



Conservation
Law Foundation

For a thriving New England

CLF Connecticut
www.clf.org

April 14, 2023

Connecticut Department of Energy and Environmental Protection
Bureau of Materials Management and Compliance Assurance
By email at: DEEP.MMCAPanning@ct.gov

Re: Conservation Law Foundation's Response to Waste Infrastructure Request for Information

Dear Connecticut Department of Energy and Environmental Protection:

Thank you for the opportunity to submit comments in response to DEEP's waste infrastructure request for information. Founded in 1966, Conservation Law Foundation (CLF) is a nonprofit, member-supported, regional environmental organization in New England. CLF uses science-based legal advocacy to conserve natural resources, promote thriving communities, and facilitate a rapid transition to a clean energy economy for all in the region. Through its Zero Waste Project, CLF aims to improve solid waste management through source reduction, recycling, and composting, and to protect our communities from the dangers posed by unsustainable waste management practices.

Before addressing the questions DEEP has identified in its Notice of Request for Information, we offer the following two principles as necessary guideposts in DEEP's effort to address Connecticut's solid waste management challenges. First, foundational to any sensible waste hierarchy is the tripartite mandate: reduce, reuse, and recycle. What this means in practice may vary depending on the context or sector, but the mandate is consistent without exception. A plan to address Connecticut's waste crisis must incorporate this mandate at every juncture.

Second, CLF observes that the phrase "self-sufficiency" has become a common refrain in this conversation. True self-sufficiency, however, does not mean simply burning or burying municipal solid waste (MSW) within Connecticut in lieu of transporting it for incineration or landfilling elsewhere. Rather, **self-sufficiency means adopting sustainable waste management measures grounded in environmental justice principles that reduce the total amount of waste generated and reject short-sighted investments like so-called "advanced recycling" that would poison Connecticut's residents and degrade its natural resources. True self-sufficiency means prioritizing the health of all residents and safeguarding Connecticut's environment for generations to come.**

1. What types of facilities should be eligible or preferred for a waste infrastructure procurement?

Under no circumstances should so-called "advanced" or "chemical recycling" technologies (such as plasma arc, gasification, pyrolysis) be eligible for a waste infrastructure

procurement. Such facilities are expensive,¹ dangerous to nearby communities,² worsen the climate crisis,³ and do not actually recycle plastic.⁴ While industry proponents tout these technologies as being able to “convert” or “recycle” discarded plastics into new plastics, these claims are misleading at best. The truth is that every operational “chemical recycling” facility burns plastic-derived fuels and byproducts or sends those fuels and byproducts to be burned elsewhere.⁵

Furthermore, the so-called “advanced recycling” industry has a history of siting its facilities in environmental justice communities,⁶ where people have already been exposed to a disproportionate share of polluting industry. In 2021, the U.S. Environmental Protection Agency published a list of almost forty gasification and pyrolysis facilities that are currently operating or near operational.⁷ Almost half of these facilities are in states that have passed deregulatory laws,

¹ See, e.g., Lisa Prevost, New Hampshire welcomes ‘advanced recycling’ of plastics as some call for tighter regulations, Energy News Network (Mar. 15, 2023), available at [N.H. welcomes ‘advanced recycling’ of plastics | Energy News Network](#) (quoting the company manager of an “advanced recycling” facility who reports that after three years of testing the waste-to-diesel fuel technology, “[i]t’s so expensive right now that it wouldn’t be economical”).

² See, e.g., Sharon Lerner, This ‘climate-friendly’ fuel comes with an astronomical cancer risk, ProPublica (Feb. 23, 2023), available at [This ‘climate-friendly’ fuel comes with an astronomical cancer risk | Pollution | The Guardian](#) (stating that according to the EPA’s records, “the production of one of the fuels could emit air pollution that is so toxic, one out of four people exposed to it over a lifetime could get cancer”). See also Waste Gasification & Pyrolysis: High Risk, Low Yield Processes for Waste Management (GAIA, March 2017), available at [Waste-Gasification-and-Pyrolysis-high-risk-low-yield-processes-march-2017.pdf \(no-burn.org\)](#).

