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THE RECYCLING AND COMPOSTING ACCOUNTABILITY ACT

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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. 1194]

The Committee on Environment and Public Works, to which was referred the bill (S. 1194) 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 without amendment and recommends that the bill 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 32 percent,¹ there is significant room to improve recycling systems, keep valuable materials in the supply chain, and ultimately reduce waste. At the same time, composting of food and other organic waste has emerged as a way to promote sustainability and fight climate change. Improving access to recycling and composting services; collecting data about recycling and composting capabilities and needs that federal, state and local governments can use to inform policy decisions; and supporting educational resources are all ways to improve recycling and composting programs in the United States.

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

OBJECTIVE

The Recycling and Composting Accountability Act (RCAA) aims to help Federal, State, local and Tribal governments improve recycling and composting rates in the United States through improved recycling and composting data collection, analysis, and dissemination.

BACKGROUND

The United States lacks ways to accurately estimate how recycling and composting systems perform across the country, as well as comprehensive and accurate data about these systems. Improved data collection on the local, state, and federal levels will help policymakers and stakeholders make informed decisions about how best to expand access to recycling and composting programs, and improve program performance. Benefits of collecting data include: improved data availability and granularity for a range of recyclables; the ability to track progress and make adjustments; the ability to compare data across different jurisdictions and geographic locations; and reduced data gaps. Improved data collection also allows for the sharing of best practices across regions, States, and municipalities.

In 2018, approximately 292 million tons of municipal solid waste (MSW) was generated in the United States.² 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.³ This is comparable to the emissions that would be reduced by taking almost 42 million cars off the road for a year.⁴ In 2021, U.S. landfills released an estimated 122.6 million metric tons of carbon dioxide equivalent (MMTCO₂e) of methane into the atmosphere.⁵ This represents 16.9 percent of the total U.S. human-driven methane emissions across all sectors. MSW landfills contributed 103.7 MMTCO₂e (14.3 percent of total U.S. methane emissions) while industrial landfills contributed the remaining 18.9 MMTCO₂e (2.6 percent of total).⁶ Improved recycling and composting programs have the potential to divert additional MSW from landfills, further reducing carbon and methane emissions.

In the United States, communities face several barriers to improving and developing recycling and composting programs, including location, cost, and public education and participation. Location challenges are particularly prohibitive for rural communities, which often have limited access to curbside recycling and composting programs or convenient drop-off programs. Costs and pricing also play a significant role in barring access to recycling and composting programs. For example, many municipalities cannot afford to provide recycling and composting services, and private services typically require a fee for participation. Another wide-

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

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

⁴ <https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/national-overview-facts-and-figures-materials#Recycling/Composting>.

⁵ <https://www.epa.gov/lmop/frequent-questions-about-landfill-gas#:~:text=Per%20the%20most%20recent%20Inventory,methane%20emissions%20across%20all%20sectors.>

⁶ <https://www.epa.gov/lmop/frequent-questions-about-landfill-gas#:~:text=Per%20the%20most%20recent%20Inventory,methane%20emissions%20across%20all%20sectors.>

spread barrier to recycling and composting is lack of information on how to recycle and compost, including which materials can be recycled and composted, what recycling and composting programs are available locally, and how the consumer can participate in those programs. Making basic information and educational resources available to the consumer is critical to successful recycling and composting.

Recycling programs: Currently, curbside recycling systems in the United States are capturing an estimated 11.9 million tons, or about 32 percent, of the 37.4 million tons of recyclable material produced each year.⁷ Only about half of all Americans have access to curbside recycling, some who have access do not participate, and not all who participate do so fully.⁸

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 U.S. population has access to some kind of composting program that accepts either food waste only, or food waste and some forms of compostable packaging.⁹ Over 10 million American households have access to municipally supported food scraps collection via curbside pick-up and/or drop-off.¹⁰ The EPA does not currently have a national composting strategy.

