

117TH CONGRESS
2D SESSION

S. 3743

AN ACT

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Recycling and
3 Composting Accountability Act”.

4 **SEC. 2. DEFINITIONS.**

5 (a) IN GENERAL.—In this Act:

6 (1) ADMINISTRATOR.—The term “Adminis-
7 trator” means the Administrator of the Environ-
8 mental Protection Agency.

9 (2) CIRCULAR MARKET.—The term “circular
10 market” means a market that utilizes industrial
11 processes and economic activities to enable post-in-
12 dustrial and post-consumer materials used in those
13 processes and activities to maintain their highest
14 values for as long as possible.

15 (3) COMPOST.—The term “compost” means a
16 product that—

17 (A) is manufactured through the controlled
18 aerobic, biological decomposition of biodegrad-
19 able materials;

20 (B) has been subjected to medium and
21 high temperature organisms, which—

22 (i) significantly reduce the viability of
23 pathogens and weed seeds; and

24 (ii) stabilize carbon in the product
25 such that the product is beneficial to plant
26 growth; and

1 (C) is typically used as a soil amendment,
 2 but may also contribute plant nutrients.

3 (4) COMPOSTABLE MATERIAL.—The term
 4 “compostable material” means material that is a
 5 feedstock for creating compost, including—

6 (A) wood;

7 (B) agricultural crops;

8 (C) paper;

9 (D) certified compostable products associ-
 10 ated with organic waste;

11 (E) other organic plant material;

12 (F) marine products;

13 (G) organic waste, including food waste
 14 and yard waste; and

15 (H) such other material that is composed
 16 of biomass that can be continually replenished
 17 or renewed, as determined by the Adminis-
 18 trator.

19 (5) COMPOSTING FACILITY.—The term
 20 “composting facility” means a location, structure, or
 21 device that transforms compostable materials into
 22 compost.

23 (6) INDIAN TRIBE.—The term “Indian Tribe”
 24 has the meaning given the term in section 4 of the

1 Indian Self-Determination and Education Assistance
2 Act (25 U.S.C. 5304).

3 (7) MATERIALS RECOVERY FACILITY.—

4 (A) IN GENERAL.—The term “materials
5 recovery facility” means a dedicated facility
6 where primarily residential recyclable materials,
7 which are diverted from disposal by the gener-
8 ator and collected separately from municipal
9 solid waste, are mechanically or manually sort-
10 ed into commodities for further processing into
11 specification-grade commodities for sale to end
12 users.

13 (B) EXCLUSION.—The term “materials re-
14 covery facility” does not include a solid waste
15 management facility that may process munic-
16 ipal solid waste to remove recyclable materials.

17 (8) RECYCLABLE MATERIAL.—The term “recy-
18 clable material” means a material that is obsolete,
19 previously used, off-specification, surplus, or inciden-
20 tally produced for processing into a specification-
21 grade commodity for which a circular market cur-
22 rently exists or is being developed.

23 (9) RECYCLING.—The term “recycling” means
24 the series of activities—

1 (A) during which recyclable materials are
2 processed into specification-grade commodities,
3 and consumed as raw-material feedstock, in lieu
4 of virgin materials, in the manufacturing of new
5 products;

6 (B) that may include sorting, collection,
7 processing, and brokering; and

8 (C) that result in subsequent consumption
9 by a materials manufacturer, including for the
10 manufacturing of new products.

11 (10) STATE.—The term “State” has the mean-
12 ing given the term in section 1004 of the Solid
13 Waste Disposal Act (42 U.S.C. 6903).

14 (b) DEFINITION OF PROCESSING.—In paragraphs
15 (7), (8), and (9) of subsection (a), the term “processing”
16 means any mechanical, manual, or other method that—

17 (1) transforms a recyclable material into a spec-
18 ification-grade commodity; and

19 (2) may occur in multiple steps, with different
20 steps, including sorting, occurring at different loca-
21 tions.

22 **SEC. 3. SENSE OF CONGRESS.**

23 It is the sense of Congress that—

1 (1) recycling and composting conserve re-
2 sources, protect the environment, and are important
3 to the United States economy;

4 (2) the United States recycling and composting
5 infrastructure encompass each of the entities that
6 collect, process, broker, and consume recyclable ma-
7 terials and compostable materials sourced from com-
8 mercial, industrial, institutional, and residential
9 sources;

10 (3) the residential segment of the United States
11 recycling and composting infrastructure is facing
12 challenges from—

13 (A) confusion over what materials are recy-
14 clable materials or compostable materials;

15 (B) reduced export markets;

16 (C) growing, but still limited, domestic end
17 markets; and

18 (D) an ever-changing and heterogeneous
19 supply stream;

20 (4) in some areas, recycling and composting in-
21 frastructure is in need of revitalization; and

22 (5) in an effort to address those challenges, the
23 United States must use a combination of tactics to
24 improve recycling and composting in the United
25 States.

