

MEMORANDUM

TO: Board of Commissioners
FROM: Josh Estey, Director of Compliance
DATE: April 20, 2022
RE: Solid Waste Management Ordinance (SWMO) amendments – summary of public input and request for adoption

At the Board of Commissioners' meeting on January 26, 2022, a resolution was passed authorizing the initiation of a public comment process to solicit feedback on proposed changes to the Solid Waste Management Ordinance.

Staff issued a press release on February 14, 2022 announcing a public meeting and comment period for the proposed changes. Staff also sent a meeting notice and copy of the proposed changes to all member municipalities. The meeting was held on March 1st, 2022 at 4:30 p.m. and no members of the public attended. We received public comments from two haulers: Casella Waste Systems, Inc. (by way of their counsel, Dinse) and Myers Container Service, Corp.

A responsiveness summary has been prepared and included with this memorandum to address the comments received during the public comment period (in addition to comments made by the Board of Commissioners at the meeting on January 26th). Based on the comments received, staff are proposing some changes to the draft Ordinance the Board of Commissioners received as part of their packet for the January 26th meeting; the new amended language has been included in the responsiveness summary so that it can be compared to that most recent version (also posted on our website at <https://cswd.net/wp-content/uploads/2022-CSWD-SWMO-Amendment-Summary-Draft-1.20.22.pdf>).

Following adoption, a summary of the ordinance changes will be posted in at least 5 public places as well as on our website and will be published in the District's designated newspaper. Any persons not in favor of the ordinance have the opportunity to petition the Board for reconsideration (must be signed by >5% of voters). If no such petition is received, the amendments are considered final effective Monday, June 27, 2022 or 60 days from date of Board meeting.

Resolution –

Be it resolved that the Board of Commissioners adopts the Solid Waste Management Ordinance amendments as presented.

C = Comment

R = CSWD Response

C1. Casella - Section 2.1(S)-Definition of "Generator": The proposed amendments would expand the definition of a "Generator" to include, for certain commercial activities, the "individual or entity responsible for management of Solid Waste, Recyclables, and/or Compostables associated with the activity." This expansion is considerably ambiguous and could be read to include within the definition of "Generator" Haulers who collect waste from a commercial customer. In the interest of maintaining clear distinctions between Generators and Haulers, Casella requests that the Board add clarifying language as follows: "A Hauler responsible for collecting, transferring, or transporting Solid Waste, Recyclables, or Compostables shall not be considered a Generator."

Myers - We are concerned with expanding the definition of generator to include haulers who are collecting the waste. Education is important to help the user understand what is waste, versus what belongs in the recycling and compost. At the end of the day the responsibility should be on the person generating the waste not the hauler.

2.1 S. "Generator" shall mean any Person who produces Solid Waste by any means including, but not limited to, residential, commercial, institutional, and industrial activities. For commercial activities (including but not limited to office buildings, retail operations, restaurants, nonprofits, strip malls, special events, and multifamily dwellings with five (5) or more units) the individual or entity responsible for the management of Solid Waste, Recyclables, and/or Compostables associated with the activity shall be considered the Generator. The responsibility for the management of Solid Waste, Recyclables, and/or Compostables shall be demonstrated through a contract. If no contract exists, the owner of the activity shall be considered the Generator. For special events, see also Section 3.13. A Hauler responsible for collecting, transferring, or transporting Solid Waste, Recyclables, or Compostables shall not be considered a Generator.

R1. We concur with the addition proposed by Casella. Proposed language added in red above.

C2. Casella - Section 2.1(Z)-Definition of "Mandatory Recyclables": The proposed amendment would move the list of materials that constitute "Mandatory Recyclables"(and therefore must be separated from the solid waste stream) to an Appendix to the Ordinance that may be amended "by resolution of the Board at a publicly warned meeting." Casella believes that it would be inappropriate and impermissible for the Board to adopt a streamlined procedure for amending the list of mandatory recyclables by "resolution."

