

1 H.501

2 Introduced by Representative McCullough of Williston

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; solid waste; residual waste; digestate;
6 soil amendments; physical contaminant standards

7 Statement of purpose of bill as introduced: This bill proposes to require the
8 Secretary of Natural Resources to adopt standards for the allowable levels of
9 physical contaminants in residual waste, digestate, and soil amendments sold
10 or land applied in the State. The bill would require the rules to provide that
11 residual waste, digestate, and soil amendments shall not contain more than 0.5
12 percent by dry weight of physical contaminants greater than one millimeter
13 and that no more than 20 percent by dry weight of the 0.5 percent by dry
14 weight of physical contaminants shall be film plastic greater than one
15 millimeter.

An act relating to ~~physical contaminant standards for residual waste,
digestate, and soil amendment~~ *the regulation of food depackaging facilities*

16 It is hereby enacted by the General Assembly of the State of Vermont:

17 ~~Sec. 1, 10 V.S.A., § 6602 is amended to read:~~

18 ~~§ 6602. DEFINITIONS~~

1 As used in this chapter:

2 (1) "Secretary" means the Secretary of Natural Resources or his or her
3 duly authorized representative.

4 (2) "Solid waste" means any discarded garbage; refuse; septage; sludge
5 from a waste treatment plant, water supply plant, or pollution control facility;
6 and other discarded material, including solid, liquid, semi-solid, or contained
7 gaseous materials resulting from industrial, commercial, mining, or
8 agricultural operations and from community activities but does not include
9 animal manure and absorbent bedding used for soil enrichment; high carbon
10 bulking agents used in composting; or solid or dissolved materials in industrial
11 discharges that are point sources subject to permits under the Water Pollution
12 Control Act, chapter 47 of this title.

13 * * *

14 (13) "Waste" means a material that is discarded or is being accumulated,
15 stored, or physically, chemically, or biologically treated prior to being
16 discarded or has served its original intended use and is normally discarded or
17 is a manufacturing or mining by-product and is normally discarded.

18 * * *

19 (25) "Compost" means a stable humus-like material produced by the
20 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 (26) "Household hazardous waste" means any waste from households
4 that would be subject to regulation as hazardous wastes if it were not from
5 households.

6 * * *

7 (50) "Biosolids" means sewage sludge derived, in whole or in part, from
8 domestic wastes that have been subjected to a treatment process for the
9 reduction of pathogens and have been:

10 (A) demonstrated to meet the applicable requirements in Agency
11 rules for contaminant concentrations, vector attraction reduction, and pathogen
12 reduction; and

13 (B) approved by the Secretary for application to the land.

14 (51) "Digestate" means the material remaining after the anaerobic
15 digestion of a biodegradable feedstock.

16 (52) "Domestic septage" means either liquid or solid material removed
17 from a septic tank or similar treatment works that receives only domestic
18 sewage. "Domestic septage" does not include liquid or solid material removed
19 from a septic tank, cesspool, or similar treatment works that receives either
20 commercial or industrial wastewater, or a mixture of commercial or industrial
21 and domestic wastes, portable toilet waste, holding tank waste, cesspool waste,

1 ~~waste from Type III marine sanitation devices, or grease removed from a~~
2 ~~grease trap.~~

3 ~~(53) “Residual waste” mean domestic septage, sewage sludge, biosolids,~~
4 ~~and sludge from drinking water treatment plants.~~

5 ~~(54) “Sewage Sludge” means any solid, semisolid, or liquid generated~~
6 ~~from a municipal, commercial, or industrial wastewater treatment facility or~~
7 ~~process treating any amount of domestic waste.~~

8 ~~(55) “Sludge” means any solid, semisolid, or liquid generated from a~~
9 ~~municipal, commercial, or industrial wastewater treatment facility or process,~~
10 ~~water supply treatment plant, air pollution control facility or any other such~~
11 ~~waste having similar characteristics and effects.~~

12 ~~(56) “Soil amendment” has the same meaning as in 6 V.S.A. § 363.~~

13 Sec. 2. 10 V.S.A. § 6604d is added to read:

14 § 6604d. PHYSICAL CONTAMINANT STANDARDS FOR RESIDUAL
15 WASTE, DIGESTATE, AND SOIL AMENDMENTS

16 ~~(a) The Secretary shall adopt by rule standards for the allowable levels of~~
17 ~~physical contaminants in residual waste, digestate, and soil amendments sold~~
18 ~~or land applied in the State, provided that the standards shall:~~

19 ~~(1) provide that residual waste, digestate, and soil amendments shall not~~
20 ~~contain more than 0.5 percent by dry weight of physical contaminants greater~~
21 ~~than one millimeter,~~

1 ~~(2) provide that no more than 20 percent by dry weight of the 0.5~~
2 percent by dry weight of physical contaminants in residual waste, digestate,
3 and soil amendments shall be film plastic greater than one millimeter; and

4 (3) establish testing or sampling standards for residual waste, digestate,
5 and soil amendments.

