

118TH CONGRESS
1ST SESSION

H. R. 4040

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.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2023

Mr. NEGUSE (for himself, Mr. BURCHETT, and Mr. FOSTER) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Recycling and
5 Composting Accountability Act”.

6 **SEC. 2. DEFINITIONS.**

7 (a) IN GENERAL.—In this Act:

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

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

10 (3) COMPOST.—The term “compost” means a
11 product that—

12 (A) is manufactured through the controlled
13 aerobic, biological decomposition of biodegrad-
14 able materials;

15 (B) has been subjected to medium and
16 high temperature organisms, which—

17 (i) significantly reduce the viability of
18 pathogens and weed seeds; and

19 (ii) stabilize carbon in the product
20 such that the product is beneficial to plant
21 growth; and

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

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

4 (A) wood;

5 (B) agricultural crops;

6 (C) paper;

7 (D) certified compostable products associ-
8 ated with organic waste;

9 (E) other organic plant material;

10 (F) marine products;

11 (G) organic waste, including food waste
12 and yard waste; and

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

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

21 (6) INDIAN TRIBE.—The term “Indian Tribe”
22 has the meaning given the term in section 4 of the
23 Indian Self-Determination and Education Assistance
24 Act (25 U.S.C. 5304).

25 (7) MATERIALS RECOVERY FACILITY.—

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

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

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

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

22 (A) during which recyclable materials are
23 processed into specification-grade commodities,
24 and consumed as raw-material feedstock, in lieu

1 of virgin materials, in the manufacturing of new
2 products;

3 (B) that may include sorting, collection,
4 processing, and brokering; and

5 (C) that result in subsequent consumption
6 by a materials manufacturer, including for the
7 manufacturing of new products.

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

11 (b) DEFINITION OF PROCESSING.—In paragraphs
12 (7), (8), and (9) of subsection (a), the term “processing”
13 means any mechanical, manual, or other method that—

14 (1) transforms a recyclable material into a spec-
15 ification-grade commodity; and

16 (2) may occur in multiple steps, with different
17 steps, including sorting, occurring at different loca-
18 tions.

19 **SEC. 3. SENSE OF CONGRESS.**

20 It is the sense of Congress that—

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

24 (2) the United States recycling and composting
25 infrastructure encompass each of the entities that

1 collect, process, broker, and consume recyclable ma-
2 terials and compostable materials sourced from com-
3 mercial, industrial, institutional, and residential
4 sources;

5 (3) the residential segment of the United States
6 recycling and composting infrastructure is facing
7 challenges from—

8 (A) confusion over what materials are recy-
9 clable materials or compostable materials;

10 (B) reduced export markets;

11 (C) growing, but still limited, domestic end
12 markets; and

13 (D) an ever-changing and heterogeneous
14 supply stream;

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

17 (5) in an effort to address those challenges, the
18 United States must use a combination of tactics to
19 improve recycling and composting in the United
20 States.

21 **SEC. 4. REPORT ON COMPOSTING INFRASTRUCTURE CAPA-**
22 **BILITIES.**

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

1 (1) prepare a report, or expand work under the
2 National Recycling Strategy to include data, describ-
3 ing the capability of the United States to implement
4 a national composting strategy for compostable ma-
5 terials for the purposes of reducing contamination
6 rates for recycling, including—

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

11 (B)(i) an evaluation of existing composting
12 programs of States, units of local government,
13 and Indian Tribes; and

14 (ii) a description of best practices based on
15 those programs;

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

21 (D) a study of the practices of manufac-
22 turers and companies that are moving to using
23 compostable packaging and food service ware
24 for the purpose of making the composting proc-
25 ess the end-of-life use of those products; and

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

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

6 Not later than 2 years after the date of enactment
7 of this Act, and every 2 years thereafter until 2033, the
8 Comptroller General of the United States, in consultation
9 with the Administrator, shall make publicly available a re-
10 port describing—

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

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

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

23 (B) the total quantity of compostable ma-
24 terial purchased;

25 (3) recommendations for updating—

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

5 (B) the environmentally preferable pur-
6 chasing program established under section
7 6604(b)(11) of the Pollution Prevention Act of
8 1990 (42 U.S.C. 13103(b)(11)); and

9 (4) the activities of each Federal agency that
10 promote recycling or composting.

