



**NEW YORK CONSTRUCTION MATERIALS ASSOCIATION**

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Draft Scoping Plan Comments  
New York State Energy Research and Development Authority  
17 Columbia Circle  
Albany, New York 12203-6399

To the Members of the Climate Action Council:

Thank you for the opportunity to present the following comments on the draft New York State Climate Action Council Draft Scoping Plan, which is intended to guide the implementation of the Climate Leadership and Community Protection Act ("CLCPA"). The New York Construction Materials Association, Inc. (NYMaterials) is a not-for-profit, statewide trade association representing the business and regulatory interests of companies involved in the production of construction aggregates, ready mixed concrete, and asphalt. These vital building materials are used in literally every construction project in New York. Our industries provide an annual stimulus to the economy of over \$5 billion and provide employment for 30,000 families in the state. Our operations are aggressively regulated under a multitude of State and federal environmental statutes and regulations, and our record of mitigation and compliance is unparalleled compared with other regulated industries.

NYMaterials represents and advocates for the business and regulatory interests of members involved in the production of construction aggregates, asphalt, and ready mixed concrete. Our member corporations are deeply rooted into the communities that they serve. Not only do the employees of these businesses work in these communities, but they also live, attend faith-based services, coach, and volunteer in these very same communities. These community bonds are why member corporations have demonstrated a sustained and unyielding commitment to reducing the industry's impact on the environment while enhancing its stewardship.

NYMaterials' member companies have also demonstrated a sustained commitment to driving New York State's global economic competitiveness, providing the foundation for community growth and resilience, and responsibly sourcing and protecting the natural environment through conservation and sustainable practices. In fact, the construction materials industry has been a national leader in promoting and implementing sustainable sourcing practices, reducing the amount of energy consumed, and incorporating the use of recycled materials into the production of commodities such as asphalt and concrete. Commodities that are essential to renewing and modernizing transportation infrastructure; reimagining our schools and hospitals; and transforming our energy production systems.

In principle, NYMaterials supports practical regional and national efforts to reduce greenhouse emissions across all sectors. Notwithstanding, NYMaterials has significant concerns with the policies and strategies identified in New York's draft Scoping Plan to achieve ambitious and, in many instances, admittedly unachievable goals. NYMaterials

provides additional detail on the impacts of the draft Scoping Plan to the industry in Attachment I. Attachment II provides further concerns derived from the draft Scoping Plan as a whole.

The Scoping Plan can only succeed if the State considers a balanced and integrated approach to environmental, social, and economic sustainability. Regrettably, the draft Scoping Plan presented for comment fails to provide such balance. In fact, the alternatives put forth do not provide the greatest return on investment for achieving short and longer-term emissions reduction goals. Rather, the draft Scoping Plan is pre-decisional and outcome determinative in its near exclusive reliance on the electrification as well as its dependence on induced changes in individuals' behavior to achieve the CLCPA's goals. Specifically, the plan fails to adequately assess and/or:

- (1) Overstates the benefit-costs analysis on individuals and businesses of transitioning facilities, equipment and fleets to all electric energy sources;
- (2) Undervalues prior contributions by certain sectors, including transportation and construction, in the development of new strategies and policies to support topline Plan reductions;
- (3) Omits the cost effectiveness/fiscal impacts of each mitigation strategy as a stand-alone action;
- (4) Disregards the probability for success for each mitigation strategy in lieu of aspirational goals, including any meaningful assessment pertaining to the availability or reliability of proposed solutions;
- (5) Excludes independent safety and engineering-based validations for recommendations impacting construction materials, means and methods;
- (6) Ignores physical and geographic limitations for certain types of activities, such as the sourcing of aggregates; and
- (7) Overestimates the commercial viability of hard to electrify industries/equipment and underestimates, or completely ignores, fiscal impacts of 'make ready' costs on such individuals and businesses.

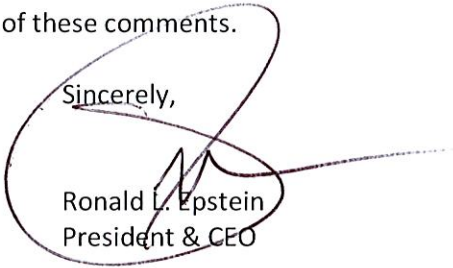
In addition to the shortcomings of the draft Scoping Plan, NYMaterials remains concerned with Section 7 of the CLCPA. Section 7 grants each New York agency and authority the unprecedented license to deny any and all sensible projects requiring State approval or decision without due process by arbitrarily determining that a proposed industry action is inconsistent with or will interfere with achievement of the Climate Act's emission mandates/goals. This new and unparalleled 'administrative' influence may afford any entity with an inherent bias or an alleged aggrieved individual, including persons who may be in direct competition, the ability to delay or indefinitely defer action on a proposed project or the renewal of new or an existing permit. This section of the CLCPA at best appears to be a direct effort to circumvent existing statutory requirements, policies and processes and at worst an explicit infringement of the State and Federal Constitution on a variety of grounds.

For the reasons stated above and detailed in Attachment I and II, NYMaterials believes that the draft Scoping Plan does not accomplish its purported goal of implementing impactful actions to mitigate harmful emissions and enhance environmental sustainability. The lack of practical and feasible low-emission and renewable alternatives included in the draft Scoping Plan not only will substantially increase the costs of living and doing business in New York, it further places the State at a competitive disadvantage with other states. It is unreasonable to assume that other states competing for development opportunities with New York will implement and/or enforce equivalent climate policies, and in that vacuum, the Scoping Plan and CLCPA will serve only to drive further businesses and industries out of New York State.

In closing, the members of NYMaterials have been committed to protecting and preserving the natural environment for generations. Rather than working in partnership with the industry to develop reasonable goals and an achievable path forward to realize the goals set forth in the CLCPA, the draft Scoping Plan takes a heavy hand and dictates outcomes without regard for cost, impact, or ultimately prospects for success. In our view, the draft Scoping Plan is solely written to justify all-electrification, and not to spur innovation and market-driven change. NYMaterials welcomes the opportunity to collaborate with the State on developing a reasonable plan for transitioning to climate-smart policies and strategies for the mining of aggregates and the production of asphalt and concrete in a socially and fiscally responsible manner without further disenfranchising the industry or the industry's contributions to the State's economic recovery.

Thank you for your time and consideration of these comments.

Sincerely,



Ronald L. Epstein  
President & CEO