

116TH CONGRESS
2D SESSION

H. R. 5845

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

FEBRUARY 11, 2020

Mr. LOWENTHAL (for himself, Ms. CLARK of Massachusetts, Mr. COHEN, Mr. QUIGLEY, Ms. BARRAGÁN, Mr. CASE, Mr. CONNOLLY, Mr. ENGEL, Ms. HAALAND, Mr. HASTINGS, Mr. HUFFMAN, Ms. JAYAPAL, Mr. KHANNA, Ms. LEE of California, Mr. LEVIN of California, Mr. TED LIEU of California, Ms. MCCOLLUM, Mr. MOULTON, Ms. NORTON, Mr. PANETTA, Ms. PINGREE, Mr. RASKIN, Mr. ROUDA, Mr. SARBANES, Ms. SCHAKOWSKY, Mr. SUOZZI, Ms. TLAIB, Ms. VELÁZQUEZ, Ms. WATERS, and Mr. WELCH) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Transportation and Infrastructure, and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Break Free From
5 Plastic Pollution Act of 2020”.

6 **SEC. 2. PRODUCER RESPONSIBILITY FOR PRODUCTS AND**
7 **PACKAGING.**

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

11 **“Subtitle K—Producer Responsi-**
12 **bility for Products and Pack-**
13 **aging**

14 **“SEC. 12001. DEFINITIONS.**

15 “In this subtitle:

16 “(1) ADVISORY COMMITTEE.—The term ‘advi-

17 sory committee’ means an advisory committee estab-

18 lished by an Organization under section 12102(c).

19 “(2) BEVERAGE.—

20 “(A) IN GENERAL.—The term ‘beverage’

21 means any drinkable liquid intended for human

22 oral consumption, including—

23 “(i) water;

24 “(ii) flavored water;

- 1 “(iii) soda water;
- 2 “(iv) mineral water;
- 3 “(v) beer;
- 4 “(vi) a malt beverage;
- 5 “(vii) a carbonated soft drink;
- 6 “(viii) liquor;
- 7 “(ix) tea;
- 8 “(x) coffee;
- 9 “(xi) hard cider;
- 10 “(xii) fruit juice;
- 11 “(xiii) an energy or sports drink;
- 12 “(xiv) coconut water;
- 13 “(xv) wine;
- 14 “(xvi) a yogurt drink;
- 15 “(xvii) a probiotic drink;
- 16 “(xviii) a wine cooler; and
- 17 “(xix) any other beverage determined
- 18 to be appropriate by the Administrator.
- 19 “(B) EXCLUSIONS.—The term ‘beverage’
- 20 does not include—
- 21 “(i) a drug regulated under the Fed-
- 22 eral Food, Drug, and Cosmetic Act (21
- 23 U.S.C. 301 et seq.);
- 24 “(ii) infant formula; or
- 25 “(iii) a meal replacement liquid.

1 “(3) BEVERAGE CONTAINER.—

2 “(A) IN GENERAL.—The term ‘beverage
3 container’ means a prepackaged beverage con-
4 tainer—

5 “(i) made of any material, including
6 glass, plastic, metal, and multimaterial;
7 and

8 “(ii) the volume of which is not more
9 than 3 liters.

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

14 “(i) a carton;

15 “(ii) a pouch; or

16 “(iii) aseptic packaging, such as a
17 drink box.

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

1 “(4) COMPOSTABLE.—

2 “(A) IN GENERAL.—The term ‘compost-
3 able’ means, with respect to a covered product,
4 that the covered product—

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

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

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

14 “(II) is labeled to reflect that the cov-
15 ered product meets a standard described in
16 subclause (I);

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

20 “(iii) comprises only—

21 “(I) wood without any coatings,
22 additives, or toxic substances; or

23 “(II) fiber without any coatings,
24 additives, or toxic substances.

1 “(B) EXCLUSION.—The term ‘compost-
2 able’ shall not apply to paper.

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

8 “(6) COVERED PRODUCT.—

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

12 “(i) packaging;

13 “(ii) a food service product;

14 “(iii) paper;

15 “(iv) a single-use product that is not
16 subject to the prohibition under section
17 12202(c); and

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

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

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

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

13 “(A) a utensil;

14 “(B) a straw;

15 “(C) a drink cup;

16 “(D) a drink lid;

17 “(E) a food package;

18 “(F) a food container;

19 “(G) a plate;

20 “(H) a bowl;

21 “(I) a meat tray; and

22 “(J) a food wrap.

