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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

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December 3, 2020

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

RE: Draft National Recycling Strategy

Dear Administrator Wheeler:

Thank you for the opportunity to provide comments on the Environmental Protection Agency's (EPA) draft National Recycling Strategy. I write today with serious concerns about both the contents of the draft strategy as well as the haste with which EPA is proposing to finalize this strategy, just days before the start of a new Congress and a new Administration.

As the co-founder of the Senate Recycling Caucus, and as a passionate, lifelong recycler, I commend EPA for bringing together more than 250 stakeholders to the table to discuss national recycling practices. However, simply bringing together hundreds of stakeholders alone is not a sufficient process for producing a comprehensive national recycling strategy. The product that EPA has put forward for public comment makes that clear. I'm afraid that this draft National Recycling Strategy is largely a woefully inadequate and unimaginative approach to addressing our country's wide-ranging and complex recycling problems. It would be a wasted opportunity for EPA to press forward without addressing some of the serious flaws in this proposed strategy.

For years, the United States relied on shipping most of its plastics and mixed paper materials overseas for processing, primarily to China. The flaw in this process was laid bare in 2018, when China began to prohibit imports of mixed paper and plastic, including those shipped from the United States. When China closed its doors to these imports, the United States looked to other Southeast Asian countries to accept its mixed recyclables, but to no avail. Those countries have since imposed restrictions similar to China's. It is clear that countries around the globe no longer wish to be used as the United States' dump. Understandably so.

China's "National Sword" policy rattled the United States recycling system. Two years later, the COVID-19 pandemic has exacerbated the cracks in that system. Recycling in the United States is primarily done at the state and local level, resulting in a patchwork of systems that collectively fail to meet even the modest recycling targets met by other nations around the world. The status quo is unsustainable. While China's decision to restrict the import of plastics and mixed paper materials presents an enormous challenge for the United States in the short term, it should also motivate us to consider forward-looking strategies. China's policies and the worsening impacts of waste on our environment and public health demand a creative and aggressive strategy to

embrace a circular economy and rethink outdated attitudes and practices regarding waste and waste management.

These challenges confronting our recycling system present an opportunity to reimagine recycling in the United States, to articulate an aggressive national strategy, and to support local and state efforts. Unfortunately, EPA’s proposed National Recycling Strategy—while properly motivated—falls well short of what this nation needs. My comments on EPA’s proposed National Recycling Strategy will focus on the need to establish a national strategy that:

1. Embraces the elements of a circular economy;
2. Recognizes the need to enhance markets for recyclable materials;
3. Imposes producer responsibility for the lifecycle impacts and costs associated with products;
4. Reimagines public education in the context of an aggressive circular economy strategy; and,
5. Creates the appropriate incentives to end the production and use of materials that cannot be reused or recycled.

Embracing a Circular Economy

After reading EPA’s draft National Recycling Strategy, one may deduce that to fix our growing waste management issues, all we need to do is revitalize recycling in the United States. That is simply not the case. Though important, recycling is not a silver-bullet or sole solution to our nation’s growing waste management problems. It is critical that we also emphasize the need to “reuse” and “reduce.” The United States must establish a circular economy, one that keeps materials in a loop, minimizing the use of new material inputs and reducing waste production. A strategy focused only on recycling, without also addressing the need to reduce and reuse new material inputs, is a failed strategy.

Many businesses have stepped in to fill the void in federal leadership in addressing the United States’ waste management problems. For example, Marriott International promises to remove single-use plastics from most of its 7,000 hotels by the end of the year; Hyatt Hotels plans to do the same in 900 of its hotels. These are welcome commitments from Marriott and Hyatt, and should be a model for other responsible businesses. To be clear, though, a nationwide ban on all single-use materials is simply not an option. American society still relies heavily on single-use products for medical and other essential uses. And with so little material actually being recycled, finding ways to reduce plastic usage is critically important.

On September 26, 2018, the U.S. Senate Committee on Environment and Public Works (EPW), on which I serve as Ranking Member, held a hearing entitled, “Cleaning Up the Oceans: How to Reduce the Impact of Man-Made Trash on the Environment, Wildlife, and Human Health?” During that hearing, Dr. Kara Lavender Law testified that to reduce the flow of waste into our oceans and waterways, we must prevent the production of waste, especially plastic waste, in the first place.¹ Dr. Law also noted that there is not a one-size-fits-all approach to solving the burgeoning plastic crisis. Single-use products, specifically plastics, should be examined as a case

¹ <https://www.epw.senate.gov/public/index.cfm/hearings?ID=9DED4FB8-AFFC-490A-A80F-DE55626E3E5F>

study for why a one-size-fits-all approach will not solve the mismanagement of plastic waste. An estimated 40 percent of plastics are used only one time before they are discarded.² Single-use products are simply being utilized at levels far too great for recycling markets to accommodate, or for our environment to endure.

