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**New York State Assembly Standing Committee on Environmental Conservation  
Subject: The Role of Carbon Offsets in Addressing Climate Change  
New York, New York  
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Thank you for the opportunity to present testimony on this critical issue. NRDC is extremely encouraged to see the legislature stepping up with climate solutions that rise to the scale of the challenge. The state has an unprecedented opportunity to build its clean energy economy and create thousands of new jobs, while at the same time helping to protect New Yorkers from the catastrophic effects of climate change and harmful pollutants. We are also encouraged to see many areas of commonality between the Climate and Community Protection Act (CCPA) and the Climate Leadership Act (CLA) and we urge you to work together to pass a consensus bill. Opportunities like this don't come around very often, and history is littered with the mounds of "we almost got there" moments that fell to the cutting room floor. New York cannot afford for climate legislation this session to be one more of those moments. To avoid that outcome, we urge you to act quickly to forge agreement.

NRDC strongly supports the CCPA's goals to set economy-wide greenhouse gas limits for New York, to establish an inclusive state climate planning process that gives environmental justice and labor a direct input into decision-making, and to substantially increase funding for clean energy programs to benefit disadvantaged communities. The CLA adds to the discussion in several respects, such as by codifying the state's 70 percent renewables supply by 2030 goal, establishing a program to achieve 100 percent emissions free electricity supply by 2040, and by situating the new climate planning process within the state's energy plan. We and other stakeholders have suggested additional ideas to ensure a successful climate program, such as codifying the state's

ambitious energy efficiency targets, and requiring all relevant state agencies to regulate in a manner consistent with the state's climate plan. We believe that the strongest overall package will be achieved by updating the CCPA to include the best elements of the CLA and external suggestions. That is also true with regard to the topic of today's hearing – the use of offsets. A net zero GHG emissions approach offers important benefits, yet supporters of a zero emissions framework have raised serious and legitimate concerns. The best path forward will incorporate elements of both approaches.

As the United Nations' Intergovernmental Panel on Climate Change and National Climate Assessment reports have recently confirmed, climate change is already exacting a deadly toll. New Yorkers are feeling the effects firsthand. The region still has not fully recovered from the impacts of Superstorm Sandy and is facing more frequent and more intense storms and coastal flooding. Meanwhile, pollution from fossil fuels causes serious health problems like asthma, which is killing New Yorkers and worsening their quality of life. Through ambitious action, we can still avert the worst consequences of climate change while also ensuring that the benefits of a clean energy future are realized by all communities across the state. The Climate and Community Protection Act sets its sights on achieving those objectives.

One important decision in designing a comprehensive climate program is whether and how to incorporate offsets or credits that allow for greenhouse gas emissions reductions resulting from one action to be used as a compliance mechanism for emissions produced by another. In our view, the best approach is to adopt a *net zero* GHG emissions goal, but to pair it with a very strict program that: allows for credits to be used only under very limited circumstance; includes important safeguards to protect environmental justice communities; and, ensures that all emissions reductions achieved are real. Such a program could be more comprehensive, efficient, and

effective than setting a zero emissions goal for a more limited portion of the economy as the CCPA does, while at the same time being designed in a fashion that ensures that dangerous pollution is not permitted to continue harming communities simply because emissions could be reduced more cheaply through alternative means.

A net zero emissions approach offers several benefits. It would allow for a more comprehensive program because there are certain emissions that are harder to curtail at this time which could be offset through emissions reductions elsewhere in the state's economy. In addition, for certain areas of the economy, eliminating emissions is not currently feasible, but emissions could be offset by leveraging the power of land use, agriculture and forestry best practices to fight climate change. Without a crediting or offsets program, it would be difficult to provide an economic incentive for leveraging these carbon sink activities, which have multiple benefits, including the preservation of restoration of wildlife habitat, improvement of water quality, and increased control of flooding and erosion. As Anthony Ingraffea, Jannette Barth and Keith Schue of Cornell University put it in a letter to legislators, the benefits of measures such as "extracting biogas from agricultural waste . . . ought to be supported, which requires that emission from this sector not be ignored."<sup>1</sup> A net zero program that allows for crediting will allow the state to address such emissions.

