



H. 501 Testimony

4/21/22

Dear Senate Committee on Natural Resources and Energy,

This bill is not about regulating depackaging technology - that's just the short title of the bill due to spatial limitations. This bill is an opportunity to uphold the original intent of the Universal Recycling Law by not allowing the convenience of "zero sort" systems to uproot what already is the law - and that is the mandate to separate food residuals at the point of generation from trash and recyclable materials.

Support the passage of H.501:

- create a **collaborative stakeholder group process**
- **develop evidence based policy recommendations** that would be presented to the legislature at the beginning of next biennium
- inform a **subsequent rulemaking process.**

The great risks for human health and the environment that may result from plastic and other contamination issues during the management of food residuals need to be addressed with this **precautionary approach.**

To reiterate the statement that H.501 is NOT regulating depackaging facilities: yes, this bill would put a moratorium on new permitting of this unregulated industry until rules have been adopted. **Act now! While Casellas permit is under review is the time to become active on this issue.** The moratorium will be automatically repealed when rules are adopted and representatives of the existing facility included in the development of industry standards. Casella stated to the House that the processing capacity of the existing facility in Williston (VT) is sufficient for managing the volumes of food residuals needed while the processes of H.501 would work towards the establishment of standards and regulations. In other words - opposing this legislation would be an opposition to study and address the contamination issue **of depackaged and source separated food residuals alike in a fair collaborative stakeholder process.**

Why does H.501 focus on depackaging facilities? It has to be clear that commercial composting facilities are already subject to ANR rules at all scales of operation and also the agricultural use of food residuals through on-farm composting and land application as soil amendments is, while under jurisdiction of the Agency of Agriculture, Food, and Markets, currently subject to rulemaking which may include (and I quote from the enabling statute, see page 36 of Act 41, 2021): “proof of testing of products prior to registration for guaranteed analyses or adulterants.” **H.501 is filling a significant gap of concern by creating a process for regulating depackaging facilities.** In addition, there’s nothing that would prevent the legislature from tightening existing regulations of commercial composting operations and the agricultural use of food residuals if such statutory measures appear favorable based on the developed recommendations by the stakeholder process that should **include source separated materials in the analysis and findings and clarify the mandate of VAAFMM to regulate soil amendments..**

The Protect Our Soils Coalition around VPIRG, CLF, VCE, CAV, the Poultry Farmers for Compost Foraging (represented by Black Dirt Farm) and Rural Vermont urge you to move H.501 - and if possible - to improve the bill with the following amendments that we also submitted as drafted amendment proposals to the language submitted by MOG on 4/19/2022 at 01:49 PM.

- **Amendments to the Collaborative Stakeholder Process**

1. Revised list of stakeholders, including a non-governmental soil ecologist, agronomist, and toxicologist to be science driven. (see all p. 4, line 2, 7-13)
2. Expansion of the stakeholder groups scope to **include a study with a holistic view into the contamination issue** by evaluating facilities that depackage as well as utilize source separated food residuals for their contamination levels (p. 2, line 10 - p. 3, line 16). This would allow for the development of evidence based policy recommendations and be an important next step to identifying and closing data gaps for the effective mitigation of microplastics by including this important need for further research already in the report that will be due to the beginning of the upcoming biennium.
3. Support consultation with the Vermont Agency of Agriculture, Food, and Markets on the report development (p. 4, line 15)

4. Development of a strategic plan to promote and implement source separation and the organics management hierarchy and to incentivize achieving high standards (p. 2, line 3)

- **ANR Rulemaking**

Adding a list of provisions that must be addressed in the ANR rules on food residuals management (p. 5, line 14 – p. 6, line 10):

- (i) A ban on commingling non-packaged food waste, easily unpackaged food waste, and post-consumer materials with packaged food waste
- (ii) A ban on all inorganic products from being used in composting and anaerobic digestion facilities and guidance on what materials are acceptable
- (iii) The development of best practices that ensure that recyclable packaging that is separated from food waste is being recycled and not landfilled or incinerated
- (iv) An enumerative list of permissible uses for depackaged end products developed by ANR in consultation with VAAF
- (v) Provisions that ensure that packaging material separated from food waste that is being landfilled or incinerated is subject to the solid waste franchise tax, especially if that packaging is sent outside of Vermont

- **New Section 5 on LAND APPLICATION BAN; QUALITY ASSURANCE SOIL**

1. Affirms the “equal to or better” standard of Act 41 (2021) that the rules adopted by AAFM will not allow for higher levels than allowed under ANR rules, clarifying that AAFM has the sole jurisdiction to regulate the use of soil amendments on agricultural land (p. 6 line 13)
2. Requirement for AAFM to include in their rules on soil amendments a land application ban for materials processed through depackagers (p. 6, line 18). Moreover, depackaged material can be applied elsewhere in accordance with maximum contamination levels and permissible uses established by rules adopted by ANR (see above or p. 6, line 23).
3. The land application ban does not apply to organics that are source separated and not processed through a depackager (p. 7, line 3) but AAFM

is charged to consult with ANR to research and develop testing methods and regulatory standards by rule to set contamination thresholds for microplastics and PFAS to avoid the adulteration of soil amendments that may be land applied pursuant to Act 41 (2021)

4. AAFM would further develop a strategy to identify pathways by which contaminants enter soil, microorganisms, and plants and ways to create transparency for farmers, gardeners and other consumers utilizing compost.

This concludes our amendment proposals.

I suggest also hearing from Peter Blair, staff attorney at CLF, to present on their summary of a public record request with ANR that reveals the internal discrepancies about the implementation of the source separation requirement.

I appreciate your considerations, onwards!

Respectfully,

A handwritten signature in black ink, appearing to read 'C. Gordon', with a long horizontal flourish extending to the right.

Caroline Gordon LL.M.

Legislative Director | Rural Vermont

caroline@ruralvermont.org

802-356-9729