

March 10, 2021



**RE: S.102 - An act relating to the regulation of agricultural inputs for farming**

Dear Senator Bray and all members of the Senate Natural Resources Committee,

As the Legislative Director of Rural Vermont I am the lead advocate for S.102 and represent the Poultry Farmers For Compost Foraging (PFCF) – the pioneering group of small poultry farmers that have been subject to the jurisdictional dispute with AAFM and ANR for the past decade and beyond.

*I'm providing this written testimony in response to some of the raised concerns in your committee as it is unclear at this point if I and Kurt Ericksen from Vermont Compost will have the opportunity to testify in person as requested.*

**1. What are the perceived benefits of a change in jurisdiction from ANR to AAFM?**

As Deputy Chief Counsel Michael O'Grady indicated, "farming" is in many ways regulated differently than other activities with multiple legal exemptions or presumptions that may apply in Vermont and under federal law. This does include Act 250 exemptions but indeed reflects an entire regulatory regime for agricultural industries. Most PFCF practitioners are smaller diversified farms that are currently at risk of losing their farming status because of the missing legislation which would reflect in local zoning, current use, act 250 exemption, weight limits and posting of roads, etc. The PFCF and Rural Vermont know that the viability of any farm in the State is reliant on these regulatory exemptions. AAFM, ANR and LaRosa have all stated there have been issues with jurisdiction and oversight - this legislation clarifies those jurisdictional issues once and for all.

**2. Why can't we change the jurisdiction but keep the Act 250 requirement?**

Since even commercial composting is exempt from Act 250 – these provisions wouldn't apply regardless of the jurisdiction question, see 10 V.S.A. § 6001 (3)(D)(vii). Rural Vermont strongly recommends to NOT use S.102 as an opportunity to roll back long lasting agricultural exemptions. That would result in a huge dispute with the entire agricultural community by setting a precedent that would be widely opposed. Both regulatory agencies involved see this practice ultimately as farming – the according regulatory regime should apply. Please note that Vermont Compost does have an Act 250 permit. As you know, ANR rules would persist in the interim.

**3. Should there be a sunset on the law?**

We understand that the idea here would be to set a legislative reminder for legislative review of the successful and environmentally sound implementation of S.102. As Deputy Chief Counsel Michael O'Grady indicated, the report due in January 2023 already serves this purpose. More importantly, our shared goal of seeing this done well requires planning security for everyone affected – AAFM as the new regulatory agency that shall be committed to the new tasks being faced with according investments; PFCF farmers that have struggled to successfully maintain their business already

throughout a dispute older than a single decade; new farmers that want to consider diversifying into this practice with the investments and management decisions necessary; AND neighbors that criticize a lack of law enforcement due to lack of jurisdictional clarity.

#### **4 Should there be specific start and completion dates for the rule making process?**

We DO favor this idea – in difference to a sunset, this measure could enhance commitment and good practice.

#### **5. What has the Universal Recycling Law to do with this?**

Cathy Jamieson and Steven La Rosa restated today that the goal to divert food residuals away from the landfills is important. We want to close the nutrient loop with this legislation by allowing organics that come from farms be returned to farms ultimately as a soil enhancement. While the Universal Recycling Law prioritizes the “agricultural use” of food residuals – it is unclear what that means. S. 102 mirrors ANR composting rules by allowing up to 2,000cy to be composted on-farms. To further differentiate farms from composting operations, our bill proposes for that compost to either be land applied on the farm or produced on a small poultry farm. This would allow farms that at least also raise poultry as an additional farming practice (to continue) to be able sell their compost products. To learn more about farms that currently do exactly that – read this latest Seven Days Article about Black Dirt Farm: [Pastured Eggs, Composting and Human Rights Are Linked at Black Dirt Farm | Food + Drink Features | Seven Days | Vermont's Independent Voice \(sevendaysvt.com\)](#)

**S.102 is about changing the regulatory landscape around this issue to the better, resolving a long lasting dispute by providing clarity and capacity in a way that all parties agree to and have been looking for.**

Please reach out via phone if you have any questions – 802 356-9729

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