1 **SEC. 4. REPORT ON COMPOSTING INFRASTRUCTURE CAPA-**
2 **BILITIES.**

3 The Administrator, in consultation with States, units
4 of local government, and Indian Tribes, shall—

5 (1) prepare a report describing the capability of
6 the United States to implement a national
7 composting strategy for compostable materials for
8 the purposes of reducing contamination rates for re-
9 cycling, including—

10 (A) an evaluation of existing Federal,
11 State, and local laws that may present barriers
12 to implementation of a national composting
13 strategy;

14 (B)(i) an evaluation of existing composting
15 programs of States, units of local government,
16 and Indian Tribes; and

17 (ii) a description of best practices based on
18 those programs;

19 (C) an evaluation of existing composting
20 infrastructure in States, units of local govern-
21 ment, and Indian Tribes for the purposes of es-
22 timating cost and approximate land needed to
23 expand composting programs; and

24 (D) a study of the practices of manufac-
25 turers and companies that are moving to using
26 compostable packaging and food service ware

1 for the purpose of making the composting proc-
2 ess the end-of-life use of those products; and

3 (2) not later than 1 year after the date of en-
4 actment of this Act, submit the report prepared
5 under paragraph (1) to Congress.

6 **SEC. 5. REPORT ON FEDERAL AGENCY RECYCLING PRAC-**
7 **TICES.**

8 Not later than 1 year after the date of enactment
9 of this Act, and annually thereafter, the Comptroller Gen-
10 eral of the United States, in consultation with the Admin-
11 istrator, shall make publicly available a report describ-
12 ing—

13 (1) the total annual recycling and composting
14 rates reported by all Federal agencies;

15 (2) the total annual percentage of products con-
16 taining recyclable material, compostable material, or
17 recovered materials purchased by all Federal agen-
18 cies, including—

19 (A) the total quantity of procured products
20 containing recyclable material or recovered ma-
21 terials listed in the comprehensive procurement
22 guidelines published under section 6002(e) of
23 the Solid Waste Disposal Act (42 U.S.C.
24 6962(e)); and

1 (B) the total quantity of compostable ma-
 2 terial purchased;

3 (3) recommendations for updating—

4 (A) the comprehensive procurement guide-
 5 lines published under section 6002(e) of the
 6 Solid Waste Disposal Act (42 U.S.C. 6962(e));
 7 and

8 (B) the environmentally preferable pur-
 9 chasing program established under section
 10 6604(b)(11) of the Pollution Prevention Act of
 11 1990 (42 U.S.C. 13103(b)(11)); and

12 (4) the activities of each Federal agency that
 13 promote recycling or composting.

14 **SEC. 6. IMPROVING DATA AND REPORTING.**

15 (a) INVENTORY OF MATERIALS RECOVERY FACILI-
 16 TIES.—Not later than 1 year after the date of enactment
 17 of this Act, and biannually thereafter, the Administrator,
 18 in consultation with States, units of local government, and
 19 Indian Tribes, shall—

20 (1) prepare an inventory of public and private
 21 materials recovery facilities in the United States, in-
 22 cluding—

23 (A) the number of materials recovery fa-
 24 cilities in each unit of local government in each
 25 State; and

1 (B) a description of the materials that
2 each materials recovery facility can process, in-
3 cluding—

4 (i) in the case of plastic, a description
5 of—

6 (I) the types of accepted resin, if
7 applicable; and

8 (II) the packaging or product
9 format, such as a jug, a carton, or
10 film;

11 (ii) food packaging and service ware,
12 such as a bottle, cutlery, or a cup;

13 (iii) paper;

14 (iv) aluminum, such as an aluminum
15 beverage can, food can, aerosol can, or foil;

16 (v) steel, such as a steel food or aer-
17 osol can;

18 (vi) other scrap metal;

19 (vii) glass; or

20 (viii) any other material not described
21 in any of clauses (i) through (vii) that a
22 materials recovery facility can process; and

23 (2) submit the inventory prepared under para-
24 graph (1) to Congress.

1 (b) ESTABLISHMENT OF A COMPREHENSIVE BASE-
 2 LINE OF DATA FOR THE UNITED STATES RECYCLING
 3 SYSTEM.—The Administrator, in consultation with States,
 4 units of local government, and Indian Tribes, shall deter-
 5 mine, with respect to the United States—

6 (1) the number of community curbside recycling
 7 and composting programs;

8 (2) the number of community drop-off recycling
 9 and composting programs;

10 (3) the types and forms of materials accepted
 11 by each community curbside recycling, drop-off recy-
 12 cling, or composting program;

13 (4) the number of individuals with access to re-
 14 cycling and composting services to at least the ex-
 15 tent of access to disposal services;

16 (5) the number of individuals with barriers to
 17 accessing recycling and composting services to at
 18 least the extent of access to disposal services;

19 (6) the inbound contamination and capture
 20 rates of community curbside recycling, drop-off recy-
 21 cling, or composting programs;

22 (7) where applicable, other available recycling
 23 or composting programs within a community, includ-
 24 ing store drop-offs; and

1 (8) the average cost to States, units of local
 2 government, and Indian Tribes of recycling and
 3 composting programs.

