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(Original Signature of Member)

116TH CONGRESS
2D SESSION

H. R.

To amend the Solid Waste Disposal Act to reduce the production and use of certain single-use plastic products and packaging, to improve the responsibility of producers in the design, collection, reuse, recycling, and disposal of their consumer products and packaging, to prevent pollution from consumer products and packaging from entering into animal and human food chains and waterways, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. LOWENTHAL introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Solid Waste Disposal Act to reduce the production and use of certain single-use plastic products and packaging, to improve the responsibility of producers in the design, collection, reuse, recycling, and disposal of their consumer products and packaging, to prevent pollution from consumer products and packaging from entering into animal and human food chains and waterways, 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 “Break Free From
3 Plastic Pollution Act of 2020”.

4 **SEC. 2. PRODUCER RESPONSIBILITY FOR PRODUCTS AND**
5 **PACKAGING.**

6 (a) IN GENERAL.—The Solid Waste Disposal Act (42
7 U.S.C. 6901 et seq.) is amended by adding at the end
8 the following:

9 **“Subtitle K—Producer Responsi-**
10 **bility for Products and Pack-**
11 **aging**

12 **“SEC. 12001. DEFINITIONS.**

13 “In this subtitle:

14 “(1) ADVISORY COMMITTEE.—The term ‘advi-
15 sory committee’ means an advisory committee estab-
16 lished by an Organization under section 12102(c).

17 “(2) BEVERAGE.—

18 “(A) IN GENERAL.—The term ‘beverage’
19 means any drinkable liquid intended for human
20 oral consumption, including—

21 “(i) water;

22 “(ii) flavored water;

23 “(iii) soda water;

24 “(iv) mineral water;

25 “(v) beer;

26 “(vi) a malt beverage;

1 “(vii) a carbonated soft drink;

2 “(viii) liquor;

3 “(ix) tea;

4 “(x) coffee;

5 “(xi) hard cider;

6 “(xii) fruit juice;

7 “(xiii) an energy or sports drink;

8 “(xiv) coconut water;

9 “(xv) wine;

10 “(xvi) a yogurt drink;

11 “(xvii) a probiotic drink;

12 “(xviii) a wine cooler; and

13 “(xix) any other beverage determined
14 to be appropriate by the Administrator.

15 “(B) EXCLUSIONS.—The term ‘beverage’
16 does not include—

17 “(i) a drug regulated under the Fed-
18 eral Food, Drug, and Cosmetic Act (21
19 U.S.C. 301 et seq.);

20 “(ii) infant formula; or

21 “(iii) a meal replacement liquid.

22 “(3) BEVERAGE CONTAINER.—

23 “(A) IN GENERAL.—The term ‘beverage
24 container’ means a prepackaged beverage con-
25 tainer—

1 “(i) made of any material, including
2 glass, plastic, metal, and multimaterial;
3 and

4 “(ii) the volume of which is not more
5 than 3 liters.

6 “(B) EXCLUSION.—The term ‘beverage
7 container’ does not include a covered product of
8 any material used to sell a prepackaged bev-
9 erage, such as—

10 “(i) a carton;

11 “(ii) a pouch; or

12 “(iii) asptic packaging, such as a
13 drink box.

14 “(C) INCLUSION.—Notwithstanding sub-
15 paragraphs (A) and (B), for purposes of the
16 program under section 12104, the term ‘bev-
17 erage container’ includes a container for a bev-
18 erage that is not described in those subpara-
19 graphs, such as a carton, foil pouch, or drink
20 box, the responsible party for which elects to
21 participate in the program under that section.

22 “(4) COMPOSTABLE.—

23 “(A) IN GENERAL.—The term
24 ‘compostable’ means, with respect to a covered

1 product or beverage container, that the covered
2 product or beverage container—

3 “(i)(I) meets the ASTM International
4 standard specification for compostable
5 products numbered D6400 or D6868—

6 “(aa) as in effect on the date of
7 enactment of this subtitle; or

8 “(bb) as revised after the date of
9 enactment of this subtitle, if the revi-
10 sion is approved by the Administrator;
11 and

12 “(II) is labeled to reflect that the cov-
13 ered product or beverage container meets a
14 standard described in subclause (I);

15 “(ii) is certified as a compostable
16 product by an independent party that is
17 approved by the Administrator; or

18 “(iii) comprises only—

19 “(I) wood without any coatings,
20 additives, or toxic substances; or

21 “(II) fiber without any coatings,
22 additives, or toxic substances.

23 “(B) EXCLUSION.—The term
24 ‘compostable’ shall not apply to paper.

1 “(5) COVERED ENTITY.—The term ‘covered en-
2 tity’ means a single family or multifamily dwelling
3 or publicly owned land (such as a sidewalk, plaza,
4 and park) for which a recycling collection service is
5 provided.

6 “(6) COVERED PRODUCT.—

7 “(A) IN GENERAL.—The term ‘covered
8 product’ means, regardless of recyclability,
9 compostability, and material type—

10 “(i) packaging;

11 “(ii) a food service product;

12 “(iii) paper;

13 “(iv) a single-use product that is not
14 subject to the prohibition under section
15 12202(c); and

16 “(v) a container for a beverage that is
17 not described in subparagraphs (A) and
18 (B) of paragraph (3), such as a carton,
19 pouch, or aseptic packaging, such as a
20 drink box, the responsible party for which
21 does not elect to participate in the pro-
22 gram under section 12104.

23 “(B) EXCLUSION.—The term ‘covered
24 product’ does not include a beverage container.

1 “(7) COVERED RETAIL OR SERVICE ESTABLISH-
2 MENT.—The term ‘covered retail or service estab-
3 lishment’ means a store, grocery store, restaurant,
4 beverage provider, vendor, hotel, motel, or other re-
5 tail or service establishment operating in the United
6 States.

7 “(8) FOOD SERVICE PRODUCT.—The term ‘food
8 service product’ means an item intended to deliver a
9 food product, regardless of the recyclability or
10 compostability of the item, including—

11 “(A) a utensil;

12 “(B) a straw;

13 “(C) a drink cup;

14 “(D) a drink lid;

15 “(E) a food package;

16 “(F) a food container;

17 “(G) a plate;

18 “(H) a bowl;

19 “(I) a meat tray; and

20 “(J) a food wrap.

21 “(9) ORGANIZATION.—The term ‘Organization’
22 means a Producer Responsibility Organization estab-
23 lished under section 12102(a)(1).

24 “(10) PACKAGING.—

1 “(A) IN GENERAL.—The term ‘packaging’
2 means—

3 “(i) any package or container, regard-
4 less of recyclability or compostability; and

5 “(ii) any part of a package or con-
6 tainer, regardless of recyclability or
7 compostability, that includes material that
8 is used for the containment, protection,
9 handling, delivery, and presentation of
10 goods that are sold, offered for sale, or dis-
11 tributed to consumers in the United
12 States, including through an internet
13 transaction.

14 “(B) INCLUSIONS.—The term ‘packaging’
15 includes—

16 “(i) packaging intended for the con-
17 sumer market;

18 “(ii) service packaging designed and
19 intended to be used or filled at the point
20 of sale, such as carry-out bags, bulk good
21 bags, take-out bags, and home delivery
22 food service packaging;

23 “(iii) secondary packaging used to
24 group products for multiunit sale;

1 “(iv) tertiary packaging used for
2 transportation or distribution directly to a
3 consumer; and

4 “(v) ancillary elements hung or at-
5 tached to a product and performing a
6 packaging function.

7 “(C) EXCLUSION.—The term ‘packaging’
8 does not include packaging—

9 “(i) used for the long-term protection
10 or storage of a product; and

11 “(ii) with a life of not less than 5
12 years.

13 “(11) PAPER.—

14 “(A) IN GENERAL.—The term ‘paper’
15 means paper that is sold, offered for sale, deliv-
16 ered, or distributed to a consumer or business
17 in the United States.

18 “(B) INCLUSIONS.—The term ‘paper’ in-
19 cludes—

20 “(i) newsprint and inserts;

21 “(ii) magazines and catalogs;

22 “(iii) direct mail;

23 “(iv) office paper; and

24 “(v) telephone directories.

1 “(C) EXCLUSIONS.—The term ‘paper’ does
2 not include—

3 “(i) a paper product that, due to the
4 intended use of the paper product, could
5 become unsafe or unsanitary to recycle; or

6 “(ii) a bound book.

7 “(12) PLAN.—The term ‘Plan’ means a Prod-
8 uct Stewardship Plan described in section 12105.

9 “(13) PROGRAM.—The term ‘Program’ means a
10 Product Stewardship Program established under sec-
11 tion 12102(a)(2).

12 “(14) RECYCLABLE.—The term ‘recyclable’
13 means, with respect to a covered product or beverage
14 container, that—

15 “(A) the covered product or beverage con-
16 tainer is economically and technically recyclable
17 in current United States market conditions;

18 “(B) United States processing capacity is
19 in operation to recycle, with the geographical
20 distribution of the capacity aligned with the
21 population of geographical regions of the
22 United States, of the total quantity of the cov-
23 ered product or beverage container—

24 “(i) for each of calendar years 2020
25 through 2024, not less than 25 percent;

1 “(ii) for each of calendar years 2025
2 through 2029, not less than 35 percent;

3 “(iii) for each of calendar years 2030
4 through 2034, not less than 50 percent;

5 and

6 “(iv) for calendar year 2035 and each
7 calendar year thereafter, not less than 60
8 percent; and

9 “(C) the consumer that uses the covered
10 product or beverage container is not required to
11 remove an attached component of the covered
12 product or beverage container, such as a shrink
13 sleeve, label, or filter, before the covered prod-
14 uct or beverage container can be recycled.

15 “(15) RECYCLE.—

16 “(A) IN GENERAL.—The term ‘recycle’
17 means the series of activities by which a cov-
18 ered product is—

19 “(i) collected, sorted, and processed;
20 and

21 “(ii)(I) converted into a raw material
22 with minimal loss of material quality;

23 “(II) used in the production of a new
24 product, including the original product; or

1 “(III) in the case of composting or or-
2 ganic recycling, productively used for soil
3 improvement.

4 “(B) EXCLUSION.—The term ‘recycle’ does
5 not include—

6 “(i) the method of sorting, processing,
7 and aggregating materials from solid waste
8 that does not preserve the original material
9 quality, and, as a result, the aggregated
10 material is no longer usable for its initial
11 purpose or product and can only be used
12 for inferior purposes or products (com-
13 monly referred to as ‘downcycling’);

14 “(ii) the use of waste—

15 “(I) as a fuel or fuel substitute;

16 “(II) for energy production;

17 “(III) for alternate operating
18 cover; or

19 “(IV) within the footprint of a
20 landfill; or

21 “(iii) the conversion of waste into al-
22 ternative products, such as chemicals, feed-
23 stocks, fuels, and energy, through—

24 “(I) pyrolysis;

25 “(II) hydrolysis;

- 1 “(III) methanolysis;
- 2 “(IV) gasification;
- 3 “(V) enzymatic breakdown; or
- 4 “(VI) a similar technology, as de-
- 5 termined by the Administrator.

6 “(16) RESPONSIBLE PARTY.—

7 “(A) BEVERAGE CONTAINERS.—

8 “(i) IN GENERAL.—With respect to a
9 beverage sold in a beverage container, the
10 term ‘responsible party’ means—

11 “(I) a person that engages in the
12 distribution or sale of the beverage in
13 a beverage container to a retailer in
14 the United States, including any man-
15 ufacturer that engages in that sale or
16 distribution;

17 “(II) if subclause (I) does not
18 apply, a person that engages in the
19 sale of the beverage in a beverage con-
20 tainer directly to a consumer in the
21 United States; or

22 “(III) if subclauses (I) and (II)
23 do not apply, a person that imports
24 the beverage sold in a beverage con-
25 tainer into the United States for use

1 in a commercial enterprise, sale, offer
2 for sale, or distribution in the United
3 States.

4 “(ii) RELATED DEFINITIONS.—In this
5 subparagraph:

6 “(I) DISTRIBUTOR.—The term
7 ‘distributor’ means a person that en-
8 gages in the sale of beverages in bev-
9 erage containers to a retailer in the
10 United States.

11 “(II) MANUFACTURER.—The
12 term ‘manufacturer’ means a person
13 bottling, canning, or otherwise filling
14 beverage containers for sale to dis-
15 tributors, importers, or retailers.

16 “(III) RETAILER.—

17 “(aa) IN GENERAL.—The
18 term ‘retailer’ means a person in
19 the United States that—

20 “(AA) engages in the
21 sale of beverages in beverage
22 containers to a consumer; or

23 “(BB) provides bev-
24 erages in beverage con-
25 tainers to a person in com-

1 merce, including provision
2 free of charge, such as at a
3 workplace or event.

4 “(bb) INCLUSION.—The
5 term ‘retailer’ includes a person
6 that engages in the sale of or
7 provides beverages in beverage
8 containers, as described in item
9 (aa), through a vending machine
10 or similar means.

11 “(B) COVERED PRODUCTS.—With respect
12 to a covered product, the term ‘responsible
13 party’ means—

14 “(i) a person that manufactures and
15 uses in a commercial enterprise, sells, of-
16 fers for sale, or distributes the covered
17 product in the United States under the
18 brand of the manufacturer;

19 “(ii) if clause (i) does not apply, a
20 person that is not the manufacturer of the
21 covered product but is the owner or li-
22 censee of a trademark under which the
23 covered product is used in a commercial
24 enterprise, sold, offered for sale, or distrib-

1 uted in the United States, whether or not
2 the trademark is registered; or

3 “(iii) if clauses (i) and (ii) do not
4 apply, a person that imports the covered
5 product into the United States for use in
6 a commercial enterprise, sale, offer for
7 sale, or distribution in the United States.

8 “(17) RESTAURANT.—

9 “(A) IN GENERAL.—The term ‘restaurant’
10 means an establishment the primary business of
11 which is the preparation of food or beverage—

12 “(i) for consumption by the public;

13 “(ii) in a form or quantity that is
14 consumable immediately at the establish-
15 ment, whether or not the food or beverage
16 is consumed within the confines of the
17 place where the food or beverage is pre-
18 pared; or

19 “(iii) in a consumable form for con-
20 sumption outside the place where the food
21 or beverage is prepared.

22 “(B) INCLUSION.—The term ‘restaurant’
23 includes a fast food restaurant.

24 “(18) REUSABLE.—The term ‘reusable’ means,
25 with respect to a covered product or beverage con-

1 tainer, that the covered product or beverage con-
2 tainer is—

3 “(A) technically feasible to reuse or refill
4 in United States market conditions; and

5 “(B) reusable or refillable for such number
6 of cycles, but not less than 100 cycles, as the
7 Administrator determines to be appropriate for
8 the covered product or beverage container.

9 “(19) SINGLE-USE PRODUCT.—

10 “(A) IN GENERAL.—The term ‘single-use
11 product’ means a consumer product that is rou-
12 tinely disposed of, recycled, or otherwise dis-
13 carded after a single use.