The Board's charter grants it the authority to regulate "by ordinance, rule, or regulation" the collection, transportation, resource recovery, recycling, and disposal of solid waste within the District. 24 App. V.S.A. c. 405 § 5(23). The Board therefore cannot unilaterally bypass its process for amending its ordinances and adopt a less rigorous process to define the classes of materials subject to regulation as "Mandatory Recyclables." Moreover, the determination of which materials to treat as a "Mandatory Recyclable" is a consequential one that impacts households, businesses, and haulers across the District. Any changes should be carried out with full public process and ample opportunity for comment and Board consideration.

2.1 Z. "Mandatory Recyclables" shall mean ~~aluminum and steel cans, aerosol cans, aluminum foil and pie plates, glass bottles and jars from foods and beverages, rigid plastic containers and packaging, corrugated cardboard, white and colored paper, newspaper, magazines and catalogs, paper mail and envelopes, boxboard, paperback books, and paper bags~~—materials that must be separated from the Solid Waste stream prior to Disposal and returned for use or reuse in the form of raw materials for new, used, or reconstituted products; that meet the quality standard necessary to be used in the marketplace; and that are not landfilled. Mandatory Recyclables include any materials identified by the Board for which a market exists – the current list of Mandatory Recyclables can be found in Appendix A to this Ordinance. The list in Appendix A ~~This list~~ may be amended due to factors including, but not limited to, changes in market conditions or

technology, and amendments to this list must be made by resolution of the Board at a publicly warned ~~Board~~ meeting, where the public has the opportunity to provide comment.

R2. Appendix A is considered part of the ordinance and as such, cannot and will not be amended without following the process for ordinance amendments as stipulated in 24 V.S.A. § 1972.

C3. Casella - Section 3.1-Solid Waste Regulation: The proposed amendments to § 3.1 suggest that the District" may, in the future" enact new ordinances or amend the Ordinance to require that certain materials be directed to District-owned facilities. Given that the proposed language effectuates no change in current rules and has no effect, it is not clear to us why the language is being added. That said, we would urge the Board to proceed very cautiously—and transparently—in considering any future regulation that may control the flow of materials within and from outside the District, with due care for the investment-backed expectations of businesses in Chittenden County and attention to the constitutional limitations on the Board's regulatory authority.

R3. Casella's caution is noted.

C4. Casella - Section 3.5-Drop-Off Facilities: The proposed amendment provides that Drop-Off Facilities that accept solid waste destined for disposal must accept and manage "Yard Trimmings and Food Residuals (10 V.S.A. § 6605G))." To be consistent with 10 V.S.A. § 6605(j), this language should provide that the obligation to accept Yard Trimmings applies only between April 1 and December 15 of the year.

3.5 Drop-Off Facilities. Drop-Off Facilities must obtain and abide by all required local, regional, State, and federal permits. Drop-Off Facilities that accept Solid Waste destined for Disposal must, at a minimum, accept and manage and recycle all Mandatory Recyclables, Yard Trimmings, and Food Residuals (10 V.S.A. §6605(j)).

R4. That is correct. We will not require acceptance and management of yard trimmings at Drop-off Facilities outside of the April 1 – December 15 timeframe.

C5. Casella - Section 4.8(C)-Commercial Hauler Requirements/Reporting: Section 4.8(C) purports to require a Commercial Hauler to report detailed information on solid waste delivered to a facility "not previously designated in a license, "including the type, quantity, and destination of the materials. To the extent this reporting requirement extends to destinations outside of the District, it plainly exceeds the District's regulatory authority and could, in some instances, implicate information that is confidential and maintained as a trade secret. Casella requests that the Board clarify that the reporting only pertains to destinations within the District.

C5. Myers - This section would require detailed information on waste that is sent to a facility that is not previously designated in a license issued by CSWD. Material going to a destination that is located outside of the district exceeds the regulatory authority of the district.

