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1ST SESSION

H. R. 1809

To amend the Solid Waste Disposal Act to require producers and importers of newsprint to recycle a certain percentage of newsprint each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management and tracking system for such newsprint, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 1993

Mr. TORRES introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Solid Waste Disposal Act to require producers and importers of newsprint to recycle a certain percentage of newsprint each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management and tracking system for such newsprint, 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 “Newsprint Recycling
5 Incentives Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) Of the total United States waste-stream of
4 145 million metric tons per year, paper and related
5 products compose 64 million metric tons, or 40 per-
6 cent of the total.

7 (2) Ninety percent of old newspaper waste in
8 the United States is not recycled and ends up in the
9 waste-stream.

10 (3) State and local newspaper recycling pro-
11 grams have helped create a growing surplus of old
12 newspaper waste and have helped to bring about a
13 collapse of the market for recycled newsprint.

14 (4) The current glut of old newspaper waste
15 has caused the market for old newspaper waste to
16 decline from a price of \$30 per ton to a cost or loss
17 of \$10 per ton.

18 (5) The price of new newsprint does not reflect
19 the increasing cost to communities of disposal and
20 landfilling of old newspaper waste. Such cost cur-
21 rently is between \$20 and \$60 per ton, on average.

22 (6) The cost of recycling old newspaper waste
23 is substantially less than the cost of disposal.

24 (7) The demand for old newspaper waste needs
25 to be increased to provide both an outlet for the rap-
26 idly increasing glut of old newspaper waste and sta-

1 ble markets for recyclers to invest in de-inking facili-
2 ties.

3 (8) A minimum recycling requirement can be
4 used to create a market which accurately reflects the
5 societal costs of old newspaper waste.

6 (9) The creation of an efficient market for recy-
7 cled newsprint requires that the cost of disposal be
8 included in the cost of unrecycled products.

9 (10) The Administrator of the Environmental
10 Protection Agency requires additional statutory au-
11 thority to increase recycling of old newspaper waste
12 and to stimulate demand.

13 **SEC. 3. REQUIREMENTS TO RECYCLE NEWSPRINT.**

14 (a) IN GENERAL.—Subtitle D of the Solid Waste Dis-
15 posal Act (42 U.S.C. 6941 et seq.) is amended by adding
16 at the end thereof the following:

17 **“SEC. 4011. NEWSPRINT RECYCLING REQUIREMENTS.**

18 “(a) GENERAL REQUIREMENT.—(1) Beginning not
19 later than 18 months after the date of the enactment of
20 the Newsprint Recycling Incentives Act, a producer or im-
21 porter of newsprint each year shall recycle, using a method
22 described in paragraph (2), an amount of newsprint equal
23 to at least that amount of newsprint determined by—

24 “(A) multiplying the newsprint produced or im-
25 ported that year by such person, by

1 “(B) the recycling percentage established by the
2 Administrator under subsection (b).

3 “(2) A producer or importer of newsprint may comply
4 with this subsection—

5 “(A) by recycling, through de-inking, newsprint
6 for purposes of producing recycled newsprint;

7 “(B) by purchasing recycled newsprint for pur-
8 poses of combining with shipments of virgin news-
9 print; or

10 “(C) by purchasing recycling credits under the
11 recycling credit system established pursuant to sub-
12 section (c).

13 “(b) RECYCLING PERCENTAGE.—The Administrator
14 each year shall establish a recycling percentage for use
15 under subsection (a). The percentage applicable during
16 the first year that the requirement established by sub-
17 section (a) is in effect shall be not less than 20 percent.
18 For each of the ten years thereafter, the recycling percent-
19 age shall be an additional 2 percentage points higher than
20 the percentage of the previous year.

21 “(c) CREDIT SYSTEM FOR RECYCLING NEWS-
22 PRINT.—(1) Not later than 18 months after the date of
23 the enactment of the Newsprint Recycling Incentives Act,
24 the Administrator shall promulgate regulations to estab-
25 lish a system under which (A) producers or importers of

1 recycled newsprint may create credits for used newsprint
2 recycling, and (B) producers or importers of newsprint
3 (virgin or recycled) may purchase such recycling credits
4 from such recyclers, for purposes of complying with sub-
5 section (a). The regulations shall include a mechanism or
6 mechanisms (including an auction) for any allocation of
7 credits that may be necessary. No person may create such
8 credits, and no producer or importer of newsprint may
9 purchase such credits, except in accordance with this sub-
10 section and the regulations promulgated under this sub-
11 section.