14 “(B) EXCLUSIONS.—The term ‘single-use
15 product’ does not include—

16 “(i) medical food, supplements, de-
17 vices, or other products determined by the
18 Secretary of Health and Human Services
19 to necessarily be made of plastic for the
20 protection of public health; or

21 “(ii) packaging that is—

22 “(I) for any product described in
23 clause (i); or

24 “(II) used for the shipment of
25 hazardous materials that is prohibited

1 from being composed of used mate-
2 rials under section 178.509 or
3 178.522 of title 49, Code of Federal
4 Regulations (as in effect on the date
5 of enactment of this subtitle).

6 “(20) TOXIC SUBSTANCE.—

7 “(A) IN GENERAL.—The term ‘toxic sub-
8 stance’ means any substance, mixture, or com-
9 pound that may cause personal injury or dis-
10 ease to humans through ingestion, inhalation,
11 or absorption through any body surface and
12 satisfies 1 or more of the following conditions:

13 “(i) The substance, mixture, or com-
14 pound is subject to reporting requirements
15 under—

16 “(I) the Emergency Planning
17 and Community Right-To-Know Act
18 of 1986 (42 U.S.C. 11001 et seq.);

19 “(II) the Comprehensive Envi-
20 ronmental Response, Compensation,
21 and Liability Act of 1980 (42 U.S.C.
22 9601 et seq.); or

23 “(III) section 112(r) of the Clean
24 Air Act (42 U.S.C. 7412(r)).

1 “(ii) Testing has produced evidence
2 recognized by the National Institute for
3 Occupational Safety and Health or the En-
4 vironmental Protection Agency that the
5 substance, mixture, or compound poses
6 acute or chronic health hazards.

7 “(iii) The Administrator or the Sec-
8 retary of Health and Human Services has
9 issued a public health advisory for the sub-
10 stance, mixture, or compound.

11 “(iv) Exposure to the substance, mix-
12 ture, or compound is shown by expert tes-
13 timony recognized by the Environmental
14 Protection Agency to increase the risk of
15 developing a latent disease.

16 “(v) The substance, mixture, or com-
17 pound is a perfluoroalkyl or polyfluoroalkyl
18 substance.

19 “(B) EXCLUSIONS.—The term ‘toxic sub-
20 stance’ does not include—

21 “(i) a pesticide applied—

22 “(I) in accordance with Federal,
23 State, and local laws (including regu-
24 lations); and

1 “(II) in accordance with the in-
2 structions of the manufacturer of the
3 pesticide; or

4 “(ii) ammunition, a component of am-
5 munition, a firearm, an air rifle, discharge
6 of a firearm or an air rifle, hunting or
7 fishing equipment, or a component of
8 hunting or fishing equipment.

9 “(21) UNITED STATES.—The term ‘United
10 States’, when used in a geographical sense, means
11 all of the States.

12 “(22) UTENSIL.—

13 “(A) IN GENERAL.—The term ‘utensil’
14 means a product designed to be used by a con-
15 sumer to facilitate the consumption of a food or
16 beverage.

17 “(B) INCLUSIONS.—The term ‘utensil’ in-
18 cludes a knife, a fork, a spoon, a spork, a cock-
19 tail pick, a chopstick, a splash stick, and a stir-
20 rer.

21 **“PART I—PRODUCTS IN THE MARKETPLACE**

22 **“SEC. 12101. EXTENDED PRODUCER RESPONSIBILITY.**

23 “(a) IN GENERAL.—Except as provided in subsection
24 (b), beginning on February 1, 2023, each responsible
25 party for any covered product or beverage sold in a bev-

1 erage container that is sold, distributed, or imported into
2 the United States shall—

3 “(1) participate as a member of an Organiza-
4 tion for which a Plan is approved by the Adminis-
5 trator; and

6 “(2) through that participation, satisfy the per-
7 formance targets under section 12105(g).

8 “(b) EXEMPTIONS.—A responsible party for a cov-
9 ered product or beverage sold in a beverage container, in-
10 cluding a responsible party that operates as a single point
11 of retail sale and is not supplied by, or operated as part
12 of, a franchise, shall not be subject to this part if the re-
13 sponsible party—

14 “(1)(A) for fiscal year 2021, has an annual rev-
15 enue of less than \$1,000,000; and

16 “(B) for fiscal year 2022 and each subsequent
17 fiscal year, has an annual revenue of less than the
18 applicable amount during the preceding fiscal year,
19 as adjusted to reflect changes for the 12-month pe-
20 riod ending on the preceding November 30 in the
21 Consumer Price Index for All Urban Consumers
22 published by the Bureau of Labor Statistics of the
23 Department of Labor; or

1 “(2) is the responsible party for less than 1 ton
2 of covered products or beverage containers in com-
3 merce each year.

4 “(c) ENFORCEMENT.—

5 “(1) PROHIBITION.—It shall be unlawful for
6 any person that is a responsible party for a covered
7 product or beverage sold in a beverage container to
8 sell, use, or distribute any covered product or bev-
9 erage sold in a beverage container in commerce ex-
10 cept in compliance with this part.

11 “(2) CIVIL PENALTY.—Any person that violates
12 paragraph (1) shall be subject to a fine for each vio-
13 lation and for each day that the violation occurs in
14 an amount of not more than \$70,117.

15 “(3) INJUNCTIVE RELIEF.—The Administrator
16 may bring a civil action to enjoin the sale, distribu-
17 tion, or importation into the United States of a cov-
18 ered product or beverage sold in a beverage con-
19 tainer in violation of this part.

20 “(4) STATE ENFORCEMENT.—The Adminis-
21 trator may permit a State to carry out enforcement
22 under paragraph (2) or (3) if the Administrator de-
23 termines that the State meets such requirements as
24 the Administrator may establish.

1 “(d) INAPPLICABILITY OF THE ANTITRUST LAWS.—
2 The antitrust laws, as defined in the first section of the
3 Clayton Act (15 U.S.C. 12), shall not apply to a respon-
4 sible party or Organization that carries out activities in
5 accordance with an approved Plan if the conduct is nec-
6 essary to plan and implement the Plan.

7 **“SEC. 12102. PRODUCER RESPONSIBILITY ORGANIZATIONS.**

8 “(a) IN GENERAL.—

9 “(1) ESTABLISHMENT.—To satisfy the require-
10 ment under section 12101(a)(1), 1 or more respon-
11 sible parties for a category of covered product or
12 beverage sold in a beverage container shall establish
13 a Producer Responsibility Organization that shall
14 act as an agent and on behalf of each responsible
15 party to carry out the responsibilities of the respon-
16 sible party under this part with respect to that cat-
17 egory of covered product or beverage sold in a bev-
18 erage container.

19 “(2) PROGRAM.—An Organization shall estab-
20 lish a Product Stewardship Program to carry out
21 the responsibilities of the Organization under this
22 part.

23 “(3) COORDINATION.—If more than 1 Organi-
24 zation is established under paragraph (1) with re-
25 spect to a category of covered product or beverage

1 sold in a beverage container, the Administrator
2 shall—

3 “(A) coordinate and manage those Organi-
4 zations; or

5 “(B) establish an entity—

6 “(i) to carry out subparagraph (A);

7 and

8 “(ii) to conduct business between
9 those Organizations and State and local
10 governments.

11 “(4) MULTIPLE ORGANIZATIONS.—A respon-
12 sible party—

13 “(A) may participate in more than 1 Orga-
14 nization if each Organization is established for
15 a different category of covered products or bev-
16 erages sold in beverage containers; and

17 “(B) may participate in—

18 “(i) only 1 national Organization with
19 respect to—

20 “(I) each category of covered
21 products; or

22 “(II) beverages sold in beverage
23 containers; or

24 “(ii) only 1 regional Organization with
25 respect to beverages sold in beverage con-

1 tainers and each category of covered prod-
2 ucts for each region in which the covered
3 products or beverages sold in beverage con-
4 tainers produced by the responsible party
5 are sold.

6 “(5) NONPROFIT STATUS.—An Organization
7 shall be established and operated as an organization
8 described in section 501(c)(3) of the Internal Rev-
9 enue Code of 1986 and exempt from taxation under
10 501(a) of that Code.

11 “(6) CATEGORIES.—The Administrator, in con-
12 sultation with Organizations, shall promulgate regu-
13 lations to establish categories of covered products
14 and beverages sold in beverage containers for pur-
15 poses of this part.

16 “(b) PARTICIPATION FEES.—

17 “(1) IN GENERAL.—Subject to paragraph (5),
18 an Organization shall charge each responsible party
19 a fee for membership in the Organization in accord-
20 ance with this subsection.

21 “(2) COMPONENTS.—A fee charged to a respon-
22 sible party under paragraph (1) shall include—

23 “(A) costs of management and cleanup in
24 accordance with paragraph (3); and

1 “(B) administrative costs in accordance
2 with paragraph (4).

3 “(3) MANAGEMENT AND CLEANUP COSTS.—

4 “(A) IN GENERAL.—A fee under para-
5 graph (1) shall include, with respect to a re-
6 sponsible party, the costs of management
7 (which shall include collecting, transporting,
8 processing, recycling, and composting) or clean-
9 ing up the covered products or beverage con-
10 tainers of the responsible party after consumer
11 use through the applicable Program, including
12 administrative costs.

13 “(B) CONSIDERATIONS.—In determining
14 the costs of management and cleanup described
15 in subparagraph (A) with respect to a respon-
16 sible party, an Organization shall, at a min-
17 imum, take into account—

18 “(i) the cost to properly manage the
19 applicable category of covered product or
20 beverage container waste;

21 “(ii) the cost to assist in cleaning up
22 the covered product or beverage container
23 waste of the responsible party from—

24 “(I) public places;

1 “(II) freshwater and marine envi-
2 ronments, to the extent that cleanup
3 can be accomplished without harming
4 the existing marine life and intact
5 ecosystems; and

6 “(III) materials in compost facili-
7 ties or other facilities handling or-
8 ganic wastes;

9 “(iii) to the extent that cleanup of the
10 covered products or beverage containers
11 from freshwater and marine environments
12 cannot be accomplished without harming
13 the existing freshwater and marine life and
14 intact ecosystems, the cost of other appro-
15 priate mitigation measures;

16 “(iv) the higher cost of managing cov-
17 ered products that—

18 “(I) bond materials together,
19 making the covered product more dif-
20 ficult to recycle, such as plastic bond-
21 ed with paper or metal;

22 “(II) would typically be recyc-la-
23 ble or compostable, but, as a con-
24 sequence of the design of the covered

1 product, has the effect of disrupting
2 recycling or composting processes;

3 “(III) includes labels, inks, lin-
4 ers, and adhesives containing heavy
5 metals or other toxic substances; or

6 “(IV) cannot be mechanically re-
7 cycled;

8 “(v) the lower cost of managing—

9 “(I) beverage containers that
10 have—

11 “(aa) nondetachable caps; or

12 “(bb) other innovations and
13 design characteristics to prevent
14 littering; and

15 “(II) contact containers and
16 other covered products that—

17 “(aa) are specifically de-
18 signed to be reusable or refillable;
19 and

20 “(bb) have a high reuse or
21 refill rate;

22 “(vi) covered products with lower en-
23 vironmental impacts, including—

24 “(I) covered products that are
25 made of—

1 “(aa) sustainable or renew-
2 ably sourced materials; or

3 “(bb) at least 90 percent by
4 weight of any combination of—

5 “(AA) postconsumer re-
6 cycled content; or

7 “(BB) materials de-
8 rived from land or fresh-
9 water or marine environ-
10 ment litter; and

11 “(II) compostable covered prod-
12 ucts that—

13 “(aa) have direct contact
14 with food; or

15 “(bb) help divert food waste
16 from a landfill; and

17 “(vii) the percentage of postconsumer
18 recycled content verified by an independent
19 party designated by the Administrator that
20 exceeds the minimum requirements estab-
21 lished under section 12302 in the pack-
22 aging, if the recycled content does not dis-
23 rupt the potential for future recycling.

24 “(4) ADMINISTRATIVE COSTS.—

1 “(A) IN GENERAL.—A fee under para-
2 graph (1) shall include—

3 “(i) the administrative costs to the
4 Organization of carrying out the Program;

5 “(ii) the cost to the Administrator of
6 administering this part with respect to the
7 applicable Organization, including—

8 “(I) oversight, including annual
9 oversight;

10 “(II) issuance of any rules;

11 “(III) planning;

12 “(IV) Plan review;

13 “(V) compliance;

14 “(VI) outreach and education;

15 “(VII) enforcement;

16 “(VIII) sufficient staff positions
17 to administer this part; and

18 “(IX) other activities directly re-
19 lated to the activities described in sub-
20 clauses (I) through (VIII); and

21 “(iii) the cost to a State for carrying
22 out enforcement with respect to the appli-
23 cable Organization.

24 “(B) CONSIDERATION.—In determining
25 the fee for a responsible party under subpara-

1 graph (A), an Organization shall consider the
2 company size and annual revenue of the respon-
3 sible party.

4 “(C) REIMBURSEMENT.—An Organization
5 shall reimburse—

6 “(i) the Administrator for costs de-
7 scribed subparagraph (A)(ii) incurred by
8 the Administrator; and

9 “(ii) a State for costs described in
10 subparagraph (A)(iii) incurred by the
11 State.

12 “(5) APPROVAL.—

13 “(A) IN GENERAL.—Before an Organiza-
14 tion may charge a fee or revise the amount of
15 a fee to be charged under paragraph (1)—

16 “(i) the Organization shall submit to
17 the Administrator the fee structure and
18 the methodology for determining that fee
19 structure; and

20 “(ii)(I) the Organization shall receive
21 notification of approval of the fee structure
22 under subparagraph (B)(ii); or

23 “(II) the fee structure shall be consid-
24 ered approved under subparagraph (C).

1 “(B) APPROVAL.—Not later than 60 days
2 after receipt of a fee structure under subpara-
3 graph (A)(i), the Administrator shall—

4 “(i)(I) approve the fee structure if the
5 Administrator determines that the fee
6 structure is in accordance with this sub-
7 section; or

8 “(II) deny the fee structure if the Ad-
9 ministrator determines that the fee struc-
10 ture is not in accordance with this sub-
11 section; and

12 “(ii) notify the Organization of the
13 determination under clause (i).

14 “(C) FAILURE TO MEET DEADLINE.—If
15 the Administrator does not make a determina-
16 tion under clause (i) of subparagraph (B) by
17 the date required under that subparagraph, the
18 fee structure shall be considered to be approved.

19 “(c) ADVISORY COMMITTEES.—

20 “(1) IN GENERAL.—An Organization shall es-
21 tablish an advisory committee that represents a
22 range of interested and engaged persons relevant to
23 the category of covered products or beverages sold in
24 beverage containers of the applicable Program, in-
25 cluding—

1 “(A) collection providers;

2 “(B) cleanup service providers;

3 “(C) recyclers; and

4 “(D) composters.