4.8 C. No Commercial Hauler shall deliver or Dispose of any Solid Waste generated within the District at any Facility not designated in ~~their~~ Hauler's License. The type, quantity, and destination of any Solid Waste delivered to a ~~not~~ designated-Facility not previously designated in a license must be reported by the Commercial Hauler to the District within 48 hours of such delivery.

R5. We are not proposing a substantive change to this section as currently written. The section was modified to include gender neutral pronouns and to better define 'non-designated' as those facilities 'not previously designated in a license'.

Section 4.7 of the Ordinance currently stipulates the Hauler's requirement to "designate the allowable destinations for all Solid Waste that is collected, transferred, or transported under the License". The main purpose behind this requirement is to ensure that Solid Waste generated within the District is being managed in an efficient, economical and environmentally sound manner. Knowing what, how much, and where materials are going is critical to produce accurate disposal and diversion rate information and to ensure materials are being managed at properly licensed facilities.

Legal counsel for CSWD disagrees with the respondents' assertion that CSWD is exceeding our regulatory authority by requiring this information. Language is being added subsequent to receiving this comment to clarify that the District's regulatory authority does not extend to Solid Waste that is only being transported through our District. The updated language is as follows:

*4.8 C. No Commercial Hauler shall deliver or Dispose of any Solid Waste generated within the District at any Facility not designated in ~~their~~^{his or her} Hauler's License. The type, quantity, and destination of any Solid Waste **generated, Collected, or Transferred within the District** delivered to a ~~non-designated~~ Facility ~~not previously designated in a~~ **current** license must be reported by the Commercial Hauler to the District within 48 hours of such delivery.*

C6. Casella - Section 4.8(F)-Commercial Hauler Requirements/Frequency of Collection: The proposed amendments would require Commercial Haulers to collect mandatory recyclables from residential customers "at least as often" as solid waste destined for disposal is collected, and at least monthly for commercial customers. Respectfully, this is bad environmental policy. Mandating more frequent residential collection will mean more trucks are out on the roads in Chittenden County, and will substantially increase the carbon emissions of most hauling operations. The Board should give haulers and their customers the flexibility to adopt a collection schedule that fits their needs and allows for efficiency in collection.

4.8 F. The Commercial Hauler shall provide (independently or through duly licensed subcontractors) collection of Mandatory Recyclables at least ~~as often as they are providing collection of Solid Waste destined for Disposal for all residential customers. For commercial customers, collection of Mandatory Recyclables shall occur at least monthly. for once monthly to all customers for whom such Hauler provides collection of Solid Waste destined for Disposal.~~ The Commercial Hauler shall provide separate collection of Mandatory Recyclables to all of its customers for whom the Commercial Hauler provides short-term Solid Waste container service. A Hauler shall not offer, and its customers shall not subscribe to, trash only collection service unless Recycling collection service is provided or subcontracted by the District or a member municipality or unless such customers obtain an exemption from the District. Exemptions may be provided by the District to ~~Generator~~^{customers} who market their Mandatory Recyclables directly to Recycling brokers, processors, or manufacturers or who self-haul their Mandatory Recyclables to Recycling Facilities.

R6. The District cannot quantitatively defend the proposed change as good environmental policy and we will therefore move forward with no change to this section at this time. However, anecdotally we have heard countless stories from residents who are frustrated with the lack of flexibility in size of, and frequency of pickup of, curbside containers. The District will be moving forward in a few ways: 1) engaging the hauling community directly in conversations on how to increase the flexibility of collection plans for residents, 2) exploring the possibility of increasing enforcement efforts specifically around curbside collection and pay-as-you-throw requirements, and 3) gathering and soliciting information so that future changes to this section of the ordinance are based in sound data and are defensible.