12 “(2) At a minimum, the regulations under subsection
13 (c) shall include the following requirements:

14 “(A) The producer or importer of recycled
15 newsprint shall maintain records of the receipt of old
16 newsprint and other paper products for de-inking
17 and subsequent recycling. Such records shall be
18 maintained for at least 2 years.

19 “(B) The producer of recycled newsprint shall
20 notify the Environmental Protection Agency of the
21 producer’s capacity to recycle old newsprint. Such
22 notification shall state the overall newsprint capacity
23 and that portion dedicated to de-inking and recy-
24 cling.

1 “(C) The importer of recycled newsprint shall
2 notify the United States Customs Service of the
3 amount of newsprint being imported by the im-
4 porter. Such notice shall be accompanied by a cer-
5 tification verifying the accuracy of the notice. The
6 certification shall be made by the official responsible
7 for negotiating trade agreements of the country from
8 which the importer is shipping newsprint to the
9 United States.

10 “(D) Producers or importers of newsprint shall
11 maintain records of sales of virgin and recycled
12 newsprint, including quantities and prices of recy-
13 cled newsprint and sales or other disposition of such
14 recycling credits as may be used to demonstrate
15 compliance with the requirements of this section.
16 Such records shall be maintained for at least 2
17 years.

18 “(E) Producers and importers of newsprint
19 shall report to the Administrator of the Environ-
20 mental Protection Agency annually and on an in-
21 terim quarterly basis—

22 “(i) the amount of recycled content news-
23 print produced or imported each year;

1 “(ii) the number of credits purchased or
2 otherwise acquired from other producers or im-
3 porters; and

4 “(iii) the number of credits sold or other-
5 wise distributed to other producers or import-
6 ers.

7 “(3) The Administrator may include such other re-
8 quirements in the regulations under paragraph (1) with
9 respect to qualifications for recyclers, importers, and pro-
10 ducers; methods for auditing compliance with the system;
11 and enforcement of the system; as the Administrator con-
12 siders necessary or appropriate for administering the recy-
13 cling credit system established under this subsection.

14 “(4) For purposes of this section, the term ‘recycling
15 credit’ means a legal record of a recycling activity under-
16 taken in accordance with this subsection that represents
17 an amount of newsprint recycled through de-inking for
18 purposes of complying with this section.

19 “(d) REPORTS.—(1) Not later than 6 years after the
20 date of the enactment of the Newsprint Recycling Incen-
21 tives Act, the Administrator shall submit to Congress an
22 interim report on the implementation of this section. The
23 report shall include, at a minimum—

1 “(A) a discussion of the effects of the require-
2 ments of this section on the newsprint and news-
3 paper industry and on the environment; and

4 “(B) an evaluation of the level of the recycling
5 percentage under subsection (b) and recommenda-
6 tions on whether, and at what rate, the percentage
7 should be increased in future years above the per-
8 centage applicable under subsection (b).

9 “(2) Not later than 10 years after such date, the Ad-
10 ministrators shall submit to Congress a final report on the
11 implementation of this section. The report shall include
12 an updated version of the discussion and evaluation re-
13 quired in the interim report, as well as such other findings
14 and recommendations with respect to the implementation
15 of this section as the Administrator considers appropriate.

16 “(e) APPLICABILITY.—This section applies to any
17 person who produces or imports more than 10 tons of
18 newsprint a year.

19 “(f) REGULATIONS.—The Administrator shall pro-
20 mulgate regulations to implement this section not later
21 than 18 months after the date of the enactment of the
22 Newsprint Recycling Incentives Act. If the Administrator
23 fails to promulgate such regulations by that date, the recy-
24 cling percentage under subsection (b) shall be 20 percent
25 until such time as the regulations are promulgated.

