

## CAV Compost Conversation

September 22, 2022

### Background on the Depackager Stakeholder Group:

In the September 2022 Compost Conversation we will be discussing the mandate included in [Act 170](#) for ANR to convene a stakeholder group to make recommendations on the proper management of packaged organic materials. ANR has dubbed this group the “[Depackger Stakeholder Group](#).” Here is the related excerpt from Act 170:

On or before July 1, 2022, the Secretary of Natural Resources shall convene a collaborative stakeholder process to make recommendations on the proper management of packaged organic materials, including:

- (1) recommendations on whether the organics management hierarchy in 10 V.S.A. § 6605k should apply to each generator of organic waste;
- (2) whether the Agency of Natural Resources should modify its existing policy surrounding the source separation of organic wastes; and
- (3) any recommendations on the proper use of depackagers in the management of organic waste.

On or before January 15, 2023, the Secretary of Natural Resources shall submit the recommendations of the stakeholder process required by this section to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife.

[Seven groups](#) were identified in the legislation as stakeholders. Although CAV is not a formal member of this group, the meetings are open for participation from other stakeholders and the public at-large.

Meeting information, resources, and meeting minutes are all available on the [Stakeholder Group webpage hosted by ANR](#). The initial meeting (primarily housekeeping) was convened on 8/31; the next scheduled meeting is on 9/28 from 9:30-11:30. These meetings are open to the public and there are virtual and in-person options for participation. [Here is the agenda](#) for the September 28 meeting. Note that this includes identifying who the group will hear from and what information needs to be gathered.

*As we move through the Compost Conversation, we will be brainstorming suggestions for both people and resources that can inform science-based decision-making.*

### Background for the Compost Conversation:

For reference, CAV has previously provided [testimony to the legislature](#) related to these topics.

Building on [August’s conversation about PFAS](#), and previous discussions about microplastics, it’s important to connect the dots between the topics given to the stakeholder group and the environmental and human health concerns associated with PFAS and microplastics. While we might not have all the information and data we would like, we know that:

- PFAS is in many types of food packaging (as well as personal care items, the soil, the rainwater, our bodies... but food packaging is relevant to this conversation)
- PFAS and microplastics very often go hand in hand
- PFAS is linked to all kinds of human and environmental health issues; while we know less about micro- and nano-plastics, there is mounting evidence that we should be concerned about these as well.
- While much of the available data comes from drinking water, waste water and/or biosolid applications, we can transfer this information to other organic management systems.

**Mandate of the Depackager Stakeholder Group:**

**(1) Make recommendations on whether the organics management hierarchy in [10 V.S.A. § 6605k](#) should apply to each generator of organic waste.**

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As a reminder, below is the language of § 6605k. Food residuals; management hierarchy:

(a) It is the policy of the State that food residuals collected under the requirements of this chapter shall be managed according to the following order of priority uses:

- (1) reduction of the amount generated at the source;
- (2) diversion for food consumption by humans;
- (3) diversion for agricultural use, including consumption by animals;
- (4) composting, land application, and digestion; and
- (5) energy recovery.

(b) A person who produces more than an amount identified under subsection (c) of this section in food residuals shall:

- (1) separate food residuals from other solid waste, provided that a de minimis amount of food residuals may be disposed of in solid waste when a person has established a program to separate food residuals and the program includes a component for the education of program users regarding the need to separate food residuals; and
- (2) arrange for the transfer of food residuals to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions (a)(2)-(5) of this section or shall manage food residuals on site.

(c) The following persons shall be subject to the requirements of subsection (b) of this section:

- (1) beginning July 1, 2014, a person whose acts or processes produce more than 104 tons per year of food residuals;
  - (2) beginning July 1, 2015, a person whose acts or processes produce more than 52 tons per year of food residuals;
  - (3) beginning July 1, 2016, a person whose acts or processes produce more than 26 tons per year of food residuals;
  - (4) beginning July 1, 2017, a person whose acts or processes produce more than 18 tons per year of food residuals; and
  - (5) beginning July 1, 2020, any person who generates any amount of food residuals. (Added 2011, No. 148 (Adj. Sess.), § 6; amended 2017, No. 208 (Adj. Sess.), § 4, eff. July 1, 2020.)
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The law, itself, is clear that this section applies to everyone (“any person”). So, perhaps a question we can consider is *How can this be structurally or realistically applied?*

- How would this apply to households and extremely small businesses?
- Are there service limitations at the commercial/institutional levels?
- Is there some sort of rubric for volume, homogeneity, and frequency of material produced that can help establish reasonable thresholds for when the law should apply?
- Understanding that every generator may not always have access to all services listed in the hierarchy, should compliance with the hierarchy only be required to the highest level of available services?
- How can all generators be efficiently connected with nearby organic management services, at as many levels of the hierarchy as possible?