A staggering 80 percent of the plastic leaking into the ocean is never formally collected.³ The equivalent of one garbage truck full of plastic waste is dumped into the ocean each minute, impacting over 800 marine species.⁴ An estimated 90 percent of seabirds have consumed plastics, and humans—on average—ingest between 39,000 and 52,000 plastic particles, called, “microplastics,” annually.⁵ According to the Ocean Conservancy, marine debris could reduce economic benefits that humans derive from the oceans in the future by one to five percent, or about \$2.5 trillion.⁶

Barring a concerted effort to reconsider the costs and chart a different course, global plastic production is expected to double in the next ten years, and we can expect some 250 million tons of plastic to circulate in the ocean by 2025.⁷ The plastics crisis has garnered the interest of the national media, prompting investigations and exposés like the March 31, 2020 PBS Frontline episode entitled, “Plastic Wars.”⁸ Growing national pressure and attention on the production and management of plastics should be examined and reflected in EPA’s draft National Recycling Strategy and, yet, EPA’s draft National Recycling Strategy entirely ignores these critical issues.

Considering these implications, it is clear that EPA’s draft National Recycling Strategy must include greater emphasis on reduction and reuse and the broader tenants of a circular economy. The current draft National Recycling Strategy fails entirely to even acknowledge these options, much less support them.

Enhancing Markets for Recyclable Materials

Rather than focus on the overarching need to find and develop healthy and effective markets for recyclable materials, EPA’s draft National Recycling Strategy focuses almost exclusively on enhanced education and infrastructure investments. Indeed, the first two objectives of EPA’s draft National Recycling Strategy focus exclusively on these points. While those are important elements of a recycling strategy, they are woefully inadequate responses to a huge national and global problem. On June 17, 2020 the EPW Committee held a hearing entitled: “Responding to the Challenges Facing Recycling in the United States.” More Recycling’s Nina Butler testified before the EPW Committee that breaking away from the education and infrastructure narrative is critical. She said that,

“Citizens, or their lack of recycling education, are not the problem. Yes, continuous education and outreach to citizens regarding how to recycle, and what can and cannot be

² <https://oceanconservancy.org/wp-content/uploads/2019/10/Plastics-Policy-Playbook-10.17.19.pdf>

³ <https://oceanconservancy.org/wp-content/uploads/2019/10/Plastics-Policy-Playbook-10.17.19.pdf>

⁴ <https://oceanconservancy.org/wp-content/uploads/2019/10/Plastics-Policy-Playbook-10.17.19.pdf>

⁵ <https://oceanconservancy.org/wp-content/uploads/2019/10/Plastics-Policy-Playbook-10.17.19.pdf>

⁶ <https://oceanconservancy.org/wp-content/uploads/2019/10/Plastics-Policy-Playbook-10.17.19.pdf>

⁷ <https://oceanconservancy.org/wp-content/uploads/2019/10/Plastics-Policy-Playbook-10.17.19.pdf>

⁸ <https://www.pbs.org/wgbh/frontline/film/plastic-wars/>

recycled, should be a part of citizen education, but education alone will not be enough to solve our growing waste problem. Neither will one-time infusions of capital. Policies to reduce, reuse and recycle must be grounded on the basic principles of economics that guide our behavior.”⁹

And, as EPA’s draft National Recycling Strategy points out, investments in technology and more advanced infrastructure are needed. These efforts are worthless if markets for the materials that these facilities will eventually process do not exist. Even if we have the technology and infrastructure to recycle more materials, they will not be recycled if they are not profitable. Therefore, better markets are the critical ingredient to increasing recycling rates, not better infrastructure.

In order to truly revolutionize United States recycling systems in a way that creates jobs, grows the economy and protects the environment, EPA’s draft National Recycling Strategy must break from the false narrative that education and infrastructure alone can solve all of our problems. EPA must go further to highlight the importance of improving markets, especially domestically.

At the June EPW Committee hearing on recycling, in addition to receiving testimony from More Recycling, Senators also received testimony from the Consumer Brands Association and Closed Loop Partners.¹⁰ Each witness testified that enhancing domestic markets is the single most important means to increase recycling rates.

