COMMITTEE ON
ENERGY & COMMERCE
CHAIRMAN FRANK PALLONE, JR.

MEMORANDUM

June 28, 2022

To: Subcommittee on Environment and Climate Change Members and Staff

Fr: Committee on Energy and Commerce Staff

Re: Hearing on "No Time to Waste: Solutions for America's Broken Recycling System"

On **Thursday, June 30, 2022, at 11:30 a.m. (EDT), via Cisco WebEx online video conferencing,** the Subcommittee on Environment and Climate Change will hold a hearing entitled, "No Time to Waste: Solutions for America's Broken Recycling System."

I. BACKGROUND

In 1976, Congress granted the Environmental Protection Agency (EPA) authority to manage hazardous and non-hazardous waste through an amendment to the Solid Waste Disposal Act of 1965 (SWDA).[1] The amendment enacted the Resource Conservation and Recovery Act (RCRA), which is the nation's primary law governing the disposal of solid and hazardous waste.[2] RCRA has been amended and strengthened several times since. At the federal level, hazardous waste is regulated under Subtitle C of RCRA, whereas Subtitle D authorizes state and local governments to regulate non-hazardous waste, including management of recycling programs.[3]

In the United States, common recyclables include paper/cardboard, plastics, glass, aluminum, batteries, electronics, food, lawn materials, used oil, household hazardous waste, tires, and metal.[4] Not only is recycling a common household activity, but also a critical component of the U.S. economy. In its 2020 Recycling Economic Information Report, EPA found that recycling contributes 681,000 jobs, $37.8 million in wages, and generates $5.5 billion in tax revenue.[5]

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[1] Environmental Protection Agency, *History of the Resource Conservation and Recovery Act (RCRA)* (https://www.epa.gov/rcra/history-resource-conservation-and-recovery-act-rcra) (accessed June 27, 2022).

[2] Pub. L. No. 94-580 (1976).

[3] Congressional Research Service, *Environmental Laws: Summaries of Major Statutes Administered by the Environmental Protection Agency* (Dec. 20, 2013) (RL30798).

[4] Environmental Protection Agency, *How Do I Recycle?: Common Recyclables* (Dec. 2, 2021) (https://www.epa.gov/recycle/how-do-i-recycle-common-recyclables).

[5] Environmental Protection Agency, *Recycling Economic Information (REI) Report* (Nov. 2020) (https://www.epa.gov/sites/default/files/2020-11/documents/rei_report_508_compliant.pdf).

In the 116th Congress, the Committee held an oversight hearing focused on issues related to recycling and waste management in the United States, including impacts on climate and the environment.[6] For more background information on U.S. solid waste policy, recycling, general policy solutions, and the nexus between solid waste management and climate change, please refer to the briefing memorandum from that hearing.

According to the latest data available, in 2018, the United States generated 292.4 million tons of municipal solid waste (MSW), which equates to 4.9 pounds per person per day.[7] Approximately 23.6 percent of this waste was recycled, 8.5 percent was composted, and 11.8 percent was incinerated to generate electricity.[8] Of the waste generated, 146 million tons, or 50 percent, was landfilled. MSW generation has increased since 1960, with paper and paperboard products making up the largest portion, at 23.1 percent of total generation.[9] Although plastic is only the fourth largest category of MSW, it has steadily grown from 8.2 percent of total MSW generation in 1990 to 12.2 percent in 2018.

Since 1960, recycling and composting rates have increased while landfilling rates have decreased from 94 percent of waste generated to 50 percent in 2018, indicating that recycling and composting programs are successfully diverting waste from landfills.[10] Due to various factors, such as the amount generated, physical and chemical properties, and end-market uses of these goods, recycling rates vary widely across materials. For example, in 2018, 68 percent of paper and 31.3 percent of glass was recycled, whereas only 8.7 percent of plastic was recycled.[11] Out of the 69.1 million tons of MSW recycled in 2018, the category with the highest rate of recycling was paper and paperboard, followed by metals, textiles, wood, plastics, and glass.[12]

The coronavirus disease of 2019 (COVID-19) pandemic has impacted recycling. Demand has significantly increased for plastic products, such as face masks, medical gloves, takeaway food containers, and bubble wrap for online shopping.[13] According to market analyses, the recycled plastic used to make drink bottles is 83 percent to 93 percent more expensive to produce than new plastic, making new plastic a more attractive choice for manufacturers.[14] The oil and gas industry plans to spend $400 billion over the next five years on

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[6] House Committee on Energy and Commerce, *Hearing on Reduce, Reuse, Recycle, Reform: Addressing America's Plastic Waste Crisis*, 116th Cong. (Mar. 4, 2020).

[7] *See* note 4.

[8] Environmental Protection Agency, *National Overview: Facts and Figures on Materials, Wastes, and Recycling* (July 14, 2021) (https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/national-overview-facts-and-figures-materials).

[9] *Id.*

[10] *See* note 8.

[11] *See* note 4.