5 “(2) COMPOSITION.—

6 “(A) IN GENERAL.—At a minimum, an ad-
7 visory committee shall include individuals rep-
8 resenting each of—

9 “(i) responsible parties, such as a
10 trade association;

11 “(ii) States;

12 “(iii) cities, including—

13 “(I) small and large cities; and

14 “(II) cities located in urban and
15 rural counties;

16 “(iv) counties, including—

17 “(I) small and large counties;

18 and

19 “(II) urban and rural counties;

20 “(v) public sector recycling,
21 composting, and solid waste industries for
22 the applicable type of product or pack-
23 aging;

24 “(vi) private sector recycling,
25 composting, and solid waste industries for

1 the applicable type of product or pack-
2 aging;

3 “(vii) recycled feedstock users for the
4 applicable type of product or packaging;

5 “(viii) public place litter programs;

6 “(ix) freshwater and marine litter pro-
7 grams;

8 “(x) environmental organizations;

9 “(xi) disability advocates;

10 “(xii) Indian Tribes; and

11 “(xiii) environmental and human
12 health scientists.

13 “(B) REQUIREMENTS.—

14 “(i) IN GENERAL.—Each individual
15 serving on an advisory committee may rep-
16 resent only 1 category described in clauses
17 (i) through (xiii) of subparagraph (A).

18 “(ii) DISPROPORTIONATE REPRESENTEN-
19 TATION.—An Organization shall ensure
20 that no category described in clauses (i)
21 through (xiii) of subparagraph (A) has dis-
22 proportionate representation on an advi-
23 sory committee.

24 “(3) PUBLIC COMMENT.—Each year, an Orga-
25 nization shall provide a process to receive comments

1 from additional stakeholders and community mem-
2 bers, which to the maximum extent practicable shall
3 include diverse ethnic populations.

4 “(4) EXPENSES.—

5 “(A) IN GENERAL.—An Organization shall
6 reimburse representatives of community groups,
7 Indian Tribes, State and local governments,
8 and nonprofit organizations for expenses related
9 to participating on the advisory committee.

10 “(B) OTHER MEMBERS.—Other members
11 of the advisory committee may be compensated
12 for travel expenses as needed to ensure the abil-
13 ity of those members to participate on the advi-
14 sory committee.

15 “(5) DUTIES.—An Organization shall—

16 “(A) hold an advisory committee meeting
17 at least once per year;

18 “(B) request and consider comments from
19 the advisory committee of the Organization
20 prior to the submission to the Administrator of
21 a Plan or any revisions to a Plan;

22 “(C) report comments of the advisory com-
23 mittee to the Administrator as an appendix to
24 any revisions to a Plan submitted to the Ad-
25 ministrator; and

1 “(D) include a summary of advisory com-
2 mittee engagement and input in the report
3 under section 12107.

4 **“SEC. 12103. COVERED PRODUCT MANAGEMENT.**

5 “(a) IN GENERAL.—In carrying out a Program, a re-
6 sponsible party, acting through an Organization, shall—

7 “(1) meet the performance targets under the
8 applicable Plan, as described in section 12105(g)—

9 “(A) in the case of covered products, by
10 providing for the collection of covered products
11 in accordance with subsection (b); or

12 “(B) in the case of beverage containers, by
13 carrying out the responsibilities under section
14 12104(e); and

15 “(2) in accordance with subsection (c), provide
16 for the cleanup of covered products or beverage con-
17 tainers that become litter.

18 “(b) COLLECTION.—

19 “(1) IN GENERAL.—A Program shall provide
20 widespread, convenient, and equitable access to op-
21 portunities for the collection of covered products in
22 accordance with this subsection.

23 “(2) CONVENIENCE.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), collection opportunities described in
3 paragraph (1) shall—

4 “(i) be provided throughout each
5 State, Tribal land, and territory in which
6 the applicable covered product is sold, in-
7 cluding in rural and island communities;

8 “(ii) be as convenient as trash collec-
9 tion in the applicable area; and

10 “(iii) in a case in which collection of
11 the applicable covered product by curbside
12 collection is not practicable, be, as deter-
13 mined by the Administrator, and in the
14 case of a city with a population of 750,000
15 or more residents, subject to the approval
16 of the city, available for not less than 95
17 percent of the population of the applicable
18 area within—

19 “(I) in the case of an urban area,
20 a 10-minute drive; or

21 “(II) in the case of a rural area,
22 the longer of—

23 “(aa) a 45-minute drive; and

24 “(bb) the time to drive to
25 the nearest rural service center.

1 “(B) WAIVER.—The Administrator may
2 waive the requirement under subparagraph (A)
3 after—

4 “(i) consultation with the advisory
5 committee of the applicable Organization
6 and other appropriate stakeholders; and

7 “(ii) approval by the unit of local gov-
8 ernment with jurisdiction over the applica-
9 ble area.

10 “(3) METHODS.—

11 “(A) CURBSIDE OR MULTIFAMILY COLLEC-
12 TION.—With respect to a geographic area de-
13 scribed in paragraph (2)(A), an Organization
14 shall, at a minimum, provide the opportunity
15 for the collection of the applicable covered prod-
16 uct through a curbside or multifamily recycling
17 collection service, if—

18 “(i) the category of covered product—

19 “(I) is suitable for curbside or
20 multifamily recycling collection; and

21 “(II) can be effectively sorted by
22 facilities receiving the covered product
23 after collection; and

24 “(ii) the provider of the service
25 agrees—

1 “(I) to accept the category of
2 covered product; and

3 “(II) to a compensation agree-
4 ment described in subparagraph (C).

5 “(B) OTHER METHODS.—In addition to
6 the method described in subparagraph (A), an
7 Organization may comply with the requirement
8 under paragraph (1) by—

9 “(i) entering into an agreement
10 with—

11 “(I) an entity that carries out a
12 program through which consumers
13 may drop off the covered product at a
14 designated location (commonly known
15 as a ‘depot drop-off program’); or

16 “(II) a retailer that accepts the
17 covered product from consumers
18 (commonly known as ‘retailer take-
19 back’); or

20 “(ii) such other means as the Organi-
21 zation determines to be appropriate, in-
22 cluding by establishing a collection pro-
23 gram or service, including a program or
24 service that provides collection from public
25 spaces.

1 “(C) COMPENSATION AGREEMENTS.—

2 “(i) IN GENERAL.—An Organization
3 may comply with this subsection by enter-
4 ing into an agreement with a governmental
5 or private entity under which the Organi-
6 zation compensates the entity for the col-
7 lection of covered products.

8 “(ii) REQUIREMENT.—As part of a
9 compensation agreement under clause (i),
10 an Organization shall offer to provide re-
11 imbursement of not less than 100 percent
12 of the cost to the entity of managing the
13 covered products, including, as applicable,
14 administrative costs, sorting, and reproc-
15 essing.

16 “(4) MANAGING COLLECTED COVERED PROD-
17 UCTS.—In carrying out this subsection, an Organi-
18 zation shall—

19 “(A) ensure that—

20 “(i) the collection means and systems
21 used direct the covered product waste to—

22 “(I) facilities that are effective in
23 sorting and reprocessing covered prod-
24 uct waste prior to shipment in a form

1 ready for remanufacture into new
2 products; or

3 “(II) other facilities that the Ad-
4 ministrator determines appropriately
5 manage the covered product waste;

6 “(ii) covered products are managed in
7 an environmentally sound and socially just
8 manner at reprocessing, disposal, or other
9 facilities operating with human health and
10 environmental protection standards that
11 are broadly equivalent to the standards re-
12 quired in—

13 “(I) the United States; or

14 “(II) other countries that are
15 members of the Organization for Eco-
16 nomic Cooperation and Development;
17 and

18 “(iii) the Program includes measures
19 to track, verify, and publicly report that
20 covered products are managed responsibly
21 and not reexported to other countries; and

22 “(B) take measures—

23 “(i) to promote high-quality recycling
24 that retains material quality;

1 “(ii) to meet the necessary quality
2 standards for the relevant facilities that
3 manufacture new products from the col-
4 lected, sorted, and reprocessed materials;
5 and

6 “(iii) to prioritize the recycling of
7 products and packaging into uses that
8 achieve the greatest environmental benefits
9 from displacing the use of virgin materials.

10 “(5) COSTS.—A responsible party or an Organi-
11 zation may not charge a covered entity any amount
12 for the cost of carrying out this subsection.

13 “(6) EFFECT.—Nothing in this subsection—

14 “(A) requires a governmental entity to pro-
15 vide for the collection of covered products; or

16 “(B) prohibits a governmental entity from
17 providing for the collection of covered products.

18 “(c) CLEANUP; REDUCTION IN WASTE.—A Program
19 shall—

20 “(1) provide funding to, and coordinate with,
21 entities that collect covered product or beverage con-
22 tainer litter from public places or freshwater or ma-
23 rine environments in the United States, including
24 Tribal land and territories; and

1 “(2) coordinate product design and Program in-
2 novations to reduce covered product or beverage con-
3 tainer waste.

4 “(d) MINIMUM FUNDING REQUIREMENTS.—

5 “(1) IN GENERAL.—Of Program expenditures
6 for a fiscal year, an Organization shall ensure
7 that—

8 “(A)(i) for the 10-year period beginning on
9 the date on which the Organization is estab-
10 lished, not less than 50 percent is used for the
11 improvement and development of new market,
12 recycling, or composting infrastructure in the
13 United States, which may include installing or
14 upgrading equipment at existing sorting and re-
15 processing facilities—

16 “(I) to improve sorting of covered
17 product waste; or

18 “(II) to mitigate the impacts of cov-
19 ered product waste to other commodities;
20 and

21 “(ii) for each year thereafter, such percent-
22 age as the Administrator may establish, but not
23 less than 10 percent, is used for the purposes
24 described in clause (i); and

25 “(B) not less than 10 percent is used for—

1 “(i) cleanup activities under sub-
2 section (c)(1); and

3 “(ii) the removal of covered product
4 or beverage container contaminants at
5 compost facilities and other facilities that
6 manage organic materials.

7 “(2) DETERMINATION OF EXPENDITURES.—
8 For purposes of carrying out paragraph (1), Pro-
9 gram expenditures for a fiscal year shall be based
10 on—

11 “(A) in the case of the first fiscal year of
12 the Program, budgeted expenditures for the fis-
13 cal year; and

14 “(B) in the case of each fiscal year there-
15 after, Program expenditures for the previous
16 fiscal year.

17 **“SEC. 12104. NATIONAL BEVERAGE CONTAINER PROGRAM.**

18 “(a) RESPONSIBILITIES OF RESPONSIBLE PAR-
19 TIES.—

20 “(1) IN GENERAL.—Each responsible party for
21 beverages sold in beverage containers shall—

22 “(A) charge to a retailer to which the bev-
23 erage in a beverage container is delivered a de-
24 posit in the amount of the applicable refund

1 value described in subsection (c) on delivery;
2 and

3 “(B) on receipt of an empty beverage con-
4 tainer from a retailer, pay to the retailer a re-
5 fund in the amount of the applicable refund
6 value described in subsection (c).

7 “(2) USE OF DEPOSITS FROM UNREDEEMED
8 BEVERAGE CONTAINERS.—A responsible party shall
9 use any amounts received as deposits under para-
10 graph (1)(A) for which an empty beverage container
11 is not returned to the Organization responsible for
12 the material of the beverage container for invest-
13 ment in collection, recycling, and reuse infrastruc-
14 ture.

15 “(b) RESPONSIBILITIES OF RETAILERS.—

16 “(1) IN GENERAL.—Except as provided in para-
17 graph (2), each retailer of beverages in beverage
18 containers shall—

19 “(A) charge to the customer to which the
20 beverage in a beverage container is sold a de-
21 posit in the amount of the applicable refund
22 value described in subsection (c) on the sale;

23 “(B) on receipt of an empty beverage con-
24 tainer from a customer, pay to the customer a

1 refund in the amount of the applicable refund
2 value described in subsection (c);

3 “(C) accept a beverage container and pay
4 a refund under subparagraph (B)—

5 “(i) during any period that the re-
6 tailer is open for business; and

7 “(ii) regardless of whether the specific
8 beverage container was sold by the retailer;
9 and

10 “(D) in the case of a retailer that is equal
11 to or greater than 5,000 square feet, accept any
12 brand and size of beverage container and pay a
13 refund under subparagraph (B) for the bev-
14 erage container, regardless of whether the re-
15 tailer sells that brand or size of beverage con-
16 tainer.

17 “(2) EXCEPTIONS.—

18 “(A) DIRTY OR DAMAGED.—A retailer de-
19 scribed in paragraph (1) may refuse to accept
20 a beverage container and pay a refund under
21 paragraph (1)(B) if the beverage container—

22 “(i) visibly contains or is contami-
23 nated by a substance other than—

24 “(I) water;

1 “(II) residue of the original con-
2 tents; or

3 “(III) ordinary dust; or

4 “(ii) is so damaged that the brand or
5 refund label appearing on the container
6 cannot be identified.

7 “(B) CONTAINER LIMITATION.—

8 “(i) LARGE RETAILERS.—A retailer
9 described in paragraph (1) that is equal to
10 or greater than 5,000 square feet may
11 refuse to accept, and pay a refund under
12 paragraph (1)(B) for, more than 250 bev-
13 erage containers per person per day.

14 “(ii) SMALL RETAILERS.—A retailer
15 described in paragraph (1) that is less
16 than 5,000 square feet may refuse to ac-
17 cept, and pay a refund under paragraph
18 (1)(B) for, more than 50 beverage con-
19 tainers per person per day.

20 “(C) BRAND AND SIZE.—A retailer de-
21 scribed in paragraph (1) that is less than 5,000
22 square feet may refuse to accept, and pay a re-
23 fund under paragraph (1)(B) for, a brand or
24 size of beverage container that the retailer does
25 not sell.

1 “(D) RESTAURANTS.—A retailer described
2 in paragraph (1) that is a restaurant may
3 refuse to accept, and pay a refund under para-
4 graph (1)(B) for, a beverage container that the
5 restaurant did not sell.

6 “(E) OTHER MEANS OF RETURN.—The
7 Administrator may permit the establishment of
8 convenience zones, under which a retailer within
9 a convenience zone is exempt from this sub-
10 section if the Administrator determines that the
11 retailer—

12 “(i) is located within close proximity
13 to a redemption center established under
14 subsection (e)(2); and

15 “(ii) shares in the cost of the oper-
16 ation of that redemption center with the
17 responsible party.

18 “(c) APPLICABLE REFUND VALUE.—

19 “(1) IN GENERAL.—The amount of the refund
20 value referred to in subsections (a) and (b) shall be
21 not less than 10 cents.

22 “(2) ADJUSTMENTS.—Beginning on the date
23 that is 3 years after the date of enactment of this
24 part, the Administrator may increase the minimum
25 refund value under paragraph (1) to account for—

1 “(A) inflation; and

2 “(B) other factors, such as a failure to
3 meet performance targets described in section
4 12105(g).

5 “(3) DISCRETIONARY INCREASES.—A respon-
6 sible party, with respect to a covered product or bev-
7 erage container, or a State may require a refund
8 value that is more than the minimum refund value
9 under paragraph (1).

