19 recyclable or compostable. “Food residuals” may include preconsumer and
20 postconsumer food scraps. “Food residuals” include meat and meat-related
21 products when the disposition of the products is managed on a farm.

1 (8) “Secretary” means the Secretary of Agriculture, Food and Markets.

2 (9) “Source separation” has the same meaning as in 10 V.S.A. § 6602.

3 § 5133. FOOD RESIDUALS; RULEMAKING

4 (a) The Secretary shall regulate the importation of food residuals or food
5 processing residuals onto a farm for compost foraging by poultry and for
6 production of compost under 10 V.S.A. § 6001(22)(I).

7 (b) The importation of food residuals or food processing residuals onto a
8 farm for compost foraging by poultry or for production of compost under 10
9 V.S.A. § 6001(22)(I) shall not require a certification or other approval from the
10 Agency of Natural Resources under 10 V.S.A. chapter 159.

11 (c)(1) The Secretary shall adopt by rule requirements for the management
12 of food residuals and food processing residuals on a farm. The rules may
13 include requirements regarding:

14 (A) the proper composting of food residuals or food processing
15 residuals;

16 (B) destruction of pathogens in food residuals, food processing
17 residuals, or compost;

18 (C) prevention of public health threat from food residuals, food
19 processing residuals, or compost;

20 (D) protection of natural resources or the environment; and

1 disposing of waste. A facility may consist of several treatment, storage, or
2 disposal operational units.

3 * * *

4 (13) “Waste” means a material that is discarded or is being accumulated,
5 stored, or physically, chemically, or biologically treated prior to being
6 discarded or has served its original intended use and is normally discarded or is
7 a manufacturing or mining by-product and is normally discarded.

8 * * *

9 (25) “Compost” means a stable humus-like material produced by the
10 controlled biological decomposition of organic matter through active
11 management, but shall not mean sewage, septage, or materials derived from
12 sewage or septage.

13 * * *

14 (31) “Food residual” means source separated and uncontaminated
15 material that is derived from processing or discarding of food and that is
16 recyclable, in a manner consistent with section 6605k of this title. Food
17 residual may include preconsumer and postconsumer food scraps. “Food
18 residual” does not mean meat and meat-related products when the food
19 residuals are composted by a resident on site.

20 * * *

1 (50) “Compost foraging” means a system or practice that incorporates
 2 source separated food residuals, manure, other farm residuals, high carbon
 3 bulking agents, other forest materials, and other organics into a blend sufficient
 4 to support composting activity that is provided for poultry to forage on.

5 (51) “Farm” means means a parcel or parcels of land owned, leased, or
 6 managed by a person and devoted primarily to farming and that meets the
 7 threshold criteria as established under the Required Agricultural Practices.

8 (52) “Poultry” has the same meaning as in 6 V.S.A. § 323.

9 Sec. 8. 10 V.S.A. § 6605 is amended to read:

10 § 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

11 (a)(1) No person shall construct, substantially alter, or operate any solid

12 waste management facility without first obtaining certification from the

13 Secretary for such facility, site, or activity, except for sludge or septage

14 treatment or storage facilities located within the fenced area of a domestic

15 wastewater treatment plant permitted under chapter 47 of this title. This

16 exemption for sludge or septage treatment or storage facilities shall exist only

17 if:

18 * * *

19 (2) Certification shall be valid for a period not to exceed 10 years.

20 * * *

1 (n) A farm that imports food residuals or food processing residuals for
2 compost foraging by poultry or for production of compost under subdivision
3 6001(22)(I) is exempt from the requirements of this section.

4 Sec. 9. 10 V.S.A. § 6605c is amended to read:

5 § 6605c. SOLID WASTE CATEGORICAL CERTIFICATIONS

6 (a) Notwithstanding sections 6605, 6605f, and 6611 of this title, no person
7 may construct, substantially alter, or operate any categorical solid waste
8 facility without first obtaining a certificate from the Secretary. Certificates
9 shall be valid for a period not to exceed 10 years.

10 * * *

11 (e) This section shall not apply to the storage, treatment, or disposal of:

12 (1) Municipal solid waste.

13 (2) Sludge.

14 (3) Septage.

15 (4) Mineral processing waste. For purposes of this section, mineral
16 processing waste means solid waste from an industrial or manufacturing
17 facility that processes materials from a mining activity and where chemicals, as
18 defined by the Secretary by rule, are intentionally added as a part of that
19 processing.

20 (5) Food residuals imported onto a farm for compost foraging by poultry
21 or for production of compost under subdivision 6001(22)(I).

