



NEW YORK STATE ASSOCIATION FOR SOLID WASTE MANAGEMENT

Established 1975

January 19, 2023

Senate Standing Committee on Finance
Senate Standing Committee on Energy and Telecommunication
Senate Standing Committee on Environmental Conservation

RE: Senate Hearing on the Legislative and Budgetary Actions Necessary to Implement the Climate Action Council's Final Scoping Plan

Dear Senate Committees:

In 2019, the New York Legislature passed the CLCPA – Climate Leadership and Community Protection Act, with the stated goal of establishing the “most aggressive clean energy and climate plan in the country.” The recommendations outlined in the Final Scoping Plan will entail an extraordinary investment of resources and we appreciate the opportunity to provide comments.

The New York State Association for Solid Waste Management (NYSASWM) is New York State’s oldest solid waste management association representing solid waste managers, both downstate and upstate, whose membership oversees municipal and private material management infrastructure operating today. Our membership consists of organizations and individuals that provide the myriad of landfilling, waste-to-energy, recycling, composting, and collection & transportation services for non-hazardous solid waste materials generated within New York’s borders. With decades of operational experience and financial investment in the billions, our member’s experience is testimony to the operational realities of providing reliable, safe, and cost competitive services to state residents.

With these qualifications, NYSASWM respectfully submits the following comments, recognizing that the challenges entrusted to the Legislature are huge, and the barriers to success very real and immediate. We support the intent and ambition to control and reduce the adverse impacts of climate change. However, we respectfully disagree with select recommendations and assumptions, and hereby present some general and specific comments to guide future legislative discussions and actions related to the Final Scoping Plan.

Sincerely,

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I. Need for Understanding that Disposal Facilities Provide an Essential—and Highly-Regulated—Public Service

Landfills and waste-to-energy facilities provide an essential public service because they provide for the safe and secure disposal of waste materials that are not feasible to reuse, recover, or recycle. Although waste disposal facilities are among the waste management mechanisms of last resort, the public expects that waste will be properly managed at disposal facilities if there are no other diversion alternatives available. Our industry has made significant investments to ensure that disposal facilities are designed, constructed, and operated to protect public health, safety, and the environment while minimizing GHG emissions. These facilities are subject to extensive and evolving federal, state, and local environmental, health, and safety requirements, and are of the most highly regulated environmental facilities.

Traditional recycling programs have stagnated over the past three decades and there is still huge need for disposal capacity (i.e., landfills and waste-to-energy facilities) in NY. While NYSASWM supports thoughtfully crafted Extended Producer Responsibility (EPR) programs, those programs have leaps and bounds to go before they impact the amount of waste requiring disposal. **We urge the Legislature to direct DEC to develop a plan for ensuring adequate disposal capacity in New York State and evaluate how the Scoping Plan’s recommendations will effect this capacity.** It is easy to make landfills and waste-to-energy facilities “the enemy,” but until consumers start reducing the amount of waste they bring out to the curb each week, it is the responsibility of the NYSDEC to carefully and realistically plan for sufficient capacity, in conjunction with local (solid waste) planning units throughout the State.

II. Need to Reaffirm the Goal of Self-Reliance for NYS Solid Waste Management

Although NYS cannot mandate that all non-recyclable waste generated in the state be managed at facilities inside the state, it has been a longstanding goal to have the state be as self-reliant as possible in managing its waste as the best means to protect public health and the environment. **Transporting waste to facilities outside New York produces significant environmental impacts. Furthermore, climate goals will not be achieved if waste is simply transported to other states with less robust regulations. It is critical that future legislative and regulatory actions reaffirm the goal to provide integrated solid waste management systems for all the waste generated in the state consistent with the waste management hierarchy established in the Solid Waste Management act of 1988.**

III. Oppose a Fee Per Ton on Waste Disposal and Request Municipal Exemption

NYSASWM is adamantly opposed to the chapter 16 strategy to “enact legislation in 2023 to establish a disposal disincentive [fee per ton] on all waste generated in New York to provide financial support for reduction, reuse, and recycling,” because a per-ton fee assessed on disposal will not be a disincentive to waste generation. Although a superficial look might lead someone to think that higher disposal fees will drive down consumption [waste generation], in actuality, the complex myriad of entities that are involved in solid waste management – homeowners, business owners, public and private waste haulers, local towns, villages, cities, and counties, and public and private disposal facility owners – and the many different methods used to fund waste collection, and disposal [user fees, property taxes, sales taxes pay-as-you-throw systems, integrated system tip fees, disposal only gate fees] show that it would be difficult if at all possible to have a waste generator, the one who controls how much waste is generated, see a cost increase and therefore be incentivized to make less waste.

Many municipal systems have already implemented an integrated system tipping fee to cover the cost of waste reduction and recycling programs. The State's implementation of a fee per ton of waste would essentially penalize communities that have already taken responsibility by sustainably funding recycling programs to comply with the State's Solid Waste Management Plan. Accordingly, **if such a fee ends up being implemented, we respectfully request that integrated municipal solid waste management systems be exempted from the per-ton fee.**

IV. Emerging Contaminants Should Be Carefully Considered

Additional strategies to reduce use of, and increase disclosure of PFAS, in consumer products are urgently needed on a State and National level.

Landfills are often misrepresented as a source of emerging contaminants into the environment, while in reality, landfills are serving a critical management/storage function as they are proven to be effective PFAS "sinks". **In short, landfills are receivers of PFAS. They do not manufacture or use PFAS. Instead, landfills, like WRRFs, manage materials containing PFAS from their incoming waste streams.** Given that, the relative mass of PFOA and PFOS in leachate discharges to WRRFs has been shown in multiple studies to be a relative minor contribution to WRRFs overall PFOA and PFOS mass loading. Because PFAS are ubiquitous in our environment, found in everything from textiles to food packaging; at end of life, these materials will reach landfills. Most of the PFAS remain sequestered within the landfill rather than making their way into leachate; nonetheless, small amounts of PFAS do migrate into the leachate.

Landfills and Water Resource Recovery Facilities (WRRF) rely heavily on each other for the management of biosolids and leachate. This relationship has become more and more dependent and difficult as WRRFs restrict leachate disposal at their locations and biosolids cause odor generating concerns at landfills. The Final Scoping Plan lacks information on the environmental concerns associated with emerging contaminants and land application of digestate as a soil amendment.

The Legislature should consider the current studies underway related to emerging contaminants and land application implications. This is extremely important as the legislature pushes for increased organics diversion. It is critical to study the levels of PFAS present in the end products of organics diversion (compost and digestate/sludge), prior to pushing for billions of dollars to be invested in organics diversion. Stakeholders have recently raised concerns about persistent chemical contaminants in compost and digestate being transferred to soil, leading to uptake by plants and crops, leaching into groundwater, and/or resulting in direct damage to plants and crops. There are currently no standards for per- and polyfluoroalkyl substances (PFAS) in composts or digestates. As noted in the EPA's paper titled "Emerging Issues in Food Waste Management: Persistent Chemical Contaminants", more research on PFAS fate and transformation during composting and anaerobic digestion is needed. PFAS concerns are already impacting organics facilities; in May 2022, Massachusetts DEP shut down the Mass Natural compost facility for concern over PFAS contamination in groundwater.

V. Need for Robust Financial Analysis Prior to Implementation

In general, we respectfully request that a robust financial analysis be performed on each element of the Final Scoping Plan, such that there is awareness about the costs associated with this plan and the ultimate impact on the costs of living for NY residents. **A comprehensive economic analysis should be included as part of all legislative and regulatory proposals which are made to implement the CLCPA.**