C7. Casella - Section 4.8(H)-Commercial Hauler Requirements/Disposal of Recyclables or Food Residuals: The proposed language would prohibit a Commercial Hauler from disposing of "Mandatory Recyclables or Food Residuals that are set out for collection." While Casella understands that this provision is intended to prohibit disposal of source-separated recyclables or food residuals set out for collection in individual containers, the language is not clear. Casella asks that the Board revised the proposed language to apply to "source-separated Mandatory Recyclables or Food Residuals that are set out for collection.

*4.8 H. No Commercial Hauler shall Dispose of **source-separated** Mandatory Recyclables ~~or Food Residuals that are properly prepared and~~ set out for collection.*

R7. The District agrees with the proposed language. Proposed language added in red above.

C8. Casella - Section 4.8(I)-Commercial Hauler Requirements/Intermixed Recyclables, Food Residuals, and Other Wastes: Section 4.8(I) prohibits Commercial Haulers from knowingly collecting for disposal solid waste that contains Mandatory Recyclables, Hazardous Wastes, or Yard Trimmings, and requires Haulers to reject any such waste and notify the generator and the District of the rejection. The proposed amendment would add Food Residuals to the list of waste streams subject to § 4.8(1). While Casella recognizes that the operative portion of this provision is not new, Casella has—and has had—significant practical concerns with the obligations imposed by § 4.8(1), which are exacerbated by the addition of Food Residuals.

Almost any load of solid waste destined for disposal could have some material that should be separated out. This is particularly so with the inclusion of Food Residuals, as it is common for other solid waste (e.g., non-recyclable food packaging) to be mixed with small quantities of food scraps. Responsibility for separating these waste streams should rest on the generator, as Haulers cannot be expected to effectively police disposal. Casella would encourage the Board to consider alternative enforcement mechanisms that place the obligation of compliance squarely on generators. At a minimum, Casella would request that the Board add an exclusion under § 4.8(1) for de minimis quantities of Food Residuals, Mandatory Recyclables, Hazardous Wastes, or Yard Trimmings.

Myers - This change would add food residuals to the list of products that if they were in a load must be rejected and generator be notified. Although, we agree that we must keep recyclables and food waste out of the waste stream to put the enforcement of food waste onto the hauler will make it near impossible to be compliance.

4.8 I. No Commercial Hauler shall knowingly collect for Disposal Solid Waste that contains Mandatory Recyclables, Food Residuals, Hazardous Waste, Special Wastes, or Yard Trimmings. Any such Solid Waste must be rejected by the Commercial Hauler, who shall notify the Person generating such Solid Waste of the reasons for rejection. Any rejected Solid Waste shall be the responsibility of the Person who generated such Solid Waste, who must, within twenty-four (24) hours after receiving notification, retrieve such Solid Waste and properly Separate it. The Commercial Hauler shall notify the District within one business day of any Person whose Solid Waste is so rejected.

R8. While we acknowledge the practical concerns associated with this requirement, we believe the hauler plays a significant role in educating and enhancing compliance by generators. By asking all haulers to ‘reject any such waste and notify the generator and the District of the rejection’, we are establishing a level playing field to counteract a frequent concern raised by haulers that if they point out issues with a container, they will lose the customer. Furthermore, we believe the word ‘knowingly’ allows haulers to use their judgement as to what is not acceptable. Tires and other special wastes are routinely removed and / or left at curbside when seen. We believe the same should be done to containers with 10% or more by volume of a material banned from disposal.

C9. Casella - Section 4.8(J)-Commercial Hauler Requirements/Labeling of Containers: The proposed amendments would require all Commercial Haulers to move to mandatory container colors—which apply to both the container body and lids—by no later than 2032. As this mandatory replacement of containers would result in an extensive environmental and economic impact, Casella urges the Board to reject the proposed language.

