

**Vermont Department of Environmental Conservation**

Waste Management & Prevention Division, Solid Waste Program

One National Life Drive, Davis 1 802-828-1138

Montpelier, VT 05620-3520 [VTrecycles.com](https://dec.vermont.gov/waste-management/solid)

Main Group Participants as Outlined in Act 170:

Michael Casella Casella Waste Systems

Steven Cash Vermont Department of Agriculture, Food & Markets

Billy Connelly Vanguard Renewables

Jenna Evans Ben and Jerry’s (not in attendance)

Tom Gilbert Black Dirt Farm

Dan Goossen Green Mountain Compost

Erin Sigrist VT Retailers and Grocers Association (not in attendance)

Other Group Participants:

Christine Beling EPA

Peter Blair Just Zero

John Brabant Vermonters for a Clean Environment

Craig Coker Coker Composting and Consulting

Nick D’Agostino Vermont Compost Company

Natasha Duarte Compost Association of Vermont

Caroline Gordon Rural VT and Protect Our Soils

Sarah Lillibridge Lamoille Solid Waste Mgmt. District

Heather Shouldice Shouldice and Associates

ANR Participants:

Ben Gauthier VT ANR – Solid Waste Management Program

Josh Kelly VT ANR – Solid Waste Management Program

Mia Roethlein VT ANR – Solid Waste Management Program

Main Meeting Topic: Food Recovery Management Hierarchy “(1) recommendations on whether the organics management hierarchy in 10 V.S.A. § 6605k should apply to each generator of organic waste.”

Ben went over online file sharing system. Participants can review and post documents to share there.

Agendas, minutes and meeting hand outs will still be posted on the main Depackager Stakeholder Group [website](https://dec.vermont.gov/waste-management/solid/universal-recycling/depackager-stakeholder-group) for public review.

Ben researched 9 states that have food waste disposal bans. None of those states had a hierarchy incorporated into their law.

However, Maine does have a food recovery hierarchy and says it is policy.

NY state requires generators to donate food. All states hierarchy and food donation information in an excel document on file share site.

WA created an entity to look at lifecycle analysis of the materials.

Matt Chapman, Division Director of Waste Mgmt. and Prevention Division

And Peter Blair, Zero Waste participating in the meeting to review language in statute.

Josh gave a background on implementation of the Universal Recycling law and the food recovery hierarchy.

In 2013, the Solid Waste Program met with haulers, facilities and solid waste districts on mandated recyclables and the 2 ton generators as those were the first focus of the law. The Retail Grocers Association, Shaws, Hannafords, Price Chopper, a co-op, and others were involved in outreach and stakeholder meetings.

The program worked on food donation and coordinated with Dept of Health on their concerns on food donation.

In addition, they coordinated with the VT Foodbank and other food rescue organizations

A main part of all outreach to businesses was the food recovery hierarchy and coordination with the Agency of Agriculture on feeding of animals and rules regarding feeding swine.

The program also partnered with Composting Association of VT on the VT Organics Recycling Summit and shared outreach materials and coordinated on outreach efforts.

Draft Policy from 2019- was referenced by Tom Gilbert asking about it’s connection to the hierarchy. Josh explained that mostly the policy discussion was around source separation and very little about the hierarchy.

Matt Chapman, Director of the Waste Mgmt. and Prevention Division provided context of when UR Law was being discussed at legislature.

Setting up long term policy based on objectives to reduce disposal, conserve landfill space and divert organics and recyclables, mandate unit base pricing statewide were the main goals of the law.

Many parts of the UR law were intentionally vague in order to gain broad support of the law assuming that the agency would work them out down the road.

The Food Recovery Management Hierarchy is a policy statement to direct the agency and individual to follow the hierarchy.

However, the legislature’s intent was never to make the hierarchy a regulatory requirement

Peter Blair of Just Zero offered his understanding of the law based on the intent of the legislature and looking at the language of the law- specifically referencing 10 VSA 6605K and the language regarding hierarchy in the law.

The first version of the bill did not have the hierarchy, but

the second version of the bill added in the food recovery hierarchy

Peter mentioned two changes to the UR Law via legislature and that neither change impacted the food recovery hierarchy.

Peter offered that most states seem to be prioritizing food diversion from disposal but not addressing a food recovery hierarchy like VT.

Maine specifies the hierarchy as a guiding principle.

VT law does not specify that it is only a guiding principle.

Tom Gilbert asked Matt to explain how does a phrase such as “policy of the state” be interpretated.

Matt offered that is guidance or overlay to directing the Agency.

Tom thought that ANR has historically taken the position that the hierarchy is not enforceable based on the source reduction requirement of the hierarchy therefore that makes the entire hierarchy not enforceable. Tom asked for clarification and whether this was accurate.

Matt responded that this is not the case. It would not make the whole hierarchy null and void.

Josh clarified that the program staff were directed that the hierarchy was guidance and not requirement.

Matt suggested that one could remove the policy statement and make it a directive statement in statute.

Dan Goossen reads that the hierarchy applies to all generators whether or not enforcement is possible.

