

117TH CONGRESS
2D SESSION

S. 3743

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 SENATE OF THE UNITED STATES

MARCH 3, 2022

Mr. CARPER (for himself, Mr. BOOZMAN, and Mrs. CAPITO) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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 recycling
3 facility where primarily residential recyclables,
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 conserves resources, protects the
22 environment, and is important to the United States
23 economy;

24 (2) the United States recycling infrastructure
25 encompasses each of the entities that collect, proc-

1 ess, broker, and consume recyclable materials
2 sourced from commercial, industrial, and residential
3 sources;

4 (3) the residential segment of the United States
5 recycling infrastructure is facing challenges from—

6 (A) confusion over what materials are recy-
7 clable materials;

8 (B) reduced export markets;

9 (C) growing, but still limited, domestic end
10 markets;

11 (D) an ever-changing and heterogeneous
12 supply stream; and

13 (E) in some areas, a recycling infrastruc-
14 ture in need of revitalization; and

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

19 **SEC. 4. REPORT ON COMPOSTING INFRASTRUCTURE CAPA-**
20 **BILITIES.**

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

23 (1) prepare a report describing the capability of
24 the United States to implement a national residen-
25 tial composting strategy for compostable materials

1 for the purposes of reducing contamination rates for
2 residential recycling, including—

3 (A) an evaluation of existing Federal,
4 State, and local laws that may present barriers
5 to implementation of a national residential
6 composting strategy;

7 (B)(i) an evaluation of existing composting
8 programs of States, units of local government,
9 and Indian Tribes; and

10 (ii) a description of best practices based on
11 those programs;

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

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

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

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

3 Not later than 1 year after the date of enactment
4 of this Act, and annually thereafter, the Comptroller Gen-
5 eral of the United States, in consultation with the Admin-
6 istrator, shall make publicly available a report describ-
7 ing—

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

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

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

20 (B) the total quantity of compostable ma-
21 terial purchased;

22 (3) recommendations for updating—

23 (A) the comprehensive procurement guide-
24 lines published under section 6002(e) of the
25 Solid Waste Disposal Act (42 U.S.C. 6962(e));
26 and

1 (B) the environmentally preferable pur-
2 chasing program established under section
3 6604(b)(11) of the Pollution Prevention Act of
4 1990 (42 U.S.C. 13103(b)(11)); and
5 (4) the activities of each Federal agency that
6 promote recycling or composting.

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

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

13 (1) prepare an inventory of public and private
14 materials recovery facilities in the United States, in-
15 cluding—

16 (A) the number of materials recovery fa-
17 cilities in each unit of local government in each
18 State; and

19 (B) a description of the materials that
20 each materials recovery facility can process, in-
21 cluding—

22 (i) in the case of plastic, a description
23 of—

24 (I) the types of accepted resin, if
25 applicable; and

- 1 (II) the container type, such as a
2 jug, a carton, or film;
3 (ii) food packaging and service ware,
4 such as a bottle, cutlery, or a cup;
5 (iii) paper;
6 (iv) aluminum, such as an aluminum
7 beverage can, food can, aerosol can, or foil;
8 (v) steel, such as a steel food or aer-
9 osol can;
10 (vi) other scrap metal;
11 (vii) glass; or
12 (viii) any other material not described
13 in any of clauses (i) through (vii) that a
14 materials recovery facility can process; and

15 (2) submit the inventory prepared under para-
16 graph (1) to Congress.

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

22 (1) the number of community curbside recycling
23 and composting programs;

24 (2) the number of community drop-off recycling
25 and composting programs;

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

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

7 (5) the number of individuals with barriers to
8 accessing recycling and composting services to at
9 least the extent of access to disposal services;

10 (6) the inbound contamination and capture
11 rates of community curbside recycling, drop-off recy-
12 cling, or composting programs; and

13 (7) where applicable, other available recycling
14 or composting programs within a community, includ-
15 ing store drop-offs.

16 (c) STANDARDIZATION OF RECYCLING REPORTING
17 RATES.—

18 (1) COLLECTION OF RATES.—

19 (A) IN GENERAL.—The Administrator may
20 use amounts made available under section 9 to
21 biannually collect from each State the nation-
22 ally standardized rate of recyclable materials in
23 that State that have been successfully diverted
24 from the waste stream and brought to a mate-
25 rials recovery facility or composting facility.

1 (B) CONFIDENTIAL OR PROPRIETARY
2 BUSINESS INFORMATION.—Information col-
3 lected under subparagraph (A) shall not include
4 any confidential or proprietary business infor-
5 mation, as determined by the Administrator.

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

10 (A) to reduce the overall waste produced
11 by the States and units of local government;
12 and

13 (B) to increase recycling and composting
14 rates.

15 (d) REPORT ON END MARKETS.—

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

19 (A) provide an update to the report sub-
20 mitted under section 306 of the Save Our Seas
21 2.0 Act (Public Law 116–224; 134 Stat. 1096)
22 to include an addendum on the end-market sale
23 of all recyclable materials, in addition to recy-
24 cled plastics as described in that section, from
25 materials recovery facilities that process recy-

1 elable materials collected from households and
2 publicly available recyclable materials drop-off
3 centers, including—

4 (i) the total, in dollars per ton, domes-
5 tic sales of bales of recyclable materials;
6 and

7 (ii) the total, in dollars per ton, inter-
8 national sales of bales of recyclable mate-
9 rials;

10 (B) prepare a report on the end-market
11 sale of compost from all compostable materials
12 collected from households and publicly available
13 compost drop-off centers, including the total, in
14 dollars per ton, of domestic sales of
15 compostable materials; and

16 (C) not later than 1 year after the date of
17 enactment of this Act, submit to Congress the
18 update to the report prepared under subpara-
19 graph (A) and the report prepared under sub-
20 paragraph (B).

21 (2) CONFIDENTIAL OR PROPRIETARY BUSINESS
22 INFORMATION.—Information collected under sub-
23 paragraphs (A) and (B) of paragraph (1) shall not
24 include any confidential or proprietary business in-
25 formation, as determined by the Administrator.

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

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

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

15 (c) DATA.—The report under subsection (b) shall
16 provide data on specific recyclable materials, including
17 aluminum, plastics, paper and paperboard, textiles, and
18 glass, that were prevented from remaining in a circular
19 market through disposal or elimination, and to what use
20 those specific recyclable materials were lost.

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

24 (1) improve recycling rates; or

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

1 **SEC. 8. VOLUNTARY GUIDELINES.**

2 The Administrator shall—

3 (1) in consultation with States, units of local
4 government, and Indian Tribes, develop, based on
5 the results of the studies, reports, inventory, and
6 data determined under sections 4 through 7, and
7 provide to States, units of local government, and In-
8 dian Tribes best practices that the States, units of
9 local government, and Indian Tribes may use to en-
10 hance recycling and composting, including—

11 (A) labeling techniques for containers of
12 waste, compost, and recycling, with the goal of
13 creating consistent, readily available, and un-
14 derstandable labeling across jurisdictions;

15 (B) pamphlets or other literature readily
16 available to constituents;

17 (C) primary and secondary school edu-
18 cational resources on recycling;

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

20 (E) guidance for the labeling of recyclable
21 materials and compostable materials that mini-
22 mizes contamination and diversion of those ma-
23 terials from waste streams toward recycling and
24 composting systems; and

25 (2) not later than 2 years after the date of en-
26 actment of this Act, submit to Congress a report de-

1 scribing the best practices developed under para-
2 graph (1).

3 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

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

○