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

1 “(10) PACKAGING.—

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

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

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

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

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

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

24 “(iii) secondary packaging used to
25 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;

21 “(ii) a personal hygiene product that,
22 due to the intended use of the product,
23 could become unsafe or unsanitary to recy-
24 cle, such as a diaper; or

25 “(iii) packaging that is—

1 “(I) for any product described in
2 clause (i); or

3 “(II) used for the shipment of
4 hazardous materials that is prohibited
5 from being composed of used mate-
6 rials under section 178.509 or
7 178.522 of title 49, Code of Federal
8 Regulations (as in effect on the date
9 of enactment of this subtitle).

10 “(20) TOXIC SUBSTANCE.—

11 “(A) IN GENERAL.—The term ‘toxic sub-
12 stance’ means any substance, mixture, or com-
13 pound that may cause personal injury or dis-
14 ease to humans through ingestion, inhalation,
15 or absorption through any body surface and
16 satisfies one or more of the following condi-
17 tions:

18 “(i) The substance, mixture, or com-
19 pound is subject to reporting requirements
20 under—

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

24 “(II) the Comprehensive Envi-
25 ronmental Response, Compensation,

1 and Liability Act of 1980 (42 U.S.C.
2 9601 et seq.); or

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

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

11 “(iii) The Administrator or the Sec-
12 retary of Health and Human Services has
13 issued a public health advisory for the sub-
14 stance, mixture, or compound.

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

20 “(v) The substance, mixture, or com-
21 pound is a perfluoroalkyl or polyfluoroalkyl
22 substance.

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

25 “(i) a pesticide applied—

1 “(I) in accordance with Federal,
2 State, and local laws (including regu-
3 lations); and

4 “(II) in accordance with the in-
5 structions of the manufacturer of the
6 pesticide; or

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

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

15 “(22) UTENSIL.—

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

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

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

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

3 “(a) IN GENERAL.—Except as provided in subsection
4 (b), beginning on February 1, 2023, each responsible
5 party for any covered product or beverage sold in a bev-
6 erage container that is sold, distributed, or imported into
7 the United States shall—

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

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

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

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

21 “(B) for fiscal year 2022 and each subsequent
22 fiscal year, has an annual revenue of less than the
23 applicable amount during the preceding fiscal year,
24 as adjusted to reflect changes for the 12-month pe-
25 riod ending on the preceding November 30 in the
26 Consumer Price Index for All Urban Consumers

1 published by the Bureau of Labor Statistics of the
2 Department of Labor; or

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

6 “(c) ENFORCEMENT.—

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

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

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

22 “(4) STATE ENFORCEMENT.—The Adminis-
23 trator may permit a State to carry out enforcement
24 under paragraph (2) or (3) if the Administrator de-

1 termines that the State meets such requirements as
2 the Administrator may establish.

3 “(d) INAPPLICABILITY OF THE ANTITRUST LAWS.—

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

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

10 “(a) IN GENERAL.—

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

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

1 “(3) COORDINATION.—If more than 1 Organi-
2 zation is established under paragraph (1) with re-
3 spect to a category of covered product or beverage
4 sold in a beverage container, the Administrator
5 shall—

6 “(A) coordinate and manage those Organi-
7 zations; or

8 “(B) establish an entity—

9 “(i) to carry out subparagraph (A);
10 and

11 “(ii) to conduct business between
12 those Organizations and State and local
13 governments.

14 “(4) MULTIPLE ORGANIZATIONS.—A respon-
15 sible party—

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

20 “(B) may participate in—

21 “(i) only 1 national Organization with
22 respect to—

23 “(I) each category of covered
24 products; or

1 “(II) beverages sold in beverage
2 containers; or

3 “(ii) only 1 regional Organization with
4 respect to beverages sold in beverage con-
5 tainers and each category of covered prod-
6 ucts for each region in which the covered
7 products or beverages sold in beverage con-
8 tainers produced by the responsible party
9 are sold.

10 “(5) NONPROFIT STATUS.—An Organization
11 shall be established and operated as an organization
12 described in section 501(c)(3) of the Internal Rev-
13 enue Code of 1986 and exempt from taxation under
14 501(a) of that Code.

