

THE RECYCLING AND COMPOSTING ACCOUNTABILITY  
ACT

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AUGUST 2, 2022.—Ordered to be printed  
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Mr. CARPER, from the Committee on Environment and Public  
Works, submitted the following

R E P O R T

[To accompany S. 3743]

The Committee on Environment and Public Works, to which was referred the bill (S. 3743) to require the Administrator of the Environmental Protection Agency to carry out certain activities to improve recycling and composting programs in the United States, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

GENERAL STATEMENT

In the United States, recycling programs are challenged by a variety of issues ranging from contamination and misleading labeling to limited infrastructure and limited end-markets for recycled materials. With a national recycling rate of only 32 percent,<sup>1</sup> there is significant room to improve our recycling systems and better understanding them, increase circularity within the economy, and ultimately reduce waste. At the same time, composting of food and other organic waste has emerged as a way to further promote sustainability and fight climate change, though collection of recyclable products and food and organic waste remains segmented across the country. Improving access to recycling and composting services; collecting data that federal, state and local governments can use to inform policy decisions; and supporting educational resources are all ways to improve the current state of recycling and composting programs in the United States.

The United States lacks an accurate estimation of recycling and composting system performance across the country and comprehensive and accurate data about them. Improved data collection on the

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<sup>1</sup> <https://www.epa.gov/recyclingstrategy/america-recycles-day>.

local, state, and federal levels will assist policymakers and stakeholders in making informed decisions regarding expanding access to recycling and composting programs, and improve program performance. Benefits of collecting measurement data include: improved data availability and granularity for a range of recyclables; creating the ability to track progress clearly and make adjustments; allowing for the ability to compare data across different jurisdictions; and minimizing data gaps.

In 2018, approximately 292 million tons of municipal solid waste (MSW) was generated in the United States.<sup>2</sup> Together, 32.1 percent of MSW (about 94 million tons) was mechanically recycled or composted, preventing over 193 million metric tons of carbon dioxide equivalent from entering the atmosphere.<sup>3</sup>

**Recycling programs:** Currently, curbside recycling systems in the United States are capturing an estimated 11.9 million tons, or only about 32 percent, of the 37.4 million tons of recyclable material produced each year.<sup>4</sup> Only half of Americans have access to curbside recycling, some who have access do not participate, and not all who participate do so fully.<sup>5</sup>

**Compost programs:** Composting programs are typically accessed through municipally run curbside programs, privately run curbside programs, or drop-off programs. At least 27 percent of the United States population has access to some kind of composting program that accepts either food waste only, or food waste and some forms of compostable packaging.<sup>6</sup> Over 10 million American households have access to municipally supported food scraps collection via curbside pick-up and/or drop-off.<sup>7</sup> The United States Environmental Protection Agency (EPA) does not currently have a national composting strategy.

In the United States, communities face several barriers to improving and developing recycling and composting programs, with the primary barrier being location. Rural communities have different location-based recycling and composting program challenges than urban or suburban communities, such as limited access to curbside recycling and composting programs or convenient drop-off programs. Another barrier to accessing recycling and composting programs is lack of educational resources. Determining what materials can be recycled and composted, as well as what programs are available at the state and local level, is often dependent on the availability of educational resources and information for the consumer. Price also plays a role in barring access to recycling and composting programs. For example, some services require a fee for participation.

In drafting this legislation, the Committee recognizes that efforts to improve recycling are only one element in the transition to a circular economy. Policies that support waste reduction and material reuse should also be considered in developing policies to achieve a sustainable future.

<sup>2</sup> <https://www.epa.gov/system/files/documents/2021-11/final-national-recycling-strategy.pdf>.

<sup>3</sup> <https://www.epa.gov/system/files/documents/2021-11/final-national-recycling-strategy.pdf>.

<sup>4</sup> <https://www.epa.gov/system/files/documents/2021-11/final-national-recycling-strategy.pdf>.

<sup>5</sup> [https://recyclingpartnership.org/wp-content/uploads/dlm\\_uploads/2020/02/2020-State-of-Curbside-Recycling.pdf](https://recyclingpartnership.org/wp-content/uploads/dlm_uploads/2020/02/2020-State-of-Curbside-Recycling.pdf).

<sup>6</sup> <https://greenblue.org/work/compostingaccess/#:~:text=In%20total%2C%20at%20least%2027,some%20forms%20of%20compostable%20packaging.>

<sup>7</sup> <https://www.biocycle.net/residential-food-scraps-collection-access-in-the-u-s/>.

