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September 15, 2023

Minnesota Pollution Control Agency
c/o Peter Sandhei
520 Lafayette Road N.
St. Paul, MN 55155

RE: MPCA's 2022-42 Metropolitan Solid Waste Policy Plan

Dear Mr. Sandhei,

Thank you for the opportunity to comment on MPCA's 2022-42 Metropolitan Solid Waste Policy Plan.

The National Waste & Recycling Association (NWRA) is the leading voice of the North American waste and recycling industry on advocacy, education and safety. Members of the Minnesota Chapter of NWRA are private-sector businesses that collect, process and manage waste, recyclables and organics, and safely operate landfills for mixed municipal solid waste (MSW) and construction/demolition (C&D) waste.

We are proud of our decades of work to serve our customers: citizens, businesses, cities, schools, and nonprofits. We work with our customers every day to reduce waste and increase the collection of recyclables and organics.

We also provide an option for safe land disposal for those items that cannot be recovered. We accept MSW and C&D waste into lined landfills which meet or exceed state and federal environmental regulations. Our modern facilities are very different than the unlined landfills prior to RCRA Subtitle D in 1991.

We appreciate the MPCA's work on this plan. We have been a partner with MPCA, counties and cities to achieve our shared solid waste goals. There are a number of very positive items in this draft Plan including actions focusing on government communication and collaboration, education and outreach, waste reduction and repair, organics market development, wood waste management and other topics. This includes Strategies 9 & 10, 19, 41-47, 49 & 50, 56-65.

We also have a number of concerns. Our top-level concerns include:

1. Required weekly recycling collection (#28)

2. Required pre-processing of MSW (to remove recyclables) at landfills and transfer stations (#34)
3. County option to add new fees/taxes for land disposal of MSW (#54)
4. The plan does not include actions to address Lithium Battery fires, and existential threat to Minnesota's waste & recycling infrastructure
5. All significant solid waste changes should be made in the legislative process, not via this Plan

Required Weekly Recycling Collection (#28)

We are experts in the collection of recycling. We have brought forward technology—like our materials recovery facilities (MRFs) and single-sort collection—that have revolutionized recycling. The infrastructure that we have built has made us a critical part of the system resulting in Minnesota becoming a national leader in recycling.

The Plan requires that all haulers in the Seven-County Metro Area (population: 3+ million) must collect recycling every week. There is no data to support the notion that collecting recycling weekly will increase the volume of recycling collected. Requiring weekly collection simply **doubles the cost and environmental impact (GHG Emissions) of collecting the same or similar amount of material.**

For many years the industry standard was a 60-gallon recycling cart. Some haulers have been transitioning to 90-gallon carts as the standard size. Many/Most customers still have 60-gallon recycling carts. **Encouraging or requiring the use of a 90-gallon recycling cart can increase recycling capacity by 50% without adding any additional collection costs or vehicle emissions.** Requiring haulers to offer additional carts at no charge can further expand recycling capacity without doubling the collection cost and adding vehicle emission.

Weekly recycling collection will mean twice as many trucks on the road, and result in increased vehicle traffic and GHG emissions. NWRA members are very proud of our investments in cleaner-burning CNG trucks. Nonetheless, doubling the miles driven will increase GHG emissions—for little return—and the studies do not show there will be any significant increase in total volume and weight of recyclables collected in a two-week span.

It is very difficult to hire a trash or recycling truck driver. This challenge pre-dates the COVID-19 pandemic—and has gotten much worse since then. We do not know where we will find the new drivers to meet this mandate. A career as a driver of a trash or recycling truck is a rewarding one. We are proud of our employees. We are also proud to provide great paying jobs. We spend significant funds to train new drivers, and as well as have robust ongoing safety training.

In addition to the significant labor cost, this mandate also requires significant capital expense. New recycling collection trucks are over \$300,000 each. We believe this mandate will cost millions to achieve—and all of this cost will be passed on to our customers. Recycling is required of all households, even those who generate only small amounts of recyclables. We are concerned about the effect of this requirement on senior citizens and our low-income neighbors.

