



**STATEMENT OF THE NATURAL RESOURCES DEFENSE COUNCIL
BEFORE THE NEW YORK STATE SENATE AND NEW YORK STATE ASSEMBLY
ENVIRONMENTAL CONSERVATION COMMITTEES
REGARDING RECYCLING-RELATED ISSUES IN NEW YORK
AND THEIR IMPACT ON
CLIMATE, GREEN JOBS, LOCAL WASTE PROGRAMS AND SUSTAINABILITY**

October 21, 2019

Good morning, Chairman Kaminsky, Chairman Englebright and members of the Committees. My name is Eric A. Goldstein and I am a senior attorney at the Natural Resources Defense Council (“NRDC”). NRDC, as you know, is a national, non-profit legal and scientific organization that has been active on a wide range of environmental health, natural resource protection and quality of life issues internationally, around the country and right here in New York State, where we were founded in 1970. NRDC’s main offices are located in New York City; our New York State Legislative Director, Rich Schrader, is based in Albany; and we have close to 40,000 members in New York State alone.

At the outset, we want to thank the Legislature, Majority Leader Steward-Cousins, Speaker Heastie and your two Committees for your leadership in advancing sensible, sustainable solid waste programs over the past year. We were pleased by your action to ban plastic take-out bags throughout the State and allow localities to place a fee on paper bags. We welcomed your passage a bill designed to sustainably deal with food waste in New York. And we cheered your enactment of legislation to place responsibility on manufacturers to take back paint cans, which should ease the burdens on municipalities of disposing of unused paint.

Indeed, the Legislature has long been the State’s policy leader on solid waste matters. More than 30 years ago, it was the Assembly and the Senate that first set New York moving in the right direction on this issue by enacting the New York State Solid Waste Management Act of 1988. That law established a solid waste hierarchy that places waste reduction, reuse and recycling as the priorities to guide programs and decisions on waste matters in New York State. ECL Section 27-0106.

Since the passage of that statute, NRDC staff have worked to advance the State’s waste hierarchy. We helped draft and brought successful lawsuits to enforce New York City’s landmark 1989 mandatory recycling law. We advocated for and advised in the preparation of President Bill Clinton’s Executive Order 12873, which directed all federal agencies to purchase paper made with recycled fibers. And we have educated decision-makers and the public to build

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support for numerous legislative proposals (many of which have been adopted) that are designed to make reduction, recycling, composting and equity the cornerstones of New York's 21st century waste policy.

This hearing comes at a critical time for recycling across New York State. Last year, China's national sword policy decision effectively closed that country's market to America's recyclables. This has placed an added strain on recycling programs from Montauk to Buffalo. Increased costs of handling recyclables are stressing recycling programs in many counties, including Columbia, St. Lawrence, Ontario, Onondaga and Washington. And in many localities, recycling collections and/or the types of materials accepted have been curtailed or cutback.

In short, the coming year will be particularly challenging one for recycling programs and their municipal operators across the state. Fortunately, there is much that the Legislature can do to turn the tide.

In our statement today, we focus on five priority areas where legislative action can help take our state's recycling programs into a position of national leadership.

I. Making Manufacturers Responsible for the Waste they Produce

Recycling programs around the state are facing big challenges these days. Many discarded consumer products are difficult, if not impossible, to recycle due to their material design and lack of robust markets. China's waste import restrictions have, of course, exacerbated this problem by eliminating a significant market for collected recyclables. For such reasons, the costs of operating local recycling programs have been mounting over the last few years.

Meanwhile, the need for increased recycling has never been greater. Landfill tipping fees continue to climb. And the environmental problems associated with America's waste generation – air and water pollution from the manufacture of these products and their packaging; consumption of fossil-fuels and of other natural resources; and ever-mounting amounts of waste materials polluting our local waterways -- continue to undercut government efforts to make our waste programs more sustainable.

Perhaps the most promising strategy to reverse these trends is the idea of incentivizing manufacturers of consumer goods to redesign their products and packaging for reuse and recycling, rather than leaving the burden of waste disposal fully on the backs of local governments and their taxpayers. This concept goes by the name of "Extended Producers Responsibility," or EPR. The strategy, which has been implemented throughout Western Europe and Canada, uses economic incentives and disincentives to prompt manufacturers to modify their designs and facilitate recycling and reuse. Under these schemes, producers are encouraged to design products from materials that are recyclable and/or to participate in or help fund the collection of these products and packaging once they have been discarded by consumers. New York State's electronic waste recycling law, which required manufacturers to design convenient collection programs for discarded computers and televisions, is an early example of this concept.

