



August 31, 2023

To: Mr. Peder Sandhei:

WM (Waste Management) of Minnesota, Inc. appreciates the opportunity to comment on the Minnesota Pollution Control Agency's (MPCA, Agency) Draft Metropolitan Solid Waste Policy Plan 2022-2042 (Draft Plan).

1) WM is in Alignment with the MPCA's Sustainability Goals in the Draft Plan

As a sustainability leader, WM has consistently lead Minnesota's solid waste industry by investing in innovative technologies such as single sort recycling, a state-of-the-art single sort recycling facility, CNG trucks and organics composting, all of which contribute to higher recycling rates and a better environment for Minnesota. Future WM growth initiatives that will contribute to even higher recycling rates are dependent upon a favorable regulatory and policy framework. Any major shifts in our solid waste system, especially through a container deposit system or possibly through Extended Producer Responsibility (EPR) could interfere with our current recycling and organics growth strategies for the Twin Cities Metro Area.

WM makes the following comments within the context of protecting the infrastructure in which we have invested and fulfilling our strategic growth initiatives related to sustainability.

2) WM Supports Sustainable Materials Management

WM applauds the Agency for its proposal to pivot from the current waste and recycling system to a sustainable materials management (SMM) system. SMM is consistent with WM's vision for the future where we leverage our infrastructure, innovation, and expertise to repurpose material, create renewable energy, and contribute to communities in which we live and work. Related to recycling in particular, WM supports life cycle analysis of specific materials in the waste stream and focusing on extracting those materials with the greatest opportunity for environmental benefit.

WM's recent investment in organics management and strategic growth of our SET assets are in alignment with MPCA's recommendations in the Draft Plan to expand organics management. We agree that food waste in particular, needs to be captured and managed appropriately. WM supports the broad recommendation of increasing organics recycling.

3) Required Strategies to Implement Weekly Recycling; Organics (cities with pop. 5,000)

WM is committed to helping communities across North America to achieve their sustainability goals. As an organization, we continue to invest in our recycling and organics processing infrastructure throughout the greater Twin Cities metro area. Although MPCA's proposed requirement for weekly

recycling is intended to extract more value from the waste stream, we want to be sure you understand the implications of such a significant shift.

For WM operations, based on the current status of every other week (EOW) recycling, the 5% participation rate for organics service for residents in Hennepin County, and the current number of trucks required to provide EOW recycling collection and organics, WM projects an increase of 45-50 additional trucks to meet these requirements metro-wide. This capital investment would exceed \$17M, plus a significant increase in operating costs associated with the maintenance of these vehicles and labor costs. The increased truck traffic in residential neighborhoods will result in increased safety risks, noise, and road wear and tear. The increased Greenhouse Gas (GHG) emissions should also be taken into consideration and may be counter to broader environmental goals for the region.

Last, the nation continues to struggle with a shortage of commercial drivers, which has made the labor pool incredibly competitive and challenging. Staffing the necessary additional trucks may prove to be impossible. It is important to note that these additional costs will be passed on to customers through rate increases. So, while WM is committed to investing in the future of the Twin Cities metro area, we want to be sure you understand the ramifications this will have on our future operations and the cost to our customers and urge you to consider other options.

4) The Draft Plan Should Focus on Generators of Waste and Recycling Instead of Upfront Processing at Transfer Stations and Disposal Facilities

WM agrees that all generators—residents, businesses and institutions, should recycle as much material as possible. We would like the Draft Plan to have greater focus on increased recycling education for these generators. Our Twin Cities' MRF receives best quality, most marketable material, when it is extracted at the source.

We strongly support efforts to educate all generators about the merits of source separation and fear that reliance upon downstream upfront processing at transfer stations and disposal facilities will erode the recycling ethic that all stakeholders in the solid waste system have worked to establish. Further, the quality of recyclable material that is mixed with trash and extracted from trash is degraded due to liquids, food, etc., reducing the value of the “recyclable” material and making it unacceptable to end markets.