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

20 “(b) PARTICIPATION FEES.—

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

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

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

5 “(B) administrative costs in accordance
6 with paragraph (4).

7 “(3) MANAGEMENT AND CLEANUP COSTS.—

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

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

22 “(i) the cost to properly manage the
23 applicable category of covered product or
24 beverage container waste;

1 “(ii) the cost to assist in cleaning up
2 the covered product or beverage container
3 waste of the responsible party from—

4 “(I) public places;

5 “(II) freshwater and marine envi-
6 ronments, to the extent that cleanup
7 can be accomplished without harming
8 the existing marine life and intact
9 ecosystems; and

10 “(III) materials in compost facili-
11 ties or other facilities handling or-
12 ganic wastes;

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

20 “(iv) the higher cost of managing cov-
21 ered products that—

22 “(I) bond materials together,
23 making the covered product more dif-
24 ficult to recycle, such as plastic bond-
25 ed with paper or metal;

1 “(II) would typically be recyclable or compostable, but, as a consequence of the design of the covered product, has the effect of disrupting recycling or composting processes;

2
3
4
5
6 “(III) includes labels, inks, liners, and adhesives containing heavy metals or other toxic substances; or

7
8
9 “(IV) cannot be mechanically recycled;

10
11 “(v) the lower cost of managing—

12 “(I) beverage containers that have—

13
14 “(aa) nondetachable caps; or

15 “(bb) other innovations and design characteristics to prevent littering; and

16
17
18 “(II) contact containers and other covered products that—

19
20 “(aa) are specifically designed to be reusable or refillable;

21
22 and

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

24

1 “(vi) covered products with lower en-
2 vironmental impacts, including—

3 “(I) covered products that are
4 made of—

5 “(aa) sustainable or renew-
6 ably sourced materials; or

7 “(bb) at least 90 percent by
8 weight of any combination of—

9 “(AA) postconsumer re-
10 cycled content; or

11 “(BB) materials de-
12 rived from land or fresh-
13 water or marine environ-
14 ment litter; and

15 “(II) compostable covered prod-
16 ucts that—

17 “(aa) have direct contact
18 with food; or

19 “(bb) help divert food waste
20 from a landfill; and

21 “(vii) the percentage of postconsumer
22 recycled content verified by an independent
23 party designated by the Administrator that
24 exceeds the minimum requirements estab-
25 lished under section 12302 in the pack-

1 aging, if the recycled content does not dis-
2 rupt the potential for future recycling.

3 “(4) ADMINISTRATIVE COSTS.—

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

6 “(i) the administrative costs to the
7 Organization of carrying out the Program;

8 “(ii) the cost to the Administrator of
9 administering this part with respect to the
10 applicable Organization, including—

11 “(I) oversight, including annual
12 oversight;

13 “(II) issuance of any rules;

14 “(III) planning;

15 “(IV) Plan review;

16 “(V) compliance;

17 “(VI) outreach and education;

18 “(VII) enforcement;

19 “(VIII) sufficient staff positions
20 to administer this part; and

21 “(IX) other activities directly re-
22 lated to the activities described in sub-
23 clauses (I) through (VIII); and

1 “(iii) the cost to a State for carrying
2 out enforcement with respect to the appli-
3 cable Organization.

4 “(B) CONSIDERATION.—In determining
5 the fee for a responsible party under subpara-
6 graph (A), an Organization shall consider the
7 company size and annual revenue of the respon-
8 sible party.

9 “(C) REIMBURSEMENT.—An Organization
10 shall reimburse—

11 “(i) the Administrator for costs de-
12 scribed subparagraph (A)(ii) incurred by
13 the Administrator; and

14 “(ii) a State for costs described in
15 subparagraph (A)(iii) incurred by the
16 State.

17 “(5) APPROVAL.—

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

21 “(i) the Organization shall submit to
22 the Administrator the fee structure and
23 the methodology for determining that fee
24 structure; and

1 “(ii)(I) the Organization shall receive
2 notification of approval of the fee structure
3 under subparagraph (B)(ii); or

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

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

9 “(i)(I) approve the fee structure if the
10 Administrator determines that the fee
11 structure is in accordance with this sub-
12 section; or

13 “(II) deny the fee structure if the Ad-
14 ministrator determines that the fee struc-
15 ture is not in accordance with this sub-
16 section; and

17 “(ii) notify the Organization of the
18 determination under clause (i).

