



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

June 30, 2022

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

The Honorable Paul Tonko
Chairman
Subcommittee on Environment and Climate Change
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable David McKinley
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Tonko and Ranking Member McKinley:

Thank you for the opportunity to provide written testimony from the Environmental Protection Agency on several bills to address our Nation's recycling infrastructure. EPA supports and appreciates the legislative efforts of Congress and this Committee to consider comprehensive approaches to address materials use and recovery across the country. We share your goal of enhancing and advancing recycling policy to provide resiliency and sustainability in the national recycling system.

EPA believes that our recently expanded authority from the Save our Seas 2.0 Act and the 2021 Infrastructure Investment and Jobs Act, current work, and funding align significantly with approaches identified in these four pieces of legislation before you: H.R. 8183, the Recycling Infrastructure and Accessibility Act of 2022; H.R. 8059, the Recycling and Composting Accountability Act; H.R. 1512, the CLEAN Future Act; and H.R. 2238, the Break Free from Plastic Pollution Act. Further, EPA asks

that the Committee consider that programs covered within these bills might benefit greatly from EPA's development of regulations regarding their design and definitions. EPA offers the following observations and recommendations to aid in your consideration of these bills.

Consideration of Current EPA Efforts

The Recycling Infrastructure and Accessibility Act (RIAA) establishes a pilot grant program to improve recycling accessibility, and the Recycling and Composting Accountability Act (RCAA) focuses on improving recycling and composting programs in the United States through the completion of various research and data reporting efforts. EPA supports the goals of these bills to improve recycling accessibly and improve recycling and composting programs. EPA encourages the Committee to consider where overlap exists between the legislation and the work that EPA is already doing to implement the goals of these bills, such as the Agency's recent efforts to establish new grant programs to support recycling and composting infrastructure, to increase education and outreach, to collect data on curbside recycling, and to issue several reports focused on addressing the critical issue of single use plastics as directed by the Save our Seas 2.0 Act (SOS 2.0), as well as the Consolidated Appropriations Act of 2021.

The RIAA provides for a pilot grant program that increases access to residential recycling. The RIAA's pilot program is similar to EPA's solid waste infrastructure for recycling grant program, authorized under SOS 2.0 and funded through the Infrastructure Investment and Jobs Act (IIJA), as well as the Consolidated Appropriations Act of 2022, which provide funding to states, tribes, and localities to support improvements to local post-consumer materials management infrastructure, including municipal recycling systems. EPA's solid waste infrastructure for recycling grant program is a covered program under the Justice40 Initiative; as such, EPA will ensure that forty percent of the benefits from this

program flow to disadvantaged communities who are marginalized, underserved, and overburdened by pollution.

The RCAA focuses on improving recycling and composting programs in the United States through the completion of various research and data reporting efforts. Under the SOS 2.0, the IIJA, and the Consolidated Appropriations Acts of 2021 and 2022, EPA is undertaking work to develop a post-consumer materials management and water management strategy; collect and analyze recycling data; and prepare several reports to tackle different challenges associated with plastic waste and recycling. EPA is also working on a Government Accountability Office request to study and make recommendations on the effect of public policies related to recycling and the recovery of materials, among other topics. We anticipate completing these studies later this year. We encourage the Committee to review where this work overlaps with the legislation. We stand ready to share more detailed technical assistance.

The CLEAN Future Act contains actions that overlap with existing work authorized by SOS 2.0 and funded through the IIJA and our annual appropriation act. Several aspects of Title IX focused on waste reduction are also potentially duplicative with IIJA. For example, the federal procurement activities outlined in Section 912 are similar to policies outlined in IIJA, and Subtitle D is duplicative of the IIJA Section 70402 Consumer Recycling Education and Outreach Grant program, which already includes the Model Recycling Program Toolkit and School Curriculum.

As the Committee develops these pieces of legislation, EPA encourages the Committee to consider where overlap exists between the draft bills and work that EPA is already doing under existing statutes,

especially the SOS 2.0, the Consolidated Appropriations Acts of 2021 and 2022, and the Infrastructure Investment and Jobs Act. If the Committee decides to provide EPA with additional grant authorities, we would welcome the opportunity to work with the Committee to ensure that the grant programs can be effectively and efficiently implemented in coordination with our existing grant regulations and management systems.

The Circular Economy Strategy Series and the Infrastructure Investment and Jobs Act

EPA is hard at work on our Circular Economy Strategy Series. SOS 2.0 defined the circular economy as one that uses a systems-focused approach and involves industrial processes and economic activities that (A) are restorative or regenerative by design; (B) enable resources used in such processes and activities to maintain their highest values for as long as possible; and (C) aim for the elimination of waste through the superior design of materials, products, and systems (including business models) (33 U.S.C. §4201).¹ This is an area reflected in the “Reduce, Reuse, Recycle” motto, and now the concept is also enacted into law. EPA recognized that language and incorporated it into our Circular Economy Strategy Series.