Casella expects that a majority of its tens of thousands of curbside containers that are presently in service throughout Chittenden County will remain in service as of 2032. At that time, the proposed amendment to § 4.8(J) would require Casella and other Commercial Haulers to replace—and dispose of—those existing containers, creating a large volume of solid waste and imposing substantial costs on the Haulers. While Casella understands the desire for uniformity and believes the proposal is well intentioned, whatever benefits might flow from a uniform color system are far outweighed by the costs to the environment and Haulers of having to dispose of and replace containers that otherwise could remain in service. If the Board does not decline the proposed language outright, Casella requests that the Board at least limit the mandate to allow Haulers to change out container lids only (similar to the current

regulations for recycling containers), rather than the entire container body, so as to limit the volume of solid waste created by the policy.

Additionally, Casella notes that the proposed language is confusing and ambiguous in its application. To the extent any color requirement is adopted, Casella recommends that § 4.8(J)(1) state outright that the color requirements apply only to curbside containers and carts. This should be clearly stated both in the sub-section heading and in § 4.8(J)(I)(a). This would render § 4.8(J)(I)(d) (which clarifies that dumpsters, roll-off boxes, and compactors are subject only to the labelling requirements) unnecessary and it could therefore be eliminated.

C9. Myers - The amendment calls for haulers to move to mandatory container colors. This would have an adverse effect on our business as well as the environment by requiring us to swap out thousands of containers which would create more waste. The 'red can' has been part of our brand for decades and is how our customers recognize us from other haulers

J. *Coloring and Labeling of Containers.*

1) *Container color requirements*

- a. *Commercial haulers shall provide containers for collection that comply with the color requirements outlined below.*
- b. *Notwithstanding section a) above, a Commercial Hauler is not required to replace functional containers purchased on or before January 1, 2023 that do not comply with the color requirements of this section prior to the end of the useful life of the container or prior to January 1, 2032, whichever comes first.*
- c. *Curbside containers and all carts:*
 - i. *Mandatory Recycling containers shall be royal or medium blue in color or shall have lids that are royal or medium blue in color.*
 - ii. *Food scrap collection containers greater than ten (10) gallons in size shall be green in color or shall have lids that are green in color.*
 - iii. *Landfill-bound trash containers shall not be royal/medium blue or green in color and shall have lids that are black.*
- d. *Dumpsters, roll-off boxes, and compactors:*
 - i. *Commercial Haulers shall provide containers for collection that comply with the labelling requirements outlined in 4.8(J)(2).*

2) *Labeling requirements*

- a. *Curbside containers and all carts used for materials streams described in 4.8(J)(1).*
 - i. *Commercial Haulers shall place a label on the front of each container and on the lid. The label will include language and/or graphic images as provided or approved by the District that indicate primary materials accepted and common contaminants prohibited in that container.*
 - ii. *Commercial Haulers may comply with this section by using labels provided by the District. Labels provided by the District may not be altered without prior written approval from the District.*
- b. *Dumpsters, roll-off boxes, and compactors used for material streams described in 4.8(J)(1)*
 - i. *Commercial Haulers shall place a label on the front and both sides of dumpsters and roll-off boxes and on or near the loading door of compactors. The label will include language and/or graphic images as provided or approved by the District that indicate primary materials accepted and common contaminants prohibited in that container.*
 - ii. *Commercial Haulers may comply with this section by using labels provided by the District. Labels provided by the District may not be altered without prior written approval from the District.*
- c. *Roll-off boxes and other containers used for the collection of Special Wastes*
 - i. *Commercial Haulers shall provide labeling that indicates primary materials accepted in that container. Temporary means of labeling are acceptable but must be clear and legible.*

R9. Royal or medium blue containers for recycling were included in the District's original Ordinance which went into effect in 2005. In 2015, a lid only alternative was adopted. The District shares the commentor's concern regarding the

potentially premature disposal of functional containers and continue to provide for a lid only alternative with the addition of green for food scrap collection containers. In an area with several private waste haulers – each with their own branded container-- we continue to believe that a uniform color system is beneficial in helping generators (and haulers) differentiate recycling, food scrap and trash containers. We agree that Section 4.8J1)d is unnecessary and thus confusing. Following is our newly proposed revision to this section:

J. Coloring and Labeling of Containers.

1) Container color requirements

- a. Commercial haulers shall provide containers for collection that comply with the color requirements outlined below.
- ~~b. Notwithstanding section a) above, a Commercial Hauler is not required to replace functional containers purchased on or before January 1, 2023 that do not comply with the color requirements of this section prior to the end of the useful life of the container or prior to January 1, 2032, whichever comes first.~~
- c. Curbside containers and all carts:
 - i. Mandatory Recycling containers shall be royal or medium blue in color or shall have lids that are royal or medium blue in color.
 - ii. Food scrap collection containers greater than ten (10) gallons in size shall be green in color or shall have lids that are green in color.
 - iii. Landfill-bound trash containers shall not be royal/medium blue or green in color and shall have lids that are black.
- ~~d. Dumpsters, roll-off boxes, and compactors:
 - i. Commercial Haulers shall provide containers for collection that comply with the labelling requirements outlined in 4.8(J)(2).~~

2) Labeling requirements

- a. Curbside containers and all carts used for materials streams described in 4.8(J)(1).
 - i. Commercial Haulers shall place a label on the front of each container and on the lid. The label will include language and/or graphic images as provided or approved by the District that indicate primary materials accepted and common contaminants prohibited in that container.
 - ii. Commercial Haulers may comply with this section by using labels provided by the District. Labels provided by the District may not be altered without prior written approval from the District.
- b. Dumpsters, roll-off boxes, and compactors used for material streams described in 4.8(J)(1)
 - i. Commercial Haulers shall place a label on the front and both sides of dumpsters and roll-off boxes and on or near the loading door of compactors. The label will include language and/or graphic images as provided or approved by the District that indicate primary materials accepted and common contaminants prohibited in that container.
 - ii. Commercial Haulers may comply with this section by using labels provided by the District. Labels provided by the District may not be altered without prior written approval from the District.
- c. Roll-off boxes and other containers used for the collection of Special Wastes
 - i. Commercial Haulers shall provide labeling that indicates primary materials accepted in that container. Temporary means of labeling are acceptable but must be clear and legible.

C10. Casella - Section 4.13-Management of Banned Materials: Casella has significant concerns with § 4.13, which places the onus on operators of Transfer/Disposal Facilities to (a)detect loads destined for disposal that contain 10% or more of Hazardous Waste, Special Wastes, Yard Trimmings, Mandatory Recyclables, or Food Residuals, (b)exact a fine on the person dumping the load, and (c)remove the prohibited materials from the load. As noted in connection with § 4.8(1) above, the responsibility for separating waste streams lies with the generator—and the District's enforcement strategies should focus on addressing the intermixing of waste streams at the source. Under ordinary circumstances, there is no practical means by which the operator of Transfer/Disposal Facility can determine whether a given load contains a level of prohibited waste streams exceeding 10%.

4.13 Transfer/Disposal Facility License Requirement for Collection of Banned Materials Fee. In order to further the policies and goals of this ordinance for management of Solid Waste, there is hereby imposed a twenty dollar (\$20.00) per ton Banned Materials Fee, with a sixty dollar (\$60.00) minimum charge per load, on Persons dumping any load destined for Disposal containing ten percent (10%) or more by volume of Special Wastes, Yard Trimmings, Food Residuals, or Mandatory Recyclables, or any amount of Hazardous Waste. ~~The Banned Materials Fee shall also apply to loads containing ten percent (10%) or more of Food Residuals in accordance with the effective dates for which Food Residuals are to be separated from Solid Waste under 10 V.S.A. §6605k as restated in Section 3.13 of this Ordinance.~~ Continued violations occurring more than once in a period of six (6) consecutive months shall be considered Unlawful Conduct and subject to further fines and penalties as set forth in Article XI of this Ordinance.