19 “(C) FAILURE TO MEET DEADLINE.—If
20 the Administrator does not make a determina-
21 tion under clause (i) of subparagraph (B) by
22 the date required under that subparagraph, the
23 fee structure shall be considered to be approved.

24 “(c) ADVISORY COMMITTEES.—

1 “(1) IN GENERAL.—An Organization shall es-
2 tablish an advisory committee that represents a
3 range of interested and engaged persons relevant to
4 the category of covered products or beverages sold in
5 beverage containers of the applicable Program, in-
6 cluding—

7 “(A) collection providers;

8 “(B) cleanup service providers;

9 “(C) recyclers; and

10 “(D) composters.

11 “(2) COMPOSITION.—

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

15 “(i) responsible parties, such as a
16 trade association;

17 “(ii) States;

18 “(iii) cities, including—

19 “(I) small and large cities; and

20 “(II) cities located in urban and
21 rural counties;

22 “(iv) counties, including—

23 “(I) small and large counties;

24 and

25 “(II) urban and rural counties;

1 “(v) public sector recycling, compost-
2 ing, and solid waste industries for the ap-
3 plicable type of product or packaging;

4 “(vi) private sector recycling, com-
5 posting, and solid waste industries for the
6 applicable type of product or packaging;

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

9 “(viii) public place litter programs;

10 “(ix) freshwater and marine litter pro-
11 grams;

12 “(x) environmental organizations;

13 “(xi) disability advocates;

14 “(xii) Indian Tribes; and

15 “(xiii) environmental and human
16 health scientists.

17 “(B) REQUIREMENTS.—

18 “(i) IN GENERAL.—Each individual
19 serving on an advisory committee may rep-
20 resent only 1 category described in clauses
21 (i) through (xiii) of subparagraph (A).

22 “(ii) DISPROPORTIONATE REPRESENTATION.—An Organization shall ensure
23 that no category described in clauses (i)
24 through (xiii) of subparagraph (A) has dis-
25

1 proportionate representation on an advisory
2 committee.

3 “(3) PUBLIC COMMENT.—Each year, an Orga-
4 nization shall provide a process to receive comments
5 from additional stakeholders and community mem-
6 bers, which to the maximum extent practicable shall
7 include diverse ethnic populations.

8 “(4) EXPENSES.—

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

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

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

20 “(A) hold an advisory committee meeting
21 at least once per year;

22 “(B) request and consider comments from
23 the advisory committee of the Organization
24 prior to the submission to the Administrator of
25 a Plan or any revisions to a Plan;

1 “(C) report comments of the advisory com-
2 mittee to the Administrator as an appendix to
3 any revisions to a Plan submitted to the Ad-
4 ministrator; and

5 “(D) include a summary of advisory com-
6 mittee engagement and input in the report
7 under section 12107.

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

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

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

13 “(A) in the case of covered products, by
14 providing for the collection of covered products
15 in accordance with subsection (b); or

16 “(B) in the case of beverage containers, by
17 carrying out the responsibilities under section
18 12104(e); and

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

22 “(b) COLLECTION.—

23 “(1) IN GENERAL.—A Program shall provide
24 widespread, convenient, and equitable access to op-

1 opportunities for the collection of covered products in
2 accordance with this subsection.

3 “(2) CONVENIENCE.—

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

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

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

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

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

24 “(II) in the case of a rural area,
25 the longer of—

1 “(aa) a 45-minute drive; and

2 “(bb) the time to drive to

3 the nearest rural service center.

4 “(B) WAIVER.—The Administrator may

5 waive the requirement under subparagraph (A)

6 after—

7 “(i) consultation with the advisory

8 committee of the applicable Organization

9 and other appropriate stakeholders; and

10 “(ii) approval by the unit of local gov-

11 ernment with jurisdiction over the applica-

12 ble area.

13 “(3) METHODS.—

14 “(A) CURBSIDE OR MULTIFAMILY COLLEC-

15 TION.—With respect to a geographic area de-

16 scribed in paragraph (2)(A), an Organization

17 shall, at a minimum, provide the opportunity

18 for the collection of the applicable covered prod-

19 uct through a curbside or multifamily recycling

20 collection service, if—

21 “(i) the category of covered product—

22 “(I) is suitable for curbside or

23 multifamily recycling collection; and

1 “(II) can be effectively sorted by
2 facilities receiving the covered product
3 after collection; and

4 “(ii) the provider of the service
5 agrees—

6 “(I) to accept the category of
7 covered product; and

8 “(II) to a compensation agree-
9 ment described in subparagraph (C).