At the same time, legitimate concerns exist regarding the use of offsets. Without the necessary and achievable safeguards to prevent such an outcome, depending on program design and mechanics, a GHG-emissions neutral goal could potentially fail to adequately reduce, and could even exacerbate co-pollutant emissions in certain areas of the state, including low-income

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<sup>1</sup> Ingraffea et al., Memorandum re: 2019 Climate Legislation (April 10, 2019).

communities and communities of color, where power plants are often located. Without protections in place, a net zero approach could open the door to such power plants purchasing carbon credits instead of seeking to reduce emissions or shutting down. Further, some offset programs developed by other jurisdictions such as in the European Union have been poorly designed, providing credit to activities that do not truly reduce emissions. Here in New York, such mistakes can be avoided going forward through the thoughtful and rigorous implementation of any such mechanism.

NRDC believes that there is a way to capture the significant benefits of a net zero emissions target, while at the same time addressing the legitimate concerns raised by supporters of a zero-emissions approach. This can be accomplished by coupling a carefully designed net zero regulatory regime with strict rules to ensure that all emissions reductions accomplished through the program are real, permanent, verifiable and enforceable to ensure the state takes every measure within its power to eliminate emissions, and to reduce co-pollutant emissions in communities that have suffered from disproportionately higher pollution levels when accounting for all sources. A strict compliance program will ensure that equity concerns are not be left up to chance or the market, but instead are explicitly addressed.

Several safeguards can be built into a comprehensive program designed to reach a net zero greenhouse gas emissions goal. First, as a leading group of academics recently explained in a letter to the Assembly, Senate, and Governor, the power sector portion of the program can and should require a ramp up to 100 percent GHG emissions-free sources while prohibiting the use of offsets for compliance with this portion of the program,<sup>2</sup> including prohibiting the use of offsets for stationary sources located in low-income communities and communities of color. Second, carbon

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<sup>2</sup> Letter from 35 energy scholars to New York State leaders (April 30, 2019).

credits should only be considered for a category of sources when and if all other means of greenhouse gas emissions reductions from those sources have been considered and deemed technically or economically unfeasible. Third, stringent and transparent criteria for a GHG-emissions crediting program could be created through a transparent proceeding that incorporates robust GHG accounting analysis for any measure included, as well as geographic criteria that prioritize local emissions reductions, especially in environmental justice communities.

In addition, while not a substitute for the above provisions or for a bold economy-wide greenhouse gas reduction bill, New York State should also explore the potential for companion legislative action that explicitly assesses and works to cut dangerous criteria pollutants at the local level. A recently enacted law in California, AB 617, is currently in the implementation phase and provides one approach worth considering. AB 617 requires the development of a statewide strategy to reduce emissions of toxic air contaminants and criteria pollutants in “communities affected by a high cumulative exposure burden,” in direct consultation with those communities.

Overall, a strict net zero emissions approach can serve as one pillar of a larger plan to protect New York’s communities from climate change and dangerous pollution. We commend you for setting an ambitious, nation-leading agenda to address the devastating threat of climate change and prioritize justice for New York’s communities. As we have explained in prior testimony before the State Senate Environmental Conservation Committee, we are encouraged by the many commonalities between the CCPA and the Climate Leadership Act advanced by the Governor during the budget process. With agreement among all of the state’s leaders on the need to urgently address this existential threat that grows more grave every day, we urge you to come together to pass a consensus bill this session. As the federal government does all it can to dismantle our critical climate policies and programs and other environmental protections, New York must take decisive

action. We thank you for your leadership and look forward to working with you and other stakeholders to achieve this goal before session concludes in June.

Thank you for the opportunity to testify today.