10 “(d) LABELING.—Any manufacturer, importer, or
11 distributor of a beverage in a beverage container that is
12 sold in the United States shall include on the label of the
13 beverage container a standardized description of the appli-
14 cable refund value in such a manner that the description
15 is clearly visible.

16 “(e) RESPONSIBILITIES OF ORGANIZATIONS.—

17 “(1) COLLECTION AND STORAGE.—An Organi-
18 zation of responsible parties for beverages sold in
19 beverage containers shall facilitate collection and
20 storage of beverage containers that are returned to
21 retailers under this section by providing storage or
22 other means to collect the beverage containers until
23 collection for recycling, such as reverse vending or
24 other convenient options for consumers.

25 “(2) REDEMPTION CENTERS.—

1 “(A) IN GENERAL.—An Organization of
2 responsible parties for beverages sold in bev-
3 erage containers shall establish and operate fa-
4 cilities to accept beverage containers from con-
5 sumers.

6 “(B) REQUIREMENTS.—A facility estab-
7 lished under subparagraph (A) shall—

8 “(i) be staffed and available to the
9 public—

10 “(I) each day other than a Fed-
11 eral or local holiday; and

12 “(II) not less than 10 hours each
13 day;

14 “(ii) accept—

15 “(I) any beverage container; and

16 “(II) not less than 350 beverage
17 containers per person per day; and

18 “(iii) provide—

19 “(I) hand or automated counts
20 conducted by staff of the facility;

21 “(II) a drop door for consumers
22 to drop off bags of mixed beverage
23 containers for staff of the facility to
24 count, for which the facility may col-
25 lect a convenience fee; or

1 “(III) any other convenient
2 means of receiving and counting bev-
3 erage containers, as determined by the
4 Administrator.

5 “(3) CURBSIDE COLLECTION.—An Organization
6 may pay an entity that collects curbside recycling
7 the value of the applicable refund value under sub-
8 section (c) for beverage containers collected, based
9 on weight or another measurement that approxi-
10 mates the amount of the refunds, as negotiated by
11 the Organization and the entity.

12 “(f) EXCLUDED STATES.—

13 “(1) DEFINITION OF ELIGIBLE STATE.—In this
14 subsection, the term ‘eligible State’ means a State
15 that—

16 “(A) has in effect a beverage container law
17 before the date of enactment of this subtitle;
18 and

19 “(B) enacts legislation after the date of en-
20 actment of this part to update the beverage
21 container law described in subparagraph (A) to
22 be consistent with the refund value amounts
23 under, and beverage containers covered by, this
24 part.

1 “(2) COMPLIANCE WITH STATE LAW.—In the
2 case of an eligible State, compliance with the law of
3 the eligible State by a distributor, retailer, manufac-
4 turer, importer, or Organization shall be considered
5 to be compliance with this section.

6 “(3) CONFORMITY.—An eligible State is en-
7 couraged to negotiate with relevant Organizations on
8 updated features of the beverage container law of
9 the eligible State, such as sharing new revenue from
10 increased deposits.

11 **“SEC. 12105. PRODUCT STEWARDSHIP PLANS.**

12 “(a) IN GENERAL.—Not later than February 1,
13 2022, each Organization shall submit to the Administrator
14 a Product Stewardship Plan that describes how the Orga-
15 nization will carry out the responsibilities of the Organiza-
16 tion under this part.

17 “(b) CONTENTS.—Each Plan shall contain, at a min-
18 imum—

19 “(1) contact information for the Organization
20 submitting the Plan;

21 “(2) a list of participating responsible parties
22 and brands covered by the applicable Program, in-
23 cluding organization structure for each responsible
24 party; and

25 “(3) a description of—

1 “(A) each category of covered product or
2 beverage sold in a beverage container covered
3 by the Plan;

4 “(B) funding for the Organization, includ-
5 ing how fees will be structured and collected in
6 accordance with section 12102(b)(5).

7 “(C) performance targets under subsection
8 (g);

9 “(D) the means by which each type of cov-
10 ered product or beverage container will be col-
11 lected in accordance with section 12103 or
12 12104, as applicable, to meet—

13 “(i) the consumer convenience and ge-
14 ographic coverage standards for collection
15 under this part; and

16 “(ii) the performance targets under
17 subsection (g);

18 “(E) consumer education plans in accord-
19 ance with section 12106;

20 “(F) a customer service process, such as a
21 process for answering citizen or customer ques-
22 tions and resolving issues;

23 “(G) sound management practices for
24 worker health and safety;

1 “(H) plans for complying with design-for-
2 environment and labeling requirements under
3 sections 12303 and 12304, respectively;

4 “(I) the means by which responsible par-
5 ties will work with and improve existing recy-
6 cling, composting, litter cleanup, and disposal
7 programs and infrastructure;

8 “(J) any plans to transition to reusable
9 covered products;

10 “(K) the means by which the Organization
11 is mitigating fraud in the applicable Program;

12 “(L) the means by which responsible par-
13 ties will consult with the Federal Government,
14 State and local governments, and any other im-
15 portant stakeholders; and

16 “(M) plans for market development.

17 “(c) APPROVAL OR DENIAL.—Not later than 90 days
18 after receiving a Plan under subsection (a), the Adminis-
19 trator shall—

20 “(1) approve or deny the Plan; and

21 “(2) notify the applicable Organization of the
22 determination of the Administrator under paragraph
23 (1).

24 “(d) IMPLEMENTATION.—Beginning on August 1,
25 2022, not later than 60 days after receiving a notification

1 of approval of a Plan under subsection (c)(2), the applica-
2 ble Organization shall begin implementation of the Plan.

3 “(e) EXPIRATION.—A Plan—

4 “(1) shall expire on the date that is 5 years
5 after the date on which the Plan is approved; and

6 “(2) may be renewed.

7 “(f) REVISIONS.—The Administrator may require a
8 revision to a Plan before the expiration date of the Plan
9 if—

10 “(1) the performance targets under subsection
11 (g) are not being met; or

12 “(2) there is a change in circumstances that
13 otherwise warrants a revision.

14 “(g) PERFORMANCE TARGETS.—

15 “(1) IN GENERAL.—Each Plan shall contain
16 achievable performance targets for the collection and
17 recycling of the applicable covered product or bev-
18 erage container in accordance with section 12103 or
19 12104, as applicable.

20 “(2) MINIMUM REQUIREMENTS.—Performance
21 targets under paragraph (1) shall be not less than,
22 by weight of covered product—

23 “(A) by December 31, 2027—

24 “(i) 65 percent of all covered prod-
25 ucts, except paper, reused or recycled;

1 “(ii) 75 percent of all beverage con-
2 tainers and paper covered products recy-
3 cled; and

4 “(iii) 50 percent of all industrially
5 compostable covered products composted;
6 and

7 “(B) by December 31, 2032—

8 “(i) 80 percent of all covered prod-
9 ucts, except paper, reused or recycled;

10 “(ii) 90 percent of all beverage con-
11 tainers and paper covered products recy-
12 cled; and

13 “(iii) 70 percent of all industrially
14 compostable covered products composted.

15 **“SEC. 12106. OUTREACH AND EDUCATION.**

16 “(a) IN GENERAL.—A Program shall include the pro-
17 vision of outreach and education to consumers throughout
18 the United States regarding—

19 “(1) proper end-of-life management of covered
20 products and beverage containers;

21 “(2) the location and availability of curbside
22 and drop-off collection opportunities;

23 “(3) how to prevent litter of covered products
24 and beverage containers; and

1 “(4) recycling and composting instructions that
2 are—

3 “(A) consistent nationwide, except as nec-
4 essary to take into account differences among
5 State and local laws;

6 “(B) easy to understand; and

7 “(C) easily accessible.

8 “(b) ACTIVITIES.—Outreach and education under
9 subsection (a) shall—

10 “(1) be designed to achieve the management
11 goals of covered products and beverage containers
12 under this part, including the prevention of contami-
13 nation by covered products and beverage containers
14 in other management systems or in other materials;

15 “(2) be coordinated across programs nationally
16 to avoid confusion for consumers; and

17 “(3) include, at a minimum—

18 “(A) consulting on education, outreach,
19 and communications with the advisory com-
20 mittee of the applicable Organization and other
21 stakeholders;

22 “(B) coordinating with and assisting local
23 municipal programs, municipal contracted pro-
24 grams, solid waste collection companies, and

1 other entities providing services to the Pro-
2 gram;

3 “(C) developing and providing outreach
4 and education to the diverse ethnic populations
5 of the United States through translated and
6 culturally appropriate materials, including in-
7 language and targeted outreach;

8 “(D) establishing consumer websites and
9 mobile applications that provide information
10 about methods to prevent covered product and
11 beverage container pollution and how consumers
12 may access and use collection services;

13 “(E) working with Program participants to
14 label covered products and beverage containers
15 with information to assist consumers in respon-
16 sibly managing covered product and beverage
17 container waste; and

18 “(F) determining the effectiveness of out-
19 reach, education, communications, and conven-
20 ience of services through periodic surveys of
21 consumers.

22 “(c) EVALUATION.—If the Administrator determines
23 that performance targets under section 12105(g) are not
24 being met with respect to an Organization, the Organiza-
25 tion shall—

1 “(1) conduct an evaluation of the effectiveness
2 of outreach and education efforts under this section
3 to determine whether changes are necessary to im-
4 prove those outreach and education efforts; and

5 “(2) develop information that may be used to
6 improve outreach and education efforts under this
7 section.

8 **“SEC. 12107. REPORTING.**

9 “(a) IN GENERAL.—An Organization shall annually
10 make available on a publicly available website a report that
11 contains—

12 “(1) with respect to covered products or bev-
13 erages in beverage containers sold or imported by
14 members of the Organization, a description of, at a
15 minimum—

16 “(A) the quantity of covered products or
17 beverage containers sold or imported and col-
18 lected, by submaterial type and State, for the
19 year covered by the report and each prior year;

20 “(B) management of the covered products
21 or beverage containers, including recycling
22 rates, by submaterial type, for the year covered
23 by the report and each prior year;

24 “(C) data on the final destination and
25 quantity of reclaimed covered products or bev-

1 erage containers, by submaterial type, including
2 the form of any covered products or beverage
3 containers exported;

4 “(D) contamination in the recycling stream
5 of the covered products or beverage containers;

6 “(E) collection service vendors and collec-
7 tion locations, including—

8 “(i) the geographic distribution of col-
9 lection;

10 “(ii) distance to population centers;

11 “(iii) hours;

12 “(iv) actions taken to reduce barriers
13 to collection by expanding curbside collec-
14 tion or facilitating drop-offs; and

15 “(v) frequency of collection avail-
16 ability; and

17 “(F) efforts to reduce environmental im-
18 pacts at each stage of the lifecycle of the cov-
19 ered products or beverage containers;

20 “(2) the composition of the advisory committee
21 for the Organization;

22 “(3) expenses of the Organization;

23 “(4) outreach and education efforts under sec-
24 tion 12106, including the results of those efforts;

25 “(5) customer service efforts and results;

1 “(6) performance relative to the performance
2 targets of the Plan under section 12105(g);

3 “(7) the status of packaging innovation and de-
4 sign characteristics to prevent littering, make cov-
5 ered products or beverage containers reusable or re-
6 fillable, or reduce overall covered product and bev-
7 erage container waste; and

8 “(8) any other information that the Adminis-
9 trator determines to be appropriate.

10 “(b) CONSISTENCY.—Organizations shall make ef-
11 forts to coordinate reporting under subsection (a) to pro-
12 vide for consistency of information across a category of
13 covered products or beverage containers.

14 “(c) AUDITS.—Every 2 years, the Administrator shall
15 conduct an audit of collection and recycling to provide an
16 accounting of the collection and recycling of covered prod-
17 ucts and beverage containers that are not produced by a
18 responsible party or an Organization.

19 “(d) REDUCTIONS IN STATE AND LOCAL TAXES.—
20 Not later than February 1, 2025, and annually thereafter,
21 the Administrator shall prepare and make publicly avail-
22 able a report describing—

23 “(1) the effect of this part on costs incurred by
24 State and local governments for the management

1 and cleanup of covered products and beverage con-
2 tainers; and

3 “(2) any reductions in State and local taxes as
4 a result of any reductions of costs described in para-
5 graph (1).

6 **“PART II—REDUCTION OF SINGLE-USE**
7 **PRODUCTS**

8 **“SEC. 12201. PROHIBITION ON SINGLE-USE PLASTIC CARRY-**
9 **OUT BAGS.**

10 “(a) DEFINITION OF SINGLE-USE PLASTIC BAG.—In
11 this section:

12 “(1) IN GENERAL.—The term ‘single-use plastic
13 bag’ means a bag that is—

14 “(A) made of—

15 “(i) plastic film; or

16 “(ii) woven or nonwoven nylon, poly-
17 propylene, polyethylene-terephthalate, or
18 Tyvek in a quantity less than 80 grams
19 per square meter; and

20 “(B) provided by a covered retail or service
21 establishment to a customer at the point of
22 sale, home delivery, the check stand, cash reg-
23 ister, or other point of departure to a customer
24 for use to transport, deliver, or carry away pur-
25 chases.

1 “(2) EXCLUSIONS.—The term ‘single-use plas-
2 tic bag’ does not include—

3 “(A) a bag that is subject to taxation
4 under section 4056 of the Internal Revenue
5 Code of 1986; or

6 “(B) a covered product that is—

7 “(i) used by a consumer inside a
8 store—

9 “(I) to package bulk items, such
10 as fruit, vegetables, nuts, grains,
11 candy, unwrapped prepared foods or
12 bakery goods, or small hardware
13 items; or

14 “(II) to contain or wrap—

15 “(aa) prepackaged or non-
16 prepackaged frozen foods, meat,
17 or fish; or

18 “(bb) flowers, potted plants,
19 or other items the dampness of
20 which may require the use of the
21 nonhandled bag;

22 “(ii) a bag sold at retail in packages
23 containing multiple bags intended to con-
24 tain garbage or pet waste;

25 “(iii) a newspaper bag;

1 “(iv) a door hanger bag; or

2 “(v) a laundry or dry cleaning bag.

3 “(b) PROHIBITION.—A covered retail or service es-
4 tablishment shall not provide at the point of sale a single-
5 use plastic bag to a customer.

6 “(c) ENFORCEMENT.—

7 “(1) WRITTEN NOTIFICATION FOR FIRST VIO-
8 LATION.—If a covered retail or service establishment
9 violates subsection (b), the Administrator shall pro-
10 vide that covered retail or service establishment with
11 written notification regarding the violation of the re-
12 quirement under that subsection.

13 “(2) SUBSEQUENT VIOLATIONS.—

14 “(A) IN GENERAL.—If a covered retail or
15 service establishment, subsequent to receiving a
16 written notification described in paragraph (1),
17 violates subsection (b), the Administrator shall
18 fine the covered retail or service establishment
19 in accordance with subparagraph (B).