³ See, e.g., Deception by the Numbers: American Chemistry Council claims about chemical recycling investments fail to hold up to scrutiny (Dept. 9, 2020), available at [Deception by the Numbers \(greenpeace.org\)](#) (describing how petrochemical companies are fueling climate change with so-called “advanced recycling” by using waste-to-fuel projects to supply fossil fuels to be used in combustion).

⁴ Recycling Lies: “Chemical Recycling” of Plastic is Just Greenwashing Incineration, NRDC (Feb. 2022), available at <https://www.nrdc.org/sites/default/files/chemical-recycling-greenwashing-incineration-ib.pdf>. See also Chemical Recycling: Distraction, Not Solution, GAIA (2020), available at [briefing layout \(no-burn.org\)](#) (stating that “[a]lthough the term ‘recycling’ should only apply to processes that turn plastic back into plastic, the petrochemical industry also refers to similar processes that produce fuel as ‘chemical recycling’ or, more recently, ‘advanced recycling’”) (emphasis added).

⁵ Denise Patel, All Talk and No Recycling: An Investigation of the U.S. “Chemical Recycling” Industry, GAIA (2020), available at [All-Talk-and-No-Recycling_July-28-1.pdf \(no-burn.org\)](#).

⁶ Connecticut law defines an environmental justice community as “a distressed municipality, as designated by the Connecticut Department of Economic and Community Development, or defined census block groups where 30% of the population is living below 200% of the federal poverty level.” Connecticut General Statutes, Section 22a-20a. The so-called “advanced recycling” industry uses greenwashing to “exacerbate environmental injustices” by releasing toxics into communities that have already disproportionately experienced health risks associated with living near to polluting industries. See “Chemical Recycling” is Not Recycling: the Plastic Industry is Greenwashing Incineration, NRDC (Sept. 2022), available at [NRDC: “Chemical Recycling” is Not Recycling - The Plastic Industry is Greenwashing Incineration \(PDF\)](#).

⁷ Potential Future Regulation Addressing Pyrolysis and Gasification Unites, 86 Fed. Reg. 50296, 50302 (Sept. 8, 2021), available at [2021-19390.pdf \(govinfo.gov\)](#). Significantly, two of the facilities listed in the Federal Registry that are located near to Connecticut – Aries Newark Bio-Fly-Ash Manufacturing Plant and Aries Taunton Biosolids Gasification Facility – were either blocked (Newark, NJ) or are currently being challenged (Taunton, MA) by the surrounding environmental justice community. See Eric Kiefer, Waste Processing Plant Off The Table In Newark; Aries Nixes Plan, The Patch (Nov. 18, 2022), available at [Waste Processing Plant Off The Table In Newark; Aries](#)

and many are in or near communities of color, low-income communities, or communities of limited-English proficiency residents. The plastics-burning industry is expanding most rapidly where there is little oversight or accountability and where historically marginalized and overburdened communities are at highest risk. **This is not an industry that Connecticut, a state committed to advancing environmental justice, should invest in.**

Instead of investing in harmful so-called “advanced recycling” facilities, CLF strongly encourages DEEP to invest in infrastructure that prioritizes reduction, reuse, and recycling. The following programs advance these sensible and sustainable waste management goals:

- **Reduce:** Public education and food donation programs reduce the amount of food wasted. Extended producer responsibility programs, when they include clear and enforceable reduction targets, reduce the amount of packaging produced and disposed of. Pay-as-you-throw (PAYT) waste disposal policies also reduce waste. **DEEP should invest heavily in infrastructure like these that demonstrably reduce waste.**
- **Reuse/refill:** A modernized beverage container deposit return system⁸ with accessible return sites (such as reverse vending machines located at retailers) creates the infrastructure needed to transform our beverage drink-and-dispose economy into a beverage reuse/refill economy. **DEEP should invest heavily in infrastructure like this that promotes reuse/refill.**
- **Recycle:** Clean material recovery facilities (MRFs) and dual-stream recycling programs promote effective recycling. Local commercial and municipal composting facilities that take food not appropriate for donation recycle food scraps into healthy, valuable compost.⁹ Anaerobic digesters, too, can play a role in Connecticut’s waste management plans, but only after a strong food scraps diversion plan is implemented, which prioritizes investment in local solutions. A modernized beverage container deposit return system diverts all glass, aluminum, and plastic bottles and cans to be recycled. **DEEP should invest heavily in infrastructure like these that achieve high recycling rates.**