NRDC has two suggestions for advancing the idea of Producers' Responsibility here in New York in 2020. First, we urge your committees to re-examine the State's 2010 e-waste recycling law and consider amendments that will build upon the foundation of the initial statute and add new provisions to facilitate increased capture and make the program more convenient to all New Yorkers. Second, we recommend that your committees review the efforts already underway in Maine to advance the EPR approach for packaging. Legislation passed there earlier this year is designed to create a consensus framework for assisting municipal recycling programs by applying the producers' responsibility concept to packaging. Among other things, the initial Maine legislation would create a non-profit stewardship organization that would help oversee implementation of the future program and generate funds to cover costs of recycling household packaging. We understand that the New York Product Stewardship Council will shortly be releasing specific recommendations for how the Legislature can help advance this forward-looking packaging waste strategy and we urge you to give that group's analysis careful consideration.

Getting Organics Out of Landfills and Incinerators

Organics are the single largest component of the residential waste stream in New York. Roughly one-third of the household waste we generate in food scraps and yard waste. Unfortunately, the vast amount of such waste ends up buried in landfills (where it breaks down and emits methane, a very potent global warming gas) or sent to incinerators (where it hampers burning and generates air pollution). The failure to get the bulk of such wastes to composting facilities or anaerobic digestion facilities is perhaps the single biggest impediment to sustainable waste handling in New York. To be sure, last year's legislation, which gave a boost to food waste composting by the largest food waste generators in the State, was a critical step in the right direction. But much more is needed.

NRDC recommends that you act to ensure that residential food waste and yard waste generated by New Yorkers is disposed of sustainably. To that end, we urge your committees to advance legislation that would require municipalities to prepare and submit to the Department of Environmental Conservation amendments to their local solid waste management plans that describe how each locality will provide for disposal of residential food waste and yard waste at regional composting or anaerobic digestion facilities no later than January 1, 2025.

Curbing the Onslaught of Single-Use Plastics

Plastic discards are among the most troublesome constituents in the State's waste stream. About 40 per cent of plastics are single-use products that are utilized for minutes but can pose environmental burdens for centuries. Very little plastic waste is recycled; huge tonnages end up littering our streets and polluting our waterways. Scientists have found microplastics in the food chain and in every corner of the globe. The plastic in these products is derived almost entirely from fossil fuels and plastics production provides a significant source of income to the oil and gas industry. Roughly 448 million tons of plastics were produced in 2015 and the amount of plastic manufactured every year is expected to double by 2050, unless current trends are reversed.

NRDC offers five proposals that would build upon the Legislature's plastic bag ban and put New York in a leadership position in tackling the onslaught of single-use plastics:

First, we recommend enacting a ban on polystyrene foam food and beverage containers, an idea that Senator Liz Krueger has long championed. New York City's ban on foam coffee cups and clamshells, etc. went into effect this year; restaurants and food service establishments have made the change-over without missing a beat. The state should follow suit, helping to curb these products whose brittle nature poses disproportionate litter clean-up problems and waterway pollution across the state.

Second, we recommend advancing a bill that would make plastic straws and plastic utensils available only on request. This approach, already in place in a growing number of jurisdictions throughout the county, is expected to sharply reduce the use of these throw-away products, encourage New Yorkers to affirmatively choose when to use such products and cut costs to businesses. (Such a bill should also ban the use of plastic drink stirrers since more environmentally friendly substitutes are readily available.)

Third, we recommend enacting legislation, already introduced by Senator Kaminsky, that would prohibit hotels from relying on small, single-use plastic toiletry bottles. This excellent idea would reduce hotel plastic waste and improve the bottom line for hotel operators; indeed, Marriott International, the world's largest hotel chain, has announced plans to phase out these throw-away products in 2020.

Fourth, we recommend moving forward with legislation that would cut back on the ever-growing amount of plastic water bottles discarded in New York State. We understand Assemblymember Fahy is considering legislation that could ban the use and sale of plastic water bottles throughout the state. We share the Assemblymember's goals for dramatically slashing plastic water bottle usage in New York. As a first step in achieving this objective, we suggest moving forward with a bill that would prohibit the use or sale of plastic water bottles at New York State parks, beaches, cafeterias, buildings and all other facilities operated by the State.