20 “(B) AMOUNT OF PENALTY.—For each
21 violation during a calendar year, the amount of
22 the penalty under subparagraph (A) shall be—

23 “(i) in the case of the first violation,
24 \$250;

1 “(ii) in the case of the second viola-
2 tion, \$500; and

3 “(iii) in the case of the third violation
4 or any subsequent violation, \$1,000.

5 “(C) SEIZURE.—On a third violation or
6 any subsequent violation under this paragraph
7 by a covered retail or service establishment, the
8 Administrator may seize any single-use plastic
9 bags in the possession of the covered retail or
10 service establishment.

11 “(D) LIMITATION.—In the case of a cov-
12 ered retail or service establishment the annual
13 revenue of which is less than \$1,000,000, a
14 penalty shall not be imposed under this para-
15 graph more than once during any 7-day period.

16 “(3) STATE ENFORCEMENT.—The Adminis-
17 trator may permit a State to carry out enforcement
18 under this subsection if the Administrator deter-
19 mines that the State meets such requirements as the
20 Administrator may establish.

21 “(d) EFFECTIVE DATE.—The prohibition under this
22 section shall take effect on January 1, 2022.

1 **“SEC. 12202. REDUCTION OF OTHER SINGLE-USE PROD-**
2 **UCTS.**

3 “(a) PROHIBITION ON PLASTIC UTENSILS AND PLAS-
4 TIC STRAWS.—

5 “(1) UTENSILS.—A covered retail or service es-
6 tablishment may not use, provide, distribute, or sell
7 a plastic utensil.

8 “(2) PLASTIC STRAWS.—A covered retail or
9 service establishment may not provide a plastic
10 straw to a customer except on request of the cus-
11 tomer.

12 “(3) NONPLASTIC ALTERNATIVES.—A covered
13 retail or service establishment may provide, dis-
14 tribute, or sell a reusable, compostable, or recyclable
15 alternative to a plastic utensil or plastic straw
16 only—

17 “(A) on request of a customer; and

18 “(B) in the case of a compostable or recy-
19 clable alternative, if composting or recycling, as
20 applicable, for the item is provided and locally
21 accessible.

22 “(b) PROHIBITION ON OTHER SINGLE-USE PROD-
23 UCTS.—

24 “(1) IN GENERAL.—Except as provided in para-
25 graphs (3) and (4), a covered retail or service estab-
26 lishment may not sell or distribute any single-use

1 product that the Administrator determines is not re-
2 cyclable or compostable and can be replaced by a re-
3 usable or refillable item.

4 “(2) INCLUSIONS.—In the prohibition under
5 paragraph (1), the Administrator shall include—

6 “(A) expanded polystyrene for use in food
7 service products, disposable consumer coolers,
8 or shipping packaging;

9 “(B) single-use personal care products,
10 such as miniature bottles containing shampoo,
11 soap, and lotion that are provided at hotels or
12 motels;

13 “(C) noncompostable produce stickers; and

14 “(D) such other products that the Admin-
15 istrator determines by regulation to be appro-
16 priate.

17 “(3) EXCEPTION.—The prohibition under para-
18 graph (1) shall not apply to the sale or distribution
19 of an expanded polystyrene cooler for medical use.

20 “(4) TEMPORARY WAIVER.—The Administrator
21 may grant a temporary waiver of not more than 1
22 year from the prohibition under paragraph (1) for
23 the use of expanded polystyrene in shipping pack-
24 aging to protect a product of high value if a viable
25 alternative to expanded polystyrene is not available.

1 “(c) ENFORCEMENT.—

2 “(1) WRITTEN NOTIFICATION FOR FIRST VIO-
3 LATION.—If a covered retail or service establishment
4 violates subsection (a) or (b), the Administrator
5 shall provide that covered retail or service establish-
6 ment with written notification regarding the viola-
7 tion of the requirement under that subsection.

8 “(2) SUBSEQUENT VIOLATIONS.—

9 “(A) IN GENERAL.—If any covered retail
10 or service establishment, subsequent to receiv-
11 ing a written notification described in para-
12 graph (1), violates subsection (a) or (b), the
13 Administrator shall fine the covered retail or
14 service establishment in accordance with sub-
15 paragraph (B).

16 “(B) AMOUNT OF PENALTY.—For each
17 violation during a calendar year, the amount of
18 the penalty under subparagraph (A) shall be—

19 “(i) in the case of the first violation,
20 \$250;

21 “(ii) in the case of the second viola-
22 tion, \$500; and

23 “(iii) in the case of the third violation
24 or any subsequent violation, \$1,000.

1 “(1) the environmental impacts and efficacy of
2 tobacco filters made from plastic; and

3 “(2) the environmental impacts of electronic
4 cigarettes, including disposable components of elec-
5 tronic cigarettes.

6 “(b) REPORT TO CONGRESS.—

7 “(1) IN GENERAL.—Not later than 180 days
8 after the date on which the study under subsection
9 (a) is concluded, the Administrator shall submit to
10 the committees described in paragraph (2) a report
11 describing recommendations to establish a program
12 to reduce litter from, and the environmental impacts
13 of, single-use tobacco filter products and electronic
14 cigarettes.

15 “(2) COMMITTEES.—The committees referred
16 to in paragraph (1) are—

17 “(A) the Committee on Health, Education,
18 Labor, and Pensions of the Senate;

19 “(B) the Committee on Environment and
20 Public Works of the Senate;

21 “(C) the Committee on Commerce,
22 Science, and Transportation of the Senate; and

23 “(D) the Committee on Energy and Com-
24 merce of the House of Representatives.

1 “(c) PUBLICATION.—On submission of the report
2 under subsection (b)(1), the Administrator shall publish
3 in the Federal Register for public comment—

4 “(1) the report; and

5 “(2) a description of the actions the Adminis-
6 trator intends to take during the 1-year period after
7 the date of publication to reduce litter from, and the
8 environmental impacts of, single-use tobacco filter
9 products and electronic cigarettes, including rec-
10 ommendations for incorporating plastic tobacco fil-
11 ters and electronic cigarette components into an ex-
12 tended producer responsibility program.

13 **“PART III—RECYCLING AND COMPOSTING**

14 **“SEC. 12301. RECYCLING AND COMPOSTING COLLECTION.**

15 “The Administrator, in consultation with Organiza-
16 tions, State and local governments, and affected stake-
17 holders, shall issue guidance to standardize recycling and
18 composting collection across communities and States.

19 **“SEC. 12302. REQUIREMENTS FOR THE PRODUCTION OF**
20 **PRODUCTS CONTAINING RECYCLED CON-**
21 **TENT.**

22 “(a) PLASTIC BEVERAGE CONTAINERS.—

23 “(1) IN GENERAL.—Subject to paragraph (2),
24 the Administrator shall require each responsible

1 party for plastic beverage containers to make the
2 plastic beverage containers—

3 “(A) by 2025, of 25 percent post-consumer
4 recycled content from United States sources;

5 “(B) by 2030, of 30 percent post-consumer
6 recycled content from United States sources;

7 “(C) by 2035, of 50 percent post-consumer
8 recycled content from United States sources;

9 “(D) by 2040, of 80 percent post-consumer
10 recycled content from United States sources;

11 and

12 “(E) by such dates thereafter as the Ad-
13 ministrator shall establish, such percentages of
14 post-consumer recycled content from United
15 States sources as the Administrator determines
16 by a rule to be appropriate.

17 “(2) ADJUSTMENT.—After consideration of the
18 results of the study under subsection (b)(1), the Ad-
19 ministrator may issue regulations to modify 1 or
20 more of the percentages described in subparagraphs
21 (A) through (D) of paragraph (1).

22 “(b) OTHER COVERED PRODUCTS AND BEVERAGE
23 CONTAINERS.—

24 “(1) STUDY.—The Administrator, in coordina-
25 tion with the Director of the National Institute of

1 Standards and Technology, the Commissioner of
2 Food and Drugs, and the head of any other relevant
3 Federal agency, shall carry out a study to determine
4 the technical and safe minimum post-consumer recy-
5 cled content requirements for covered products and
6 beverage containers, including beverage containers
7 composed of glass, aluminum, and other materials.

8 “(2) REPORT.—

9 “(A) IN GENERAL.—Not later than 1 year
10 after the date of enactment of this subtitle, the
11 Administrator shall submit to Congress a report
12 describing the results of the study under para-
13 graph (1), including—

14 “(i) an estimate of the current and
15 projected consumption of covered products
16 and use of beverage containers in the
17 United States;

18 “(ii) an estimate of current and pro-
19 jected future recycling rates of covered
20 products and beverage containers in the
21 United States;

22 “(iii) an assessment of techniques and
23 recommendations to minimize the creation
24 of new materials for covered products and
25 beverage containers; and

1 “(iv) an assessment of—

2 “(I) post-consumer recycled con-
3 tent standards for covered products
4 and beverage containers that are tech-
5 nologically feasible; and

6 “(II) the impact of the standards
7 described in subclause (I) on recycling
8 rates of covered products and bev-
9 erage containers.

10 “(B) PUBLICATION.—On submission of the
11 report under subparagraph (A) to Congress, the
12 Administrator shall publish in the Federal Reg-
13 ister for public comment—

14 “(i) the report; and

15 “(ii) a description of the actions the
16 Administrator intends to take during the
17 1-year period after the date of publication
18 in the Federal Register to establish min-
19 imum post-consumer recycled content
20 standards for covered products and bev-
21 erage containers.

22 “(3) MINIMUM STANDARDS.—

23 “(A) IN GENERAL.—Not later than 1 year
24 after the Administrator publishes the report
25 under paragraph (2)(B), the Administrator

1 shall establish minimum post-consumer recycled
2 content standards for covered products and bev-
3 erage containers.

4 “(B) REQUIREMENT.—The standards es-
5 tablished under subparagraph (A) shall increase
6 the percentage by which covered products and
7 beverage containers shall be composed of post-
8 consumer recycled content over a time period
9 established by the Administrator.

10 **“SEC. 12303. DESIGNING FOR THE ENVIRONMENT.**

11 “(a) IN GENERAL.—The Administrator shall require
12 each responsible party of covered products and beverage
13 containers to design the covered products and beverage
14 containers to minimize the environmental and health im-
15 pacts of the covered products and beverage containers.

16 “(b) REQUIREMENTS.—In designing covered prod-
17 ucts and beverage containers in accordance with sub-
18 section (a), to minimize the impacts of extraction, manu-
19 facture, use, and end-of-life management, a responsible
20 party shall consider—

21 “(1) eliminating or reducing the quantity of
22 material used;

23 “(2) eliminating toxic substances;

24 “(3) designing for reuse, refill, and lifespan ex-
25 tension;

1 “(4) incorporating recycled materials;

2 “(5) designing to reduce environmental impacts
3 across the lifecycle of a product;

4 “(6) incorporating sustainably and renewably
5 sourced material;

6 “(7) optimizing material to use the minimum
7 quantity of packaging necessary to effectively deliver
8 a product without damage or spoilage;

9 “(8) degradability of materials in cold-water en-
10 vironments; and

11 “(9) improving recyclability and compostability.

12 **“SEC. 12304. PRODUCT LABELING.**

13 “(a) IN GENERAL.—A responsible party shall include
14 labels on covered products and beverage containers that—

15 “(1) are easy to read; and

16 “(2) indicate that the covered product or bev-
17 erage container is—

18 “(A) recyclable;

19 “(B) not recyclable;

20 “(C) compostable; or

21 “(D) reusable;

22 “(3) in the case of a covered product or bev-
23 erage container that is not recyclable, does not in-
24 clude the universal chasing arrows recycling symbol
25 or any other similar symbol that would lead a con-

1 sumer to believe that the item should be sorted for
2 recycling;

3 “(4) in the case of a plastic bag that is not
4 compostable, is not tinted green or brown;

5 “(5) in the case of a compostable bag, is tinted
6 green or brown and includes information identifying
7 the entity designated by the Administrator that has
8 certified that the product is compostable; and

9 “(6) in the case of a covered product or bev-
10 erage container that is compostable, includes a green
11 or brown stripe or similar marking to identify that
12 the item is compostable.

13 “(b) STANDARDIZED LABELS.—The Administrator
14 shall establish or approve a standardized label for each
15 category of covered product and beverage container to be
16 used by responsible parties under subsection (a).

17 “(c) REQUIREMENT.—A label described in subsection
18 (a), including a shrink sleeve—

19 “(1) shall be compatible with the intended
20 method of discard for the covered product or bev-
21 erage container; and

22 “(2) shall not require removal by consumers.

23 “(d) COMPATIBILITY.—The Administrator shall en-
24 courage label manufacturers, in coordination with the sup-
25 ply chains of those manufacturers, including substrate

1 suppliers, converters, and ink suppliers, to work with the
2 recycling industry to address label recycling compatibility
3 challenges.

4 “(e) WET WIPES.—With respect to the label de-
5 scribed in subsection (a) for a wet wipe product—

6 “(1) in the case of a wet wipe product sold in
7 the United States that is intended to be disposed of
8 in the solid waste stream, the label shall include—

9 “(A) on the front of the package near the
10 dispensing point, the statement ‘Do Not Flush’;
11 and

12 “(B) in high contrast font and color, a ‘Do
13 Not Flush’ moniker and symbol that is other-
14 wise in accordance with the voluntary guidelines
15 for labeling practices of the nonwoven fabrics
16 industry contained in the Code of Practice of
17 the Association of the Nonwoven Fabrics Indus-
18 try and the European Disposables and
19 Nonwovens Association, entitled ‘Communi-
20 cating Appropriate Disposal Pathways for
21 Nonwoven Wipes to Protect Wastewater Sys-
22 tems’, second edition, as published in April
23 2017; and

24 “(2) in the case of a wet wipe product sold in
25 the United States that is labeled with a claim that

1 the product is ‘flushable’, ‘sewer and septic safe’, or
2 any other claim that indicates that the product is in-
3 tended to be disposed of in a sewer or septic sys-
4 tem—

5 “(A) the label may include the statement
6 ‘flushable’, ‘sewer and septic safe’, or other
7 statement that the product is intended to be
8 disposed of in a sewer or septic system if the
9 product—

10 “(i) meets the performance standards
11 for dispersibility in a sewer system or sep-
12 tic system established by the International
13 Water Services Flushability Group (as in
14 effect on the date of enactment of this sub-
15 title); and

16 “(ii) does not contain chemicals or ad-
17 ditives harmful to the public wastewater
18 infrastructure; and

19 “(3) in the case of a wet wipe product that is
20 composed of plastic or other synthetic material, in-
21 cluding regenerated cellulosic fibers—

22 “(A) the label, marketing claims, or other
23 advertisements for the product may not identify
24 the product as intended for disposal in a sewer
25 or septic system; and

1 “(B) the label shall clearly and conspicu-
2 ously state that the product contains plastic or
3 other synthetic material.