In November 2021, on National Recycling Day, EPA published the *National Recycling Strategy: Part One of a Series on Building a Circular Economy for All*. Having received prior direction from Congress to create a national recycling strategy, EPA worked for several years with a broad group of stakeholders to complete the Strategy and identify objectives and actions to help overcome the challenges to our recycling system. Moreover, EPA expanded our vision beyond recycling to include a circular economy. The *National Recycling Strategy* is just the beginning. EPA is also developing a national strategy for reducing plastics and other waste in waterways and the oceans, which was mandated by SOS 2.0. This

¹ United States Congress, *S.1982 - Save Our Seas 2.0 Act*, December 18, 2020, Public Law No: 116-224, 116th Congress.

will be a part of the upcoming Circular Economy Strategy Series. The remaining four parts of the Series will cover food loss and waste and organics, electronics and critical minerals, the built environment, and textiles.

The *National Recycling Strategy* was published on the same day that President Biden signed into law the IIJA. The vision set forth in the Circular Economy Strategy Series will now be implemented in part through the historic funding provided in the IIJA. The IIJA included \$275 million in funding to implement the solid waste management and recycling infrastructure grants authorized by the Save Our Seas 2.0 Act; \$75 million for Consumer Recycling Education and Outreach Grants as well as a model recycling program toolkit for state, tribal, and local governments; and \$25 million for EPA to develop battery collection best practices and a voluntary battery labeling guidelines program. Through these existing legislative authorities and funding, EPA has already begun to tackle the global challenges posed by plastic waste, provide grants to foster innovation, address climate change and environmental justice, and support a circular economy to benefit all Americans.

Public and Stakeholder Engagement

Developing new solid waste management policy, like an extended producer responsibility (EPR) program at the national level, presents a complex set of issues impacting a broad array of stakeholders, including states, tribes, local governments, industry, non-profits, and the public. While many states have passed legislation similar to EPR and other policy programs suggested in these bills, creating national programs would greatly benefit from robust public engagement – such as EPA conducts in the course of rulemakings – to build on the successes and lessons learned from existing programs and experiences. EPA has experience hosting scores of public meetings and stakeholder engagement events to ensure that public viewpoints are considered as we move forward to issue the strategies and develop the new

recycling programs directed by the Save Our Seas 2.0 Act and the IIJA. EPA currently has three Requests for Information out for public comment to obtain feedback on community recycling infrastructure needs and best practices for both outreach and battery management.² We intend to incorporate that feedback into the final designs for the new IIJA grant programs to ensure that what EPA releases is effective and efficient in improving our materials management system. With direction from Congress, EPA would welcome the opportunity to explore the national policy approaches considered in the four bills through the regular administrative process. EPA can utilize community and stakeholder input to accelerate the movement to a circular economy for all.

Specifically, EPA encourages Congress to consider the benefits of the regulatory process for the design and development of programs under CLEAN Future Act of 2022 and the Break Free from Plastic Pollution Act. The Break Free from Plastic Pollution Act would amend the Solid Waste Disposal Act to create a series of new programs including programs to reduce the production and use of certain single-use plastic products and packaging, improve the responsibility of producers in the design, collection, reuse, recycling and disposal of their consumer products and packaging, and prevent pollution from consumer products and packaging from entering into animal and human food chains and waterways. In particular, the creation of an EPR program would be a significant new policy in non-hazardous solid waste management, which will have extensive impacts on EPA and stakeholders along the recycling value chain. There are multiple approaches to each aspect of EPR, as is evident in both the Clean Futures Act and the Break Free from Plastic Pollution Act. Each component of an extended producer responsibility program would benefit from the public input into details of program design that is the

² Solid Waste Infrastructure for Recycling Program; [Request for Information, 87 FR 35200 \(June 9, 2022\)](#). Closing July 25, 2022. Recycling Education and Outreach; Grant Program and Model Recycling Program Toolkit; [Request for Information, 87 FR 35197 \(June 9, 2022\)](#). Closing July 25, 2022. Development of Best Practices for Collection of Batteries to Be Recycled and Voluntary Battery Labeling Guidelines; [Request for Information, 87 FR 35202 \(June 9, 2022\)](#). Closing July 11, 2022.

hallmark of regulatory development for complex national programs such as an EPR for packaging and beverage containers.

