



Via email: scopingplan@nyserda.ny.gov
Draft Scoping Plan Comments
NYSERDA
17 Columbia Circle
Albany, NY 12203-6399
RE: NRDC Draft Scoping Plan Comments on Waste Chapter

July 1, 2022

Dear Climate Action Council:

Thank you for the opportunity to comment on the Waste Chapter of the Draft Scoping Plan, part of the State's proposed program to advance implementation of the landmark Climate Leadership and Community Protection Act ("CLCPA") and achieve its ambitious climate-protecting and climate justice goals.

These comments on the Draft Scoping Plan Waste chapter are one part of NRDC's overall comments on the Draft Plan, which also include a separate filing on the Electricity, Transportation, Buildings and Gas Transition chapters, as well as comments on Agriculture and Forestry that are being filed in conjunction with EarthJustice and other organizations.

We look forward to the incorporation of our suggestions into the Final Scoping Plan and to working with you to achieve successful implementation of the CLCPA.

As you know, NRDC is a national, non-profit legal and scientific organization active on a wide range of public health, natural resource protection and quality-of-life issues around the country, across the globe and here in New York, where our main offices have been located since NRDC's founding in 1970. NRDC has almost 200,000 members and activists in New York State alone. For decades, a key objective of NRDC's regional work has been to transform solid waste policy in the state. We have sought to move New York from primary reliance on landfilling and incineration to making waste prevention, recycling, composting and equity the cornerstones of waste policy here.

This transformation has been made more imperative by the urgency of the climate crisis and the CLCPA's ambitious mandates for reducing climate-altering, greenhouse gas ("GHG") emissions. The Draft Scoping Plan states that the waste sector accounts for 12% of the statewide GHG emissions inventory. Draft Plan at 235. That that number certainly underestimates the total GHG contribution from waste, when looked at holistically. For example, reported data on fugitive emissions from waste facilities is incomplete. And much of the pollution associated with the waste sector takes place upstream and is not included in traditional waste sector

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emissions inventories. As the Plan itself recognizes, 42% of total GHG emissions are related to the energy and fuel consumed in the production, use and management of materials that become waste. Draft Plan at 235. For these reasons, an aggressive set of strategies in the waste sector must become a top New York State priority if we are to achieve the CLCPA goals.

For the most part, NRDC supports the broad objectives set forth in the Waste chapter of the Draft Scoping Plan. In key areas, however, the Draft Plan needs stronger, action-forcing implementation recommendations. Additionally, the Waste chapter includes nearly 50 recommendations. We believe that to jump-start CLCPA implementation in the waste area, state officials would benefit if the Final Scoping Plan were to identify top priority items for early action -- legislative proposals and executive actions that should move forward over the next two years. In the remainder of these comments, NRDC highlights seven priority recommendations for swift action that are drawn from the Draft Scoping Plan proposals. We also set forth three additional recommendations on topics not fully addressed in the Draft Plan, but ones that we believe must be advanced if the CLCPA emissions reductions goals are to be achieved.

SEVEN PRIORITY RECOMMENDATIONS DRAWN FROM CONCEPTS IN THE DRAFT SCOPING PLAN

We set forth, below, seven priority recommendations to help ensure achievement of the goals set forth in the Draft Scoping Plan.

- **Recommendation #1: Support Legislation Prohibiting Organics Disposal at Landfills/Incinerators and Mandating Curbside Food Waste Collections.** We share the objective of section W1 of the Draft Scoping Plan. But we urge that the Final Plan unambiguously support legislation that would prohibit organics from landfills and incinerators by a date certain while also mandating that localities amend their solid waste management plans to provide for curbside collection of food scraps and yard waste.
- **Recommendations #2: Endorse Six Bills to Advance Reduction, Reuse and Recycling.** We support the goals of section W2 of the Draft Scoping Plan. And we recommend that the Final Plan prioritize for enactment six pieces of reform legislation: (i) to phase out single-use packaging; (ii) to require “By Request Only” policies for single use products; (iii) to require reusable/refillable options for consumers; (iv) to expand the container deposit system to all non-carbonated beverages as well as wine, liquor and distilled spirit coolers; (v) to implement textile waste reduction and recycling programs; and (vi) to require additional State procurement standards for additional recyclable products (such as textiles, paper and packaged products).
- **Recommendation #3: Press for Enactment of Assemblymember Englebright’s Extended Producer Responsibility (“EPR) Bill.** We share the goal of W3 of the Draft Scoping Plan to incentivize manufacturers share the costs of end-use handling of the products and packaging they bring to market. Legislation to adopt EPR-type programs should be advanced for wide-ranging products including carpets, ties, textiles, batteries and mattresses. But we recommend that the Final Plan identify as its top priority in this

area enactment of the EPR legislation recently introduced by Assemblymember Steve Englebright, A.10184, which covers packaging and paper products. To be clear, any EPR legislation supported in the Final Plan should limit the definition of “recycling” to traditional mechanical recycling, and not give the green light to the unproven plastics-industry concepts of “chemical recycling” or “advanced recycling.” It should prohibit toxic chemicals in packaging and provide specific numerical targets for waste reduction. The Englebright bill addresses all three of these EPR non-negotiables.