We understand that some residents generate a higher volume of recyclables. We love serving those customers. There is an easy solution: adding a larger recycling cart or additional high-capacity recycling carts. We are not aware of any organized collection city that charges residents for an additional recycling cart. There is no more cost to the resident, and their hauler will pick up two carts of recycling on their regular recycling day. We strive to make it as easy to recycle as possible. We believe bi-weekly curbside collection is the best solution. This system already works now—and is very convenient to customers.

Required pre-processing of MSW at landfills and transfer stations (#34)

The Plan requires that all operators of waste-to-energy facilities, landfills, and transfer stations pre-process waste to remove recyclables by 2025.

We are businesses that are focused on recycling more. We do not believe this is the right strategy to get us there. Achieving the 75% recycling goal is not possible unless residents across the metro area are actively engaged and participating in their curbside recycling program. Spending significant resources on the back end of the disposal system is not a cost-effective strategy to increase capture rates. Significant investment in post collection separation will provide the public with the perspective that source separated recycling isn't necessary because it gets separated out at the landfill. This perception has the potential to damage participation in the existing recycling system.

Dirty MRF's have proven to be a very high-cost strategy to capture very low value materials. Glass is likely broken and not recoverable, paper can be wet and not recyclable, plastics in the trash stream are not likely to be properly prepared for recycling they will not be clean and dry.

At the MPCA's July 11th Public Hearing, the Agency indicated that this provision was left intentionally vague. As a result, we are unable to determine what equipment will be required at our landfills and transfer stations. We cannot estimate cost, though we are concerned that it may be substantial. Unfortunately, all of this cost will be transferred to our Metro-area customers.

Furthermore, adding a processing line to every landfill and transfer station means that there may be significant disruptions to transfer station and landfill operations, if there are issues with the processing equipment (or instances when equipment is installed, and paid

for, but then does not run). Finally, many of our transfer stations have very limited space. We cannot add a pre-processing system and safely operate.

Additionally, this material was not source separated. Does it remain MSW during and after the recovery process? This raises important regulatory and tax implications.

We believe a better solution is to focus on the top of the waste hierarchy, how we can educate and engage residents to keep recyclables out of MSW.

County option to add new fees/taxes for land disposal of MSW (#54)

The Plan suggests that Counties add fees (taxes) to all MSW delivered to a landfill. While there is mention of costs associated with land disposal, many of these costs are already accounted for and paid by landfill operators or by the existing state tax collected to fund the Closed Landfill Fund or the MLCAT. We do not support additional taxes—and especially where there is no up front and detailed plan for the use of that tax money for post-closure purposes.

Furthermore, there is no evidence this tax will change human behavior or result in the generation of less MSW. All of these new taxes will simply be passed on to consumers, the use of which is unknown to the customer. It's just another tax on their garbage bill. As mentioned above, these new taxes are regressive and hurt seniors and low-income families the hardest. As much as “zero waste” is an ideal, it is not reality: families and businesses generate waste. It is also not in line with the Agency's focus on including externality costs in the original cost of the product—so that the consumer is able to make an informed decision at the time of purchase.

The plan does not include actions to address Lithium Battery fires, and existential threat to Minnesota's waste & recycling infrastructure.

The risk of fire from lithium batteries has become an existential threat to the recycling infrastructure in Minnesota. The loss of this infrastructure directly impacts our ability to manage recycling in Minnesota and meet the State's desired recycling goals. Nationally, on average the industry is losing more than one recycling facility a month from battery fires and locally we have seen the fire incident rates in our recycling facilities increase from once every several years to several times per month. Further, the energy density, and associated fire risk, from these batteries is increasing as we strive to have smaller, longer-lasting batteries while at the same time the use in products is increasing exponentially.

