

1 H.489

2 Introduced by Representative Gannon of Wilmington

3 Referred to Committee on

4 Date:

5 Subject: Agriculture; Food and Markets; food residuals; waste permitting;  
6 definitions

7 Statement of purpose of bill as introduced: This bill proposes to permit farms  
8 to transport, accept, and use food residuals for the management and feeding of  
9 poultry without first obtaining a solid waste facility certification or solid waste  
10 commercial hauler permit. This bill also proposes several definitions related to  
11 the use of food residuals in farming practices.

12 An act relating to the use of food residuals in farming operations

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

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

15 § 6605k. FOOD RESIDUALS; MANAGEMENT HIERARCHY

16 \* \* \*

17 (b) A person who produces more than an amount identified under  
18 subsection (c) of this section in food residuals and is located within 20 miles of  
19 a certified organics management facility, charitable food rescue organization,

1 or a farm that has available capacity and that is willing to accept the food  
2 residuals shall:

3 (1) ~~Separate~~ separate food residuals from other solid waste, provided  
4 that a de minimis amount of food residuals may be disposed of in solid waste  
5 when a person has established a program to separate food residuals and the  
6 program includes a component for the education of program users regarding  
7 the need to separate food residuals; and

8 (2) ~~Arrange~~ arrange for the transfer of food residuals to a location that  
9 manages food residuals in a manner consistent with the priority uses  
10 established under subdivisions (a)(2)-(5) of this section or shall manage food  
11 residuals on site.

12 \* \* \*

13 (d) As used in this section, "farm" means a parcel or parcels of land owned,  
14 leased, or managed by a person and devoted primarily for farming as defined  
15 in section 6001 of this title. A farm accepting food residuals under this section  
16 shall not be required to obtain a solid waste facility certification under section  
17 6605 of this title or a commercial hauler permit under section 6607a of this  
18 title for the purposes of managing food residuals.

1 Sec. 2. 6 V.S.A. chapter 214 is added to read:

2 CHAPTER 214. FARM USE; FOOD RESIDUALS

3 § 4741. DEFINITIONS

4 As used in this chapter:

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

6 (2) “Agricultural product” means any raw agricultural commodity, as  
7 defined in section 21 of this title, and any product prepared from any raw  
8 agricultural commodity that is principally produced on a farm.

9 (3) “Agricultural waste” has the same meaning as set forth in  
10 subdivision 4802(7) of this title.

11 (4) “Annual cropland” means land devoted to the production,  
12 cultivation, harvesting, and management of annual row crops, including corn  
13 and pumpkins, but does not include land devoted to the production of:

14 (A) vegetable, fruit, or berry crops grown for human consumption; or

15 (B) small grains.

16 (5) “Barnyard” and “feedlot” mean an area where animals are confined  
17 by fences, structures, or topography and vegetation cover is sparse and the  
18 animals are primarily sustained by supplemental feed.

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

1 management. “Compost” shall not include sewage, septage, or any materials  
2 derived from sewage or septage.

3 (7) “Cover crop” means a temporary vegetative crop established for the  
4 purpose of:

5 (A) reducing erosion and runoff; and

6 (B) providing organic matter to cropland to enhance soil health.

7 (8) “Crop” means plants grown for food, feed, fiber, Christmas trees,  
8 maple sap, horticulture, viticulture, orchard crops, and pasture. “Crop” shall  
9 not include trees grown for silvicultural or timber purposes.

10 (9) “Cropland” means the land from which crops are grown.

11 (10) “Custom applicator” means a person or business entity who, for  
12 valuable consideration, is engaged in the business of applying manure or other  
13 agricultural wastes to cropland.

14 (11) “Discharge” shall have the same meaning as set forth in 10 V.S.A.  
15 § 1251.

16 (12) “Ditch” means a constructed channel for the collection of field  
17 runoff water or shallow groundwater and its conveyance to an outlet.

18 (13) “Farm” means a parcel or collection of parcels of land that is  
19 owned, leased, or managed by a person for the primary purpose of farming and  
20 is subject to regulation under the Required Agricultural Practices.

1           (14) “Farm structure” means a building, fence, complex, or other  
2           structure that is used by a person for farming, including a silo, a building to  
3           house livestock or raise horticultural or agronomic plants, a barnyard, or a  
4           waste management system. A “farm structure” shall not include any dwelling  
5           primarily used for human habitation.

6           (15) “Farming” shall have the same meaning as set forth in 10 V.S.A.  
7           § 6001(22).

8           (16) “Fertilizer” means any substance containing one or more  
9           recognized plant nutrients that is used for its plant nutrient content and that is  
10          designed for use or claimed to have value in promoting plant growth or health.  
11          “Fertilizer” shall not include unprocessed animal or vegetable manures and  
12          other products exempted by the Secretary.

13          (17) “Food processing residual” means the remaining organic material  
14          from a food processing plant, including whey, cheese, ice cream, and other  
15          dairy residuals or residuals from any food manufacturing process, excluding  
16          slaughtering and rendering operations. “Food processing residual” shall not  
17          include materials from markets, groceries, and restaurants.

18          (18) “Food residual” means organic material derived from human food  
19          that is separated from commercial, industrial, or residential sources, including  
20          markets, groceries, and restaurants.