### *Objectives*

The Recycling and Composting Accountability Act (RCAA) aims to: identify the challenges facing America's recycling and composting infrastructure; improve recycling and composting tactics and data collection; and determine best practices to enhance the recycling and composting of renewable materials.

#### SUMMARY OF THE BILL

The RCAA would require the EPA to work with states, local governments, and Indian Tribes to prepare a report that describes the capability of the United States to implement a national composting strategy. This report will evaluate existing laws that may present barriers to the implementation of such a strategy, as well as evaluate existing composting programs and composting infrastructure across the country.

This bill would establish a comprehensive baseline of data for the United States recycling system, including:

1. The number of community curbside recycling, drop-off recycling, and composting programs;
2. The types of materials accepted by each program;
3. The number of individuals with access to recycling and composting services;
4. The number of individuals with barriers to recycling and composting services; and
5. Contamination rates of community curbside recycling, drop-off recycling, and composting programs;
6. The average cost to States, units of local government, and Indian Tribes of recycling and composting programs.

In addition, the RCAA would require the EPA to prepare an inventory of the number of materials recovery facilities (MRF) in each unit of local government in each state, and a description of the materials that each MRF can process. It would also allow the Agency to collect standardized data from states on the rate of recyclable materials that have been successfully diverted from the waste stream and brought to a MRF or a composting facility.

This bill directs EPA to prepare a report on the end market sale of all recyclable materials and compostable materials collected from households and publicly available drop off centers in the United States. It also directs the Agency to develop a metric for studying, and issue a report on, the proportion of recyclable materials in commercial and municipal waste streams that are being diverted from a circular market through elimination or disposal.

This bill would also explore the recycling practices used by Federal agencies by issuing a report on the total annual recycling rates reported by all agencies, including the total annual percentage of products containing renewable materials, recyclable materials, or recovered materials purchased by all agencies. It would also look at the activities of each agency that promote recycling or composting.

The RCAA will determine, based on the results of the studies, reports, inventory, and data collected under this bill, voluntary guidelines that states, units of local government, and Indian Tribes may use to enhance recycling and composting. These voluntary guidelines will include:

1. Labeling techniques for waste, compost, and recycling bins, with the goal of creating consistent, readily available, and understandable labeling across jurisdictions;
2. Pamphlets or other literature readily available to constituents;
3. Primary and secondary school educational resources on recycling; and
4. Web and media-based campaigns.

#### BACKGROUND

Americans have recycled and reused materials throughout history; however, following World War II, waste in the United States grew immensely as massive amounts of single-use products overburdened landfills. The transition to single-use products, such as cans and bottles, was a revolutionary shift that lifted the burden for consumers, many of whom were working and found the single-use products liberating. Single-use products, especially plastics, were and continue to be extremely useful and convenient products. Hospitals rely on plastic products for critical healthcare equipment, and Americans rely on single-use water bottles for access to safe and clean water after natural disasters, per Federal Emergency Management Agency and American Red Cross guidelines.<sup>8</sup>

However, single-use products have placed an enormous burden on the environment and our landfills. In the 1960s and '70s, modern curbside recycling was born in an effort to bring convenience to consumers and help resolve the waste issue. Unfortunately, recycling is challenged to this day by a variety of issues ranging from contamination and misleading labeling to limited infrastructure and no viable end-markets for many of the materials marketed as recyclable. One of the greatest impacts is that municipalities across the country are having to decide between paying higher recycling fees and throwing their recycling into a landfill because there is no longer a market for recycled materials.<sup>9</sup>

The limitations of America's recycling system, combined with decreased demand in the global waste market, and the failures of our current approaches to waste management have driven increased interest in the circular economy concept as an alternative.

#### SECTION-BY-SECTION

##### *Sec. 1. Short title*

This Act may be cited as the "Recycling and Composting Accountability Act."

##### *Sec. 2. Definitions*

This section defines, "Administrator," "circular market," "compost," "compostable material," "composting facility," "Indian tribe," "Materials Recovery Facility," "recyclable material," "recycling," "State," and "processing."

##### *Sec. 3. Sense of Congress*

This section states it is the Sense of Congress that recycling conserves resources, protects the environment, and is important to the

<sup>8</sup> <https://www.fema.gov/pdf/library/f&web.pdf>.

<sup>9</sup> <https://www.theatlantic.com/technology/archive/2019/03/china-has-stopped-accepting-our-trash/584131/>

United States' economy. It also identifies several challenges facing recycling infrastructure and calls for the use of a combination of tactics to improve recycling and composting in the United States.

*Sec. 4. Report on composting infrastructure capabilities*

This section requires the Administrator of the EPA, in coordination with States, units of local government, and Indian Tribes, to prepare a report describing the capability of the United States to implement a national composting strategy for compostable materials for the purposes of reducing contamination rates for recycling.