4 **“SEC. 12305. RECYCLING AND COMPOSTING RECEPTACLE**
5 **LABELING.**

6 “(a) PURPOSE.—The purpose of this section is to es-
7 tablish guidelines for a national standardized labeling sys-
8 tem for the development of labels for recycling and
9 composting receptacles that use a methodology that is con-
10 sistent throughout the United States to assist members
11 of the public in properly recycling and composting.

12 “(b) DEFINITIONS.—In this section:

13 “(1) PUBLIC SPACE.—The term ‘public space’
14 means a business, an airport, a school, a stadium,
15 a government office, a park, and any other public
16 space, as determined by the Administrator.

17 “(2) RECYCLING OR COMPOSTING RECEP-
18 TACLE.—The term ‘recycling or composting recep-
19 tacle’ means a recycling or composing bin, cart, or
20 dumpster.

21 “(3) RESIDENTIAL RECYCLING AND
22 COMPOSTING PROGRAM.—The term ‘residential recy-
23 cling and composting program’ means a recycling
24 and composting program that services single family
25 dwellings, multifamily dwellings or facilities, or both.

1 “(c) GUIDELINES.—The Administrator shall develop
2 and publish guidelines for a national standardized labeling
3 system for an Organization to use to develop labels that—

4 “(1) use a national standardized methodology
5 of colors, images, format, and terminology, including
6 to address diverse ethnic populations;

7 “(2) shall be placed on recycling and
8 composting receptacles in public spaces and the serv-
9 ice area of the Organization in accordance with
10 paragraphs (1)(D) and (2) of subsection (e); and

11 “(3) communicate to users of those recycling
12 and composting receptacles—

13 “(A) the specific recyclables and
14 compostables that the Organization accepts;
15 and

16 “(B) the specific rules of sorting for that
17 Organization.

18 “(d) DEVELOPMENT OF LABELS.—

19 “(1) IN GENERAL.—Each Organization in the
20 United States shall, in accordance with the guide-
21 lines published under subsection (c), use the national
22 standardized labeling system to develop labels for
23 use on recycling and composting receptacles in pub-
24 lic spaces and the service area of the Organization

1 to communicate to users of those recycling and
2 composting receptacles—

3 “(A) the specific recyclables and
4 compostables that the Organization accepts;
5 and

6 “(B) the specific rules of sorting for that
7 Organization.

8 “(2) SIMPLE AND DETAILED VERSIONS.—In de-
9 veloping labels under paragraph (1), an Organiza-
10 tion shall develop—

11 “(A) a simple version of the label for use
12 on recycling and composting receptacles used in
13 public spaces, which shall list the basic
14 recyclables and compostables that the Organiza-
15 tion accepts; and

16 “(B) a detailed version of the label for use
17 on recycling and composting receptacles used as
18 part of a residential recycling and composting
19 program, taking into consideration the com-
20 plexity of the packaging and products disposed
21 of by single family dwellings and multifamily
22 dwellings and facilities.

23 “(e) DISTRIBUTION OF LABELS.—

24 “(1) SIMPLE VERSION.—

1 “(A) IN GENERAL.—An Organization shall
2 distribute the simple version of the label devel-
3 oped by that Organization under subsection
4 (d)(2)(A) to each customer of that Organization
5 that owns or operates a public space in the
6 service area of the Organization.

7 “(B) QUANTITY.—The quantity of labels
8 distributed to an owner or operator of a public
9 space under subparagraph (A) shall be reason-
10 ably sufficient to ensure that a label may be
11 placed on each recycling and composting recep-
12 tacle in that public space.

13 “(C) ADDITIONAL LABELS.—If the quan-
14 tity of labels distributed under subparagraph
15 (B) is insufficient, an Organization shall make
16 available to owners and operators described in
17 subparagraph (A) additional labels to purchase
18 or download.

19 “(D) REQUIREMENT OF OWNERS AND OP-
20 ERATORS.—An owner or operator of a public
21 space that receives labels under subparagraph
22 (A) shall display the labels on the recycling and
23 composting receptacles in that public space.

24 “(2) DETAILED VERSION.—An Organization or
25 municipality, as applicable, that services a residen-

1 “(II) composite materials mixing
2 plastics with nonplastic materials; or

3 “(3) that are contaminated with hazardous
4 chemicals, toxic substances, or substances to the ex-
5 tent that the export becomes hazardous waste.

6 **“PART IV—LOCAL GOVERNMENT EFFORTS**

7 **“SEC. 12401. PROTECTION OF LOCAL GOVERNMENTS.**

8 “Nothing in this subtitle or section 4056 of the Inter-
9 nal Revenue Code of 1986 preempts any State or local
10 law in effect on or after the date of enactment of this sub-
11 title that—

12 “(1) requires the collection and recycling of
13 recyclables in a greater quantity than required under
14 section 12105(g);

15 “(2) prohibits the sale or distribution of prod-
16 ucts that are not prohibited under part II;

17 “(3) requires products to be made of a greater
18 percentage of post-consumer recycled content than
19 required under section 12302;

20 “(4) imposes a fee or other charge for products
21 not subject to taxation under section 4056 of the In-
22 ternal Revenue Code of 1986; or

23 “(5) in any way exceeds the requirements of
24 this subtitle.

1 **“SEC. 12402. CLEAN COMMUNITIES PROGRAM.**

2 “The Administrator shall establish a program, to be
3 known as the ‘Clean Communities Program’, under which
4 the Administrator shall leverage smart technology and so-
5 cial media to provide technical assistance to units of local
6 government of States in cost-effectively—

7 “(1) identifying concentrated areas of pollution
8 in that unit of local government; and

9 “(2) implementing source reduction solutions.

10 **“PART V—FISHING GEAR**

11 **“SEC. 12501. STUDY AND ACTION ON DERELICT FISHING**
12 **GEAR.**

13 “(a) REPORT.—Not later than 2 years after the date
14 of enactment of this subtitle, the Under Secretary of Com-
15 merce for Oceans and Atmosphere (referred to in this sec-
16 tion as the ‘Under Secretary’) shall submit to the Com-
17 mittee on Commerce, Science, and Transportation and the
18 Committee on Environment and Public Works of the Sen-
19 ate and the Committee on Natural Resources of the House
20 of Representatives a report that includes—

21 “(1) an analysis of the scale of fishing gear
22 losses by United States and foreign fisheries, includ-
23 ing—

24 “(A) the variance in the quantity of gear
25 lost among—

26 “(i) domestic and foreign fisheries;

- 1 “(ii) types of fishing gear; and
- 2 “(iii) methods of fishing;
- 3 “(B) the means by which lost fishing gear
- 4 is transported by ocean currents; and
- 5 “(C) common reasons that fishing gear is
- 6 lost;
- 7 “(2) an evaluation of the ecological, human
- 8 health, and maritime safety impacts of derelict fish-
- 9 ing gear, and how those impacts vary across—
- 10 “(A) types of fishing gear;
- 11 “(B) materials used to construct fishing
- 12 gear; and
- 13 “(C) geographic location;
- 14 “(3) recommendations on management meas-
- 15 ures—
- 16 “(A) to prevent fishing gear losses; and
- 17 “(B) to reduce the impacts of lost fishing
- 18 gear;
- 19 “(4) an assessment of the cost of implementing
- 20 management measures described in paragraph (3);
- 21 and
- 22 “(5) an assessment of the impact of fishing
- 23 gear loss attributable to foreign countries.

1 “(b) PUBLICATION.—On submission of the report
2 under subsection (a), the Under Secretary shall publish
3 in the Federal Register for public comment—

4 “(1) the report; and

5 “(2) a description of the actions the Under Sec-
6 retary intends to take during the 1-year period after
7 the date of publication to reduce litter from, and the
8 environmental impacts of, commercial fishing gear.”.

9 (b) CLERICAL AMENDMENT.—The table of contents
10 for the Solid Waste Disposal Act (Public Law 89–272; 79
11 Stat. 997) is amended by inserting after the item relating
12 to section 11011 the following:

“Subtitle K—Producer Responsibility for Products and Packaging

“Sec. 12001. Definitions.

“PART I—PRODUCTS IN THE MARKETPLACE

“Sec. 12101. Extended producer responsibility.

“Sec. 12102. Producer Responsibility Organizations.

“Sec. 12103. Covered product management.

“Sec. 12104. National beverage container program.

“Sec. 12105. Product Stewardship Plans.

“Sec. 12106. Outreach and education.

“Sec. 12107. Reporting.

“PART II—REDUCTION OF SINGLE-USE PRODUCTS

“Sec. 12201. Prohibition on single-use plastic carryout bags.

“Sec. 12202. Reduction of other single-use products.

“Sec. 12203. Study and action on plastic tobacco filters and electronic ciga-
rettes.

“PART III—RECYCLING AND COMPOSTING

“Sec. 12301. Recycling and composting collection.

“Sec. 12302. Requirements for the production of products containing recycled
content.

“Sec. 12303. Designing for the environment.

“Sec. 12304. Product labeling.

“Sec. 12305. Recycling and composting receptacle labeling.

“Sec. 12306. Prohibition on certain exports of waste.

“PART IV—LOCAL GOVERNMENT EFFORTS

“Sec. 12401. Protection of local governments.

“Sec. 12402. Clean Communities Program.

“PART V—FISHING GEAR

“Sec. 12501. Study and action on derelict fishing gear.”.

1 **SEC. 3. IMPOSITION OF TAX ON CARRYOUT BAGS.**

2 (a) GENERAL RULE.—Chapter 31 of the Internal
3 Revenue Code of 1986 is amended by inserting after sub-
4 chapter C the following new subchapter:

5 **“Subchapter D—Carryout Bags**

“Sec. 4056. Imposition of tax.

6 **“SEC. 4056. IMPOSITION OF TAX.**

7 “(a) GENERAL RULE.—There is hereby imposed on
8 any retail sale a tax on each carryout bag provided to a
9 customer by an applicable entity.

10 “(b) AMOUNT OF TAX.—The amount of tax imposed
11 by subsection (a) shall be \$0.10 per carryout bag.

12 “(c) LIABILITY FOR TAX.—The applicable entity
13 shall be liable for the tax imposed by this section.

14 “(d) DEFINITIONS.—For purposes of this section—

15 “(1) APPLICABLE ENTITY.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (B), the term ‘applicable entity’ means—

18 “(i) any restaurant (as defined in sec-
19 tion 12001 of the Solid Waste Disposal
20 Act), or

21 “(ii) any business which—

1 “(I) sells food, alcohol, or any
2 other good or product to the public at
3 retail, or

4 “(II) elects to comply with the
5 requirements under this section.

6 “(B) EXCEPTION.—

7 “(i) IN GENERAL.—For purposes of
8 this section, the term ‘applicable entity’
9 shall not include any entity described in
10 subparagraph (A) if the State, or any local
11 government or political subdivision thereof,
12 in which such entity is located has been
13 granted a waiver pursuant to clause (ii).

14 “(ii) WAIVER.—The Secretary shall
15 prescribe rules providing for the waiver of
16 application of this section with respect to
17 any State, or any local government or po-
18 litical subdivision thereof, which has en-
19 acted a tax or fee on the provision of car-
20 ryout bags which is similar to the tax im-
21 posed under this section.

22 “(2) CARRYOUT BAG.—

23 “(A) IN GENERAL.—The term ‘carryout
24 bag’ means a bag of any material that is pro-
25 vided to a consumer at the point of sale to

1 carry or cover purchases, merchandise, or other
2 items.

3 “(B) EXCEPTIONS.—Such term shall not
4 include any product described in section
5 12201(a)(2)(B)(ii) of the Solid Waste Disposal
6 Act.

7 “(e) BAG TAX STATED SEPARATELY ON RECEIPT.—
8 The tax imposed by subsection (a) shall be separately stat-
9 ed on the receipt of sale provided to the customer.

10 “(f) PENALTIES.—

11 “(1) WRITTEN NOTIFICATION FOR FIRST VIO-
12 LATION.—If any applicable entity fails to collect the
13 tax imposed under subsection (a) or satisfy the re-
14 quirements under subsection (e), the Secretary shall
15 provide such entity with written notification regard-
16 ing the violation of the requirements under such
17 subsections.

18 “(2) SUBSEQUENT VIOLATIONS.—

19 “(A) IN GENERAL.—If any applicable enti-
20 ty, subsequent to receiving a written notifica-
21 tion described in paragraph (1), fails to collect
22 the tax imposed under subsection (a) or satisfy
23 the requirements under subsection (e), such en-
24 tity shall pay a penalty in addition to the tax
25 imposed under this section.

1 “(B) AMOUNT OF PENALTY.—For each
2 violation during a calendar year, the amount of
3 the penalty under subparagraph (A) shall be—

4 “(i) in the case of the first violation,
5 \$250,

6 “(ii) in the case of the second viola-
7 tion, \$500, and

8 “(iii) in the case of the third violation
9 or any subsequent violation, \$1,000.

10 “(C) LIMITATION.—In the case of any ap-
11 plicable entity with less than \$1,000,000 in
12 total revenue for the year preceding the imposi-
13 tion of any penalty under this paragraph, any
14 such penalty may not be imposed under this
15 paragraph more than once during any 7-day pe-
16 riod.

17 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
18 tion or any regulations promulgated under this section
19 shall preempt, limit, or supersede, or be interpreted to pre-
20 empt, limit, or supersede—

21 “(1) any law or regulation relating to any tax
22 or fee on carryout bags which is imposed by a State
23 or local government entity, or any political subdivi-
24 sion, agency, or instrumentality thereof, or

1 “(2) any additional fees imposed by any appli-
2 cable entity on carryout bags provided to its cus-
3 tomers.”.

4 (b) CARRYOUT BAG CREDIT PROGRAM.—Subchapter
5 B of chapter 65 of such Code is amended by adding at
6 the end the following new section:

7 **“SEC. 6431. CARRYOUT BAG CREDIT PROGRAM.**

8 “(a) ALLOWANCE OF CREDIT.—If—

9 “(1) tax has been imposed under section 4056
10 on any carryout bag,

11 “(2) an applicable entity provides such bag to
12 a customer in a point of sale transaction, and

13 “(3) such entity has kept and can produce
14 records for purposes of this section and section 4056
15 that include—

16 “(A) the total number of carryout bags
17 provided to customers for which the tax was im-
18 posed under section 4056(a) and the amounts
19 passed through to customers for such bags pur-
20 suant to section 4056(e), and

21 “(B) the total number of bags for which a
22 refund was provided to customers pursuant to
23 a carryout bag credit program,

24 the Secretary shall pay (without interest) to such entity
25 an amount equal to the applicable amount for each bag

1 provided by such entity in connection with a point of sale
2 transaction.

3 “(b) APPLICABLE AMOUNT.—For purposes of sub-
4 section (a), the applicable amount is an amount equal to—

5 “(1) in the case of an applicable entity that has
6 established a carryout bag credit program, \$0.10,
7 and

8 “(2) in the case of an applicable entity that has
9 not established a carryout bag credit program,
10 \$0.04.