1           (19) “Livestock” means cattle, cow and calf pairs, heifers, bulls, bison,  
2           swine, sheep, goats, horses, cervids, camelids, rabbits, and fowl, including  
3           pheasants, chukar partridge, coturnix quail, laying hens, broilers, ducks,  
4           turkeys, or any other type of fowl as designated by the Secretary. The  
5           Secretary may designate other livestock types after consideration of the  
6           animal’s potential to generate nutrients or other associated agricultural wastes.

7           (20) “Manure” means waste from livestock in solid or liquid form that  
8           may also contain bedding, spilled feed, water, milk house waste, or soil.

9           (21) “Pesticide” shall have the same meaning as “economic poison” as  
10           defined in section 911 of this title and the Vermont Regulations for Control of  
11           Pesticides.

12           (22) “Principally produced” means at least 50 percent of the raw  
13           agricultural products, either by weight or volume, that are stored, prepared, or  
14           sold on a farm and are also grown or produced on the farm.

15           (23) “Production area” means those areas of a farm where animals,  
16           agricultural inputs, or raw agricultural products are confined, housed, stored, or  
17           prepared, including barnyards, raw material storage areas, heavy-use areas,  
18           fertilizer and pesticide storage areas, and waste storage and containment areas.

19           “Production area” shall include egg processing facilities, milk houses, raw  
20           agricultural commodity preparation and storage, or any area used in the  
21           storage, handling, treatment, or disposal of animal carcasses.

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

2           (25) “Small farm” shall have the same meaning as set forth in  
3 section 4871 of this title.

4           (26) “Subsurface tile drainage” means a conduit installed in cropland  
5 beneath the ground surface to collect or convey water to an outlet.

6           (27) “Surface inlet” or “open drain” means an above-ground structure  
7 that receives, collects, or redirects field runoff water to other underground  
8 drainage pipes or ditches.

9           (28) “Surface water” means any water on the land surface, whether  
10 artificial or natural, that is contained within, flows through, or borders the State  
11 or any portion of it, including rivers, streams, brooks, reservoirs, ponds, lakes,  
12 and springs.

13           (29) “Vegetable product” means the production of crops that are  
14 generally known as and sold as a vegetable.

15           (30) “Waste management system” means a waste management program  
16 and collection of conservation practices conducted on a farm that may include:

17           (A) field stacking, composting, leachate control systems, bedded  
18 pack systems, milk house waste systems, or an adequately sized waste storage  
19 facility;

1           (B) contracts that transfer the ownership of wastes generated at the  
2           farm to another person for management in a manner determined by the  
3           Secretary; or

4           (C) a nutrient management plan for all wastes to be applied in  
5           compliance with the Agency's rules.

6           (31) "Waste storage facility" shall have the same meaning as set forth in  
7           subsection 4802(c) of this title.

8           (32) "Water supply" means a water source that intersects the water table  
9           and provides water through pipes or other conveyances, including drilled  
10          wells, dug wells, driven point wells, and natural springs.

11          (33) "Waters of this State" means any surface water and groundwater  
12          within the territorial limits of the State.

13          § 4742. AUTHORITY

14          (a) The Secretary shall have the authority to regulate the management,  
15          storage, composting, transport, and use of food residuals on farms. A farm  
16          may engage in the aggregation, transport, on-farm management, and  
17          composting of food residuals. Food residuals and food residual compost by-  
18          products may be used as feed to livestock as authorized by the Secretary under  
19          this chapter.

20          (b) A farm proposing to use food residuals as authorized under this chapter  
21          shall apply to the Secretary for a permit.

1     § 4743. RULEMAKING

2           (a) The Secretary shall adopt rules, in accordance with 3 V.S.A. chapter 25,  
3     necessary for the administration of this chapter. These rules shall include the  
4     following:

5           (1) storage and transportation standards for food residuals and compost;

6           (2) monitoring and control requirements for agricultural waste resulting  
7     from activities permitted under this chapter;

8           (3) provisions regulating the use of food residuals and composted food  
9     residual by-products as feed for livestock;

10          (4) design and operation requirements for farm structures and  
11     production areas necessary for the storage, transportation, and use of food  
12     residuals and compost;

13          (5) provisions regulating or prohibiting the use of food processing  
14     residuals, slaughtering by-products, and rendering products in accordance with  
15     this chapter;

16          (6) operation, monitoring, and reporting requirements for the use of food  
17     residuals and compost on cropland as fertilizer;

18          (7) monitoring and control requirements for the discharge of agricultural  
19     waste, food residuals, and compost into surface waters and water supply; and

20          (8) provisions regarding application requirements and procedures for  
21     permitting authorized under this chapter.

1       (b) The Secretary shall adopt rules under this section no later than  
2       December 31, 2019.

3       Sec. 3. 10 V.S.A. § 6605j(d) is added to read:

4       (d) Notwithstanding this section, the aggregation, transport, on-farm  
5       management, composting, and use of food residuals on farms shall be  
6       regulated by the Secretary of Agriculture, Food and Markets, pursuant to  
7       6 V.S.A. chapter 244.

8       Sec. 4. EFFECTIVE DATE

9       This act shall take effect on passage.