1 Sec. 10. 10 V.S.A. § 6605h is amended to read:

2 § 6605h. COMPOSTING REGISTRATION

3 Notwithstanding sections 6605, 6605f, and 6611 of this title, the Secretary
4 may, by rule, authorize a person engaged in the production or management of
5 compost at a small scale composting facility to register with the Secretary
6 instead of obtaining a facility certification under section 6605 or 6605c of this
7 title. This section shall not apply to a farm importing food residuals for
8 compost foraging by poultry or for production of compost under subdivision
9 6001(22)(I).

10 Sec. 11. 10 V.S.A. § 6605j is amended to read:

11 § 6605j. ACCEPTED COMPOSTING PRACTICES

12 (a) The Secretary, in consultation with the Secretary of Agriculture, Food
13 and Markets, shall adopt by rule, pursuant to 3 V.S.A. chapter 25, and shall
14 implement and enforce accepted composting practices for the management of
15 composting in the State. These accepted composting practices shall address:

16 (1) standards for the construction, alteration, or operation of a
17 composting facility;

18 (2) standards for facility operation, including acceptable quantities of
19 product or inputs, vector management, odors, noise, traffic, litter control,
20 contaminant management, operator training and qualifications, recordkeeping,
21 and reporting;

1 (3) standards for siting of composting facilities, including siting and
2 operation of compost storage areas, compost bagging areas, and roads and
3 parking areas;

4 (4) standards for the composting process, including rotation,
5 management of compost piles, compost pile size, and monitoring of compost
6 operations;

7 (5) standards for management of runoff from compost facilities,
8 including liquids management from the feedstock area, active composting
9 areas, curing area, and compost storage area; the use of swales or stormwater
10 management around or within a compost facility; vegetative buffer
11 requirements; and run-off management from tipping areas;

12 (6) specified areas of the State unsuitable for the siting of commercial
13 composting that utilizes post-consumer food residuals or animal mortalities,
14 such as designated downtowns, village centers, village growth areas, or areas
15 of existing residential density; and

16 (7) definitions of “small-scale composting facility,” “medium-scale
17 composting facility,” and “de minimis composting exempt from regulation.”

18 (b) A person operating a small scale composting facility ~~or operating a~~
19 ~~composting facility on a farm~~ who follows the accepted composting practices
20 shall not be required to obtain a discharge permit under section 1263 or 1264
21 of this title, a solid waste facility certification under chapter 159 of this title, or

1 an air emissions permit under chapter 23 of this title unless a permit is required
2 by federal law or the Secretary of Natural Resources determines that a permit
3 is necessary to protect public health or the environment.

4 ~~(c) The Secretary of Natural Resources shall coordinate with the Secretary~~
5 ~~of Agriculture, Food and Markets in implementing and enforcing the accepted~~
6 ~~composting practices. The Secretary of Agriculture, Food and Markets and the~~
7 ~~Secretary of Natural Resources may, after opportunity for public review and~~
8 ~~comment, develop a memorandum of understanding for implementation and~~
9 ~~enforcement of the accepted composting practices. [Repealed.]~~

10 (d) The Secretary shall not regulate under this section the importation of
11 food residuals onto a farm for compost foraging or for production of compost
12 under subdivision 6001(22)(I).

13 Sec. 12. 10 V.S.A. § 6605k(b)(2) is amended to read:

14 (2) arrange for the transfer of food residuals to a charitable food rescue
15 organization, farm, or other location that manages food residuals in a manner
16 consistent with the priority uses established under subdivisions (a)(2)-(5) of
17 this section or shall manage food residuals on site.

18 Sec. 13. 10 V.S.A. § 6605k(d) is added to read:

19 (d) A person conducting compost foraging on a farm or producing compost
20 on a farm under subdivision 6001(22)(I) shall be deemed to be diverting food

1 residuals for agricultural use, including consumption by animals, consistent
2 with subdivision (a)(3) of this section.

3 Sec. 14. APPLICATION OF SOLID WASTE MANAGEMENT RULE

4 Prior to adoption of rules under 6 V.S.A. § 5133, the Secretary of
5 Agriculture, Food and Markets may require a person conducting compost
6 foraging on a farm or producing compost on a farm under subdivision
7 6001(22)(I) to comply with Sections 6-1101 through 6-1110 of the Agency of
8 Natural Resources' Vermont Solid Waste Management Rules. After adoption
9 of rules under 6 V.S.A. § 5133, Sections 6-1101 through 6-1110 of the Agency
10 of Natural Resources' Vermont Solid Waste Management Rules shall not
11 apply to the importation of food residuals onto a farm for compost foraging by
12 poultry or for production of compost under subdivision 6001(22)(I).

13 Sec. 15. EFFECTIVE DATE

14 This act shall take effect on July 1, 2020.

15

16

17

18

19

20 (Committee vote: _____)

1

2

Senator _____

3

FOR THE COMMITTEE