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 concept of a "circular economy" as an alternative. A circular economy is "an industrial system that is restorative or regenerative by intention and design."¹¹ The elements of a circular economy model are broken down into three parts: designing out waste and pollution, keeping products and materials in use, and regenerating natural systems. A truly circular economy focuses on the infinite reuse of materials and aims for the elimination of waste through the superior design of materials, products, systems, and business models.¹²

SUMMARY OF THE BILL

Overall, the RCAA would help Federal, State, local and Tribal governments improve recycling and composting rates in the United States through improved recycling and composting data collection, analysis, and dissemination.

EPA will collect data on: the numbers and costs of different types of curbside and drop-off recycling and composting programs; types of materials accepted; number of individuals with access to or barriers in accessing recycling and composting services; the contamination rates of various types of recycling and composting programs; and information on the number and capabilities of materials recovery facilities (MRF) nationwide.

⁷ <https://www.epa.gov/system/files/documents/2021-11/final-national-recycling-strategy.pdf>.

⁸ https://recyclingpartnership.org/wp-content/uploads/dlm_uploads/2020/02/2020-State-of-Curbside-Recycling.pdf.

⁹ <https://greenblue.org/work/compostingaccess/#:-:text=In%20total%2C%20at%20least%2027,so me%20forms%20of%20compostable%20packaging.>

¹⁰ <https://www.biocycle.net/residential-food-scraps-collection-access-in-the-u-s/>.

¹¹ <https://ellenmacarthurfoundation.org/topics/circular-economy-introduction/overview>.

¹² <https://www.sciencedirect.com/topics/engineering/circular-economy-concept>.

The EPA will analyze this data, make findings, and issue several reports. The report topics include: the nation's current capacity to implement a national composting strategy; the end market sale of recyclable and compostable materials collected from households and publicly available compost drop-off centers; and the diversion of recyclable materials from a circular market. Additionally, the Comptroller General of the United States, in consultation with the EPA Administrator, will issue a report on federal agency recycling practices.

EPA will use this information and analysis to develop and disseminate best practices that States, local governments and Tribes may use to enhance recycling and composting. These voluntary guidelines must include: labeling techniques; pamphlets or other literature readily available to constituents; educational resources for schools; and web and media-based campaigns.

SECTION-BY-SECTION ANALYSIS

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 Congress' sense that recycling conserves resources, protects the environment, and is important to the U.S. economy. It also identifies several challenges facing residential recycling and composting in the United States and calls for the use of a combination of tactics to improve our recycling and composting.

Sec. 4. Report on composting infrastructure capabilities

This section requires the EPA Administrator, in consultation with States, local governments and Tribes, to report on the capability of the United States to implement a national composting strategy for compostable materials to reduce contamination rates for recycling.

The report must include evaluations of: existing Federal, State, and local laws that may pose barriers to implementation of a national composting strategy; existing State, local and Tribal composting programs, as well as a description of best practices based on those programs; existing composting infrastructure in States, localities, and Tribes for the purposes of estimating cost and approximate land area needed to expand composting programs; and the practices of manufacturers and companies that are moving to using compostable packaging and food service ware.

Sec. 5. Report on Federal agency recycling practices

This section requires the U.S. Comptroller General, in consultation with the EPA Administrator, to issue a report on Federal agency recycling practices. This report must include the total an-

nual 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 each Federal agency's activities 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 EPA Administrator, within two years of enactment, to conduct an inventory of the number of materials recovery facilities in each unit State, and describe the materials that each such facility can process.

It also requires the Administrator to establish a comprehensive baseline of data for the U.S. recycling system by collecting data on: the number of community curbside and drop-off recycling and composting programs and the types of materials they accept; the number of individuals with access to or barriers to accessing recycling or composting services; the inbound contamination and capture rates of different types of community recycling or composting programs; and the average costs and benefits of these programs to States, local governments, and Tribes.

This section authorizes the Administrator to use funding provided under the Act to: (1) collect data from States on the quantity of materials recycled or composted; and (2) using that data, provide technical assistance to States, local governments, and Tribes to reduce waste and/or increase recycling and composting rates.