2. How can DEEP promote statewide accessibility of infrastructure and services to help reduce transportation costs?

[Nixes Plan | Newark, NJ Patch](#); Susannah Sudborough, What do Scientists say about Taunton gasification plant? Is it safe? Can we know?, Taunton Daily Gazette (Apr. 27, 2021), available at [Taunton Aries gasification: Scientists weigh in on pollution question \(tauntongazette.com\)](#).

⁸ Connecticut’s bottle and can deposit return system (aka “Bottle Bill”) has come under attack this legislative session, with [SB 895](#) – which exempted spirit-based beverages and canned cocktails from the beverage containers included in the system and was signed into law earlier this session – and [SB 1236](#) - which, if passed into law, would permit the beverage industry to claim larger and larger portions of unclaimed bottle and can deposits until no portion of those funds would revert to the state for public education and recycling infrastructure. Conservation Law Foundation submitted written testimony to the Joint Committee on Finance, Revenue, and Bonding opposing SB 1236. See [Client Name \(ct.gov\)](#).

⁹ [HB 5557](#), An Act Concerning Surplus Food Donation and Establishing Food Composting Requirements, if passed into law would be the start to a robust food scrap diversion program in Connecticut.

As discussed in the response to Question 1, **DEEP should prioritize and invest in local efforts and initiatives to reduce, reuse, and recycle** (such as municipal or regional composting facilities). Many cities and towns are doing this with much success and DEEP should follow their lead and replicate their successes throughout the state with significant investment.¹⁰

3. How should waste infrastructure projects be financed, owned, or operated so as to provide stable and competitive pricing for municipalities?

CLF does not offer any specific suggestions with respect to the financing, ownership, and operation of waste infrastructure, other than to reiterate that **DEEP should prioritize and invest in local efforts and initiatives to reduce, reuse, and recycle** (such as municipal or cooperative regional composting facilities).

4. What types of host community benefits and commitments should be provided for as part of a waste infrastructure project?

As with any infrastructure or project that will impact a community, the host benefits and commitments developed under a waste infrastructure project should be determined in close consultation and collaboration with the community's residents. As detailed in the response to Question 8, such commitments should also be legally enforceable. When investing in efforts and initiatives to reduce, reuse, and recycle, DEEP should emphasize the value of local investment. This enriches the lives of the state's residents rather than the interests of large private industries that would siphon off resources and exhaust the labor from a community for their own corporate gain. For example, local composting efforts create local jobs and keep money circulating in the community; indeed, research has shown that the smaller the facility, the higher the job-to-ton ratio.¹¹

CLF emphasizes that the long-term effects of so-called "advanced recycling," as well as more traditional incineration, on both the environment and human health are so severe that dangled "community benefits" cannot compensate for the inevitable damage. Recently, ProPublica reported on an "advanced recycling" plastic-derived fuel that is so toxic that "1 out of 4 people exposed to it over a lifetime could get cancer."¹² Now a community group in Mississippi where the facility is site has filed suit against the Environmental Protection Agency

¹⁰ For example, at the Connecticut Recycling Conference in Hartford on April 10, 2023, Jennifer Heaton-Jones, Executive Director at the Housatonic Resources & Recovery Authority, discussed how her region built a viable local composting facility. Some participants at the conference, however, discussed how cost was a barrier to building effective composting facilities in their regions. DEEP should invest heavily in municipal and regional composting facilities so that all cities and towns have access to affordable and accessible composting facilities.

¹¹ See, e.g., Brenda Platt, Bobby Bell, and Cameron Harsh, Pay Dirt: Composting in Maryland to Reduce Waste, Create Jobs, & Protect the Bay, [Institute for Local Self-Reliance](#) (May 2013) (describing how composting employs two times more workers than landfills and four times more than incinerators; furthermore "[u]sing compost in green infrastructure and for stormwater and sediment control creates *even more jobs*") (emphasis in original).