Ben mentioned voluntary compliance has been the approach taken by the Solid Waste Program

Matt offered that one way to make this enforceable would be to make sure there is a bill of laden for the material and all of it is documented, but he does not think that this was the intent of the legislature. It does not seem realistic for the agency to enforce based upon this documentation for each generator load.

Enforcement would need to be on the generator, the hauler and the facility.

Tom asked how would a society meaningfully and not just relying on voluntary participation ensure that materials go for highest use and ensure that edible food is going to food insecure families for the highest and best use.

There was some discussion on source reduction and Josh offered that initial roll out of the UR Law was not focused on that but then in 2019 outreach focused on source reduction

Matt asked to consider how funding and education/outreach could be used to promote additional opportunities for diversion of organics.

Tom asked for the Agency (program staff) to offer options for how to navigate following the hierarchy.

Matt offered to put legal folks and resources on it and brainstorm ideas and suggested that the agency would benefit from the real life experience of the participants in this group.

Tom explained that he worked on the original hierarchy in the law.

Steve Cash has consistently heard that there needs to be flexibility in managing food scraps. Allow for flexibility so that timely decisions can be made. There needs to be an awareness that the more structure that exists the more to follow.

Kim Crosby highlighted that through business outreach SWIP requirements solid waste management entities might be able to gauge how many businesses are following the hierarchy.

Dan offered that the challenge is by letting the markets decide there is danger of letting everything go to the bottom of the hierarchy b/c of pricing, scale, etc.

Dan explained that GMC looked at installing a depackager but Casella built it first. A lot of the food that used to go to the GMC facility is now going to depack and then digester.

Dan requested the group consider looking at what should go to depack and what should not.

A considerable amount of source separated food scraps that used to go to compost is now going through depackagaing and digester for anaerobic digestion.

Dan offered that the group and agency should figure out how to apply the hierarchy so that depack maintains a viable use. There is a huge amount of packaged food that needs to go to depack, but keep the source separated out of digestion and have it go for compost and soil amendment. Dan not sure how to do that but it is important to consider.

Depackaging as a last resort for everything that is not packaged. Compost and soil building should be given priority.

Billy Connelly of Vanguard Renewables explained that his company operates a digester that takes organic materials and has a lot of flexibility in what they can take. i.e. high ph, biological contaminants, etc.

In the highest and best use look at the carbon footprint and also the packaging used for organic materials. Remove packaging materials from the equation.

Peter offered that the agency needs to do continue to do outreach, and education and guidance on source separation and a policy for evaluating new depackaging facilities and create limits so that the race to the bottom of the hierarchy doesn’t take place.

Peter suggested considering that the hierarchy applies to everyone but have the regulatory framework only apply to the large generators. Don’t focus on small generators and households.

Mike Casella of Casella asked who determines highest and best use? How do you deal with contaminated material? Right now some of that is going directly to the landfill. Is that legit?

Tom offered that he has been working in VT doing compost and related work since 2000.

He drafted hierarchy with Pat Sagui from CAV and worked to get it included with counsel of the solid waste program.

Tom reference Act 78 and that it showed that voluntary compliance is not always effective.

The UR law was the answer to ACT 78 and moving VT forward

Part of what came out of the stakeholder groups pre the UR Law was that economical value must not override social and ecological good.

The bill was drafted as a whole systems approach with value on food security and soil stability.

As a hauler Tom writes the hierarchy into their contracts that the customer can divert to the higher use.

Tom offered that the top mgmt. of a large depackager company assured Tom that because of VT’s hierarchy in the UR Law he would not lose source separated food scraps to a digester.

Tom offered that reliance on the idea of the market alone is naïve.

Steve asked Tom if have had to force a customer to adhere to the hierarchy.

Tom referenced feeding pigs and that they don’t report but they do provide written documentation from Agency of Agriculture on feeding pigs to guide the customer.

Black dirt educates customers on diverting food scraps to food rescue first

Kim and Mike both brought up the animal feed concerns.

Billy brought up reduced staffing because of covid and asked if grocery stores actually have adequate staff to source separate.

Mike offered that facility capacity can change on a daily basis.

Tom referenced the 2019 amendment of UR law and also explained that the law only holds a generator accountable if options are available. That is the relief valve for capacity issues.

Tom pointed out the practical part that a food bank is not going to take pints of ice cream so we need to have the clause for services that are available.

Steve stated that there seems like there is a consistent need to provide flexibility.

Tom offered that generators can refer to existing law such as one can’t donate contaminated food per Department of Health guidelines and also that you can’t feed pigs food that came in contact with meat per Agency of Agriculture.

Josh suggested willing and able language – is the receiving facility willing and able to take the food scraps and look at the hierarchy that way.

Tom offered consider language such as “This applies to the extent that there is a service provider that is willing and able to accept”

The group agreed to talk about source separation at the next meeting and also to hear from Erin and Jenna on the hierarchy and their experience with food scrap collection and management.

The group agreed to continue the conversation on the hierarchy and then work in the source separation piece.

The group asked if program staff could explore options that are not full enforcement that others may have used prior to next meeting.

There was some discussion that enforcement could focus on large generators and to consider the various sector types.

Ben to email a request to the participants for a voting ranking on speakers via the file sharing site for who presents at the next meetings.