Finally, this section directs the Administrator 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 from materials recovery facilities that process recyclable materials collected from households including the total, in dollars per ton, of domestic sales of recyclable materials. The Administrator must also report on the end market sale of compostable materials collected from households and drop-off centers. This includes the total, in dollars per ton, of domestic sales of compostable materials.

While this provision focuses on the end market sale of recyclable and compostable material from households and drop-off sites, the Committee also 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 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 developing the metric, the Administrator must study and report to Congress on the proportion of recyclable materials in commercial and municipal waste streams that

were diverted from a circular market in each of the prior ten years. The report must provide data on each type of recyclable material diverted and how those specific recyclable materials were lost through disposal or elimination. The report must also evaluate whether establishing or improving recycling programs would improve recycling rates or reduce the quantity of recyclable materials lost to a circular market.

The Committee notes that 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

This section requires the EPA Administrator, using the information gathered under this Act and in consultation with States, local governments and Tribes, to develop best practices to enhance recycling and composting. EPA must disseminate these best practices through a resource such as the Model Recycling Program Toolkit. Best practices include: labeling techniques for waste, compostable materials, and recycling to create 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 labeling recyclable 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 the appropriation to the EPA Administrator of such sums as are necessary to implement this Act.

LEGISLATIVE HISTORY

On April 19, 2023, Senator Tom Carper, Chair of the U.S. Senate Committee on Environment and Public Works introduced S. 1194, The Recycling and Composting Accountability Act. Senator Shelley Moore Capito (R–W.Va.), Ranking Member of the Committee on Environment and Public Works, and Senator John Boozman (R–AR) joined as original cosponsors of the legislation. The bill was referred to the Committee on Environment and Public Works.

On April 26, 2023, the Committee on Environment and Public Works conducted the Business Meeting to consider S. 1194. The Committee ordered S. 1194 to be reported favorably without amendment by a voice vote.

HEARINGS

In the 117th Congress, on February 2, 2022, the Committee on Environment and Public Works held a legislative hearing entitled “*Legislative Proposals to Improve Domestic Recycling and Composting Programs*.” The purpose of this hearing was to allow the Committee to consider stakeholder testimony regarding two draft pieces 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 information about the need to improve data collection on recycling and composting, as well as on EPA’s ability to provide technical assistance to improve recycling and composting programs. The Committee also heard about 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 held an earlier hearing addressing recycling on September 22, 2021, entitled “*The Circular Economy as a Concept for Creating a More Sustainable Future*.” This hearing examined: (1) challenges facing local governments when implementing domestic recycling programs and developing associated domestic industries; and (2) private and public sector policies that promote a circular economy by encouraging the recycling, reuse, and substitution of materials across a wide range of industries. In this hearing, the Committee learned about 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 reuse 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 a resilient U.S. recycling system.

Additionally, on December 15, 2022, the Environment and Public Works Subcommittee on Chemical Safety, Waste Management, Environmental Justice, and Regulatory Oversight held a hearing on single-use plastics entitled “*Examining the Impact of Plastic Use and Identifying Solutions for Reducing Plastic Waste*.” This hearing allowed the Committee members to hear stakeholder views on the use and impact of single-use plastics in America, with a focus on mechanisms to reduce, reuse, and recycle plastics and mitigate their impact on public health and the environment. Among other issues, this hearing addressed the challenges in disposing of plastic waste, such as low recycling rates, escape of material into the environment, and release of toxins from incineration, co-incineration, gasification, and pyrolysis.

ROLL CALL VOTES

The Committee on Environment and Public Works met to consider S. 1194 on April 26, 2023. With a voting quorum present, the Committee ordered the bill to be favorably reported by voice vote.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee has evaluated the regulatory impact of the reported bill. This bill will not directly regulate individuals or businesses or create any additional regulatory burdens, and will not have any adverse effect on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), the Committee notes that S. 1194 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (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

Section 12 of rule XXVI of the Standing Rules of the Senate requires the Committee to report changes in existing law made by the bill. Passage of this bill will make no changes to existing law.