¹² Sharon Lerner, This 'climate-friendly' fuel comes with an astronomical cancer risk, ProPublica (Feb. 23, 2023), available at [This 'climate-friendly' fuel comes with an astronomical cancer risk | Pollution | The Guardian](#).

for its approval of this project.¹³ Similarly, not only is it impossible for any legitimate Community Benefit Agreement to compensate for the risks associated with “advanced recycling,” but it is doubtful that any community in Connecticut would consent to having this sort of facility sited nearby given the grave risks such technologies pose to the public health.

5. How should new waste infrastructure make use of existing patterns of municipal and subscription-based collection services for waste and recycling?

CLF does not offer any specific suggestions with respect to the utilization of existing patterns of municipal and subscription-based collection services for waste and recycling other than to reiterate that **DEEP should prioritize and invest in local efforts and initiatives to reduce, reuse, and recycle** (such as municipal or cooperative regional composting facilities).

6. What are the best models or opportunities for affordable organics collection, including regional coordination and co-collection?

Intermunicipal cooperation is a key component of affordable organics collection, and cities and towns in Connecticut realize this. For instance, New Haven’s Board of Alders recently authorized the mayor to jointly apply for an EPA grant to provide food waste collection for composting in coordination with West Haven, Branford, and Hamden, recognizing specifically that “environmental justice requires intermunicipal cooperation and a regional approach to materials management.”¹⁴

One regional-level authority which has found success in implementing effective organics collection is Hennepin County, Minnesota. Even with an open-hauling system and no PAYT policy in place, the county has nonetheless managed to provide organics pick-up at no additional cost to residents in thirteen municipalities, and organics services in an additional fourteen more for a fee.¹⁵ The county also awards grants to towns and school districts for composting work.¹⁶

Another example worth considering is Alameda County, California, whose cities and towns contract with private haulers or provide their own collection services.¹⁷ Their Countywide

¹³ Sharon Lerner, The EPA Faces Questions About Its Approval of a Plastic-Based Fuel With an Astronomical Cancer Risk, ProPublica (Apr. 11, 2023), available at [The EPA Faces Questions About Its Approval of a Plastic-Based Fuel With an Astronomical Cancer Risk — ProPublica](#).

¹⁴ City of New Haven, Conn. Order of the New Haven Board of Alders Authorizing the Mayor of the City of New Haven to Apply for and Accept the Solid Waste Infrastructure for Recycling Grant Award from US Environmental Protection Agency to Provide Food Waste Collection for Composting (Feb. 6, 2023) available at [City of New Haven - File #: LM-2023-0076 \(legistar.com\)](#).

¹⁵ Organics recycling for residents, Hennepin County, Minn. (2023), available at [Organics recycling for residents | Hennepin County](#).

¹⁶ Judith A. Layzer & Alexis Schulman, Municipal Curbside Compostable Collection: What Works And Why?, Mass. Inst. of Tech. Dep’t of Urban Studies & Planning (Sept. 2014) at slide 38, available at [Municipal-Curbside-Compostables-Collection-What-Works-and-Why.pdf \(researchgate.net\)](#) (discussing how “[o]ver the past nine years the county has awarded over \$1.2 million for composting-related activities from its enterprise fund for waste management, the independently operated fund that covers costs of all waste management in Hennepin”).

¹⁷ Countywide Integrated Waste Management Plan, Alameda County (Sep. 2022), available at <https://www.stopwaste.org/>.

Integrated Waste Management Plan emphasizes the importance of coordinating member agency programs to promote economies of scale. Currently, all fourteen municipalities within the county offer curbside organics collection to all single-family homes, and the waste management authority in Alameda is primarily funded by tipping fees and is planning to incrementally increase fees as the total volume of the waste stream decreases.¹⁸