Again, this is especially apparent in the case of plastics. Low petroleum prices have decimated the market for recycled plastic products, which cannot compete financially with virgin plastic prices.¹¹ At the June EPW Committee hearing, Nina Butler with More Recycling testified that, in order to deal with plastics effectively, we must look at the production, use and fate of plastics holistically.¹² Ms. Butler also noted in her testimony that, “plastic recycling is a trickle compared to a tsunami of new plastic production.” We know that recycling is market-driven, so any approach to re-envisioning our national recycling strategy must first acknowledge that existing single-use plastics recycling markets are insufficient to effectively promote both recycling and an effective circular economy. As long as new and cheaper materials are available, recycled materials do not stand a chance. We must reevaluate the market for recycled materials and explore ways to build a circular economy to ensure a better domestic materials management system.

To its credit, EPA’s draft National Recycling Strategy does eventually get around to the necessity of addressing the most fundamental need of a national recycling strategy in its Objective 3: Improve Markets. Section 3.5 of that Objective states as a priority, “Increase

⁹ https://www.epw.senate.gov/public/index.cfm/hearings?Id=9243CF3C-41EA-4D1C-A4A4-E60CAA9F503B&Statement_id=130DEAA8-0DEA-4066-96C1-5485F21510B2

¹⁰ <https://www.epw.senate.gov/public/index.cfm/2020/6/responding-to-the-challenges-facing-recycling-in-the-united-states>

¹¹ <https://www.reuters.com/investigates/special-report/health-coronavirus-plastic-recycling/#:~:text=The%20reason%3A%20Nearly%20every%20piece,life%20as%20a%20fossil%20fuel.&text=New%20plastic%2C%20known%20to%20the,item%20%E2%80%93%20have%20become%20less%20viable>

¹² https://www.epw.senate.gov/public/index.cfm/hearings?Id=9243CF3C-41EA-4D1C-A4A4-E60CAA9F503B&Statement_id=130DEAA8-0DEA-4066-96C1-5485F21510B2

demand for recycled materials through policies, programs, initiatives, and incentives, focusing on materials with less mature markets.” While this section is arguably the most significant part of the EPA’s draft National Recycling strategy, it fails to adequately elaborate on specific actions that the recycling industry and producers should take to propel U.S. recycling forward. Instead, EPA must seize on effective strategies to kick start the recycling market. These measures could include: mandatory recycled content requirements; government procurement mandates; product stewardship requirements; and design-for-recycling guidelines.

Requiring Producer Responsibility

Society now bears the environmental and public health costs of waylaid material, and taxpayers bear the burden of recycling costs. Producers currently share no part of these costs or burdens, but they should. Producers must be accountable for the health, safety, environmental and societal impacts associated with and costs incurred over the lifecycle of their products. A growing coalition of consumer brands, NGOs, non-profit organizations, trade associations, and environmental groups all support policies that would establish producer responsibility for these impacts and costs.

EPA’s draft National Recycling Strategy fails to recognize, but should embrace, policies that would have product producers bear the costs associated with product recycling and disposal—costs now borne by taxpayers. Extended Producer Responsibility (EPR) holds producers, manufacturers, and other entities involved in the product chain responsible for the end-of-life management of products, rather than continuing to have the public bear that burden. When producers internalize the costs of managing the full lifecycle of their products, they are financially motivated to make decisions that are better for the environment.¹³ Those decisions might include improved packaging design, reduced material use, reduced toxicity in packaging, and improved recyclability. This approach also allows the costs of processing and disposal to be incorporated into the total cost of a product, creating incentives to develop and use materials that eliminate or significantly reduce costs.

Recycling trade associations, consumer brand companies, non-profit organizations, and NGOs suggest that EPR may be one of the key tools in our toolbox to ensure the recyclability of materials, like single-use plastics. Many of these same groups point out that an EPR system can only work at the national level, not the state or local level.

The Recycling Partnership’s Accelerator Recycling report released in September 2020 is evidence that some industry leaders are beginning to embrace product stewardship.¹⁴ The Recycling Partnership’s approach would shift some of the recycling cost burden onto industry by charging a packaging fee to brand companies to fund infrastructure and education investments. The American Chemistry Council, Nestle, Coca-Cola, and others support this approach.¹⁵

Extended producer responsibility laws for packaging, electronics, and other items are already being implemented in states across the country, as well as internationally. The Product

¹³ <https://www.productstewardship.us/page/epr-for-ppp-policies-practicies-performance>

¹⁴ <https://recyclingpartnership.org/accelerator-policy/>

¹⁵ <https://recyclingpartnership.org/accelerator-policy/>

Stewardship Institute has a map with EPR laws by state, which include EPR for products such as cell phones, batteries, mattresses, and more.¹⁶ These types of policies are critical to creating a circular economy.¹⁷

Furthermore, regarding EPR, the Organization for Economic Co-operation and Development has said that, “assigning such responsibility could in principle provide incentives to prevent wastes at the source, promote product design for the environment and support the achievement of public recycling and materials management goals.”¹⁸ In Canada, extended producer responsibility laws and other policies have helped the country achieve a 70 percent recycling rate. Alternatively, beverage container deposit laws, commonly referred to as bottle bills, run by industry have also shown to be successful. As a variation of an EPR theme, bottle bills place a refundable deposit on certain recyclable beverage containers to help reduce litter and capture material for recycling. Successful bottle deposit programs like the state of Oregon reported a 90 percent recovery rate from their bottle redemption program.