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

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

17 (1) prepare an inventory of public and private
18 materials recovery facilities in the United States, in-
19 cluding—

20 (A) the number of materials recovery fa-
21 cilities in each unit of local government in each
22 State; and

23 (B) a description of the materials that
24 each materials recovery facility can process, in-
25 cluding—

1 (i) in the case of plastic, a description
2 of—

3 (I) the types of accepted resin, if
4 applicable; and

5 (II) the packaging or product
6 format, such as a jug, a carton, or
7 film;

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

10 (iii) paper;

11 (iv) aluminum, such as an aluminum
12 beverage can, food can, aerosol can, or foil;

13 (v) steel, such as a steel food or aer-
14 osol can;

15 (vi) other scrap metal;

16 (vii) glass; or

17 (viii) any other material not described
18 in any of clauses (i) through (vii) that a
19 materials recovery facility can process; and

20 (2) submit the inventory prepared under para-
21 graph (1) to Congress.

22 (b) ESTABLISHMENT OF A COMPREHENSIVE BASE-
23 LINE OF DATA FOR THE UNITED STATES RECYCLING
24 SYSTEM.—The Administrator, in consultation with States,

1 units of local government, and Indian Tribes, shall deter-
2 mine, with respect to the United States—

3 (1) the number of community curbside recycling
4 and composting programs;

5 (2) the number of community drop-off recycling
6 and composting programs;

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

10 (4) the number of individuals with access to re-
11 cycling and composting services to at least the ex-
12 tent of access to disposal services;

13 (5) the number of individuals with barriers to
14 accessing recycling and composting services to at
15 least the extent of access to disposal services;

16 (6) the inbound contamination and capture
17 rates of community curbside recycling, drop-off recy-
18 cling, or composting programs;

19 (7) where applicable, other available recycling
20 or composting programs within a community, includ-
21 ing store drop-offs; and

22 (8) the average costs and benefits to States,
23 units of local government, and Indian Tribes of recy-
24 cling and composting programs.

1 (c) STANDARDIZATION OF RECYCLING REPORTING
2 RATES.—

3 (1) COLLECTION OF RATES.—

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

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

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

20 (A) to reduce the overall waste produced
21 by the States and units of local government;
22 and

23 (B) to increase recycling and composting
24 rates.

25 (d) REPORT ON END MARKETS.—

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

4 (A) provide an update to the report sub-
5 mitted under section 306 of the Save Our Seas
6 2.0 Act (Public Law 116–224; 134 Stat. 1096)
7 to include an addendum on the end-market sale
8 of all recyclable materials, in addition to recy-
9 cled plastics as described in that section, from
10 materials recovery facilities that process recy-
11 clable materials collected from households and
12 publicly available recyclable materials drop-off
13 centers, including—

14 (i) the total, in dollars per ton, domes-
15 tic sales of bales of recyclable materials;
16 and

17 (ii) the total, in dollars per ton, inter-
18 national sales of bales of recyclable mate-
19 rials;

20 (B) prepare a report on the end-market
21 sale of compost from all compostable materials
22 collected from households and publicly available
23 compost drop-off centers, including the total, in
24 dollars per ton, of domestic sales of
25 compostable materials; and

1 (C) not later than 2 years after the date
2 of enactment of this Act, submit to Congress
3 the update to the report prepared under sub-
4 paragraph (A) and the report prepared under
5 subparagraph (B).

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

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

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

18 (b) STUDY; REPORT.—Not later than 1 year after the
19 development of a metric under subsection (a), the Admin-
20 istrator shall conduct a study of, and submit to Congress
21 a report on, the proportion of recyclable materials in com-
22 mercial and municipal waste streams that, during each of
23 the 10 calendar years preceding the year of submission
24 of the report, were diverted from a circular market.

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

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

10 (1) improve recycling rates; or

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

13 **SEC. 8. VOLUNTARY GUIDELINES.**

14 The Administrator shall—

15 (1) in consultation with States, units of local
16 government, and Indian Tribes, develop, based on
17 the results of the studies, reports, inventory, and
18 data determined under sections 4 through 7, and
19 provide to States, units of local government, and In-
20 dian Tribes, through the Model Recycling Program
21 Toolkit or a similar resource, best practices that the
22 States, units of local government, and Indian Tribes
23 may use to enhance recycling and composting, in-
24 cluding—

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).

20 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

21 There is authorized to be appropriated \$10,000,000
22 to carry out this Act, to remain available until expended.

○