Lastly, the cost of mechanical, upfront processing is astronomical. Recent capital bond projects for similar types of systems puts the cost at around \$15-20M when local matching dollars are included. Significant additional operating and capital costs will be passed on to our commercial and residential customers through rate increases.

5) The Draft Plan Needs Additional Focus on Lithium Ion Batteries

We support the development of a strategy to keep Lithium-Ion batteries out of the waste and recycling stream. All batteries have chemistries that can result in fires that destroy the recycling and waste management infrastructure every year, costing millions of dollars to replace. We feel that the Draft Plan should provide greater emphasis to this extremely important issue, including the development of an

education program and advertising campaign directed at residents and businesses. Lithium ion batteries have the potential to destroy the recycling infrastructure that the metro area is dependent upon, thereby, potentially impacting our recycling rate.

6) Draft Policy Plan's Analysis of Restrictions on Disposal is Unreasonably Narrow and Fails to Critically Look at Incinerators' Own Business and Operating Practices

In Appendix D, the MPCA fails to take into account the many variables that may cause an incinerator to operate at capacity—most of which are beyond the control of landfills and haulers, such as costs of fuel and transportation, time to travel to the incinerator, exorbitant fees charged by the incinerators, basic business and operational practices of the incinerator (e.g., not being open on weekends, closing at 3:00 PM, long lines because the processing facilities does not have enough scales or employees, processing facilities turning away waste because it is not willing to invest in equipment that could handle the waste), each of which could cause the incinerator to not operate at 100% of its operating capacity.

The MPCA should consider incinerators' business and operating practices when determining "reasonable available capacity" and in reviewing a county certification of waste as "unprocessible". If an incinerator is not operating at full capacity and it's charging \$150 per ton, closing at 3:00pm and cannot accept common processible items contained within a hauler's load (e.g., bulky waste), a landfill is not the cause of the hauler avoiding the incinerator and therefore, the landfill should not be held accountable.

7) "Organized Collection" is Improperly Applied to Various Recycling Systems Resulting in Erroneous Conclusions About Increased Recycling Rates with Organized Collection

In strategy #31, the MPCA concludes that research has shown organized recycling collection programs yield a higher recycling rate when compared to non-organized recycling programs, but the only support the MPCA cites is a fundamentally flawed article published over a decade ago. The organized collection statute (Minn. Stat. Section 115A.94) has been amended twice since the MPCA's 2012 article, (*"The Benefits of Organized Collection"*), which relied heavily on the 2009, Foth Infrastructure & Environment, LLC ("Foth") report. As was pointed out by the National Solid Waste Management Association (NSWMA) at the time, Foth's 2009 study failed to use a scientific approach in data collection and analysis, unreasonably drew long term conclusions based on information from an abbreviated one-year time frame, drew from too small of a sample, failed to differentiate between dual sort and single sort programs and failed to look at other potential causes for increased recycling.

Furthermore, the draft Policy Plan improperly equates "organized collection" as being any system that is not open market. In Appendix A, the MPCA illustrates its lack of understanding of "organized collection" when it says that "TCMA communities have two types of agreements with waste haulers: open collection and organized collection." Such a statement reflects a fundamental misunderstanding of the definition of "organized collection" as set forth in Minnesota Statutes Section 115A.94, Subdivision 1. Organized collection is not a vague term meant to encompass all solid waste collection systems other than open market systems. Rather, organized collection is a term that is specifically defined in

Minnesota Statute Section 115A.94 that inherently requires municipalities to go through several procedural requirements detailed in subdivision 4 of the statute.

In Minnesota, there are at least three separate types of trash collection systems: (1) open market; (2) Organized collection system (under Minn. Stat. Section 115A.94); and (3) closed market where a city, town or county has exercised authority granted to it by laws other than Minn. Stat. Section 115A.94, including a home rule charter, to govern collection of solid waste. In fact, Minnesota Statutes Section 115A.94, subd. 6(c) acknowledges that organized collection systems are separate and apart from other closed market collection systems.