Nationally, NWRA has been working with the battery manufactures and brand owners on legislation and take-back infrastructure for collecting and recycling these batteries in a safe manner. NWRA was successful in passing prior legislation to ban lithium batteries from recycling. Although this was a successful initiative, the general public was largely unaware of the change in legislation, and it did little to address the problem. The root of

the issue lies with the consumer not being aware of the risk of the batteries, that they cannot go in the waste or recycling carts, and the safe “take-back” alternatives for recycling of the batteries. To this extent, it is essential that the broader public is made aware of these issues through continued education campaigns that involve the mass media – tv news, billboards, etc. NWRA believes that the MPCA Policy Plan should include funding for an ongoing education campaign to the general public on lithium batteries. This education campaign is essential to protect human health, the environment, and the recycling infrastructure in Minnesota.

All significant solid waste changes should be made in the legislative process, not via this Plan.

NWRA supports the use of the plan for guidance and goals, but has a long-standing opposition to the plan being used to effectively make new rules and regulations. The plan has the force of law, and regularly includes mandates that are strongly opposed by important stakeholders.

We believe changes of this scope and breadth should be made by elected officials and should go through the legislative process. This allows full and robust input from all stakeholders: the Agency, cities, counties, businesses, nonprofits, environmental groups, community groups, individual Minnesotans, and the waste industry. We share many of the concerns that our city and county partners have to the mandates in this plan.

At minimum, we believe this Plan should go through the Rulemaking process in Minnesota’s Administrative Procedures Act. This process and the statement of needs and reasonableness (SONAR) provides stakeholders more input in these important changes. NWRA has previously asked the Agency to voluntarily put the Plan through this process. The Agency has declined to do so.

Additionally, the Plan does not include any reference to the costs to Minnesota families and businesses to implement the required, or optional, strategies. For that matter, the Plan does not include the cost of not doing the required strategies. We believe that, before any policy is implemented, elected officials should first be informed of the cost-benefit-analysis to achieve our statewide goals.

We urge elected officials and policymakers to regularly reflect on whether we have set the correct goals and are using the correct data to measure success. A 75% recycling goal, measured by weight on materials collected, does not make sense in the era of “light-weighting” of plastics. The MPCA has already started the hard work and scientific analysis to determine the most environmentally sound way to design consumer products. In some cases, scientific studies have found some single-use products can be more environmental than “recyclable” products which are very difficult and expensive to fully recover. We encourage this work to continue.

Per Minn. Stat. 473.149, subd. 1, “the Plan shall include goals and policies related to recycling for solid waste management including recycling consistent with Minn. Stat. 115A.551”, and Minn. Stat. 473.149, subd.3 (5f) make specific reference to the “standards and criteria adopted in the policy plan for review of solid waste facility permits...for Certificate of Need...and for solid waste contracts ...”. NWRA submits that the “required strategies” are neither goals nor strategies for cities and counties to consider for possible implementation but are rather mandatory standards and criteria that must be met.

Therefore, any of the required strategies that are outside of the specific references in Minn. Stat. 473.149, namely outside of facility permits, hand sorting and mechanical sorting of recyclable material, Certificate of Need (CON), and MPCA review of contracts greater than 5 years, should not be referenced as “required strategies” since MPCA does not have the specific authority to establish standards and criteria beyond what is allowed in statute.

Further, related to recycling, Minn. Stat. 473.149, subd. 1 states, “The plan shall include goals and policies for solid waste management, including recycling consistent with section 115A. 551”, which defines recycling to include “hand separated and mechanical recycling”. There are no references to collection and transportation of recyclable material. NWRA has concerns whether the Agency has the regulatory authority related to transportation of solid waste and recycling and whether the MPCA can include new regulatory requirements like weekly recycling.

Thank you for the ability to comment on this Plan.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "DM Carnival". The signature is written in a cursive, flowing style.

Douglas M. Carnival
Counsel to the NWRA