

1 Introduced by Committee on Agriculture

2 Date:

3 Subject: Agriculture; solid waste; composting; poultry

4 Statement of purpose of bill as introduced: This bill proposes to require the
5 Agency of Agriculture, Food and Markets to regulate compost foraging as
6 farming. The bill would amend the definition of “farming” under Act 250 and
7 the Required Agricultural Practices to include compost foraging.

8 An act relating to the use of food residuals for farming

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

10 Sec. 1. 10 V.S.A. § 6001 is amended to read:

11 § 6001. DEFINITIONS

12 ~~As used in~~ As used in this chapter:

13 * * *

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

15 * * *

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

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

19 * * *

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

4 (H) the importation of 2,000 cubic yards per year or less of food
5 residuals or food processing residuals onto a farm for the production of
6 compost, provided that:

7 (i) the compost is principally used on the farm where it is
8 produced; or

9 (ii) the compost is produced on a small farm that raises or
10 manages poultry.

11 * * *

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

16 (39) “Food processing residuals” means the remaining organic material
17 from a food processing plant and may include whey and other dairy, cheese
18 making, and ice cream residuals or residuals from any food manufacturing
19 process excluding livestock or poultry slaughtering and rendering operations.

20 “Food processing residuals” does not include food residuals from markets,
21 groceries, or restaurants.

1 (e) the on-site storage, preparation, and sale of agricultural products
2 principally produced on the farm; or

3 (f) the on-site storage, preparation, production, and sale of fuel or power
4 from agricultural products or wastes principally produced on the farm; or

5 (g) the raising, feeding, or management of four or more equines owned or
6 boarded by the farmer, including training, showing, and providing instruction
7 and lessons in riding, training, and the management of equines; or

8 (h) the importation of 2,000 cubic yards per year or less of food residuals
9 or food processing residuals onto a farm for the production of compost,
10 provided that:

11 (1) the compost is principally used on the farm where it is produced; or

12 (2) the compost is produced on a small farm that raises or manages
13 poultry.

14 * * *

15 2.44 “Food residual” means source separated and uncontaminated material
16 that is derived from processing or discarding of food and that is recyclable, in a
17 manner consistent with 10 V.S.A. § 6605k. Food residual may include
18 preconsumer and postconsumer food scraps. “Food residual” does not mean
19 meat and meat-related products when the food residuals are composted by a
20 resident on site.

1 2.45 “Principally used” means that more than 50 percent, either by
2 volume or weight, of the compost produced on the farm is physically and
3 permanently incorporated into the native soils on the farm as a soil
4 enhancement and is not removed or sold at any time thereafter.

5 Sec. 3. 6 V.S.A. chapter 218 is added to read:

6 CHAPTER 218. AGRICULTURAL RESIDUALS MANAGEMENT

7 § 5131. PURPOSE

8 The purpose of this chapter is to establish a program for the management of
9 residual wastes generated, imported to, or managed on a farm for farming in
10 Vermont.

11 § 5132. DEFINITIONS

12 As used in this chapter:

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

14 (2) “Compost” means a stable humus-like material produced by the
15 controlled biological decomposition of organic matter through active
16 management but shall not mean sewage, septage, or materials derived from
17 sewage or septage.

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

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

1 (5) “Food processing residuals” means the remaining organic material
2 from a food processing plant and may include whey and other dairy, cheese
3 making, and ice cream residuals or residuals from any food manufacturing
4 process excluding livestock or poultry slaughtering and rendering operations.

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

7 (6) “Food residuals” means source separated and uncontaminated
8 material that is derived from processing or discarding of food and that is
9 recyclable or compostable. “Food residuals” may include preconsumer and
10 postconsumer food scraps. “Food residuals” include meat and meat-related
11 products when the disposition of the products is managed on a farm.

12 (7) “Secretary” means the Secretary of Agriculture, Food and Markets.