[12] *See* note 8.

[13] Reuters Investigates, *The Plastic Pandemic: COVID-19 Trashed the Recycling Dream* (Oct. 5, 2020) (https://www.reuters.com/investigates/special-report/health-coronavirus-plastic-recycling/).

[14] *Id.*

virgin plastic production,[15] but only $1.5 billion on waste management.[16] At the same time, recycling companies have shrunk by as much as 60 percent in the United States since COVID-19, indicating they are not adequately prepared to handle such a large influx of plastic waste.[17]

Congress most recently acted to address problems with recycling efforts in H.R. 3684, the "Infrastructure Investment and Jobs Act," also known as the Bipartisan Infrastructure Law, which President Biden signed into law on November 15, 2021.[18] The Bipartisan Infrastructure Law included unprecedented investment in recycling infrastructure, including $275 million over five years for Solid Waste Infrastructure for Recycling (SWIFR) grants and $75 million over five years for recycling education and outreach grants. The SWIFR grants will support improvements to recycling programs, post-consumer materials management, and waste management infrastructure in communities across the United States. The recycling education and outreach grant program will support education and outreach efforts. The Bipartisan Infrastructure Law also directs EPA to develop a model recycling program toolkit that will include community resources, such as best practices and educational material. The funding for these programs is available until expended. Further, the Bipartisan Infrastructure Law appropriated $25 million for EPA to develop best practices for battery collection.

II. LEGISLATION

A. H.R. 8059, the "Recycling and Composting Accountability Act"

H.R. 8059, the "Recycling and Composting Accountability Act," introduced by Reps. Neguse (D-CO), Burchett (R-TN), and Foster (D-IL), requires the EPA Administrator to carry out activities to improve recycling and composting in the United States. The bill directs the Administrator to prepare a report on domestic composting infrastructure capabilities, and a report on federal agency recycling practices. Further, it requires the Administrator to conduct a study on the diversion of recyclable and compostable materials from a circular market and to establish an inventory of Materials Recovery Facilities (MRFs) in the United States. The bill also directs EPA to establish comprehensive baseline data on recycling and composting programs; types of materials, accessibility, and barriers; inbound contamination; and average cost to states, units of local government, and Tribes of recycling and composting programs. Based on the data collected, the bill directs the Administrator to develop best practices that states, units of local government, and Tribes may use to enhance recycling and composting. The bill authorizes such sums as are necessary to carry out the Act.

B. H.R. 8183, the "Recycling Infrastructure and Accessibility Act of 2022"

[15] *Oil Industry Betting Future on Shaky Plastics as World Battles Waste*, Carbon Tracker Initiative (Sept. 4, 2020) (https://carbontracker.org/oil-industry-betting-future-on-shaky-plastics-as-world-battles-waste/).

[16] Alliance to End Plastic Waste, *The Alliance Launches Today* (Jan. 15, 2019) (https://endplasticwaste.org/news/the-alliance-launches-today).

[17] *See* note 13.

[18] Pub. L. No. 117-58 (2021).

H.R. 8183, the "Recycling Infrastructure and Accessibility Act of 2022," introduced by Reps. McKinley (R-WV) and Sherrill (D-NJ), directs the EPA Administrator to create a pilot program to award grants of between $500,000 and $15 million to states, local governments, Indian tribes, and public-private partnerships to improve recycling accessibility. The grant funds may be used to increase the number of transfer stations, expand curbside recycling collection programs, and leverage public-private partnerships to reduce the costs associated with collecting and transporting recyclable materials. The bill requires EPA to set aside at least 70 percent of the funds for proposed projects or programs in underserved communities. It authorizes such sums as are necessary to carry out the Act annually for Fiscal Year (FY) 2023 through FY 2027.

C. H.R. 1512, the "Climate Leadership and Environmental Action for our Nation's Future Act" or the "CLEAN Future Act"

Reps. Pallone (D-NJ), Tonko (D-NY), and Rush (D-IL) introduced H.R. 1512, the "Climate Leadership and Environmental Action for our Nation's Future Act" or the "CLEAN Future Act." The CLEAN Future Act includes several provisions related to recycling, specifically Subtitles A, B, C, and D of Title IX.

1. Subtitle A – Clean Air

Subtitle A places a temporary pause on new permits for facilities that produce plastics or the raw materials used to produce plastics (such as ethylene and propylene) and facilities that repolymerize plastics into chemical feedstocks. It directs the EPA Administrator to promulgate several rules aimed at limiting emissions of greenhouse gasses and other air pollutants during the temporary pause, accounting for technological advances and to protect the health of frontline communities. EPA must also promulgate regulations requiring any Clean Air Act permit for a covered facility be accompanied by an environmental justice assessment and public meetings and information sharing with the surrounding community. This section further requires the concerns raised in an environmental justice assessment to be addressed in consultation with the impacted communities prior to the approval of a proposed permit.

