NEWMOA
NORTHEAST WASTE MANAGEMENT OFFICIALS' ASSOCIATION

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U. S. Environmental Protection Agency
ORCRMeasurement@epa.gov

Subject: Proposed U.S. National Recycling Goals

Dear Sir or Madam:

The Northeast Waste Management Officials' Association (NEWMOA) appreciates the opportunity to comment on the proposed EPA "National Recycling Goals" as published on EPA's website at https://www.epa.gov/americarecycles/us-national-recycling-goals#potential. We applaud EPA for providing an opportunity for stakeholders to comment on this proposal and appreciate your willingness to consider our views. The comments outlined below represent the views of NEWMOA's members. We hope that our recommendations will help to improve and clarify EPA's proposal.

Several years ago, NEWMOA convened a regional Workgroup of state solid waste program staff that are responsible for implementing state mandates related to developing, collecting, and analyzing sustainable materials management (SMM) measures and data. This Workgroup has discussed EPA's proposal for national recycling goals and helped to prepare these comments.

Our current recycling system has faced several challenges in recent years, which highlights the need for substantive change in order for the system to remain sustainable. With that in mind, there is a need for a comprehensive national recycling strategy to be developed. Without an understanding of what the goals of such a national strategy might be, it is problematic to be commenting on performance metrics. Our ability to comment on the metrics is limited by the lack of context that would be provided by such a national strategy, including what the national definition of recycling is; what viable, timely, and trackable sources of data are available; and what the capacity and process might be for the collection of new data. Given this lack of context, the specific comments on the performance measure below are based on several assumptions.

If national recycling goals and measures are to be meaningful, there must be a consistent and clear definition of recycling and established expectations on what data states will be reporting on. In our experience, states do not consistently count the same activities as recycling. For example, some states count composting, use of solid waste as alternative daily cover at landfills, waste-to-energy, and other waste management activities as recycling. In addition, consideration of how future technologies and activities, such as chemical recycling and plastics to fuel, are measured should be standardized nationwide.

Without an EPA definition of what counts as recycling, the implementation of the proposed measures at a national level risks being based on inconsistent data sets from the states and industry. The inconsistencies in state recycling definitions and data is why NEWMOA has not attempted regionalizing the collection and analysis of state or local government recycling data from the NEWMOA member states. Attached is a table summarizing the state recycling definitions, key metrics, and data sources for the northeast to help with informing your deliberations. It illustrates the variety of approaches that are currently employed, even in this small region. In our experience, voluntary data available directly from the recycling facilities, is usually inconsistent and often not reproducible, and does not always align with state measures. Furthermore, we have found that even when required by state authorities, data shared directly from the industry can be inconsistent and often not reproducible.

From EPA's proposal, it is unclear who the Agency plans to rely on as the source or sources of recycling data. Although this is not clear in the proposal, we assume that EPA will be seeking much of the data to implement the proposed measures from state programs through ReTrac, similar to the State Measurement Program. If EPA plans to rely on state environmental agency programs, we believe there will need to be much greater emphasis on reaching agreement among those agencies on:

- The definitions of the measures
- How EPA plans to collect the data from the state programs
- What EPA plans to do with the data and the associated results

Creating a clear and consistent set of definitions for key recycling terms is critical for any effort to compile solid waste data from states. Consistent goals and measures are also key in states' efforts to harmonize municipal, regional, and facility data within their jurisdictions. If EPA plans to develop and use models for estimating these measures, we believe those models need to be transparent and calibrated using some of the data available from states to assess their validity. Another complicating factor is the movement of waste destined for recycling across state lines and, therefore, out of the jurisdiction of the authorities in the generators' original state. Addressing the measurement of the recyclables across state lines is an area where EPA could assist the state programs. State solid waste programs in the northeast are underfunded and short on staff, given the scope of their authorities and responsibilities, especially now under the pandemic work restrictions. Funding from EPA to support state solid waste data gathering and analysis efforts would be particularly timely now, especially if EPA intends to rely on states as a major source of recycling data.

To implement the proposed measures, we believe there would be a need for a clear and consistent definition of the waste universe and a methodology for measuring total waste generation (i.e., for disposal, reuse, recycling, and organics diversion). Understanding the underlying universe of waste is key to being able to understand and implement several of the proposed recycling measures. For example, do these measures apply to all solid wastes (i.e., all non-hazardous waste), or any of the following specific waste streams:

- Municipal solid waste (MSW)
- Institutional, commercial, and industry (ICI) non-hazardous wastes
- Construction and demolition (C&D) wastes and materials
- Bulky waste (i.e., appliances, mattresses, carpet, furniture, and large rigid plastic items)
- Household hazardous waste

- Medical waste
- e-Waste (consumer electronics)

NEWMOA's members recommend that the EPA develop measures that capture the impacts of waste hierarchy activities, including source reduction, reuse, and organics diversion, in addition to recycling. However, the relevance of these activities depends on the strategies for which these performance metrics are being evaluated against. Many of these activities occur before material is sent to an Intermediate Processing Center (IPC)/Material Recovery Facility (MRF) and are, therefore, not counted in traditional state-level recycling data. Nevertheless, many state programs in the northeast are placing increasing emphasis on these other diversion activities. Efforts to reduce waste before it is sent to a processing facility are not captured by EPA's proposed metrics, and the recycling data results will underestimate many of the important waste reduction efforts that are underway.