10 “(B) OTHER METHODS.—In addition to
11 the method described in subparagraph (A), an
12 Organization may comply with the requirement
13 under paragraph (1) by—

14 “(i) entering into an agreement
15 with—

16 “(I) an entity that carries out a
17 program through which consumers
18 may drop off the covered product at a
19 designated location (commonly known
20 as a ‘depot drop-off program’); or

21 “(II) a retailer that accepts the
22 covered product from consumers
23 (commonly known as ‘retailer take-
24 back’); or

1 “(ii) such other means as the Organi-
2 zation determines to be appropriate, in-
3 cluding by establishing a collection pro-
4 gram or service, including a program or
5 service that provides collection from public
6 spaces.

7 “(C) COMPENSATION AGREEMENTS.—

8 “(i) IN GENERAL.—An Organization
9 may comply with this subsection by enter-
10 ing into an agreement with a governmental
11 or private entity under which the Organi-
12 zation compensates the entity for the col-
13 lection of covered products.

14 “(ii) REQUIREMENT.—As part of a
15 compensation agreement under clause (i),
16 an Organization shall offer to provide re-
17 imbursement of not less than 100 percent
18 of the cost to the entity of managing the
19 covered products, including, as applicable,
20 administrative costs, sorting, and repro-
21 cessing.

22 “(4) MANAGING COLLECTED COVERED PROD-
23 UCTS.—In carrying out this subsection, an Organi-
24 zation shall—

25 “(A) ensure that—

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

3 “(I) facilities that are effective in
4 sorting and reprocessing covered prod-
5 uct waste prior to shipment in a form
6 ready for remanufacture into new
7 products; or

8 “(II) other facilities that the Ad-
9 ministrator determines appropriately
10 manage the covered product waste;

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

18 “(I) the United States; or

19 “(II) other countries that are
20 members of the Organization for Eco-
21 nomic Cooperation and Development;
22 and

23 “(iii) the Program includes measures
24 to track, verify, and publicly report that

1 covered products are managed responsibly
2 and not reexported to other countries; and

3 “(B) take measures—

4 “(i) to promote high-quality recycling
5 that retains material quality;

6 “(ii) to meet the necessary quality
7 standards for the relevant facilities that
8 manufacture new products from the col-
9 lected, sorted, and reprocessed materials;
10 and

11 “(iii) to prioritize the recycling of
12 products and packaging into uses that
13 achieve the greatest environmental benefits
14 from displacing the use of virgin materials.

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

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

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

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

23 “(c) CLEANUP; REDUCTION IN WASTE.—A Program
24 shall—

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

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

9 “(d) MINIMUM FUNDING REQUIREMENTS.—

10 “(1) IN GENERAL.—Of Program expenditures
11 for a fiscal year, an Organization shall ensure
12 that—

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

21 “(I) to improve sorting of covered
22 product waste; or

23 “(II) to mitigate the impacts of cov-
24 ered product waste to other commodities;
25 and

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

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

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

8 “(ii) the removal of covered product
9 or beverage container contaminants at
10 compost facilities and other facilities that
11 manage organic materials.

12 “(2) DETERMINATION OF EXPENDITURES.—

13 For purposes of carrying out paragraph (1), Pro-
14 gram expenditures for a fiscal year shall be based
15 on—

16 “(A) in the case of the first fiscal year of
17 the Program, budgeted expenditures for the fis-
18 cal year; and

19 “(B) in the case of each fiscal year there-
20 after, Program expenditures for the previous
21 fiscal year.

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

23 “(a) RESPONSIBILITIES OF RESPONSIBLE PAR-
24 TIES.—

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

3 “(A) charge to a retailer to which the bev-
4 erage in a beverage container is delivered a de-
5 posit in the amount of the applicable refund
6 value described in subsection (c) on delivery;
7 and

8 “(B) on receipt of an empty beverage con-
9 tainer from a retailer, pay to the retailer a re-
10 fund in the amount of the applicable refund
11 value described in subsection (c).