- **Recommendation #4: Support increased State Grants and Loans for Co-Digestion of Organics at Local Sewage Treatment Works.** We support the concept outlined in W4 to beneficially reuse biosolids at wastewater treatment plants. Specific efforts to assist localities with EPF funds and grants should be conditioned upon commitments by sewage plant operators to use any biogas produced on-site for powering sewage plant operations and to find beneficial reuses for the digestate that remains at the end of the anaerobic digestion process. In other words, any funding for bio-gas projects at wastewater plants should be limited to projects that will not involve the construction of new pipeline or gas transmission infrastructure.
- **Recommendation #5: Recommend Legislative and Administrative Action to Capture Refrigerant HFCs.** We support the Draft Plan’s W5 call-to-action and hope the Final Plan reaffirms the importance of legislation to establish an EPR system for refrigerant-containing appliances.
- **Recommendation #6: Urge the State to Develop a Comprehensive Enforcement and Legislative Program to Cut Fugitive Emissions from Waste and Wastewater Facilities.** We agree with the intent of the Draft Plan’s recommendations W6 and W7 regarding fugitive emissions but believe that stronger language is needed if the troubling status quo is to change. Specifically, we recommend that the Final Plan call for DEC to adopt a comprehensive fugitive emissions-capturing strategy, to step up monitoring and enforcement of fugitive emissions from landfills and to adopt tighter regulations requiring the installation of more effective landfill gas collection covers and other state-of-the-art gas capture technology. Similarly, we recommend that The Final Plan direct DEC to perform emissions audits on the State’s wastewater treatment plants to identify major emitters and mandate that such emissions be curtailed. The Final Plan should also specify that cost-sharing assistance from State and federal funding pots be channeled into these projects.
- **Recommendation #7: Seek Legislation to Enhance Green Procurement and Develop and End-Market Strategy for Organics.** We support the Draft Plan’s W8 push for stepped up green procurement. However, simply calling upon DEC and OGS to implement new programs in this area will not be enough. We urge that the Final Plan urge the adoption of legislation to boost procurement by state and local governments (and their contractors) of products made with recyclable materials. We also recommend that the Final Plan encourage DEC, via legislation if necessary, to undertake a comprehensive W8 market study of organics generated here and identify possible end-uses for finished

compost, digestate and other captured organic materials.

THREE ADDITIONAL RECOMMENDATIONS THAT CAN AND MUST BE ADDED TO THE FINAL SCOPING PLAN

Despite the many thoughtful recommendations for addressing the contribution of solid waste to the climate crisis, the Draft Scoping Plan omits or places too little emphasis on three major aspects of the waste-to-climate change connection. In this section, we set forth three additional recommendations that are essential to include in the Final Scoping Plan if that document is to advance the changes necessary for successful CLCPA implementation.

- **Recommendation #8: Support Legislation to Phase Out New York’s Solid Waste Incinerators by 2030.** A solid waste disposal method that is barely mentioned in the Draft Scoping Plan is incineration. Solid waste incinerators, often called “waste-to-energy” facilities, currently handle about 15% of the waste generated in New York State. They are significant emitters of greenhouse gases and other air pollutants. Although accurate emissions data are hard to come by, it is well known that municipal waste incinerators -- even when operating in non-upset conditions -- generate carbon dioxide, as well as oxides of nitrogen and organic carbon, in addition to a wide range of other air contaminants. And too often they are located in- or near Black and brown communities and low-income neighborhoods, adding environmental justice concerns to the list of problems with this technology. To its credit, the Draft Scoping Plan reports that to achieve CLCPA climate goals by 2050, “a dramatic shift in the way waste is managed” will be necessary. Draft Plan at 237. Nevertheless, the Draft Plan does not include any proposals for ending emissions from waste-to-energy incinerators. This a troublesome omission. We recommend that the Final Scoping Document address the problem of GHG emissions from waste-to-energy incinerators and support legislation that would give localities eight years, until 2030, to increase waste prevention, recycling and composting strategies so that they can methodically phase-out incineration facilities, which remain a relic from the previous century, an environmental justice burden and an approach that continues to interfere with achievement of the CLCPA emissions reduction goal.
- **Recommendation #9: Recognize the Link Between Increased Plastic Production and the Climate Crisis and Recommend Policies That Attack this Growing Emissions Source.** Virtually all plastics are manufactured from fossil fuels, and the production of plastic products has skyrocketed in recent decades. Nearly half of all plastic produced is used for throw-away packaging and other single use products. Less than 10% of plastic waste is recycled. And as the oil and gas industry recognizes that the use of fossil fuels for motor vehicles will be declining over the next fifteen years, it is turning to stepped up production of plastics as a major profit center. Indeed, industry analysts expect plastic production to double again over the next twenty years. New York will not achieve the CLCPA’s ambitious emissions reduction goals if we ignore the threat posed by the extraction of fossil-fuels and the manufacture, distribution and disposal of single-use plastics. The Final Scoping Plan should describe the link between fossil-fuel extraction/

plastics production/plastic waste and GHG emissions; propose prohibitions on “chemical” or “advanced” plastics “recycling;” and place a higher priority on its existing recommendations for reducing throw-away plastics.

- **Recommendation #10: Push for Establishment of a World-Class Food Rescue Program:** Up to 40% of the food grown in the United States is never eaten. And when food is wasted, so are the resources that go into producing it. Wasted food is a significant contributor to climate change, with annual emissions equivalent to those from 37 million cars. Most of the GHG contribution is attributable to growing the food, but emissions come at every step of the process, including transportation of food from farm to store to home, as well as disposal of uneaten food in landfills and incinerators. At the same time as many as one in eight Americans are food insecure. While the Draft Scoping Plan acknowledges the challenge and suggests enhancement of the Food Donation and Food Scraps Recycling Law of 2019, much more can be done to reduce food waste-related climate emissions and help channel edible food to hungry New Yorkers. We recommend that the Final Scoping Plan call upon the Governor to make these related issues a high personal priority and to create a Blue-Ribbon Task Force that will report to her with a comprehensive set of proposals for making New York State the nation’s leader in terms of food rescue, reduced food waste emissions, and edible food redistribution.

Thank you in advance for your consideration of these comments.

Sincerely,



Eric A. Goldstein,
Senior Attorney