Finally, the rapidly evolving packaging waste stream in the U.S. is increasingly challenging to recycle due to changes in materials, packaging structure, and multi-layer packaging. This significantly impacts our ability to achieve recycling goals and measure progress in the U.S. We believe that any effective national goals and measures need to consider this and reflect the trends in the recyclability of packaging. We urge EPA to work with packaging manufacturers to promote improved design toward greater recyclability and higher recycled content and to develop effective measures that reflect those efforts.

Specific to the proposed measures, and without an understanding of the context from which these metrics developed, NEWMOA offers the following comments:

Recycling Rate: Most of NEWMOA's members have either transitioned from or are in the process of transitioning away from using the traditional Recycling Rate measure that EPA has proposed. Instead, the state recycling programs in the region prefer to use a measure that encompasses all of the top waste hierarchy strategies for solid waste, including source reduction, reuse, organics diversion, and recycling. The measure that they have chosen as being the most consistent and trackable, is per capita waste disposal for municipal solid waste. This enables our programs to evaluate their progress in reducing disposal through use of all of the SMM approaches, not just recycling. Because state agencies regulate disposal facilities (including landfills, incinerators, and waste-to-energy facilities) and mandate that they provide annual data on disposal, the data that agencies collect and analyze on disposal is more accurate and complete than the data that agencies collect on recycling. For many years, NEWMOA has gathered and compiled state MSW disposal data into a regional report that estimates per capita MSW disposal rates for each state. Those reports are available at www.newmoa.org/solidwaste/flow.cfm.

The accuracy of a national recycling rate measure would rely on consistency in identifying the source of the disposed materials as well as the source of the recycled materials. For example, assuming that residential sources access both disposal and recycling systems similarly, an accurate measurement requires identifying/isolating those residential tonnages entering the system. Industrial, commercial, and institutional generators are more likely to manage both recyclables and solid waste outside of the regulated system (e.g., private contract, "back-haul", internal resources). These wastes are then managed completely outside of state and federal regulatory frameworks, and there is often no reporting mandate on the private sector, with any

data collected being primarily voluntary. This variability and uncertainty is likely to introduce data variations greater than the impact of any policy or program designed to improve a calculated "recycling rate".

Recycling Access Rate: Many of NEWMOA's solid waste programs do not collect this data from municipalities. Any data for this metric from the northeast states is likely to be anecdotal, unless a regulatory/statutory provision either mandates recycling or mandates identification of households served. This metric would need to consider curbside, as well as self-throw (self-service), and private access/subscription services, and state programs generally do not gather recycling date from the latter two sources.

Participation Rate: Most of NEWMOA's solid waste programs do not collect this data from municipalities. Any data available to EPA to implement this metric from the northeast is likely to be survey/cohort/proxy data as opposed to an actual accounting. State programs in the region generally do not require reporting on participation. When tied to a Recycling Access Rate measure, the data would be anecdotal in the absence of a mandatory survey/reporting.

Recycling Jobs: States programs value accurate estimates of the jobs that are associated with recycling services and some estimate this impact. Some state programs have reported on this metric, particularly to their legislatures. However, data for this proposed measure would have to be provided to EPA by the recycling industry on a voluntary basis. As such, clear definitions and boundaries would be needed to avoid inconsistencies in the information provided by the various recycling service providers across the U.S.

Capture Rate: This is very difficult to measure or even estimate accurately. In the Northeast, we do not know the quantity of recyclable materials entering the marketplace. Additionally, we would need to identify the portion that was accepted by consumers, which portion was returned to the manufacturer/distributor, and which portion was disposed of or managed for recycling purposes. We believe that the voluntary sources of this data would be highly variable.

Recyclables Landfilled: In the Northeast, a significant portion of waste is disposed through incineration and waste-to-energy facilities in addition to landfills. The following are some examples from a few states:

- Massachusetts: in 2019, 77 percent of MSW that went to in-state disposal went to municipal waste combustors and 23 percent to landfills
- Maine: from 2012 to 2017, approximately 27 percent of MSW went to landfills and approximately 63 percent went to waste-to-energy
- New York: in 2018, approximately 19 percent of MSW that went to in-state disposal went to municipal waste combustors and approximately 81 percent to landfills

If this proposed measure is to be meaningful for the Northeast, it should focus on all of the waste that is disposed of, including landfilled and incinerated waste. Many of NEWMOA's member periodically conduct waste characterization studies, which could be helpful in assessing this metric. Not all states undertake these studies however, and there are some inconsistencies in the methodologies that are used, making this data problematic to interpret on a regional or national level. In our experience, landfills do not sufficiently characterize and report on their incoming

waste loads for the purpose of this proposed measure, and it is unclear what other proposed sources of data there might be.