Closing the Loop on Recycling by Boosting Demand for Recyclables

Boosting the collection of recyclables from households and businesses across the state is only half the battle. The real objective of recycling is, of course, to ensure that collected recyclables are reintroduced into the stream of commerce and remanufactured into new products.

NRDC has several suggestions for how the Legislature could act to help close the loop on recycling in New York. One step would be to establish recycled content requirements for products sold within the state. For example, we urge the committees to advance legislation that would set recycled content requirements for plastic bottles and plastic film. The California legislature has just passed a bill that requires that all plastic bottles sold in the state must meet 25% recycled content requirements by 2025 and 50% recycled content by 2030. Coca-Cola and Danone have already pledged to meet similar requirements for the products they sell. Similar mandates should be put in place for plastic film sold in New York. Again, California offers a useful model; current law there requires 20% recycled content in plastic bags, going up to 40%

next year. Of course, enacting legislation to require recycled content must supplement, not replace, legislation designed to curtail the use of plastic bottles and plastic film. Waste prevention remains preferable to recycling in every instance.

We have two other big ideas on this topic and a small amount of time to present them. Another important part of closing the loop is to boost state and local government procurement of products made with recyclable commodities. This is an area where the state's enormous purchasing power can really assist localities and contribute to the economic success of recycling. The topic warrants further consideration, perhaps in another hearing or working session with staff.

Similarly, the State can play a giant role to advance recycling by making economic investments in recycling facilities such as composting and anaerobic digestion equipment or paper pulping operations. Again, the idea is to boost the market for recyclables by creating recycling industries right here in New York State – producing green jobs for New Yorkers in the process. This topic too warrants attention as a follow-up to this important hearing.

Expand the Bottle Bill, But in a Way that Won't Harm Municipalities

NRDC has been a long-time supporter of Bottle Bill legislation in New York and around the nation. The container deposit systems these bills created have been helpful in reducing litter, securing returns of bottles and cans and jumpstarting broader recycling programs across the country. We are grateful that New York State has been a leader on this issue.

However, the success of recycling in the 21st century will continue to depend for one of its cornerstones on the viability of curbside recycling collections and other recycling programs run by localities. Under these circumstances, when considering expansions to New York's Bottle Bill, the Legislature must ensure that any additions to the deposit system do not harm municipal recycling operations, which are already reeling from loss of the China market and increasing costs to dispose of the recyclables they are collecting.

Under these circumstances, NRDC opposes proposed expansions to the Bottle Bill that would add non-alcoholic beverages including sports drinks, energy drinks and ready-to-drink coffees and teas to the deposit system. Such proposals would remove many PET and HDPE bottles, as well as aluminum cans, from the municipal waste stream. But these commodities have real value. Removing them from the mix of recyclables sent to municipal recycling facilities would punch a hole in the economics of local recycling programs. That makes no sense.

Instead, we recommend that the Legislature consider expanding the Bottle Bill to include wine and liquor bottles. Such bottles are overwhelmingly made of glass, which has a much weaker market than PET, HDPE and aluminum, and which causes other problems for municipalities when placed in the residential recycling waste stream. Bottle Bill-collected glass would have a higher market value and its collection as part of a Bottle Bill program could advance a variety of state economic objectives.

Finally, a word about the plastic bag ban that the Legislature adopted last year. This bold measure is scheduled to take effect across the state on March 1, 2020. While most everyone in this room is aware of that fact, a majority of New Yorkers are probably not. NRDC is concerned that without a much greater public education effort in advance of the March 1st date, New Yorkers will be caught flatfooted and unprepared for this change. There is even a chance that adverse public reaction could trigger a backlash and set back future efforts to advance other legislation to make waste disposal in New York more sustainable. We ask your committees, as we have asked the State Department of Environmental Conservation: please do what is needed to prepare for the March 1st phase in of the plastic bag ban. Such efforts should include a vigorous public education campaign, the distribution by the state of reusable grocery sacks, and other efforts to educate New Yorkers as to the reasons why this change is happening and how the reduction in billions of plastic single-use bags will benefit New Yorkers and their communities.

Thank you very much for your attention. We look forward to working with you in the weeks and months ahead on these important issues. And we are encouraged by your leadership.