The MPCA's conclusion about organized collection systems producing higher recycling rates relies on erroneous assumptions and poor quality data from the 2009 Foth report and therefore, WM recommends that the Agency not promote implementation of organized collection as a means to achieving higher recycling rates.

8) The State Should Eliminate the Amorphous and Redundant Process of "Certificate of Need" Issuance in the Context of Waste Disposal

WM recommends the State pursue amending the statute, including the deleting Subdivision 6 of Minn. Stat. Section 473.823, in order to eliminate the CON for waste disposal facilities. Elimination of the CON process would save the MPCA and waste disposal facilities time and money without meaningfully impacting the MPCA's ability to regulate solid waste disposal facilities in the metropolitan area since the MPCA would retain its broad authority over solid waste disposal facilities via its regulatory and permitting responsibilities.

The CON process is vague, unpredictable and continually in flux. The confusing and unnecessary nature of the CON process was recently illustrated by the MPCA's issuance of CON for MSW to two facilities that are not permitted to receive MSW and have not gone through the environmental review processes. The CON system is an ill-defined process that results in an unnecessary, expensive and burdensome process that does not bring much, if any, benefit to the State's management of waste disposal at disposal facilities located in the metropolitan area.

9) Cost Impacts of the Plan to Residents and Businesses Need to be Included in the Plan

Lastly, WM would like to acknowledge the significant cost implications of these "required strategies" and we question whether consideration was given to how these new policies will impact residents and businesses in Minnesota. Per Minn. Stat. 473.194, if these "required strategies" were to go through a formal legislative process, the fiscal implications would be requested by legislative committees and the Agency would be required to develop a Fiscal Note. If these requirements were proposed through a rulemaking process, an economic impact analysis would be required of the Agency. The Metropolitan Policy Plan is the only state agency "Plan" that escapes the rigor of a legislative or rule process that truly involves the public, analyzes costs of proposed regulation and impacts, good and bad, on a system that has partnered with state and local government to deliver a 45.2% recycling rate, one of the highest in the nation.

SUMMARY OF WM COMMENTS:

- 1) WM supports MPCA's broad focus on extracting more recyclable material, organics in particular. We raise concerns about the impacts of container deposit and EPR.
- 2) WM supports MPCA's Sustainable Materials Management approach that prioritizes waste types for recovery based on greatest environmental impact.
- 3) While WM supports an increased focus on recyclables and organics recovery, we note the significant cost implications of weekly recycling and organics strategies to customers and urge the MPCA to consider other options, such as 96 gallon cart requirements or two recycling carts.
- 4) WM supports increased efforts to educate residents and businesses about recycling and waste management and we believe there should be greater emphasis on generators in the Draft Plan.
- 5) WM supports greater emphasis in the Draft Plan on recovery of lithium-Ion batteries from the recycling and waste streams to protect our infrastructure and our fleet.
- 6) WM seeks clarification of the statement related to land disposal facilities ensuring all waste processing facilities are functioning at full capacity. WM also opposes changes to ROD that makes landfills accountable for incinerators operating at capacity.
- 7) WM questions the premise MPCA uses to draw the conclusion that organized collection increases recycling rates.
- 8) WM recommends eliminated CON for waste disposal capacity.
- 9) Overall, the "required strategies" in the Draft Plan need to be analyzed for their costs to residents and businesses. These are standards that must be implemented; some of which will significantly increase costs for all companies in the waste industry; costs which will borne by our customers.

WM thanks you for the opportunity to comment on this important document. Should you have any questions, please reach out to Julie Ketchum, WM Government Affairs Manager, Upper Midwest Area at jketchum@wm.com; or at 651-334-4309.