

Final version 4pm, October 31, 2023

Ben Gauthier
Environmental Analyst
Vermont Agency of Natural Resources
1 National Life Drive
Montpelier, VT 05620-3704

RE: Draft Solid Waste Management Facility Draft Certification ID # CH045 for the All Cycle Transfer Station

Dear Mr. Gauthier:

Thank you for the opportunity to provide comments on the Agency of Natural Resources' ("ANR" or "Agency") draft Solid Waste Management Facility Draft Certification for the All Cycle Transfer Station. These comments are submitted on behalf of the Protect Our Soils Coalition through the Vermont Compost Company, Rural Vermont, Vermonters for a Clean Environment, Composting Association of Vermont, NOFA-VT, the Hanover Co-op Food Stores of NH & VT, Grow More Waste Less, the Vermont Healthy Soils Coalition, and Just Zero.

Introductory comment, perspective and framing

The Protect Our Soils Coalition (POSC) was formed in 2021 after the successful passage of Act 41 (2021) which clarified specifics for the agricultural use of food residuals in law and thereby meaningfully created a pathway for increased diversion in accordance with the priority uses in the management hierarchy of 10 V.S.A. § 6605k (3). In the management hierarchy, the diversion for agricultural use, including the consumption by animals, ranks third in the priority of uses, after reduction and the diversion for food consumption by humans, and before the diversion for composting, land application, and digestion.

The permitting of the Williston VT depackaging facility in 2021 accelerated consolidation of the market for food scrap diversion. Farmers who used to get loads for use as animal feed and/or for their composting systems lost clients to the new facility in a significant volume (source: Rural Vermont). In our advocacy for the successful implementation of the Universal Recycling Law, securing decentralized waste streams of strictly source separated organics (SSO) of food residuals is a central goal. We welcome that within the draft of the new permit for the depackaging facility in

Williston, Vermont more strictly applies the source separation requirement. It is our hope that the measures we outline in our advocacy and explicitly support will effectively limit the amount of valuable clean organic resources that go through depackaging when they can and should instead be managed in agricultural use or in available and existing community composting systems.

We recognize and appreciate the inclusion of our policy recommendations in the draft permit, including:

- 1) No acceptance of commingling SSOs with packaged food waste
- 2) A focus on ensuring that all stakeholders - generators, haulers, and facility operators - are required to screen for contamination in the food residuals through improved accountability measures

An area that could use further clarification is the definition of slurries. In the draft permit, slurries are defined in line item #35 as "not source separated food that has been processed through the depackager." It is unclear if slurries, per definition in the permit, are not considered SSOs that have simply been screened or otherwise processed through the depackaging facility. The POSC understands that depackaging is the mechanical separation and removal of food packaging from food residuals that have not undergone source separation. By defining slurries in a way that makes them distinct from food residuals and SSOs, ANR may not be subjecting these materials to the requirements of Vermont's food residual management hierarchy. We think that makes sense - given the presumed greater likelihood of contamination through the crushing of packaged organics in the absence of effective source separation. In ANR's draft policy for Source Separation of Food Residuals & Heavily Packaged Food Residuals, it seems clear that depackaging is intended to be used only for the management of heavily packaged food residuals. Given that the draft policy is not final to date - this understanding is important to clarify in the permit.

The POSC hopes that depackaging is a last resort for hard-to-manage food debris in packaging instead of another zero-sort recycling option that - by definition - increases the likelihood of contamination. We recommend clarifying the regulatory definition of slurries as being subject to a different legal standard than SSOs that are eligible for the higher priority use in agriculture (rank 3) vs. digestion and energy recovery (ranks 4 and 5).

Consequently, the POSC also advocates for the rewrite of the Required Agricultural Practice rule as part of the implementation of Act 41 (2021) to prohibit the importation

or land application of slurries from depackaging facilities on farms. Exceptions could be made for the composting of SSOs that have been screened with depackaging technology on a case-by-case permitting basis with an analysis of inert, human-made contaminants, at a minimum greater than 1mm.

At this time, it is unclear whether the Agency of Agriculture, Food and Markets' anticipated revision of the Required Agricultural Practices Rule will allow for on-farm use of any form of output from the depackaging facility, given that this material is presumably not source separated. Building from these identified areas of uncertainty, the POSC recommends that ANR further clarify the requirement of source separation at the point of generation as the primary food residual management method in the final permit.

POSC supports many points of the draft permit

We support the draft permit for the All Cycle Transfer Station as critical to the successful implementation of the organics management hierarchy in 10 V.S.A. § 6605k. Explicitly, we support the following aspects of the draft permit:

- Slurries are defined as not source separated organics that have been processed through the depackager.
- Requirement for manually pre-screening depack inputs and removal of inorganic materials [contaminants] if non-commingled SSO stream.
- Requirement to notify generator and/or hauler if level of contamination exceeds ability to manually separate.
- Requirement to notify DEC SWMP if excessive contamination is found in 3 or more loads per rolling 6-month period.
 - The three requirements above are designed to effectively require source separation for feedstocks that are presumably source separated.
 - We suggest specifying acceptable thresholds for contamination.
- No commingling of SSO and packaged food waste from any haulers or generators.
 - We suggest to clarify that as a hauler, Casella will hold themselves accountable for this rule as well.
- No SSO accepted in [liner] bags.
- No compostable plastics or products allowed in the depackaging stream.
- Mandatory removal of all non-primary packaging prior to processing via depack, recycling if appropriate.

- Requirement to collect 2 samples per month of depacked food slurry for analysis of inert, human-made contaminants greater than 1mm.
 - We suggest that the sampling requirement would also ask for two samples of SSO feedstocks processed through the facility for inert, human-made contaminants greater than 1mm.

POSC recommendations for improving the final permit

- 1) Limit and clearly define instances in which generators are allowed to send food residuals to depackaging facilities so that only heavily packaged food residuals are allowed unless no other services are available.
- 2) Clarify only SSOs qualify for priorities higher than digestion and energy recovery.
- 3) Clarify appropriate uses of post-depack slurries, explicitly excluding their use in land application on agricultural fields, in composting, and as gardening soil amendments. As we continue to learn more about these systems, ANR could consider appropriate exemptions, allowing higher priority uses of SSOs screened with depackaging technologies on a special permitting basis.
- 4) Set maximum contaminant levels at less than 1% relatively inert plastics/plastic by-products by volume for end uses of depackaged food residuals and slurry materials in non-food or feed-producing settings outside of landfilling (such as in landscaping) in order to be exempted from regulation as a solid waste, with the understanding that this contaminant level allowance is subject to further reduction based upon a determination by the Secretary ANR from state of the art and research data. This includes depackaged food materials sent for further processing, such as to digesters.

Respectfully Submitted,

Caroline Gordon
Legislative Director
Rural Vermont

Natasha Duarte
Director
Composting Association of Vermont

Karl Hammer
Owner & Operator
Vermont Compost Company

Cat Buxton
Owner, Grow More Waste Less
Manager, Vermont Healthy Soils Coalition

Peter Blair, Esq.
Policy & Advocacy Director
Just Zero

John Brabant
Director of Regulatory Affairs
Vermonters for a Clean Environment

Maddie Kempner
Policy Director
Northeast Organic Farming
Association of Vermont (NOFA-VT)

Rebecca J.H. White
Public & Government Affairs Associate
Hanover Co-op Food Stores & Auto Service
Centers of NH & VT