



NYC-EJA's Testimony on the Implementation of the Climate Leadership and Community Protection Act (CLCPA) within the Waste Advisory Panel

May 13, 2021

Good afternoon. My name is Dr. Tok Oyewole, and I am the Policy & Communications Organizer at the New York City Environmental Justice Alliance (NYC-EJA), an organization that for 30 years has led efforts for comprehensive policy reforms to address the disproportionate burden of New York's solid waste system on a handful of environmental justice communities.

For today's hearing I am going to focus on key elements of the Waste Advisory Panel that I found highly concerning as an appointee from the perspective of pursuing comprehensive, long-term greenhouse gas reduction and environmental justice goals within the waste sector in the implementation of the CLCPA.

The waste panel appointees included several waste industry members, and while it was not initially clear how big of a role they would play in shaping recommendations, it was clear, especially by the recommendations NYS Department of Environmental Conservation (DEC) selected, altered, and omitted for presentation of the CAC, that they were a heavy structuring force on this panel. Covanta being on the panel served to reinforce that the DEC has not been willing to tackle the foul injustice of incineration, and even in the final recommendation slides they prepared and messaging throughout, it was clear that they are choosing to frame incineration as a necessity.¹

Similar can be said about the inclusion of industry members supporting biogas/biofuels on the panels, including advocates for energy and transportation use from methane production and problematic applications of anaerobic digestion in wastewater treatment plants. The presence of manifold waste industry representatives served to reinforce recommendations that continue the generation of profit from waste and materials handling, *instead of making a comprehensive suite of recommendations to reduce waste generated to begin with.*

I will speak today about the injustices witnessed and experienced within the Waste Advisory Panel in four categories.²

¹ From their April 5th presentation to the CAC, on incineration, they wrote: "No reduction projected from 2018-2050 because existing combustor facilities will be needed to handle MSW remaining after reduction, reuse, and recycling strategies."

² Four categories of critiques:

1. DEC's blanket omission of submitted recommendations pertaining to rethinking and redesigning waste systems in pursuit of environmental and climate justice
2. DEC overemphasis on incremental, market-based, and false climate solutions, including landfill and biogas markets, recycling (as opposed to reducing/rethinking), and other solutions that perpetuate waste and materials generated
3. Inclusion of industry members including incineration, biogas, and facilities/trucking representatives on a panel that should have been transforming waste and materials production, and DEC alignment with perpetuation of incineration, biofuels, under-regulated transport, unregulated production/overproduction of materials
4. Lack of clarity about panel process and erasure of panelist work, alongside DEC altering text and making decisions on behalf of panel members without informed consent or explanation

1. Omission of recommendations pertaining to rethinking and redesigning waste systems for environmental and climate justice

Nearly 100% of the accepted recommendations submitted from a subgroup I created and chaired, Local Scale Diversion and Climate Justice, were altered. Over 50% of the mitigation strategies submitted were omitted, 30% of the enabling strategies were omitted, and 100% of the adaptation strategies were omitted from the final presentation to the CAC. A selection of omitted recommendations includes the following:

- a. Incineration: Agency staff repeatedly pushed against any recommendations that would reduce our reliance on incineration, including:
 - i. A mitigation strategy to decommission NYS incinerators and end contracts with out of state incinerators by 2030, and not permit any subsidies, nor permit new incinerators, or incineration/burning by other names (inc. pyrolysis, gasification).
 - ii. And an enabling strategy to enforce environmental laws and monitoring during the phase down of incineration.
- b. Waste Reduction and Circularity: To support these aims, a number of reduction strategies were proposed that were omitted from the recommendations, including:
 - i. A recommendation to regulate and tax consistent overproduction of foods, products, and animals that are routed to waste infrastructure was omitted without explanation.
 - ii. A recommendation to mandate reusable shipping containers and padding to replace packaging material from online retail, creating cross-city hubs with other types of reusables (e.g. restaurant and retail packaging)
 - iii. A recommendation to route at least 90% of organic waste to composting sites and facilities within 1-5 miles in cities, and 10 miles in less dense areas
 - iv. Requiring retailer contracts with donation partners for food and other household products, to streamline these goods for higher use and to go to people in need.
 - v. A recommendation to divert domestic animal wastes, requiring purchase and sale of biodegradable litter and bags to pet owners along with outdoor collection sites for wastes; and routing enclosed, anaerobic, odor-trapping bins to the appropriate locations using the bokashi (anaerobic sealed) method; this method can also process meats, greases, and oils.
 1. Again, there was an overall staggering lack of emphasis on waste reduction or sustainable and local-scale diversion practices, including addressing niche streams to achieve zero waste.
- c. Additionally, the recommendations pertaining to instituting universal residential waste diversion programs, including public housing, using best available save as you throw programs, with consumer education in buildings and collecting organic waste from all commercial establishments and agency buildings, were omitted or unrecognizably altered.
- d. Waste transport:
 - i. Our subgroup was told that our recommendations regarding transportation of waste should be relegated to the Transportation Advisory Panel, but not given guidance on how best to go about submission. At the same time, DEC saw fit to include a recommendation where biogas could be used to fuel transportation in the waste sector.