EPA believes that it is essential to develop reliable and accessible recycling and composting infrastructure across the country, to benefit the health and prosperity of all, and to combat the effects of climate change. Part of that effort includes the movement away from single-use plastics and efficient recovery of recyclable materials from the waste stream. Moreover, EPA believes that standardized definitions and metrics will be helpful to measuring progress towards improved materials management and recycling. EPA encourages the Committee to consider directing EPA to develop such programs through rulemakings so that the public as well as stakeholders are given the opportunity to provide valuable input drawn from on their experience.

The Critical Role of Materials Management Policy in Addressing Urgent Needs

New materials management policy should be adaptive to an evolving recycling system with consideration for existing policy. EPA encourages Congress to consider how the new definitions established in the Recycling Infrastructure and Accessibility Act might impact existing solid waste regulations. EPA identified several new definitions in the bill that appear inconsistent with how the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), defines key activities pertaining to solid waste management and recycling, including: “curbside recycling” (“curb collection” is defined in 40 CFR Part 243), “materials recovery facility”, “recyclable material” (“recovered material” is defined in 42 U.S.C. §6903), and “transfer station” (alternatively defined in 40 CFR Part 243). Likewise, EPA encourages consideration of how the new definitions within the Recycling and Composting Accountability Act, including “materials recovery facility”, “recyclable material”, “recycling”, and “processing”, might be inconsistent with existing definitions

under the Solid Waste Disposal Act and therefore impact how materials are regulated. EPA would be able to assist with drafting definitions either through additional technical assistance or, if directed to do so in the legislation, under the regulatory process.

EPA encourages Congress to consider the need for regulations that provide flexibility in governing the national recycling system to allow for improvements in technology as the waste stream evolves. RCRA was passed approximately 46 years ago. At that time, the issues and challenges of managing municipal solid waste focused on end of life – including material reuse, recycling, and disposal. These authorities were seen as largely the role of states and county and local governments. Now, as the Nation’s waste stream has evolved, it has become clear that ineffective solid waste management can contribute to climate change, environmental justice challenges, and supply chain disruptions. These complex and important issues call for a collaborative partnership of governments at all levels. A circular economy provides opportunities to manage materials and adjust for market forces impacting efficiency, resource availability, and design.

This is an opportune time to make progress with respect to solid waste management and the circular economy. As Administrator Regan has said, “it’s time to transform the Unites States’ recycling system.” According to the UN International Resource Panel, natural resource extraction and processing contribute about half of all global greenhouse gas emissions.³ Resource extraction and processing are also responsible for 90% of global biodiversity loss and 90% of global water stress.⁴ Materials management can have negative impacts on historically underserved and overburdened communities. The

³ Global Resources Outlook 2019: Natural Resources for the Future We Want, UN Environment, International Resource Panel: Available at: <https://www.resourcepanel.org/reports/global-resources-outlook>

⁴ *Ibid.*

environmental impacts from the use of natural resources and the related benefits from their use are unevenly distributed across countries and regions. Moreover, supply chain disruptions and international conflicts have highlighted the importance of wise material management policies.

Considerations of a Circular Economy for All

As a Nation, we must be more innovative in how we design and use materials in the United States and around the world. We must recognize that the use of natural resources and the related benefits and environmental impacts are unevenly distributed across countries and regions. Communities of color, Indigenous communities, and low-income populations continue to be disproportionately impacted by higher pollution levels, as well as resulting adverse health and environmental impacts. Sustainability from its foundation requires social equity. It is critical that we implement circular economy strategies that are inclusive of communities with environmental justice concerns and pursue innovations that offer all people the benefits of cleaner processing of materials.

Closing

Using the authority provided by Save Our Seas 2.0, supplemented by the historic level of funding provided by the Infrastructure Investment and Jobs Act and our annual appropriations acts, EPA has been working to provide much-needed funding to support our states, territories, tribal, and local governments in this critically important aspect of daily life for all Americans. We are striving to implement a transformative vision for the Nation's waste management system – one that is inclusive, more equitable, and reflects the urgency of the climate crisis. EPA believes economic circularity is a critical tool in the fight against climate change, to prevent the loss of biodiversity, and to mitigate pollution.

Thank you for the opportunity to address the complex and important challenge of recycling and materials management in our Nation and to provide input on the legislation before you today. EPA appreciates this Committee's commitment to sustainable use of our nation's material resources. We are ready to work with Congress on legislative efforts that address our Nation's recycling programs, and we look forward to working with you to advance our shared goals of protecting human health and the environment for all.

Sincerely,

A handwritten signature in cursive script that reads "William Niebling".

William L. Niebling
Associate Administrator