The report must include an evaluation of existing Federal, State, and local laws that may present barriers to implementation of a national composting strategy; an evaluation of existing composting programs of States, units of local government, and Indian Tribes and a description of best practices based on those programs; an evaluation of existing composting infrastructure in States, units of local government, and Indian Tribes for the purposes of estimating cost and approximate land needed to expand composting programs; and a study of the practices of manufacturers and companies that are moving to using compostable packaging and food service ware for the purpose of making the composting process the end-of-life use of those products.

*Sec. 5. Report on Federal Agency Recycling Practices*

This section requires the Comptroller General of the United States, in consultation with the Administrator of the EPA, to issue a report on Federal Agency Recycling Practices. This report shall include the total annual recycling and composting rates reported by all Federal agencies; the total annual percentage of products containing recyclable material, compostable material, or recovered materials purchased by all Federal agencies; recommendations for updating the comprehensive procurement guidelines published under the Solid Waste Disposal Act (42 U.S.C. 6903) and the environmentally preferable purchasing program established under the Pollution Prevention Act (42 U.S.C. 13103(b)(11)); and the activities of each Federal agency that promote recycling or composting.

*Sec. 6. Improving data and reporting*

This section aims to improve measurement, data, and reporting related to recycling. It requires the Administrator of the EPA, not later than one year after the date of enactment, to conduct an inventory of the number of materials recovery facilities in each unit of local government in each state, and describe the materials that can be processed by each materials recovery facility.

It also requires the Administrator of the EPA to establish a comprehensive baseline of data for the United States recycling system by looking at the number of community curbside and drop-off recycling and composting programs and the types of materials they accept. The Administrator of the EPA shall also collect data on the number of individuals with access or barriers to recycling or composting services; the inbound contamination and capture rates of community curbside recycling, drop-off recycling, or composting programs; and the average cost to States, units of local government, and Indian Tribes of recycling and composting programs.

The Administrator of the EPA may also use funding to collect data from states on the amount of recyclable materials that have been successfully diverted from the waste stream and brought to a materials recovery facility or composting facility.

This section also allows the Administrator to provide technical assistance to States, units of local government, and Indian Tribes that wish to reduce their overall waste and/or increase recycling and composting rates.

Finally, this section directs the Administrator of the EPA to expand the report submitted under section 306 of the Save Our Seas 2.0 Act (Public Law 116–224; 134 Stat. 1096) to include the end-market sale of all recyclable materials, in addition to recycled plastics as described in that section, from materials recovery facilities that process recyclable materials collected from households including the total, in dollars per ton, of domestic sales of bales of recyclable materials.

The Administrator of the EPA must also prepare a report on the end market sale of compostable materials collected from households and publicly available compost drop-off centers. This (includes the total, in dollars per ton, of domestic sales of compostable materials.

While the bill, as written, focuses on the end market sale of recyclable and compostable material from households and publicly available drop-off sites, the Committee recognizes the importance of collecting data on industrial and commercial sources of recyclable materials alongside data on recyclable materials collected from residential or drop off programs.

*Sec. 7. Study on the diversion of recyclable materials from a circular market*

This section requires the Administrator of the EPA to develop a metric for determining the proportion of recyclable materials in commercial and municipal waste streams that are being diverted from a circular market. One year after the development of the metric, the Administrator shall conduct a study of, and submit to Congress a report on, the proportion of recyclable materials in commercial and municipal waste streams that, during each of the ten calendar years preceding the year of submission of the report, were diverted from a circular market.

The report shall provide data on specific recyclable materials (e.g., aluminum, plastics, paper and paperboard, textiles, and glass) that were prevented from remaining in a circular market through disposal or elimination, and to what use those specific recyclable materials were lost. The report shall include an evaluation of whether the establishment or improvement of recycling programs would improve recycling rates or reduce the quantity of recyclable materials being unutilized in a circular market.

The Committee understands that recyclable materials and their associated markets are continually evolving. Specifically, the demand for recycled content in packaging is growing and many American consumers rely on the “recycled content” labels on packaging to inform their purchases. As a result, the Committee would like to better understand the different treatment of certain categories of recovered materials (e.g., post-industrial materials, pre-consumer materials, and post-consumer materials) under existing law, guidance, and standards, as well as the requirements of producers to

certify the recycled-content in packaging. The Committee encourages the EPA, in its implementation of this Act, to include and assess the differences between, and the necessity of, these categories of recovered materials as it relates to the circular market.