Notably, successful regional organics diversion and composting programs are responsive to the needs of the region. While the programs highlighted above have regional idiosyncrasies, there are broad takeaways that can be applied to Connecticut's efforts to improve organics diversion. First, universal access to food scrap collection, whether through curbside or municipal drop-off sites, must be a top priority. Second, because PAYT ensures robust composting and trash reduction rates, Connecticut should move towards a statewide PAYT policy. Additionally, while nearby permitted facilities with sufficient capacity to process the region's organics are critical to long-term success, in the short-term, cities and towns may be able to surmount this obstacle by "add[ing] preprocessing facilities to existing transfer stations or develop[ing] new transfer stations where contaminants can be removed."¹⁹ These, in turn, allow trucks hauling to more distant facilities to travel consistently at maximum capacity, thereby reducing costs.²⁰ Lastly, investments in infrastructure and intermunicipal cooperation should be paired with a robust public awareness campaign, which are historically effective in improving organics diversion rates.²¹

7. What procurement strategies have worked effectively to attract bids/investment from infrastructure developers or haulers?

CLF does not offer any specific suggestions with respect to procurement strategies other than to reiterate that **DEEP should prioritize and invest in local efforts and initiatives to reduce, reuse, and recycle** (such as municipal or cooperative regional composting facilities and curbside compost pick-up).

8. How can DEEP, municipal hosts, and developers implement best practices to minimize impacts of solid waste infrastructure and services on Environmental Justice communities?

Firstly, Connecticut should wholly reject technologies which have proven both ineffective and toxic to their communities like gasification, pyrolysis, and any other so-called

¹⁸ *Id.*

¹⁹ Judith A. Layzer & Alexis Schulman, Municipal Curbside Compostable Collection: What Works And Why?, *supra* at slide 17.

²⁰ *Id.* at slides 2 and 17 (discussing how hauler cooperation for organics diversion programs can be obtained by "recognizing that for haulers the efficiency of collection routes ... is a paramount consideration" and "transfer stations can reduce resistance to the increased workload and travel distances for a hauler that otherwise might have to transport partially full trucks to distant processing facilities").

²¹ Susan Shain, How Central Ohio Got People to Eat Their Leftovers, *New York Times* (Jan. 1, 2023), available at [How Central Ohio Got People to Eat Their Leftovers - The New York Times \(nytimes.com\)](https://www.nytimes.com/2023/01/01/us/politics/ohio-leftovers.html).

“advanced recycling” technology. Additionally, DEEP must solicit community engagement in the planning process—not simply a public notice but continuous involvement from citizens in the decision-making process. Senate Bill 1147, An Act Concerning the Environmental Justice Program of the Department of Energy and Environmental Protection (the environmental justice bill currently before the General Assembly) is a good step in this direction as it would give DEEP the discretion to deny permits to “affecting facilities” in environmental justice communities.²² Certainly, municipalities and developers can and should go beyond any minimum requirements that may be established by this legislation if passed into law.

One tool that DEEP’s permitting process has already incorporated is the use of Community Benefit Agreements (CBAs), although a CBA requirement is currently restricted to circumstances in which a municipality or town hosts five affecting facilities. Such agreements are entered into on behalf of the town through the chief elected official after a public comment period and approved by the municipal legislative body.²³ However, not all CBAs are created equal. Environmental justice principles require that in the negotiation of a CBA, the municipality, owner, or developer meet with residents who are not elected or appointed officials and solicit participation and input regarding the terms of the agreement. Additionally, sound CBAs must provide concrete measures for residents and community groups to seek recourse in the event that a dispute arises.²⁴

9. Please provide any other comments or suggestions on any additional comments that DEEP should consider as part of this RFI process.

CLF thanks DEEP for soliciting comments from stakeholders as it strives to create a sustainable approach to tackling Connecticut’s waste crisis.

Respectfully submitted on behalf of Conservation Law Foundation,

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²² S.B. 1147, An Act Concerning the Environmental Justice Program of the Department of Energy and Environmental Protection, 2023 Reg. Sess. (Conn. 2023), available at [C G A - Connecticut General Assembly](#).

²³ Environmental Justice Public Participation Fact Sheet, CT DEEP (Sep. 12, 2021), available at [Environmental Justice Public Participation Plan Factsheet](#).

²⁴ See, e.g., Julian Gross, Community Benefits Agreements: Definitions, Values, and Legal Enforceability, Journal of Affordable Housing (Vol. 17:1–2), available at [3058-035_04_Gross.indd \(juliangross.net\)](#).