Operators of Transfer/Disposal Facilities shall, as a condition of the Transfer/Disposal Facility License, collect the Banned Materials Fee ~~for the District~~ and document any load in violation of this provision with photographs, customer name, license plate number, time, and date noted. Operators shall retain such documentation for at least twelve (12) months. Operators of Transfer/Disposal Facilities shall submit copies of the aforementioned documentation ~~and remit the Banned Materials Fee~~ for each load violation in the previous month to the District at least once monthly. Operators of Transfer/Disposal Facilities shall make a reasonable effort to remove the Hazardous Waste, Special Wastes, Yard Trimmings, Mandatory Recyclables, or Food Residuals from any load in violation of this provision, ~~if the health and/or safety of employees are not at risk. If employees' health and/or safety are at risk,~~ Operators of the Transfer/Disposal Facility shall ~~manage~~ dispose of the materials in accordance with applicable law, rules, and regulations.

~~In order to provide for the administration, documentation, and collection of the Banned Materials Fee, operators of Transfer/Disposal Facilities may retain, from the collection of Banned Materials Fees, a ten dollar (\$10.00) per ton administrative fee, with a thirty dollar (\$30.00) minimum per load, for each load for which a violation is documented and the Banned Materials Fee is imposed and due and payable.~~

~~The effective date of this provision is October 1, 2015.~~

R10. We believe the intent behind the establishment of the banned material fee was for transfer/disposal facilities to impose a fee on all loads containing 10% or more by volume of Special Wastes, Yard Trimmings, Food Residuals, or Mandatory Recyclables, or any amount of Hazardous Waste with the understanding that this fee would then be charged back to the Generator by the Hauler. Screening for unacceptable wastes including wastes that are dangerous, prohibited at the facility where the waste is sent, or subject to a disposal ban, is a recognized duty of transfer station employees. § 6-905 (c)(1) of the State of Vermont Solid Waste Management Rules states "The operator shall take all practicable steps to prevent hazardous wastes and landfill banned wastes, identified in 10 V.S.A. § 6621a from being included in the waste stream for disposal." We believe our Ordinance requirement is consistent with state regulation on intent.

C11. Casella was also surprised—and very concerned—that the proposed amendment would remove language that limited the operator's obligation to remove Hazardous Wastes and other prohibited materials from a load "if the health and/or safety of employees are not at risk." The removal of this safeguard is wholly unacceptable. Casella believes it is inappropriate in the first instance for the District to require employees of a Transfer/Disposal Facility to separate wastes that should have been separated by the generator—but, regardless, no such obligation should place at risk the health or safety of employees. Casella feels strongly that the District should develop an approach to the problem of intermixed wastes that does not endanger workers.

R11. This was clearly in error as we too prioritize a worker's health and safety above all else. We, however, found the last two sentences of this paragraph confusing, somewhat redundant, and unlawful insofar as it gave precedence to the disposal of materials over safer and permissible management options. Following is our proposed revision to those sentences:

Operators of Transfer/Disposal Facilities shall make a reasonable effort to remove Hazardous Waste, Special Wastes, Yard Trimmings, Mandatory Recyclables, or Food Residuals from any load in violation of this provision. If an employee's health or safety is at risk, operators of the Transfer/Disposal Facility shall manage the materials in accordance with applicable laws, rules, and regulations.

C12. CSWD Board - Section 2.1-Definitions: Commissioner Oakleaf recommended removing the term 'food ware products' from the definition of compostables given the District's material acceptance policy change that went into effect January 1, 2022.

2.1 H "Compostables" or "Compostable Materials" shall mean any combination of Food Residuals; Yard Trimmings; Untreated Wood; soiled, uncoated paper; and liners ~~and service food ware products~~ approved for acceptance by a Composting Facility. Compostables shall not be considered mixed solid waste if the materials are Composted or undergo Anaerobic Digestion. This list may be amended, due to factors including, but not limited to, changes in market conditions or technology, by resolution of the Board at a publicly warned Board meeting, where the public has the opportunity to provide comment.

R12. Staff concurs with this recommendation. Removal noted in red above.