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

14 § 5133. FOOD RESIDUALS; RULEMAKING

15 (a) The Secretary shall regulate the importation of food residuals or food
16 processing residuals onto a farm.

17 (b)(1) The Secretary shall adopt by rule requirements for the management
18 of food residuals and food processing residuals on a farm. The rules may
19 include requirements regarding:

20 (A) the proper composting of food residuals or food processing
21 residuals;

1 (B) destruction of pathogens in food residuals, food processing
2 residuals, or compost;

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

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

6 (E) prevention of objectionable odors, noise, vectors, or other
7 nuisance conditions.

8 (2) The Secretary may adopt the rules required by this section as part of
9 the Required Agricultural Practices or as independent rules under this chapter.

10 (c) A farm producing compost under 10 V.S.A. § 6001(22)(H) shall be
11 regulated under this chapter and shall not require a certification or other
12 approval from the Agency of Natural Resources under 10 V.S.A. chapter 159.

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

14 § 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

15 (a)(1) No person shall construct, substantially alter, or operate any solid
16 waste management facility without first obtaining certification from the
17 Secretary for such facility, site, or activity, except for sludge or septage
18 treatment or storage facilities located within the fenced area of a domestic
19 wastewater treatment plant permitted under chapter 47 of this title. This
20 exemption for sludge or septage treatment or storage facilities shall exist
21 only if:

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

(n) A farm producing compost under subdivision 6001(22)(H) is exempt from the requirements of this section.

Sec. 5. 10 V.S.A. § 6605h is amended to read:

§ 6605h. COMPOSTING REGISTRATION

Notwithstanding sections 6605, 6605f, and 6611 of this title, the Secretary may, by rule, authorize a person engaged in the production or management of compost at a small scale composting facility to register with the Secretary instead of obtaining a facility certification under section 6605 or 6605c of this title. This section shall not apply to a farm producing compost under subdivision 6001(22)(H) of this title.

Sec. 6. 10 V.S.A. § 6605j is amended to read:

§ 6605j. ACCEPTED COMPOSTING PRACTICES

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

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

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

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

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

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

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

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

1 (b) A person operating a small scale composting facility ~~or operating a~~
2 ~~composting facility on a farm~~ who follows the accepted composting practices
3 shall not be required to obtain a discharge permit under section 1263 or 1264
4 of this title, a solid waste facility certification under chapter 159 of this title, or
5 an air emissions permit under chapter 23 of this title unless a permit is required
6 by federal law or the Secretary of Natural Resources determines that a permit
7 is necessary to protect public health or the environment.

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

14 (d) The Secretary shall not regulate under this section a farm producing
15 compost under subdivision 6001(22)(H) of this title.

16 Sec. 7. APPLICATION OF SOLID WASTE MANAGEMENT RULES

17 Prior to adoption of rules under 6 V.S.A. § 5133, the Secretary of
18 Agriculture, Food and Markets shall require a person producing compost on a
19 farm under 10 V.S.A. § 6001(22)(H) to comply with Sections 6–1101 through
20 6–1111 of the Agency of Natural Resources’ Vermont Solid Waste
21 Management Rules. After adoption of rules under 6 V.S.A. § 5133, Sections

1 6-1101 through 6-1111 of the Agency of Natural Resources' Vermont Solid
2 Waste Management Rules shall not apply to a person producing compost on a
3 farm under 10 V.S.A. § 6001(22)(H).

4 Sec. 8. UPDATE ON IMPLEMENTATION OF IMPORT OF FOOD

5 RESIDUALS ONTO FARM FOR COMPOSTING

6 On or before January 15, 2023, the Secretary of Agriculture, Food and
7 Markets and the Secretary of Natural Resources shall consult and present or
8 submit testimony to the Senate Committee on Agriculture and the House
9 Committee on Agriculture and Forestry regarding the import of food residuals
10 onto farms for the purpose of compost production.

11 Sec. 9. EFFECTIVE DATE

12 This act shall take effect on passage.