

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

8 § 6001. DEFINITIONS

9 In this chapter:

10 \* \* \*

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

12 \* \* \*

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

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

16 \* \* \*

17 (vii) The construction of improvements below the elevation of  
18 2,500 feet for the onsite storage, preparation, and sale of compost, provided  
19 that one of the following applies:

20 \* \* \*

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

3 \* \* \*

4 (22) “Farming” means:

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

7 (B) the raising, feeding, or management of livestock, poultry, fish, or  
8 bees; or

9 (C) the operation of greenhouses; or

10 (D) the production of maple syrup; or

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

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

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

19 (H) the production of compost on a farm that imports up to 2,000  
20 cubic yards per year or less of food residuals or food processing residuals,  
21 provided that the compost is principally used on the farm where it is produced.

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\* \* \*

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

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

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

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

(41) “Principally used” means, for the purposes of subdivision (3)(D)(vii)(III) or (22)(H) of this section, that more than 50 percent, either by volume or weight, of the compost produced on the farm is physically and permanently incorporated into the native soils on the farm as a soil enhancement and is not removed or sold at any time thereafter.

Sec. 2. Section 2 of the Agency of Agriculture, Food and Markets, Vermont Required Agricultural Practices Rule for the Agricultural Nonpoint Source Pollution Control Program is amended to read:

1 Section 2. Definitions

2 \* \* \*

3 2.16 Farming means:

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

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

8 (c) the operation of greenhouses; or

9 (d) the production of maple syrup; or

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

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

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

17 (h) the production of compost on a farm that imports up to 2,000 cubic  
18 yards per year or less of food residuals or food processing residuals, provided  
19 that the compost is principally used on the farm where it is produced.

20 \* \* \*

1        2.44 “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        2.45 “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. 3. 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        residual wastes generated, imported to, or managed on a farm for farming in  
16        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) “Farm” means a parcel or parcels of land owned, leased, or managed  
4 by a person and devoted primarily to farming that meets the threshold criteria  
5 for regulation under the Required Agricultural Practices.

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

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

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

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

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

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

1     § 5133. FOOD RESIDUALS; RULEMAKING

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

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

7                   (A) the proper composting of food residuals or food processing  
8     residuals;

9                   (B) destruction of pathogens in food residuals, food processing  
10    residuals, or compost;

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

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

14                   (E) prevention of objectionable odors, noise, vectors, or other  
15    nuisance conditions.

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

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

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

2 § 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

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

10 \* \* \*

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

12 \* \* \*

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

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

16 § 6605h. COMPOSTING REGISTRATION

17 Notwithstanding sections 6605, 6605f, and 6611 of this title, the Secretary  
18 may, by rule, authorize a person engaged in the production or management of  
19 compost at a small scale composting facility to register with the Secretary  
20 instead of obtaining a facility certification under section 6605 or 6605c of this

1 title. This section shall not apply to a farm producing compost under  
2 subdivision 6001(22)(H).

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

4 § 6605j. ACCEPTED COMPOSTING PRACTICES

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

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

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

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

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

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

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

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

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

19 (c) ~~The Secretary of Natural Resources shall coordinate with the Secretary~~  
20 ~~of Agriculture, Food and Markets in implementing and enforcing the accepted~~  
21 ~~composting practices. The Secretary of Agriculture, Food and Markets and the~~

1 ~~Secretary of Natural Resources may, after opportunity for public review and~~  
2 ~~comment, develop a memorandum of understanding for implementation and~~  
3 ~~enforcement of the accepted composting practices. [Repealed.]~~

4 (d) The Secretary shall not regulate under this section a farm producing  
5 compost under subdivision 6001(22)(H).

#### 6 Sec. 7. APPLICATION OF SOLID WASTE MANAGEMENT RULE

7 Prior to adoption of rules under 6 V.S.A. § 5133, the Secretary of  
8 Agriculture, Food and Markets shall require a person producing compost on a  
9 farm under subdivision 6001(22)(H) to comply with Sections 6–1101 through  
10 6–1110 of the Agency of Natural Resources’ Vermont Solid Waste  
11 Management Rules. After adoption of rules under 6 V.S.A. § 5133, Sections  
12 6-1101 through 6-1110 of the Agency of Natural Resources’ Vermont Solid  
13 Waste Management Rules shall not apply to a person producing compost on a  
14 farm under subdivision 6001(22)(H).

#### 15 Sec. 8. UPDATE ON IMPLEMENTATION OF IMPORT OF FOOD

##### 16 RESIDUALS ONTO FARM FOR COMPOSTING

17 On or before January 15, 2022, the Secretary of Agriculture, Food and  
18 Markets and the Secretary of Natural Resources shall consult and present or  
19 submit testimony to the Senate Committee on Agriculture and the House  
20 Committee on Agriculture and Forestry regarding the import of food residuals  
21 onto farms for the purpose of compost production.

1      Sec. 9. EFFECTIVE DATE

2            This act shall take effect on passage.

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6            (Committee vote: \_\_\_\_\_)

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8

Senator \_\_\_\_\_

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FOR THE COMMITTEE