Curbside Contamination, MRF In-bound Contamination, and Residual Rate: In our experience, these are essentially the same because residue/contamination is typically only measured as outgoing residue from an IPC/MRF. These facilities may not assess contamination of inbound materials, and any curbside contamination estimate would require a waste composition study of bins to derive a proxy value. EPA could rely on audits of random samples of inbound recyclables at a sample of MRFs around the U.S.

NEWMOA believes that EPA's proposed measures of contamination do not capture information on the state and local educational efforts underway to help residents, institutions, and businesses reduce contamination. State and local environmental agencies have dedicated considerable resources to these educational efforts, particularly for the last several years due to National Sword impacts. Waste authorities and experts have identified the need to generate quality commodities domestically as "the" most positive action to undertake to mitigate this global crisis. Recycling education is at the forefront of these efforts. Any consideration of activities that minimize curbside contamination must incorporate a robust public recycling outreach strategy and, as such, education should be included as a measure. EPA could also compare local contamination rates against the national average rate and assess what is being done in the locations that are successful at reducing contamination to ascertain what is working.

Capacity Utilization Rate: Implementation of this measure would rely on accurate capacity data from facilities who may consider that information to be confidential business information (CBI). Note that total capacity could be limited by staffing as opposed to design throughput, or by the disposition of potential (i.e., un-utilized/deactivated) processing space and equipment. We believe that capacity is a business decision, as opposed to a comprehensive solid waste system performance decision.

Processing Cost: In our experience, these costs are set by contracts and can be CBI, particularly for ICI and other private generators (i.e., not municipalities).

Recycled Commodity Quality: We believe that this measure could be subjective and dependent on the end markets and intended uses. Also, note that the measure is outside of most state and local regulatory programs' authority.

Domestic Utilization and Commodity Value: In our experience, data for implementing these measures could be CBI. Access to data on commodity prices is key to implementing a commodity value measure. In addition, the commodity value of competing virgin materials is a key factor in diminishing the value of for recyclable commodities and is not considered in EPA's proposal. With the planned expansion of new plastic manufacturing facilities in the U.S., the competitive pricing for recycled materials is expected to be a major factor in the recycled materials market. Access to data on commodity prices is key to implementing a commodity value measure.

Recycled Content: NEWMOA is very interested in improved data on the recycled content of products and packaging. We are working on a regional initiative to stimulate recycling markets

by promoting increased post-consumer recycled content in containers and packaging. Again though, implementation of this measure would involve voluntary cooperation by manufacturers of targeted products and packaging, and it is unclear what the consistency and reproducibility of this data might be. Furthermore, we believe a certification system to verify statements about the amount of recycled content in products is key to ensuring that they are credible.

In summary, NEWMOA's members generally support the concept of national recycling goals and measures. However, we strongly believe that the development and implementation of any goals and measures for solid waste recycling must develop from a comprehensive strategy and be closely coordinated with the state programs that are responsible for implementing recycling activities. This presentation of potential key recycling metric is an important step toward the creation of a more uniform approach, and we appreciate the opportunity to comment at this point in time. We would welcome the opportunity to continue this work with EPA to improve and implement SMM measures and further develop the national dialogue.

NEWMOA is a non-profit, non-partisan interstate association that was established by the governors of the New England states as an official interstate regional organization, in accordance with Section 1005 of the federal Resource Conservation and Recovery Act (RCRA), to coordinate in interstate hazardous and solid waste activities. The organization was formally recognized by the U.S. EPA in 1986. NEWMOA membership is composed of the state environment agency programs that address pollution prevention, toxics use reduction, sustainability, materials management, hazardous waste, solid waste, emergency response, waste site cleanup, underground storage tanks, and related environmental challenges in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. NEWMOA provides a strategic forum for effectively solving environmental problems through collaborative regional initiatives that advance pollution prevention and sustainability, promote safer alternatives to toxic materials in products, identify and assess emerging contaminants, facilitate adaptation to climate change, mitigate greenhouse gas sources, promote reuse and recycling of wastes and diversion of organics, support proper management of hazardous and solid wastes, and facilitate clean-up of contaminant releases to the environment. For more information on NEWMOA, visit www.newmoa.org.

NEWMOA appreciates your consideration of the concerns and suggestions outlined in this letter. Terri Goldberg, NEWMOA's Executive Director, will be happy to discuss next steps. She can be reached by email (tgoldberg@newmoa.org) or by telephone (617-367-8558 x302).

Sincerely,

Mike Hastry, NJ DEP
NEWMOA FY 2021 Chair