- How can the State best support businesses, institutions, and programs to divert organic residuals to the highest and best uses in the hierarchy?
- Are there 'clear' examples of when the hierarchy should and shouldn't be applied?

*What other questions need to be asked to tease this apart?*

*Who should be invited in to share their knowledge about this topic?*

*What resources can we share with the Stakeholder group?*

**(2) Make recommendations on whether the Agency of Natural Resources should modify its [existing policy surrounding the source separation of organic wastes](#).**

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Relevant definitions from [§ 6602](#):

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

(32) "Source-separated" or "source separation" means the separation of compostable and recyclable materials from noncompostable, nonrecyclable materials at the point of generation.

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CAV has previously supported policy that:

- Prioritizes source separating food waste at the point of generation and management in a manner consistent with the priorities listed in the hierarchy (to the greatest extent possible)
- Prohibits unpackaged food/food residuals from being mixed with packaged organics at the point of generation.
- Requires generators to separate food waste from all other inorganic materials, with exemptions for heavily packaged organics that cannot be easily separated on site.
- Clearly articulates the role that depackagers play in diverting organics from the landfill (*see (3) below*). This might include management of packaged food waste that is not easily separated at the point of generation and for large volumes of heavily packaged materials.

We believe the above will:

- Maintain the highest possible integrity for diversion of organic materials, in alignment with the hierarchy
- Maintain the highest possible integrity of organic streams for compost (or AD), which in turn limits integration of PFAS and microplastics into Vermont soil to the greatest extent possible.
- Ensure that "zero sort" does not become the standard for organics management in VT.

In terms of modifying the State's existing policy around source separation:

- Do folks agree with the above points?
- What's missing?
- How could these ideas be integrated into policy?
- How could the State provide more robust guidance about source separation? What would this ideally look like?

*What other issues or questions need to be addressed when considering recommendation?*

*Who should be invited in to share their knowledge about this topic?*

*What other resources can we share with the Stakeholder group?*

### **(3) Make recommendations on the proper use of depackagers in the management of organic waste**

This relates to both items (1) and (2), above.

As we know that both PFAS and micro- and nano-plastics from food packaging end up in the output (to some degree), CAV has previously recommended strategic use of this technology for organics which would otherwise be landfilled (of which there are many).

Here are some questions to consider when making recommendations for use of depackagers:

1. What materials can go to depackaging facilities?
  - CAV has previously proposed managing packaged food waste that is not easily separated at the point of generation and large volumes of heavily packaged materials.
    - How would “easily separated” be defined?
    - Do the materials that count as “heavily packaged” need to be specified?
  - What’s the best disposal option for compost-destined loads that are rejected due to excessive contamination?
    - Should there be exceptions for food waste that has unintentionally been commingled with packaged food waste or excessive amounts of contamination? What metric could be used if this is considered? Contamination of > 2% by volume? Some other percentage or something else?
    - How could this effectively be coupled with a strong commitment to source separation, so this exception wouldn’t be abused?
  - If options higher on the hierarchy aren’t available, should there be an allowance for sending the materials to a depackaging facility, or would generators and haulers need to transport further until they found an acceptable outlet? If this is considered, what would the distance be?
2. How are/should these facilities be operated?
  - Are there depackager industry BMPS? Either in the US or abroad?
3. How should the resulting output can be used?
  - Should compost or digestate that uses depackaging output as a feedstock be banned from agricultural fields, gardens, and ecologically sensitive locations - until contamination limits are established?
  - Does the State need to establish an enumerated list of permissive uses for this material?
4. Environmental Justice considerations:
  - Should the State should create a regulatory process that ensures out-of-state facilities are operating at standards that are compliant with Vermont standards. This relates directly to Vermont’s Environmental Justice goals ([Act 154](#), passed in 2022) of not displacing the burden of our waste and pollution on other communities.
  - Should all facilities that manage materials generated in Vermont, regardless of location, be required to comply with Vermont’s laws?

*What other issues or questions need to be addressed when considering recommendation?*

*Who should be invited in to share their knowledge about this topic?*

*What other resources can we share with the Stakeholder group?*