4 (c) STANDARDIZATION OF RECYCLING REPORTING
 5 RATES.—

6 (1) COLLECTION OF RATES.—

7 (A) IN GENERAL.—The Administrator may
 8 use amounts made available under section 9 to
 9 biannually collect from each State the nation-
 10 ally standardized rate of recyclable materials in
 11 that State that have been successfully diverted
 12 from the waste stream and brought to a mate-
 13 rials recovery facility or composting facility.

14 (B) CONFIDENTIAL OR PROPRIETARY
 15 BUSINESS INFORMATION.—Information col-
 16 lected under subparagraph (A) shall not include
 17 any confidential or proprietary business infor-
 18 mation, as determined by the Administrator.

19 (2) USE.—Using amounts made available under
 20 section 9, the Administrator may use the rates col-
 21 lected under paragraph (1) to further assist States,
 22 units of local government, and Indian Tribes—

23 (A) to reduce the overall waste produced
 24 by the States and units of local government;
 25 and

1 (B) to increase recycling and composting
 2 rates.

3 (d) REPORT ON END MARKETS.—

4 (1) IN GENERAL.—The Administrator, in con-
 5 sultation with States, units of local government, and
 6 Indian Tribes, shall—

7 (A) provide an update to the report sub-
 8 mitted under section 306 of the Save Our Seas
 9 2.0 Act (Public Law 116–224; 134 Stat. 1096)
 10 to include an addendum on the end-market sale
 11 of all recyclable materials, in addition to recy-
 12 cled plastics as described in that section, from
 13 materials recovery facilities that process recy-
 14 clable materials collected from households and
 15 publicly available recyclable materials drop-off
 16 centers, including—

17 (i) the total, in dollars per ton, domes-
 18 tic sales of bales of recyclable materials;
 19 and

20 (ii) the total, in dollars per ton, inter-
 21 national sales of bales of recyclable mate-
 22 rials;

23 (B) prepare a report on the end-market
 24 sale of compost from all compostable materials
 25 collected from households and publicly available

1 compost drop-off centers, including the total, in
 2 dollars per ton, of domestic sales of
 3 compostable materials; and

4 (C) not later than 1 year after the date of
 5 enactment of this Act, submit to Congress the
 6 update to the report prepared under subpara-
 7 graph (A) and the report prepared under sub-
 8 paragraph (B).

9 (2) CONFIDENTIAL OR PROPRIETARY BUSINESS
 10 INFORMATION.—Information collected under sub-
 11 paragraphs (A) and (B) of paragraph (1) shall not
 12 include any confidential or proprietary business in-
 13 formation, as determined by the Administrator.

14 **SEC. 7. STUDY ON THE DIVERSION OF RECYCLABLE MATE-**
 15 **RIALS FROM A CIRCULAR MARKET.**

16 (a) IN GENERAL.—Not later than 1 year after the
 17 date of enactment of this Act, the Administrator shall de-
 18 velop a metric for determining the proportion of recyclable
 19 materials in commercial and municipal waste streams that
 20 are being diverted from a circular market.

21 (b) STUDY; REPORT.—Not later than 1 year after the
 22 development of a metric under subsection (a), the Admin-
 23 istrator shall conduct a study of, and submit to Congress
 24 a report on, the proportion of recyclable materials in com-
 25 mercial and municipal waste streams that, during each of

1 the 10 calendar years preceding the year of submission
2 of the report, were diverted from a circular market.

3 (c) DATA.—The report under subsection (b) shall
4 provide data on specific recyclable materials, including
5 aluminum, plastics, paper and paperboard, textiles, and
6 glass, that were prevented from remaining in a circular
7 market through disposal or elimination, and to what use
8 those specific recyclable materials were lost.

9 (d) EVALUATION.—The report under subsection (b)
10 shall include an evaluation of whether the establishment
11 or improvement of recycling programs would—

12 (1) improve recycling rates; or

13 (2) reduce the quantity of recyclable materials
14 being unutilized in a circular market.

15 **SEC. 8. VOLUNTARY GUIDELINES.**

16 The Administrator shall—

17 (1) in consultation with States, units of local
18 government, and Indian Tribes, develop, based on
19 the results of the studies, reports, inventory, and
20 data determined under sections 4 through 7, and
21 provide to States, units of local government, and In-
22 dian Tribes best practices that the States, units of
23 local government, and Indian Tribes may use to en-
24 hance recycling and composting, including—

1 (A) labeling techniques for containers of
2 waste, compostable materials, and recycling,
3 with the goal of creating consistent, readily
4 available, and understandable labeling across
5 jurisdictions;

6 (B) pamphlets or other literature readily
7 available to constituents;

8 (C) primary and secondary school edu-
9 cational resources on recycling;

10 (D) web and media-based campaigns; and

11 (E) guidance for the labeling of recyclable
12 materials and compostable materials that mini-
13 mizes contamination and diversion of those ma-
14 terials from waste streams toward recycling and
15 composting systems; and

16 (2) not later than 2 years after the date of en-
17 actment of this Act, submit to Congress a report de-
18 scribing the best practices developed under para-
19 graph (1).

1 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to the Ad-
3 ministrator such sums as are necessary to carry out this
4 Act for each fiscal year.

Passed the Senate July 28, 2022.

Attest:

Secretary.

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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.