*Sec. 8. Voluntary guidelines*

Finally, this section requires the Administrator of the EPA, in coordination with States, units of local government, and Indian Tribes, to develop, based on the results of the studies, reports, inventory, and data collected under this Act, best practices to enhance recycling and composting. This includes best practices including: labeling techniques for waste, compostable materials, and recycling with the goal of creating consistent, readily available, and understandable labeling across jurisdictions; pamphlets or other literature readily available to constituents; primary and secondary school educational resources on recycling; web and media-based campaigns; and guidance for the labeling of recyclable materials and compostable materials that minimizes contamination and further diversion of those materials from recycling and composting systems.

*Sec. 9. Authorization of appropriations*

This section authorizes such sums as necessary for this Act.

LEGISLATIVE HISTORY

On March 3rd, 2022, Senator Tom Carper, Chair of the U.S. Senate Environment and Public Works (EPW) Committee introduced S. 3743, *The Recycling and Composting Accountability Act*. Shelley Moore Capito (R-W.Va.), Ranking Member of the EPW Committee, and Senator Boozman (R-AR) joined as original cosponsors of the legislation. The bill was referred to the Committee on Environment and Public Works.

On April 7, 2022 the Committee on Environment and Public Works conducted the Business Meeting to consider S. 3743. The Committee ordered S. 3743 to be favorably reported with an amendment in the nature of a substitute by a voice vote.

HEARINGS

A legislative hearing was held by the Committee on Environment and Public Works on February 2nd, 2022, entitled "*Legislative Proposals to Improve Domestic Recycling and Composting Programs.*" The purpose of this hearing was to allow committee members to consider and hear stakeholder testimony regarding two draft versions of legislation within the Committee's jurisdiction aimed at improving recycling, S. 3743, *The Recycling and Composting Accountability Act* and S. 3742, *The Recycling Infrastructure and Accessibility Act*. The hearing provided the committee with information on the barriers that rural and economically-depressed communities, including minority communities, face in accessing recycling programs, as well as the challenges to municipal governments in providing those services. The Committee also heard about the need to improve recycling and composting data collection by the United States Environmental Protection Agency (EPA), as well as the ability of the EPA to provide technical assistance on improving recycling and composting programs.

A recycling related hearing was held by the Committee on Environment and Public Works on September 22nd, 2021, entitled “*The Circular Economy as a Concept for Creating a More Sustainable Future.*” The purpose of this hearing was to examine (1) challenges facing local governments when implementing domestic recycling programs and developing associated domestic industries, as well as (2) private and public sector policies that serve to promote a circular economy concept by encouraging the recycling, reuse, and substitution of materials across a wide range of industries.

The hearing provided the Committee with an understanding as to the systemic and emerging challenges to domestic recycling and manufacturing industries and the potential of a regenerative circular economy model to reduce or eliminate waste through the continual use of resources. Challenges to domestic recycling include the rise of new waste streams, contamination of recyclables, and a lack of American processing and downstream manufacturing infrastructure that can compete internationally on cost. The hearing explored existing and proposed policies that promote circularity, including recycling, across a wide range of industries, including but not limited to: plastic, aluminum, scrap metal, and critical minerals. The Committee also explored the role the Federal government, in partnership with states, local governments, and the private sector, can play in promoting the transition to a circular economy, including promoting a resilient United States recycling system.

#### ROLL CALL VOTES

The Committee on Environment and Public Works met to consider S. 3743 on April 7th, 2022. The bill, with an amendment in the nature of a substitute, was ordered to be favorably reported by voice vote, with a voting quorum present.

#### *Amendments approved*

The following amendment to the amendment in the nature of a substitute to S. 3743 was approved by voice vote:

Carper #1—This amendment expanded the Sense of Congress to underscore the importance of composting. The amendment also adds institutions, such as colleges or universities, as a named source of recyclable materials and compostable materials. It also amended the language to allow the EPA to explore a broad range of sources of compostable materials for the report on Composting Infrastructure Capabilities. The amendment also requires the EPA to include the average cost to States, units of local government, and Indian Tribes for recycling and composting programs when establishing a Comprehensive Baseline of Data for the United States recycling system.

#### *Final committee vote to report*

S. 3743, with an amendment in the nature of a substitute, as amended by Carper #1, was ordered to be favorably reported by a voice vote.



## REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes evaluation of the regulatory impact of the reported bill.

The bill does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

## MANDATES ASSESSMENT

S. 3743 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill contains no new private-sector mandates as defined in UMRA.

## COST OF LEGISLATION

Due to time constraints the Congressional Budget Office estimate was not included in the report when received by the committee, it will appear in the Congressional Record at a later time.

## CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill are reported. Passage of this bill will make no changes to existing law.