6 (b) A person who violates the rules adopted under this section shall be
7 subject to a civil penalty under subsection 6612(b) of this title.

8 Sec. 2. RULEMAKING; IMPLEMENTATION

9 (a) In accordance with 3 V.S.A. chapter 25, the Secretary of Natural
10 Resources shall adopt the rules required under 10 V.S.A. § 6604d for allowable
11 levels of physical contaminants in residual waste, digestate, and soil
12 amendments by September 1, 2022. The Secretary shall adopt the rules as an
13 emergency rule and concurrently propose them as a permanent rule. The
14 emergency rule shall be deemed to meet the standard for the adoption of
15 emergency rules pursuant to 3 V.S.A. § 844(a).

16 (b) Compost and soil amendments regulated by the Secretary of
17 Agriculture, Food and Markets under 6 V.S.A. chapter 218 shall be required to
18 meet the standards for physical contaminants in residual waste, digestate, and
19 soil amendments adopted by the Secretary of Natural Resources under
20 10 V.S.A. § 6604d.

1 ~~Sec. 3. EFFECTIVE DATE~~

2 ~~This act shall take effect on passage.~~

Sec. 1. MORATORIUM ON ISSUANCE OF SOLID WASTE FACILITY

CERTIFICATIONS FOR FOOD DEPACKAGING FACILITIES

Beginning on March 1, 2022, the Secretary of Natural Resources shall not issue a new or amended solid waste facility certification under 10 V.S.A. chapter 159 for the operation of food depackaging equipment until the rules required under Sec. 3 of this act are adopted and in effect, provided that the Secretary of Natural Resources may issue an amended certification to a facility certified to conduct food depackaging on or before March 1, 2022 if the amendment authorized by the Secretary is intended to result in fewer contaminants in material produced from food depackaging and shall not allow for increased production of food depackaging materials at the facility.

Sec. 2. AGENCY OF NATURAL RESOURCES REPORT ON FOOD

DEPACKAGING FACILITIES

(a) On or before January 15, 2023, the Secretary of Natural Resources shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife a report regarding the management of materials produced by food depackaging facilities certified for operation in the State. The report shall be developed through a collaborative stakeholder process that shall include the Chair of the

House Committee on Natural Resources, Fish, and Wildlife or designee; the Chair of the Senate Committee on Natural Resources, and Energy or designee; a representative of the Agency of Agriculture, Food, and Markets; and a representative from each of the following: composters, anaerobic digestors, producers of food residuals, municipalities, haulers, depackagers, and environmental organizations.

(b) The report shall include:

(1) a list of the food depackaging facilities certified in the State under 10 V.S.A. chapter 159;

(2) a summary of the chain of custody of materials processed by food depackaging facilities, including the original supplier of food residuals and transporters of food residuals;

(3) the sites or facilities of final disposition of the materials processed by food depackaging facilities, including whether the materials were disposed of in landfills; transferred to composting facilities, farms, or farm fields; or introduced into foods for animal or human consumption;

(4) a summary of how the materials produced from food depackaging facilities or equipment may be used in the State, including any existing standards in statute or rule for the management of the materials;

(5) the amount of microplastics, plastics, or other contamination present in the material produced from food depackaging facilities in the State,

including whether the materials have detectable levels of perfluoroalkyl and polyfluoroalkyl substances;

(6) a memorandum of understanding between the Agency of Natural Resources and the Agency of Agriculture, Food and Markets to coordinate and cooperate on the adoption of standards or rules for the materials produced from food depackaging facilities in order to provide for consistency in regulation by the two agencies;

(7) an evaluation of the practicability of implementing the food residuals hierarchy set forth in 10 V.S.A. § 6605k in a more stringent manner;
and

(8) the methods used domestically and internationally by jurisdictions with physical contamination standards to evaluate the percentage by weight of physical contamination present in the material produced by depackaging facilities, residual waste, digestate, compost, and soil amendments.

Sec. 3. RULEMAKING

(a) The Secretary of Natural Resources shall adopt by rule requirements for the operation of food depackaging facilities certified to operate in the State. The rules shall establish standards for materials that may be accepted for depackaging and standards for the amount of contamination, including microplastics, allowed to be present in material produced by food depackaging facilities. The Secretary of Natural Resources shall not adopt rules under this

section or authorize the issuance of permits under the rules adopted under this section that restrain agricultural activities without the consent of the Secretary of Agriculture, Food and Markets.

(b) The Secretary of Natural Resources shall not initiate rulemaking under this section until the report required by Sec. 2 of this act is submitted to the Vermont General Assembly.

Sec. 4. REPEAL

Sec. 1 (moratorium on food depackaging facilities) of this act shall be repealed on the date that the rules required under Sec. 3 of this act are adopted and in effect.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.