May 24, 2022

Memorandum of Opposition
S.7891 (Mannion)/A.9495 (Hyndman)

Purpose: To define and legalize advanced recycling, a heat-based recycling process for plastics.

Statement of Opposition: Plastic pollution is an ever-growing problem, both in the U.S. and globally. It is estimated that only 8.7% of plastic waste produced in the U.S. is recycled and processed to generate new products. The rest is burned in incinerators, buried in landfills, or ends up in the environment.

In recent years, the issue of plastic waste has gained more and more attention as a major environmental issue, placing increased focus and scrutiny on the plastics industry. In response, the industry began developing and promoting a "solution" to combat the plastic crisis and appease growing public concern. Chemical recycling, also known as advanced recycling, produces fuel or chemical components from plastic waste. The technology encompasses numerous processes that fall into two categories: plastic-to-fuel and plastic-to-chemical components. Plastic-to-fuel conversion employs pyrolysis or gasification, both of which use heat and chemical processes to break plastic waste down into products that are then turned into fuels. The plastic-to-chemical method uses heat and solvents to create raw material that can be further processed into other chemicals or new plastics. Both types of "advanced recycling" are problematic to the environment and human health.

Proponents of S.7891/A.9495 claim the legislation will incentivize recycling, reduce the amount of waste that is sent to landfills, reduce greenhouse gas emissions, and promote the generation of products made from recycled plastics. An analysis published by NRDC concluded that many chemical recycling facilities do not actually “recycle” any plastic as their name implies. In reality, they burn plastic to create fuels, in turn emitting toxic chemicals and greenhouse gasses, polluting waterways, and burdening local communities, all under the misleadingly benign label of “recycling.” The study found that chemical recycling adds even more pollution to plastic's life cycle, further compounding harmful consequences.

“Advanced recycling” is a greenwashed term coined by the plastics industry to conceal the truth about the deceivingly problematic practice. Chemical recycling generates air pollution and a tremendous amount of toxic by-products. A facility in Oregon produced 500,000 pounds of hazardous waste in 2019 alone, and the

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waste was found to contain benzene and lead, which have been proven to cause cancer, harm developing fetuses, and cause cardiovascular issues. Of the eight facilities studied in the NRDC analysis, seven were located in low-income neighborhoods or communities of color, thus demonstrating a disappointing yet unsurprising pattern of environmental injustice commonly associated with polluting facilities.

The plastics industry has strategically become involved in influencing legislation that benefits their financial interests. As of spring 2022, more than a dozen U.S. states have introduced or successfully passed legislation that changes the designation of chemical recycling facilities from “solid waste” to “manufacturing.” This is ironic as they don’t actually manufacture anything, but it plays in the favor of the industry in a myriad of ways. Manufacturing facilities often require fewer permits to operate, and they typically have less stringent regulations as compared to solid waste facilities. Additionally, the manufacturing classification means they may be able to benefit from tax breaks and other economic incentives. Communities are less likely to fight against the proposal of a new “manufacturing” facility than a “solid waste” facility moving into town.

The proposed bill, S.7891/A.9495, reads, “An advanced recycling facility shall be a manufacturing facility subject to applicable department manufacturing regulations for air, water, waste, and land use. Advanced recycling facilities shall not be considered ‘solid waste management facilities’...” This language aligns with legislation seen in other U.S. states. The language also reads, “Advanced recycling facilities shall be exempt from permitting and regulatory requirements applicable to solid waste management facilities under the authority of this Article and from regulations...” Classifying these companies as manufacturing facilities as opposed to solid waste facilities is worrisome, as it could inadvertently put New York’s environment, communities, and public health in a precarious position. Due to the fact that chemical recycling facilities handle discarded plastic waste, they should therefore be treated and regulated as solid waste facilities. These facilities produce large amounts of toxic air pollutants and hazardous waste, and subjecting them to weaker regulations and reporting standards threatens transparency, potentially leading to detrimental effects on the environment and human health.

Our planet’s plastic crisis has staggering consequences for our health and environment, and we need real solutions to confront it. Chemical recycling is a false solution that is not sustainable, and it will not solve the plight of plastic waste. Burning waste is not the proper response, and that is virtually what advanced recycling is with a more sanguine moniker. New York must prioritize real, practical solutions, including terminating the problem at the source by reducing plastic production and transitioning to new non-toxic recyclable materials to replace fossil fuel made plastics, not push false solutions that only incentivize further plastic consumption.

In consideration of the aforementioned reasons, the Sierra Club Atlantic Chapter strongly opposes S.7891/A.9495.

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