11 “(c) CARRYOUT BAG CREDIT PROGRAM.—For pur-
12 poses of this section, the term ‘carryout bag credit pro-
13 gram’ means a program established by an applicable entity
14 which—

15 “(1) for each bag provided by the customer to
16 package any items purchased from the applicable en-
17 tity, such entity refunds such customer \$0.05 for
18 each such bag from the total cost of their purchase,

19 “(2) separately states the amount of such re-
20 fund on the receipt of sale provided to the customer,
21 and

22 “(3) prominently advertises such program at
23 each entrance and checkout register of the applicable
24 entity.

1 “(d) DEFINITIONS.—For purposes of this section, the
2 terms ‘applicable entity’ and ‘carryout bag’ have the same
3 meanings given such terms under section 4056(d).”.

4 (c) ESTABLISHMENT OF TRUST FUND.—Subchapter
5 A of chapter 98 of such Code is amended by adding at
6 the end the following:

7 **“SEC. 9512. RECYCLING AND LITTER CLEANUP TRUST**
8 **FUND.**

9 “(a) CREATION OF TRUST FUND.—There is estab-
10 lished in the Treasury of the United States a trust fund
11 to be known as the ‘Recycling and Litter Cleanup Trust
12 Fund’ (referred to in this section as the ‘Trust Fund’),
13 consisting of such amounts as may be appropriated or
14 credited to the Trust Fund as provided in this section or
15 section 9602(b).

16 “(b) TRANSFERS TO TRUST FUND.—There is hereby
17 appropriated to the Trust Fund an amount equivalent to
18 the amounts received in the Treasury pursuant to section
19 4056.

20 “(c) EXPENDITURES FROM TRUST FUND.—Amounts
21 in the Trust Fund shall be available, as provided by appro-
22 priation Acts, for—

23 “(1) making payments under section 6431, and

24 “(2) making grants for—

25 “(A) reusable carryout bags, and

1 “(B) recycling, reuse, and composting in-
2 frastructure and litter cleanup.”.

3 (d) STUDY.—Not later than the date which is 18
4 months after the date of enactment of this Act, the Comp-
5 troller General of the United States shall conduct a study
6 on the effectiveness of sections 4056, 6431, and 9512 of
7 the Internal Revenue Code of 1986 (as added by this Act)
8 at reducing the use of carryout bags and encouraging the
9 use of reusable bags. The report shall address—

10 (1) the use of plastic or paper single-use carry-
11 out bags during the period preceding the enactment
12 of such sections,

13 (2) the effect of such sections on the citizens
14 and residents of the United States, including—

15 (A) the percentage reduction in the use of
16 plastic or paper single-use carryout bags as a
17 result of the enactment of such sections,

18 (B) the opinion among citizens and resi-
19 dents of the United States regarding the effect
20 of such sections, disaggregated by race and in-
21 come level, and

22 (C) the amount of substitution between
23 other types of plastic bags for single-use carry-
24 out bags,

1 (3) measures that the Comptroller General de-
2 termines may increase the effectiveness of such sec-
3 tions, including the amount of tax imposed on each
4 carryout bag, and

5 (4) any effects, both positive and negative, on
6 United States businesses as a result of the enact-
7 ment of such sections, including costs, storage space,
8 and changes in paper bag usage.

9 The Comptroller General shall submit a report of such
10 study to the Committee on Ways and Means of the House
11 of Representatives and the Committee on Finance of the
12 Senate.

13 (e) CLERICAL AMENDMENTS.—

14 (1) The table of subchapters for chapter 31 of
15 such Code is amended by inserting after the item re-
16 lating to subchapter C the following new item:

“Subchapter D. Carryout bags.”.

17 (2) The table of sections for subchapter B of
18 chapter 65 of such Code is amended by adding at
19 the end the following new item:

“Sec. 6431. Carryout bag credit program.”.

20 (3) The table of sections for subchapter A of
21 chapter 98 of such Code is amended by adding at
22 the end the following new item:

“Sec. 9512. Recycling and litter cleanup trust fund.”.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on January 1, 2022.

3 **SEC. 4. CLEAN AIR, CLEAN WATER, AND ENVIRONMENTAL**
4 **JUSTICE.**

5 (a) DEFINITIONS.—In this section:

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

9 (2) COVERED FACILITY.—The term “covered
10 facility” means—

11 (A) an industrial facility that transforms
12 natural gas liquids into ethylene and propylene
13 for later conversion into plastic polymers;

14 (B) a plastic polymerization or polymer
15 production facility; and

16 (C) an industrial facility that repolymerizes
17 plastic polymers into chemical feedstocks for
18 use in new products or as fuel.

19 (3) COVERED PRODUCTS.—The term “covered
20 plastic” means—

21 (A) ethylene;

22 (B) propylene;

23 (C) polyethylene in any form (including
24 pellets, resin, nurdle, powder, and flakes);

1 (D) polypropylene in any form (including
2 pellets, resin, nurdle, powder, and flakes);

3 (E) polyvinyl chloride in any form (includ-
4 ing pellets, resin, nurdle, powder, and flakes);

5 or

6 (F) other plastic polymer raw materials in
7 any form (including pellets, resin, nurdle, pow-
8 der, and flakes).

9 (4) ENVIRONMENTAL JUSTICE.—The term “en-
10 vironmental justice” means the fair treatment and
11 meaningful involvement of all individuals, regardless
12 of race, color, national origin, educational level, or
13 income, with respect to the development, implemen-
14 tation, and enforcement of environmental laws, regu-
15 lations, and policies to ensure that—

16 (A) communities of color, indigenous com-
17 munities, and low-income communities have ac-
18 cess to public information and opportunities for
19 meaningful public participation with respect to
20 human health and environmental planning, regu-
21 lations, and enforcement;

22 (B) no community of color, indigenous
23 community, or low-income community is ex-
24 posed to a disproportionate burden of the nega-
25 tive human health and environmental impacts

1 of pollution or other environmental hazards;
2 and

3 (C) the 17 principles described in the docu-
4 ment entitled “The Principles of Environmental
5 Justice”, written and adopted at the First Na-
6 tional People of Color Environmental Leader-
7 ship Summit held on October 24 through 27,
8 1991, in Washington, DC, are upheld.

9 (5) FENCELINE MONITORING.—The term
10 “fenceline monitoring” means continuous, real-time
11 monitoring of ambient air quality around the entire
12 perimeter of a facility.

13 (6) FRONTLINE COMMUNITY.—

14 (A) IN GENERAL.—The term “frontline
15 community” means a community located near a
16 covered facility that has experienced systemic
17 socioeconomic disparities or other forms of in-
18 justice.

19 (B) INCLUSIONS.—The term “frontline
20 community” includes a low-income community,
21 a community that includes indigenous peoples,
22 and a community of color.

23 (7) SECRETARY.—The term “Secretary” means
24 the Secretary of the Army, acting through the Chief
25 of Engineers.

1 (8) SINGLE-USE PLASTIC.—

2 (A) IN GENERAL.—The term “single-use
3 plastic” means a plastic product or packaging
4 that is routinely disposed of, recycled, or other-
5 wise discarded after a single use.

6 (B) EXCLUSIONS.—The term “single-use
7 plastic” does not include—

8 (i) medical food, supplements, devices,
9 or other products determined by the Sec-
10 retary of Health and Human Services to
11 necessarily be made of plastic for the pro-
12 tection of public health; or

13 (ii) packaging that is—

14 (I) for any product described in
15 clause (i); or

16 (II) used for the shipment of
17 hazardous materials that is prohibited
18 from being composed of used mate-
19 rials under section 178.509 or section
20 178.522 of title 49, Code of Federal
21 Regulations (as in effect on the date
22 of enactment of this Act).

23 (9) TEMPORARY PAUSE PERIOD.—The term
24 “temporary pause period” means the period—

1 (A) beginning on the date of enactment of
2 this Act; and

3 (B) ending on the date that is the first
4 date on which all regulations required under
5 subsections (d) and (e) are in effect.

6 (10) ZERO-EMISSIONS ENERGY.—The term
7 “zero-emissions energy” means renewable energy the
8 production of which emits no greenhouse gases at
9 the production source.

10 (b) TEMPORARY PAUSE.—During the temporary
11 pause period, notwithstanding any other provision of
12 law—

13 (1) the Administrator shall not issue a new per-
14 mit for a covered facility under—

15 (A) the Clean Air Act (42 U.S.C. 7401 et
16 seq.); or

17 (B) the Federal Water Pollution Control
18 Act (33 U.S.C. 1251 et seq.);

19 (2) the Secretary shall not issue a new permit
20 for a covered facility under section 404 of the Fed-
21 eral Water Pollution Control Act (33 U.S.C. 1344);

22 (3) the Administrator shall object in writing
23 under subsections (b) and (c) of section 505 of the
24 Clean Air Act (42 U.S.C. 7661d) or section
25 402(d)(2) of the Federal Water Pollution Control

1 Act (33 U.S.C. 1342(d)(2)), as applicable, to any
2 new permit issued to a covered facility by a State
3 agency delegated authority under the Clean Air Act
4 (42 U.S.C. 7401 et seq.) or the Federal Water Pol-
5 lution Control Act (33 U.S.C. 1251 et seq.); and

6 (4) subject to subsection (g), the export of cov-
7 ered products is prohibited.

8 (c) STUDY.—

9 (1) IN GENERAL.—

10 (A) AGREEMENT.—The Administrator
11 shall offer to enter into an agreement with the
12 National Academy of Sciences and the National
13 Institutes of Health to conduct a study of—

14 (i) the existing and planned expansion
15 of the industry of the producers of covered
16 products, including the entire supply chain,
17 end uses, disposal fate, and lifecycle im-
18 pacts of covered products;

19 (ii) the environmental justice and pol-
20 lution impacts of covered facilities and the
21 products of covered facilities;

22 (iii) the existing standard technologies
23 and practices of covered facilities with re-
24 spect to the discharge and emission of pol-
25 lutants into the environment; and

1 (iv) the best available technologies
2 and practices that reduce or eliminate the
3 environmental justice and pollution im-
4 pacts of covered facilities and the products
5 of covered facilities.

6 (B) FAILURE TO ENTER AGREEMENT.—If
7 the Administrator fails to enter into an agree-
8 ment described in subparagraph (A), the Ad-
9 ministrator shall conduct the study described in
10 that subparagraph.

11 (2) REQUIREMENTS.—The study under para-
12 graph (1) shall—

13 (A) consider—

14 (i) the direct, indirect, and cumulative
15 environmental impacts of the industries of
16 covered facilities to date; and

17 (ii) the impacts of the planned expan-
18 sion of those industries, including local, re-
19 gional, national, and international air,
20 water, waste, climate change, public health,
21 and environmental justice impacts of those
22 industries; and

23 (B) recommend technologies, standards,
24 and practices to remediate or eliminate the
25 local, regional, national, and international air,

1 water, waste, climate change, public health, and
2 environmental justice impacts of covered facili-
3 ties and the industries of covered facilities.

4 (3) REPORT.—Not later than 18 months after
5 the date of enactment of this Act, the Administrator
6 shall submit to Congress a report describing the re-
7 sults of the study under paragraph (1).

8 (d) CLEAN AIR.—

9 (1) TIMELY REVISION OF EMISSIONS STAND-
10 ARDS.—Section 111(b)(1)(B) of the Clean Air Act
11 (42 U.S.C. 7411(b)(1)(B)) is amended by striking
12 the fifth sentence.

13 (2) NATIONAL SOURCE PERFORMANCE STAND-
14 ARDS IMPLEMENTATION IMPROVEMENTS.—

15 (A) ZERO-EMISSIONS ENERGY.—Not later
16 than 3 years after the date of enactment of this
17 Act, the Administrator shall promulgate a final
18 rule requiring that—

19 (i) covered facilities that manufacture
20 olefins, including ethylene and propylene,
21 use only zero-emissions energy sources, ex-
22 cept to the extent that waste gases are re-
23 cycled; and

24 (ii) covered facilities that manufacture
25 low-density polyethylene, linear low-density

1 polyethylene, high-density polyethylene,
2 styrene, vinyl chloride, or synthetic organic
3 fibers use only zero-emissions energy
4 sources, except to the extent that waste
5 gases are recycled, unless the Adminis-
6 trator—

7 (I) determines that under certain
8 conditions (such as during the com-
9 mencement or shut down of produc-
10 tion at a covered facility), expendi-
11 tures of energy that are not from
12 zero-emissions energy sources are re-
13 quired; and

14 (II) publishes the determination
15 under subclause (I) and a proposed
16 mixture of zero-emissions energy and
17 non-zero-emissions energy for those
18 conditions in a rulemaking.

19 (B) NEW SOURCE PERFORMANCE STAND-
20 ARDS FOR COVERED FACILITIES.—Not later
21 than 3 years after the date of enactment of this
22 Act, the Administrator shall promulgate a final
23 rule—

24 (i) designating covered facilities as a
25 category of stationary source under section

1 111(b)(1)(A) of the Clean Air Act (42
2 U.S.C. 7411(b)(1)(A)); and

3 (ii) establishing new source perform-
4 ance standards for the category of sta-
5 tionary source designated under clause (i)
6 under section 111(f)(1) of the Clean Air
7 Act (42 U.S.C. 7411(f)(1)).

8 (C) STORAGE VESSELS FOR COVERED
9 PRODUCTS.—Not later than 3 years after the
10 date of enactment of this Act, the Adminis-
11 trator shall promulgate a final rule modifying
12 section 60.112b(a) of title 40, Code of Federal
13 Regulations (as in effect on the date of enact-
14 ment of this Act), to ensure that an owner or
15 operator of a storage vessel containing liquid
16 with a vapor pressure of equal to or more than
17 5 millimeters of mercury under actual storage
18 conditions that is regulated under that section
19 uses—

20 (i) an internal floating roof tank con-
21 nected to a volatile organic compound con-
22 trol device; or

23 (ii) a fixed-roof tank connected to a
24 volatile organic compound control device.

1 (D) FLARING.—Not later than 30 days
2 after the date of enactment of this Act, the Ad-
3 ministrator shall promulgate a final rule—

4 (i) modifying title 40, Code of Federal
5 Regulations (as in effect on the date of en-
6 actment of this Act), to ensure that flar-
7 ing, either at ground-level or elevated, shall
8 only be permitted when necessary solely for
9 safety reasons; and

10 (ii) modifying sections
11 60.112b(a)(3)(ii), 60.115b(d)(1), 60.482–
12 10a(d), 60.662(b), 60.702(b), and 60.562–
13 1(a)(1)(i)(C) of title 40, Code of Federal
14 Regulations (as in effect on the date of en-
15 actment of this Act), to ensure that—

16 (I) references to flare standards
17 under those sections refer to the flare
18 standards established under clause (i);
19 and

20 (II) the flare standards under
21 those sections are, without exception,
22 continuously applied.