EPA’s draft National Recycling Strategy should incorporate product stewardship policies for plastics and other materials that are woefully mismanaged today. Of all plastic ever produced, only about nine percent has been recycled. That means over 90 percent of plastic is landfilled, incinerated or littered across the Earth, including in our oceans and waterways.¹⁹ Those statistics tell us that plastic producers should fund much-needed recycling infrastructure. Not only do producers have the financial means to support improved recycling, but they also play an outsized role in the waste problem by producing massive amounts of single-use products that end up as waste, not as recyclable material.

Conclusion

The United States recycling rate currently sits at about 35 percent. EPA recently announced a goal of reaching a 50 percent recycling rate by 2030. Though it marks an improvement over the status quo, we need to set more ambitious goals to spur market development and growth. The European Union (EU) set a recycling target of 50 percent for 2020 and 65 percent by 2035. EPA proposes a relatively paltry 50 percent target for the United States in 2030.²⁰ We should strive to meet the recycling rates of countries like Canada, which has a 70 percent recycling rate. We can achieve higher rates of recycling if we choose to implement policies that help us get there, like enhancing our domestic recycling markets by shifting financial burdens to producers and embracing a circular economy approach.

We know that each year, the United States produces 35.4 million tons of plastic.²¹ Of that amount, about 8.4 percent – three million tons – is recycled.²² 26.8 million tons of plastics are

¹⁶ https://www.productstewardship.us/page/State_EPR_Laws_Map

¹⁷ https://www.greenpeace.org/usa/wp-content/uploads/2020/02/GP_Circular-Claims-Fall-Flat-V2.pdf

¹⁸ <https://www.oecd.org/env/tools-evaluation/extendedproducerresponsibility.htm>

¹⁹ <https://www.nationalgeographic.org/article/whopping-91-percent-plastic-isnt-recycled/#:~:text=The%20new%20study%2C%20published%20Wednesday,nine%20percent%20has%20been%20recycled.>

²⁰ <https://www.eea.europa.eu/themes/waste/waste-management/the-case-for-increasing-recycling>

²¹ <https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/plastics-material-specific-data>

²² <https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/plastics-material-specific-data>

then disposed of in landfills each year.²³ Comparably, many countries in Europe are recycling plastics at rates of 35 to 40 percent.²⁴

During the COVID-19 pandemic, recycling was deemed critical infrastructure by the Department of Homeland Security²⁵ because recycling is essential to our economy. According to EPA's statistics, the recycling industry constitutes approximately 757,000 jobs, \$36.6 billion in wages, and \$6.7 billion in tax revenues in the United States.²⁶ In other words, two jobs are created for every 1,000 tons of material that is recycled.²⁷ The more we recycle, the more jobs we can create. We need a national recycling strategy that honors that reality and seizes the huge promise an effective recycling system represents.

Recycling is one of the most important and tangible ways that every American can contribute to a more sustainable world. That's why Americans across the country want to see recycling work for our economy and the environment. Sadly, by ignoring the facts and failing to capture broader aspirations, EPA's proposed draft National Recycling Strategy fails to provide Americans that opportunity.

I encourage EPA to develop a strategy that incorporates this feedback and carefully considers all the public comment it has received on this draft National Recycling Strategy. An honest assessment of our current state of affairs should be ample incentive to produce a National Strategy that fundamentally transforms our nation's recycling system. That effort will surely take substantial time—and will certainly require further shepherding by the incoming Administration.

Should you or your staff have any questions relating to this letter, I would invite the members of your staff to contact Avery Mulligan of my Senate Environment and Public Works Committee staff at avery_mulligan@epw.senate.gov.

With best personal regards, I am,

Sincerely yours,



Thomas R. Carper
Ranking Member

²³ <https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/plastics-material-specific-data>

²⁴ <https://www.npr.org/2019/08/20/750864036/u-s-recycling-industry-is-struggling-to-figure-out-a-future-without-china>

²⁵ <https://www.cisa.gov/sites/default/files/publications/CISA-Guidance-on-Essential-Critical-Infrastructure-Workers-1-20-508c.pdf>

²⁶ <https://www.epa.gov/smm/recycling-economic-information-rei-report>

²⁷ <https://www.epa.gov/smm/recycling-economic-information-rei-report>