Subgroup recommendations regarding transportation in the waste sector that were omitted include 100% diversion of waste transport via bicycles locally and electric vehicles by 2031, and optimizing food transport by making more efficient routes and other sustainability methods.

- e. Additional enabling and adaptation strategies omitted by the agency include:
 - i. A portion of a recommendation to reduce City and State level challenges (including within the DEC) levied against up-and-coming organics diversion organizations.
 - ii. A recommendation to mandate waste facility enclosure and odor capture when proximate to residences (including enforcement of existing statutes, and addition of new ones when needed).
 - iii. All recommended adaptation/resilience strategies from our subgroup, including a recommendation to “Establish polluter funded union jobs for cleanup and monitoring of natural and built environment (waterways and oceans, sewage, soils, air) to help all communities meet at least minimum legal environmental standards by 2035.” And to “Improve the Management of Combined Sewer Overflows (CSOs) to prevent continued contamination.”

While I have not discussed all omitted or altered recommendations, linked here are the [topline recommendations from our subgroup, and their statuses \(e.g. how they were presented by DEC or not\)](#).

2. DEC overemphasis on incremental, market-based, and false climate solutions, including landfill and biogas markets, recycling (as opposed to reducing/rethinking), and other solutions that perpetuate waste and materials generated

DEC was happy to accept many recommendations pertaining to recycling, but recycling requires first the production of disposable materials that could alternatively be made as reusable goods, and often includes using fossil-fuel derivatives to begin with.

Other recommendations accepted from different subgroups were more troubling, including one to “determine limited and strategic best uses for energy produced from biogas/RNG derived from organic waste” and “Assess [its] use in the waste transportation sector” and to “Identify energy pricing model and conduct market-based study for waste-generated biogas.”

3. Heavy role of industry members and DEC alignment with perpetuation of incineration, biofuels, unregulated trucking, and unregulated production/overproduction of materials

It is important to note again how aligned DEC was with market-based false solutions throughout the process, heavily encouraging us to focus primarily on reducing the bucket of emissions that is methane from landfills, and detracting from materials production, trucking, incineration, transfer stations, wastewater treatment, and other sources of greenhouse gases and pollution.

Again, a recommendation to curb consistent, costly, and wasteful overproduction of a range of food, products, and domestic animals by industry was omitted from the presentation that DEC gave to the CAC without explanation.

4. Lack of clarity about panel process and erasure of panelist work, alongside DEC altering text and making decisions on behalf of panel members without informed consent or explanation

From the beginning, the process for decision-making was not clear, and I spent extensive hours conducting research to produce recommendations that were ultimately omitted or dramatically altered by agency staff. After seeing the subgroups and leads appointed by agency staff I volunteered to create and chair the **Local-Scale Diversion and Climate Justice** subgroup. In at least one instance on March 3rd, recommendations were manufactured and sent to the CAC and the Waste Advisory panel on behalf of my subgroup without my prior knowledge or ability to review, causing confusion. Furthermore, on this day, agency staff did not allow our group the same amount of time to present as the subgroups had during previous meetings, and language sent before the meeting for presentation was again altered and weakened by agency staff for presentation to the public that afternoon.

On April 5th, when I attended the final presentation of recommendations by DEC staff to the CAC, I was not allowed to speak or comment to correct false statements that were made. By this point I was disillusioned and so disappointed by the process, and it has taken a while to be able to engage and to speak up about this again.

As frustrated as I was personally, the negative impacts of the decisions that the DEC is making, if allowed to go uncorrected, will be felt by communities, and primarily low income communities and communities of color where polluting infrastructure is clustered, where polluted waterways, streets, homes, parks, oceans, and air is lived amongst, for decades to come.

In closing, many of the recommendations from this panel have come from incremental, industry, and market-based perspectives, do not go far enough, and continue reliance on fossil fuels and polluting infrastructure, or stop at recycling, landfill gas collection, or biogas proliferation as meaningful enough strategies to combat the climate crisis without attempting to reform systems or address the root causes.