



H. 501 Testimony

2/11/22

Dear House Committee on Natural Resources, Fish, and Wildlife,

Rural Vermont organizes, educates, and advocates in collaboration with local and global movements to strengthen the social, ecological, and economic health of the agrarian communities that connect us all.

I appreciate your invitation to speak to you today about how a lack of implementation of the source separation requirement and the organics management hierarchy of the Universal Recycling Law (Act 148, 2012) through ANR continues to impact the agricultural community and to provide recommendations from the Protect Our Soils Coalition about how to improve the law to uphold the legislative intent behind these provisions.

About Rural Vermont's involvement with On-Farm Composting of Food Residuals

Since the beginning of my work as Legislative Director for Rural Vermont in 2019, I have supported a small group of poultry farmers who import food residuals onto their farms and have organized to affect policy in this realm as the Poultry Farmers for Compost Foraging. Without unfolding the entirety of that advocacy history, only last year during the first half of this biennium, that advocacy resulted in the passage of [Act 41 \(2021\)](#) which now defines the composting of up to 2,000 cy of food residuals on farms as agriculture and charged the Vermont Agency of Agriculture, Food and Markets to launch rulemaking in this regard by January 1, 2022 (see p. 12 Sec. 8a Act 41, 2021) on composting food residuals on farms. While VAAFM has NOT launched this rulemaking to date, this opportunity could and should include rules on the derived soil amendments that may be land applied unless adulterated as it is part of VAAFM's jurisdiction under the newly created Agricultural Residuals Management division (6 V.S.A. chapter 218, see p. 5 et seq.).

What agency has jurisdiction over soil amendments and their contamination standard?

Given the current delay by VAAFM to launch the Act 41 (2021) rulemaking for on-farm composting of food residuals – Rural Vermont fears that H. 501 as introduced would have preempted VAAFM's rulemaking authority as the bill appeared to move originally designated jurisdiction for setting a contamination standard for soil amendments back to the Agency of Natural Resources. Rural Vermont supports continuing VAAFM rulemaking authority under law for setting contamination standards for soil amendments in consultation with affected stakeholders, like farmers, through public participation. Act 41 (2021) specifically includes rulemaking authority (see p. 46) as well as the Secretary of Agriculture's authority, to (see p. 36):

"request additional proof of testing of products prior to registration for guaranteed analyses or adulterants."

We think a VAAFM rulemaking process would be equipped to find an equitable way for how to best test and pay for the assessment of whether soil amendments are adulterated and fit for land application on our important food producing lands.

We understand that while VAAFM has jurisdiction to control the outcome of processed food residuals – regarding their quality and land application – **ANR oversees waste streams of food residuals and their processing beyond their agricultural use (including the consumption by animals) and remains in charge to implement the goals and requirements of the URL for this purpose, including the source separation requirement and the organics management hierarchy.**

What is the issue at hand?

As part of the Protect Our Soils Coalition, including environmental organizations like CLF, VPIRG and Vermonters for a Clean Environment, as well as stakeholder groups like the Compost Association of Vermont and the Poultry Farmers for Compost Foraging (represented by Tom Gilbert of Black Dirt Farm), Rural Vermont is bringing attention to the current lack of implementation of the source separation requirement for the benefit of the successful utilization of the organics management hierarchy and the underlying goal to solve a resource concern without creating another one that unquestionably would detrimentally affect the environment and human health. While we have stated in the past that ANR has discretion to utilize policy tools, like rulemaking or educational campaigns, to achieve their referenced mandate from Act 148 (2012), it has become apparent that ANR has chosen to implement an extremely distorted interpretation of the law that would alleviate them from the responsibility that was intended by the legislature for the implementation of the URL hierarchy.

Our coalition pressed for a joint hearing with both committees on natural resources that was held on April 28, 2021 ([view recording on YouTube here](#)) where ANR representatives stated publicly that they understood that the source separation requirement of the law would be satisfied already where commingled food residuals and recyclables (like plastic packaging) would be separated from trash. This is ANR's current policy as laid out in the **DEC Policy for Managing Food Residuals, Including Packaged Food Residuals** form January 2020 as follows:

"Generators of food residuals need to keep food residuals (including food residuals that is in packaging and that which is unpackaged) separate from their trash. Thus, packaged and unpackaged food residuals shall not be mixed with other trash at the point of generation."

This ANR policy clearly allows for mixing packaged and unpackaged food residuals as long as they get separated from trash. **This policy is in stark contrast to the standard our coalition believes was clearly established with the source separation requirement that would require food residuals to be separated from trash and other recyclable materials like their packaging at the source of generation.** It is Rural Vermont's goal to secure pathways for clean streams of food residuals that may be composted on farms and either land applied or sold as soil amendments to enhance soil quality with valuable composts. We do not need scientific proof that commingling, crushing, and grinding packaged and unpackaged food residuals together create a greater likelihood of composts being contaminated with micro and nano plastics. We also don't need to wait until we experience harm to the environment through human health effects that can not be compensated anymore in the future. We urge the legislature now to address the unregulated consolidation of waste streams of food residuals that prevents their use at highest and best use, including their decentralized diversion for agricultural use and the consumption by animals.

We support the language of S.282 and further recommendations like those of Black Dirt Farm that would apply a precautionary approach in the management of food residuals and enforce the requirement to separate food residuals from other recyclable materials (like their packaging) and from trash - however stringently possible - and to not allow for any land application of sludges, slurries and composts that can not live up to this standard.

Ironically, ANR provides in the same policy in its background information that: "Section 6605k of the URL law requires generators to separate food residuals from other solid waste and arrange for food residuals transfer to be managed in accordance with the options 2-5 of the management hierarchy." We understand that ANR agrees in theory that only food residuals that have been separated at their source can be managed in accordance with the organics management hierarchy because they live up to the separation standard that aims to generate waste streams of food residuals that are as clean from contaminants as possible and fit for priority uses. This standard was also laid out by the testimony of Tom Gilbert from Black Dirt Farm who was involved in the making of Act 148 over ten years ago.

Recommendations for further amendments of the Protect Our Soils Coalition attached.

Finally I would also like to request that you prioritize moving H.501 through the crossover deadline given that the released UVM brief on Microplastics in Composts, Digestates & Food Wastes (Dr. Roy et. al) indicates that scientific findings on this issue appear to be insufficient to date to inform policy decisions so that a precautionary approach appears favorable. While maybe not all of our concerns and recommendations may be folded into the bill at this time, we trust that your committee will make appropriate judgment calls in this regard and that the Protect Our Soils Coalition will continue to work with the support of Senators of the Senate Natural Resources Committee and other legislators to pass this important legislation.

Respectfully,

Caroline Gordon LL.M.
Legislative Director | Rural Vermont
caroline@ruralvermont.org
802-356-9729