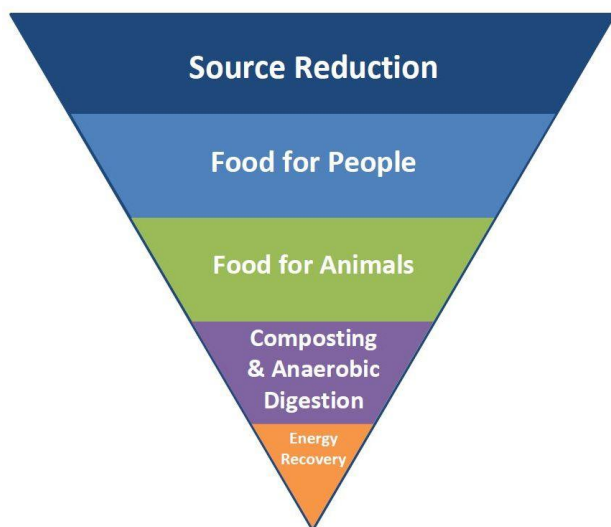


Background:

In 2012 Vermont passed Act 148, commonly known as the Universal Recycling Law. Stakeholders, members of the Vermont Legislature and State agencies agreed to implement measures to preserve the value of specific components of Vermont’s waste stream so they would be available for the highest and best use. The goal was to “close the loop”, utilizing as much of the organics stream locally as possible, reducing the State’s dependence on raw materials and offsetting the importation of soil enrichment alternatives.

Now that the Universal Recycling Law has had some time to unfold, we’ve seen markets fluctuate, economies shift, and technologies emerge. The sector is continuing to grow and evolve but the Agency of Natural Resources (Agency) wanted to take this opportunity to reiterate and clarify existing statutory requirements so that generators, haulers, and facilities alike can all work in unison to manage food residuals in accordance with the intent of the food residuals management hierarchy (10 VSA 6605k).

Vermont Food Recovery Hierarchy



Currently, statutes require the source separation of food residuals at the point of generation. Recent industry developments have encouraged the comingling of source separated organics with packaged ~~food residuals~~organics at the point of generation, transporting the blend of non-compostable material and organics to a depackaging facility for treatment.

A successful food residual management system in Vermont will need to be flexible and responsive to the resource streams, the generator density and the available local infrastructure. To best support the priorities established by the Legislature in the food residuals management hierarchy and to preserve the opportunity for source separated food residuals to be

utilized by the highest identified uses, the Agency has developed this policy to maintain the purity and availability of source separated organic materials.

Policy:

After considering applicable statutes, the intent of the Universal Recycling Law (Act 148 of 2012) and evaluating the food residuals management strategies being employed across the state it is the Agency’s policy that food residuals shall not be mixed with packaged ~~food residuals~~organics at the point of generation. The regulatory basis supporting this policy is outlined below.

Food residuals - are defined in statute (10 V.S.A. 6602(31)) as:

“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.”

Source Separated – is defined in statute (10 V.S.A. 6602(32)) as:

"the separation of compostable.... materials from noncompostable....materials at the point of generation." (sections of this definition applicable to mandated recyclables removed for clarity)

The plain language of the statutes is clear that food residuals, by definition, must be source separated from non-compostable materials at the point of generation and managed in a manner consistent with the priorities listed in the food residuals management hierarchy. Mixing food residuals with packaged organics does not satisfy the source separation requirement and ~~can automatically precludes~~ the materials from being utilized by any of the higher priority options on the hierarchy, **such as food for people or food for animals.**

How this policy will apply to various stakeholders is provided below.

Applicability to Generators:

It is the generator's responsibility to source separate all non-compostable materials from **food residualsorganics** at the point of generation and arrange for **the** transfer of **food residualsorganic** materials to a facility that manages them consistently with the hierarchy (see 10 V.S.A. 6605k(b)).

The growing practice of combining source separated food residuals with packaged organics by the generator conflicts with the established Universal Recycling Law requirements. The Agency recognizes that in some cases a generator may not be able to source separate large volumes of packaged **food residualsorganics** that they generate (i.e. separating **yogurt from individually packaged**~~flats of expiring yogurt cups into the yogurt, the container, the foil seal, the cardboard and the plastic film~~). To make the best use of these resources in these scenarios, the generator may contract with a certified treatment facility to separate packaged **food residuals organics** on their behalf. This allowance is limited to significant volumes of packaged organics *only*.

In summary, every generator of food residuals shall have a source separated organic material stream, and some generators may elect to have a source separated organic material stream AND a distinct packaged organics stream. The two streams shall be kept separate and shall not be co-mingled.

Applicability to Haulers:

Applicability to Facilities:

Certified facilities designed to process or transfer organics shall assure that all incoming organics are managed in accordance with the established food residual hierarchy priorities through a formal organics management plan incorporated in their facility management plan. The approved organics management plan shall detail all attempts the facility will make to deliver the various organic streams to the highest use facilities. The facility shall evaluate all reasonable and acceptable options.

If a facility routinely receives deliveries of organics co-mingled with packaged organics and/or non-compostable materials the Agency shall be notified and the responsible hauler or generator's information shall be provided.

Conclusion:

The Agency is responsible for implementing the requirements of the Universal Recycling Law. To succeed, will require cooperation across the board, from households, generators, haulers and facilities. Additionally, the state-wide organics management system will need to be adaptable, sustainable, diverse and resilient. To best comply with the food residuals management hierarchy and encourage the highest use of these resources, Vermont statute and the Agency require that food residuals be source separated and managed separately from packaged organics at the point of generation.

This policy encourages edible food diversion for human consumption. It also encourages agricultural use and animal feed - replacing imported feed and synthetic fertilizers with a sustainable, locally available resource. And finally, it allows operators of anaerobic digesters and operators of compost facilities an equal opportunity at source separated food residuals.

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