C13. CSWD Board - Section 2.1-Definitions: Commissioner Oakleaf recommended adding a definition for depackaging to differentiate this process from composting.

R13. While depackaging is considered a type of processing facility, it does not qualify as a composting facility in that its end product is not considered a 'biologically stable material'. The term 'depackaging' is not used in the Ordinance. Staff disagrees that this addition is necessary.

C14. CSWD Board - Section 3.10-Rental and Multi-Unit Property Requirements: Commissioner Oakleaf recommended separating residential and commercial requirements in this section to further clarify. She also recommended replacing the 'and/or' used in this section with 'and'. Commissioner Perry suggested adding language requiring landlords to provide translated instructions to tenants as appropriate.

R14. Staff concurs with the recommendations proposed by Commissioner Oakleaf. Addressing Commissioner Perry's comments, the District currently offers materials in several languages following an initiative by Lauren Layn, former Community Outreach Coordinator, in 2019. The District worked with the USCRI (formerly VT Refugee Resettlement), Association of Africans Living in VT, Champlain Housing Trust and VT Adult Learning to gauge the most common languages other than English spoken/understood in Chittenden County. Staff will continue to work with communities to provide resource templates for distribution. Following is our proposed revision to this section:

3.10. ~~Rental and Multi-Unit Property Requirements. Owners of properties that include 5 or more residential units must provide for the collection of Food Residuals, Mandatory Recyclables, and Solid Waste destined for Disposal. For all other rental and multi-unit properties, the responsibility for the collection of Solid Waste, Recyclables, and/or Food Residuals shall be demonstrated through a contract. If no contract exists, the owner of the activity shall be considered responsible. If collection costs for Solid Waste Destined for Disposal are included in the rent or fees charged to occupants, the owners of the property must collect or provide for the collection and recycling of Mandatory Recyclables. Per the Vermont Department of Health Rental Housing Code Section 5.5, owners of dwellings are responsible for assuring arrangements are made for the removal of trash, recycling, and food scraps.~~

~~Mandatory Recyclables shall be collected at least as often as Solid Waste destined for Disposal. Food residuals shall be collected at least weekly.~~

~~Rental and Multi-Unit Property Owners will provide instructions on the proper management of Mandatory Recyclables, Special Wastes, Unregulated Hazardous Waste, and Compostables to new occupants and to all~~

~~occupants on an annual basis at a minimum. The District will provide standard instructions to property owners or managers.~~

~~Exemptions to Mandatory Recycling and Food Residual collection may be approved by the District on a case by case basis provided the owner is managing Recyclables and/or Food Residuals in another District-approved manner.~~

A. Residential Properties

1. Responsibility for collection – Owners of properties that include 5 or more residential units must provide for the collection of Food residuals, Mandatory Recyclables, and Solid Waste destined for Disposal. For all other properties, the responsibility for the collection of Solid Waste, Recyclables, and/or Food Residuals shall be demonstrated through a contract. If no contract exists, the owner of the activity shall be considered responsible.
2. Frequency of collection – Mandatory Recyclables shall be collected at least as often as Solid Waste for Disposal. Food Residuals shall be collected weekly.

B. Commercial Properties

1. Responsibility for collection – The responsibility for the collection of Solid Waste, Recyclables, and/or Food Residuals shall be demonstrated through a contract. If no contract exists, the owner of the activity shall be considered responsible.
2. Frequency of collection – Mandatory Recyclables shall be collected at least monthly. Food Residuals shall be collected weekly.

C. Exemptions - Exemptions to Mandatory Recycling and Food Residual collection may be approved by the District on a case by case basis provided the owner is managing Recyclables and/or Food Residuals in another District-approved manner.

D. Instructions for Tenants - Rental and Multi-Unit Property Owners will provide instructions on the proper management of Mandatory Recyclables, Special Wastes, Unregulated Hazardous Waste, and Compostables to new tenants and to all tenants on an annual basis at a minimum. The District will provide standard instructions to property owners or managers.