1 “(g) CIVIL PENALTY.—

2 “(1) Whoever violates this section shall be liable
3 to the United States for a civil penalty in an amount
4 not to exceed \$2,500 for each such violation. Such
5 civil penalty shall be assessed by the Administrator
6 of the Environmental Protection Agency by an order
7 made on the record after opportunity for a hearing
8 in accordance with section 554 of title 5, United
9 States Code. Before issuing such an order, the Ad-
10 ministrator shall give written notice to the person to
11 be assessed a civil penalty and provide such person
12 an opportunity to request, within 15 days of the
13 date the notice is received by such person, a hearing
14 on the order.

15 “(2) In determining the amount of a civil pen-
16 alty, the Administrator shall take into account the
17 nature, circumstances, extent, and gravity of the vio-
18 lation or violations and, with respect to the violator,
19 ability to pay, effect on ability to continue to do
20 business, any history of prior violations under this
21 section, the degree of culpability, and such other
22 matters as justice may require.

23 “(3) The Administrator may compromise, mod-
24 ify, or remit, with or without conditions, any civil
25 penalty which may be imposed under this subsection.

1 The amount of such penalty, when finally deter-
2 mined, or the amount agreed upon in compromise,
3 may be deducted from any sums owing by the
4 United States to the person charged.

5 “(4) Any person who requested in accordance
6 with this subsection a hearing respecting the assess-
7 ment of a civil penalty and who is aggrieved by an
8 order assessing a civil penalty may file a petition for
9 judicial review of such order with the United States
10 Court of Appeals for the District of Columbia Cir-
11 cuit or for any other circuit in which such person re-
12 sides or transacts business. Such a petition may only
13 be filed within the 30-day period beginning on the
14 date the order making such assessment was issued.

15 “(5) If any person fails to pay an assessment
16 of a civil penalty—

17 “(A) after the order making the assess-
18 ment has become a final order and if such per-
19 son does not file a petition for judicial review
20 of the order in accordance with this section, or

21 “(B) after a court in an action brought
22 under this section has entered a final judgment
23 in favor of the Administrator,

24 the Attorney General shall recover the amount as-
25 sessed (plus interest at currently prevailing rates

1 from the date of the expiration of the 30-day period
2 referred to in paragraph (4) or the date of such final
3 judgment, as the case may be) in an action brought
4 in any appropriate district court of the United
5 States. In such an action, the validity, amount, and
6 appropriateness of such penalty shall not be subject
7 to review.

8 “(h) HIGH GRADE PAPER RECYCLING.—(1) Not
9 later than three years after the date of the enactment of
10 the Newsprint Recycling Incentives Act, the Administrator
11 shall submit to Congress a plan, based on the experience
12 with the implementation of this section, for the recycling
13 of post-consumer high grade paper. The plan shall discuss
14 the desirability and feasibility, in terms of environmental
15 impacts resulting from reduced volume and economic im-
16 pacts, of requiring the recycling of such paper, and the
17 specific manner in which such recycling could be accom-
18 plished if the Administrator concludes that such recycling
19 is feasible. The plan also shall include an incentive-based
20 method or methods for accomplishing the recycling, such
21 as a credit system (as established under subsection (c)).

22 “(2) Not later than one year after the plan is submit-
23 ted under paragraph (1), the Administrator shall begin to
24 implement the plan. For purposes of implementing the
25 plan, the Administrator is authorized to carry out any of

1 the methods for accomplishing the recycling of the paper
2 that are included in the plan.

3 “(3) For purposes of this subsection, the term ‘high
4 grade paper’, means printed or unprinted sheets, shavings,
5 guillotined books, quire waste, and cuttings of sulphite or
6 sulphate ledger, bond, and writing paper (and all other
7 papers which have a similar fiber and filler content).

8 (b) TECHNICAL AMENDMENT.—The table of contents
9 for subtitle D of the Solid Waste Disposal Act (contained
10 in section 1001 of such Act) is amended by adding at the
11 end thereof the following:

“Sec. 4011. Newsprint recycling requirements.”.

12 **SEC. 5. AUTHORIZATION.**

13 There is authorized to be appropriated to the Admin-
14 istrator of the Environmental Protection Agency
15 \$1,200,000 to carry out section 4011 of the Solid Waste
16 Disposal Act (as added by section 3). Such funds shall
17 be used to hire the equivalent of at least six additional
18 full-time employees to carry out such provisions. Such
19 funds shall remain available until expended.

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