23 (E) SOCFI EQUIPMENT LEAKS.—Not
24 later than 3 years after the date of enactment

1 of this Act, the Administrator shall promulgate
2 a final rule—

3 (i) modifying section 60.482–1a of
4 title 40, Code of Federal Regulations (as
5 in effect on the date of enactment of this
6 Act), to ensure that, whenever possible,
7 owners and operators use process units
8 and components with a leak-less or seal-
9 less design;

10 (ii) modifying section 60.482–1a(f) of
11 title 40, Code of Federal Regulations (as
12 in effect on the date of enactment of this
13 Act), to ensure that owners and operators
14 use optical gas imaging monitoring pursu-
15 ant to section 60.5397a of title 40, Code of
16 Federal Regulations (as in effect on the
17 date of enactment of this Act), on a quar-
18 terly basis, unless the owner or operator
19 receives approval from the Administrator
20 in writing to use Method 21 of the Envi-
21 ronmental Protection Agency (as described
22 in appendix A–7 of part 60 of title 40,
23 Code of Federal Regulations (as in effect
24 on the date of enactment of this Act)) with
25 a repair threshold of 500 parts per million;

1 (iii) modifying 60.482–6a of title 40,
2 Code of Federal Regulations (as in effect
3 on the date of enactment of this Act), to
4 ensure that the use of open-ended valves or
5 lines is prohibited except if a showing is
6 made that the use of an open-ended valve
7 or line is necessary for safety reasons; and

8 (iv) modifying subpart VVa of part 60
9 of title 40, Code of Federal Regulations
10 (as in effect on the date of enactment of
11 this Act) to ensure that—

12 (I) the term “no detectable emis-
13 sions” is defined to mean an instru-
14 ment reading of less than 50 parts
15 per million above background con-
16 centrations; and

17 (II) the term “leak” is defined to
18 mean an instrument reading of great-
19 er than or equal to 50 parts per mil-
20 lion above background concentrations.

21 (F) NATURAL-GAS FIRED STEAM BOIL-
22 ERS.—Not later than 3 years after the date of
23 enactment of this Act, the Administrator shall
24 promulgate a final rule revising subpart Db of
25 part 60 of title 40, Code of Federal Regulations

1 (as in effect on the date of enactment of this
2 Act), to ensure that boilers or heaters located
3 at an affected covered facility regulated under
4 that subpart may only burn gaseous fuels, not
5 solid fuels or liquid fuels.

6 (G) MONITORING.—Not later than 3 years
7 after the date of enactment of this Act, the Ad-
8 ministrator shall promulgate a final rule revis-
9 ing subparts DDD, NNN, RRR, and other rel-
10 evant subparts of part 60 of title 40, Code of
11 Federal Regulations (as in effect on the date of
12 enactment of this Act)—

13 (i) to require continuous emissions
14 monitoring of nitrogen oxides, sulfur diox-
15 ide, carbon monoxide, and filterable partic-
16 ulate matter for all combustion devices ex-
17 cept for non-enclosed flares, including dur-
18 ing startups, shutdowns, and malfunctions
19 of the facilities regulated by those sub-
20 parts;

21 (ii) to require—

22 (I) accurate and continuous rec-
23 ordkeeping when continuous moni-
24 toring is required under clause (i);
25 and

1 (II) the records required under
2 subclause (I) to be made available to
3 the public; and

4 (iii) to require fenceline monitoring
5 under section 63.658 of title 40, Code of
6 Federal Regulations (as in effect on the
7 date of enactment of this Act), for nitrogen
8 oxides, sulfur dioxide, carbon monoxide, fil-
9 terable and condensable particulate matter,
10 and all other relevant hazardous air pollut-
11 ants.

12 (3) NATIONAL EMISSION STANDARDS FOR HAZ-
13 ARDOUS AIR POLLUTANTS IMPLEMENTATION IM-
14 PROVEMENTS.—

15 (A) EQUIPMENT LEAKS OF BENZENE.—

16 Not later than 3 years after the date of enact-
17 ment of this Act, the Administrator shall pro-
18 mulgate a final rule modifying section 61.112
19 of title 40, Code of Federal Regulations (as in
20 effect on the date of enactment of this Act)
21 that strikes subsection (c).

22 (B) BENZENE WASTE OPERATIONS.—Not
23 later than 3 years after the date of enactment
24 of this Act, the Administrator shall promulgate
25 a final rule modifying subpart FF of part 61 of

1 title 40, Code of Federal Regulations (as in ef-
2 fect on the date of enactment of this Act), to
3 ensure that—

4 (i) the term “no detectable emissions”
5 is defined to mean an instrument reading
6 of less than 50 parts per million above
7 background concentrations; and

8 (ii) the term “leak” is defined to
9 mean an instrument reading of greater
10 than or equal to 50 parts per million above
11 background concentrations.

12 (C) MAXIMUM ACHIEVABLE CONTROL
13 TECHNOLOGY STANDARDS FOR COVERED FA-
14 CILITIES.—Not later than 3 years after the
15 date of enactment of this Act, the Adminis-
16 trator shall promulgate a final rule modifying
17 subpart YY of part 63 of title 40, Code of Fed-
18 eral Regulations (as in effect on the date of en-
19 actment of this Act), to ensure that—

20 (i) the generic maximum achievable
21 control technology standards described in
22 that subpart require no detectable emis-
23 sions of hazardous air pollutants, unless
24 the Administrator—

1 (I) determines that higher limits
2 are justified using maximum available
3 control technology; and

4 (II) publishes the determination
5 under subclause (I) and the proposed
6 higher limits in a rulemaking; and

7 (ii) the term “no detectable emis-
8 sions”, as required under clause (i), is de-
9 fined to mean an instrument reading of
10 less than 50 parts per million above back-
11 ground concentrations.

12 (e) CLEAN WATER.—

13 (1) REVISED EFFLUENT LIMITATION GUIDE-
14 LINES FOR THE ORGANIC CHEMICAL, PLASTICS, AND
15 SYNTHETIC FIBERS INDUSTRIAL CATEGORY.—

16 (A) BAT AND NSPS STANDARDS FOR PLAS-
17 TIC POLYMER PRODUCTION.—Not later than 3
18 years after the date of enactment of this Act,
19 the Administrator shall promulgate a final
20 rule—

21 (i) that ensures that the best available
22 technology limitations described in part
23 414 of title 40, Code of Federal Regula-
24 tions (as modified under clause (ii)) applies
25 to covered facilities that produce fewer

1 than 5,000,001 pounds of covered products
2 per year;

3 (ii) modifying part 414 of title 40,
4 Code of Federal Regulations (as in effect
5 on the date of enactment of this Act), to
6 ensure that the best available technology
7 and new source performance standard re-
8 quirements under that part reflect updated
9 best available technology and best available
10 demonstrated control technology for all
11 pollutants discharged by covered facilities
12 that produce covered products, including
13 pollutants of concern that are not regu-
14 lated on the date of enactment of this Act;
15 and

16 (iii) modifying sections 414.91(b),
17 414.101(b), and 414.111(b) of title 40,
18 Code of Federal Regulations (as in effect
19 on the date of enactment of this Act) to
20 ensure that—

21 (I) for new source performance
22 standards for applicable covered facili-
23 ties producing covered products, the
24 maximum effluent limit for any 1 day
25 and for any monthly average for the

1 priority pollutants described in appen-
2 dix A to part 423 of title 40, Code of
3 Federal Regulations (as in effect on
4 the date of enactment of this Act), is
5 0 milligrams per liter unless the Ad-
6 ministrator—

7 (aa) determines that higher
8 limits are justified using best
9 available demonstrated control
10 technology; and

11 (bb) publishes the deter-
12 mination under item (aa) and the
13 proposed higher limits in a rule-
14 making; and

15 (II) for best available technology
16 and new source performance stand-
17 ards, the maximum effluent limit for
18 any 1 day and for any monthly aver-
19 age for total plastic pellets and other
20 plastic material is 0 milligrams per
21 liter.

22 (B) EFFLUENT LIMITATIONS FOR RUNOFF
23 FROM PLASTIC POLYMER PRODUCTION AND
24 PLASTIC MOLDING AND FORMING FACILITIES.—
25 Not later than 60 days after the date of enact-

1 ment of this Act, the Administrator shall pro-
2 mulgate a final rule modifying parts 414 and
3 463 of title 40, Code of Federal Regulations (as
4 in effect on the date of enactment of this Act),
5 to ensure that—

6 (i) the runoff from facilities regulated
7 under part 414 or 463 of that title con-
8 tains, for any 1 day and for any monthly
9 average, 0 milligrams per liter of plastic
10 pellets or other plastic materials; and

11 (ii) the requirement under clause (i) is
12 reflected in all stormwater and other per-
13 mits issued by the Administrator and
14 State-delegated programs under section
15 402 of the Federal Water Pollution Con-
16 trol Act (33 U.S.C. 1342), in addition to
17 other applicable limits and standards.

18 (C) EFFLUENT LIMITATIONS FOR RUNOFF
19 FROM FACILITIES THAT TRANSPORT AND PACK-
20 AGE PLASTIC PELLETS OR OTHER PLASTIC MA-
21 TERIALS.—Not later than 180 days after the
22 date of enactment of this Act, the Adminis-
23 trator shall—

24 (i) identify, in addition to the facilities
25 described in subparagraph (B)(i), other

1 sources of runoff or other pollution con-
2 sisting of plastic pellets or other plastic
3 materials into navigable waters (as defined
4 in section 502 of the Federal Water Pollu-
5 tion Control Act (33 U.S.C. 1362)); and

6 (ii) promulgate a final rule that—

7 (I) limits the discharge of plastic
8 pellets or other plastic materials in
9 wastewater and runoff from facilities
10 identified under clause (i) to, for any
11 1 day and for any monthly average, 0
12 milligrams per liter; and

13 (II) requires the limitation under
14 subclause (I) to be reflected in all
15 stormwater and other permits issued
16 by the Administrator and State-dele-
17 gated programs under section 402 of
18 the Federal Water Pollution Control
19 Act (33 U.S.C. 1342), in addition to
20 other applicable limits and standards.

21 (2) REVISED EFFLUENT LIMITATIONS GUIDE-
22 LINES FOR ETHYLENE AND PROPYLENE PRODUC-
23 TION.—

24 (A) BAT AND NSPS STANDARDS.—Not
25 later than 3 years after the date of enactment

1 of this Act, the Administrator shall promulgate
2 a final rule—

3 (i) modifying sections 419.23, 419.26,
4 419.33, and 419.36 of title 40, Code of
5 Federal Regulations (as in effect on the
6 date of enactment of this Act), to ensure
7 that the best available technology and new
8 source performance standards reflect up-
9 dated best available technology and best
10 available demonstrated control technology
11 for all pollutants discharged by covered fa-
12 cilities producing ethylene or propylene;
13 and

14 (ii) modifying sections 419.26(a) and
15 419.36(a) of title 40, Code of Federal Reg-
16 ulations (as in effect on the date of enact-
17 ment of this Act), to ensure that the new
18 source performance standards for any 1
19 day and for average of daily values for 30
20 consecutive days for the priority pollutants
21 described in appendix A to part 423 of
22 title 40, Code of Federal Regulations (as
23 in effect on the date of enactment of this
24 Act), is 0 milligrams per liter unless the
25 Administrator—

1 (I) determines that higher limits
2 are justified using best available dem-
3 onstrated control technology; and

4 (II) the Administrator publishes
5 the determination under item (aa) and
6 the proposed higher limits in a rule-
7 making.

8 (B) RUNOFF LIMITATIONS FOR ETHYLENE
9 AND PROPYLENE PRODUCTION.—Not later than
10 3 years after the date of enactment of this Act,
11 the Administrator shall promulgate a final rule
12 modifying sections 419.26(e) and 419.36(e) of
13 title 40, Code of Federal Regulations (as in ef-
14 fect on the date of enactment of this Act), to
15 ensure that runoff limitations that reflect best
16 available demonstrated control technology are
17 included.

18 (f) ENVIRONMENTAL JUSTICE REQUIREMENTS FOR
19 COVERED FACILITY PERMITS.—

20 (1) IN GENERAL.—Not later than 3 years after
21 the date of enactment of this Act, the Administrator
22 shall promulgate a final rule to ensure that—

23 (A) any proposed permit to be issued by
24 the Administrator or by a State agency dele-
25 gated authority under the Clean Air Act (42

1 U.S.C. 7401 et seq.) or the Federal Water Pol-
2 lution Control Act (33 U.S.C. 1251 et seq.)
3 with respect to a covered facility is accompanied
4 by an environmental justice assessment that—

5 (i) assesses the direct and cumulative
6 economic, environmental, and public health
7 impacts of the proposed permit on front-
8 line communities; and

9 (ii) proposes changes or alterations to
10 the proposed permit that would, to the
11 maximum extent practicable, eliminate or
12 mitigate the impacts described in clause
13 (i);

14 (B) each proposed permit and environ-
15 mental justice assessment described in subpara-
16 graph (A) is delivered to applicable frontline
17 communities at the beginning of the public com-
18 ment period for the proposed permit, which
19 shall include notification through—

20 (i) direct means; and

21 (ii) publications likely to be obtained
22 by residents of the frontline community;

23 (C) the Administrator or a State agency
24 delegated authority under the Clean Air Act
25 (42 U.S.C. 7401 et seq.) or the Federal Water

1 Pollution Control Act (33 U.S.C. 1251 et seq.),
2 as applicable, shall not approve a proposed per-
3 mit described in subparagraph (A) unless—

4 (i) changes or alterations have been
5 incorporated into the proposed permit that,
6 to the maximum extent practicable, elimi-
7 nate or mitigate the environmental justice
8 impacts described in subparagraph (A)(i);
9 and

10 (ii) the changes or alterations de-
11 scribed in clause (i) have been developed
12 with input from residents or representa-
13 tives of the frontline community in which
14 the covered facility to which the proposed
15 permit would apply is located or seeks to
16 locate; and

17 (D) the approval of a proposed permit de-
18 scribed in subparagraph (A) is conditioned on
19 the covered facility providing comprehensive
20 fence-line monitoring and response strategies
21 that fully protect public health and safety and
22 the environment in frontline communities.

23 (2) REQUIREMENT.—The Administrator shall
24 develop the final rule required under paragraph (1)
25 with input from—

1 (A) residents of frontline communities; and
2 (B) representatives of frontline commu-
3 nities.

4 (g) EXTENDED PRODUCER RESPONSIBILITY FOR
5 INTERNATIONAL PLASTIC EXPORTS.—The temporary
6 pause on the export of covered products under subsection
7 (b)(4) shall remain in place until the Secretary of Com-
8 merce promulgates a final rule that—

9 (1) requires the tracking of covered products
10 from sale to disposal;

11 (2) prohibits the export of covered products to
12 purchasers that convert those plastics into single-use
13 plastics;

14 (3) requires the Secretary of Commerce, not
15 less frequently than once every 2 years and in con-
16 sultation with the Administrator and the Secretary
17 of Health and Human Services, to publish a report
18 measuring and evaluating the environmental and en-
19 vironmental justice impacts of exporting covered
20 products from sale to disposal; and

21 (4) establishes enforceable mechanisms for sell-
22 ers or purchasers of covered products to mitigate the
23 environmental and environmental justice impacts of
24 those covered products from sale to disposal.