2. Subtitle B – Product Standards and Producer Responsibilities

Subtitle B amends SWDA by adding several measures to update the U.S. recycling and waste management system. It establishes post-consumer recycled content standards for beverage containers and based on recommendations from a multi-agency study, other everyday products, and directs EPA to issue rules requiring manufacturers to design covered products and beverage containers to minimize environmental and health impacts. It also requires manufacturers to standardize labeling to clearly indicate the recyclability of containers. Subtitle B further directs EPA develop standardized labeling guidelines for recycling and composting receptacles and to work with stakeholders to standardize recycling and composting collection on a community- or state-level. Further, it requires EPA to conduct an annual assessment of the origins, quantity, and composition of plastic waste in the United States and establishes a national bottle deposit program to improve the collection of recyclable bottles and expand markets for recovered material. This section ensures that no provision included within the amendment preempts any state or local law that is equally or more stringent than the federal requirements.

Subtitle B also clarifies federal agencies' responsibilities related to the procurement of products containing recovered material and increases how frequently EPA must review and revise federal procurement guidelines for products containing recovered materials.

This Subtitle also establishes a task force to develop and propose recommendations on the design of a national extended producer responsibility system for products in the marketplace and directs the task force to recommend detailed design criteria for such a system that covers the full lifecycle management of covered products and beverage containers, including financial and operational requirements for producers. It also provides grants for research funding to help develop recommendations on the design of an extended producer responsibility system.

Finally, Subtitle B directs the National Academy of Science to evaluate best practices for reducing the negative environmental impacts of single-use products, including an assessment of potential strategies for mitigation, recovery and safe disposal, and the impacts of single-use product bans in the United States and other countries.

3. Subtitle C – Zero-waste Grants

Subtitle C establishes EPA grant programs to support community-level zero-waste initiatives—such as projects related to organics recycling infrastructure, electronic waste recycling, source reduction, market development, and the purchase of zero-emissions vehicles for recycling and composting collection—and to encourage states to reduce the amount of waste that ends up in landfills through zero-waste initiatives with increased landfill tipping fees, programs that ensure the availability of curbside composting collection for all households, and statewide prohibitions on sending organic waste to landfills. The grants for zero-waste projects are authorized at $150 million annually for FY 2022 through FY 2031, and the grants for landfill diversion are authorized at $250 million for the period of FY 2022 through FY 2031.

Subtitle C also requires EPA to convene an annual conference to provide an opportunity for eligible entities and relevant stakeholders to share their experience and expertise in implementing zero-waste practices.

4. Subtitle D – Education and Outreach

Subtitle D establishes an EPA grant program to support state and local governments, Tribal communities, nonprofits, and public-private partnerships in improving education and awareness related to recycling. It directs EPA to establish a model recycling program toolkit to help support local recycling education and awareness programs.

Subtitle D establishes an EPA program to improve consumer education and awareness related to the safe disposal and recycling of batteries and other forms of electronic waste. It also directs EPA to develop a publicly available database allowing consumers to locate nearby collection and recycling facilities for batteries and other forms of electronic waste.

Subtitle D authorizes $15 million annually for FY 2022 through FY 2031. It requires that not less than 10 percent shall be allocated to low-income communities.

D. H.R. 2238, the "Break Free From Plastic Pollution Act of 2021"

H.R. 2238, the "Break Free From Plastic Pollution Act of 2021," introduced by Rep. Lowenthal (D-CA) and 86 original cosponsors, amends SWDA to reduce the production and use of certain single-use plastic products. The bill requires producers relying on plastic and other covered packaging materials to design, manage, and finance programs to process waste and participate in a Producer Responsibility Organization (PRO). PROs are required to develop EPA-approved stewardship plans that detail how each PRO will meet the minimum required performance targets for covered products and to conduct outreach and education efforts for consumers. The bill also includes a 10 cent per unit national deposit requirement for all beverage containers, to be refunded to customers when they return the containers. The bill institutes a fee on the use of non-reusable carryout bags and a ban on the most common single-use plastic products, with exceptions for persons with disabilities. H.R. 2238 also directs EPA to establish certain mandatory targets for post-consumer recycled content in new plastic beverage bottles, and to conduct a study on technical and safe post-recycled consumer content standards for other covered products and non-plastic beverage containers. The bill implements a pause of up to three years on the permitting of new plastic-producing facilities under various environmental laws to allow EPA to update regulations and investigate cumulative impacts of such facilities on the air, water, and climate.

III. WITNESSES

The following witnesses have been invited to testify:

David Allaway
Senior Policy Analyst
Department of Environmental Quality
State of Oregon

Lynn Hoffman
Co-President of Eureka Recycling
National Coordinator of the Alliance of Mission Based Recyclers

Stephanie Erwin
Director of Circular Economy Policy
American Sustainable Business Network

Yvette Arellano (they/them)
Founder and Executive Director
Fenceline Watch

William Johnson
Chief Lobbyist
Institute of Scrap Recycling Industries, Inc.

Matt Seaholm
Chief Executive Officer
Plastics Industry Association