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

20 “(b) RESPONSIBILITIES OF RETAILERS.—

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

24 “(A) charge to the customer to which the
25 beverage in a beverage container is sold a de-

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

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

7 “(C) accept a beverage container and pay
8 a refund under subparagraph (B)—

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

11 “(ii) regardless of whether the specific
12 beverage container was sold by the retailer;
13 and

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

21 “(2) EXCEPTIONS.—

22 “(A) DIRTY OR DAMAGED.—A retailer de-
23 scribed in paragraph (1) may refuse to accept
24 a beverage container and pay a refund under
25 paragraph (1)(B) if the beverage container—

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

3 “(I) water;

4 “(II) residue of the original con-
5 tents; or

6 “(III) ordinary dust; or

7 “(ii) is so damaged that the brand or
8 refund label appearing on the container
9 cannot be identified.

10 “(B) CONTAINER LIMITATION.—

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

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

23 “(C) BRAND AND SIZE.—A retailer de-
24 scribed in paragraph (1) that is less than 5,000
25 square feet may refuse to accept, and pay a re-

1 fund under paragraph (1)(B) for, a brand or
2 size of beverage container that the retailer does
3 not sell.

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

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

15 “(i) is located within close proximity
16 to a redemption center established under
17 subsection (e)(2); and

18 “(ii) shares in the cost of the oper-
19 ation of that redemption center with the
20 responsible party.

21 “(c) APPLICABLE REFUND VALUE.—

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

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

5 “(A) inflation; and

6 “(B) other factors, such as a failure to
7 meet performance targets described in section
8 12105(g).

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

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

20 “(e) RESPONSIBILITIES OF ORGANIZATIONS.—

21 “(1) COLLECTION AND STORAGE.—An Organi-
22 zation of responsible parties for beverages sold in
23 beverage containers shall facilitate collection and
24 storage of beverage containers that are returned to
25 retailers under this section by providing storage or

1 other means to collect the beverage containers until
2 collection for recycling, such as reverse vending or
3 other convenient options for consumers.

4 “(2) REDEMPTION CENTERS.—

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

10 “(B) REQUIREMENTS.—A facility estab-
11 lished under subparagraph (A) shall—

12 “(i) be staffed and available to the
13 public—

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

16 “(II) not less than 10 hours each
17 day;

18 “(ii) accept—

19 “(I) any beverage container; and

20 “(II) not less than 350 beverage
21 containers per person per day; and

22 “(iii) provide—

23 “(I) hand or automated counts
24 conducted by staff of the facility;

1 “(II) a drop door for consumers
2 to drop off bags of mixed beverage
3 containers for staff of the facility to
4 count, for which the facility may col-
5 lect a convenience fee; or

6 “(III) any other convenient
7 means of receiving and counting bev-
8 erage containers, as determined by the
9 Administrator.

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

17 “(f) EXCLUDED STATES.—

18 “(1) DEFINITION OF ELIGIBLE STATE.—In this
19 subsection, the term ‘eligible State’ means a State
20 that—

21 “(A) has in effect a beverage container law
22 before the date of enactment of this subtitle;
23 and

24 “(B) enacts legislation after the date of en-
25 actment of this part to update the beverage

1 container law described in subparagraph (A) to
2 be consistent with the refund value amounts
3 under, and beverage containers covered by, this
4 part.

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

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

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

16 “(a) IN GENERAL.—Not later than February 1,
17 2022, each Organization shall submit to the Administrator
18 a Product Stewardship Plan that describes how the Orga-
19 nization will carry out the responsibilities of the Organiza-
20 tion under this part.

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

23 “(1) contact information for the Organization
24 submitting the Plan;

1 “(2) a list of participating responsible parties
2 and brands covered by the applicable Program, in-
3 cluding organization structure for each responsible
4 party; and

5 “(3) a description of—

6 “(A) each category of covered product or
7 beverage sold in a beverage container covered
8 by the Plan;

9 “(B) funding for the Organization, includ-
10 ing how fees will be structured and collected in
11 accordance with section 12102(b)(5);

12 “(C) performance targets under subsection
13 (g);

14 “(D) the means by which each type of cov-
15 ered product or beverage container will be col-
16 lected in accordance with section 12103 or
17 12104, as applicable, to meet—

18 “(i) the consumer convenience and ge-
19 ographic coverage standards for collection
20 under this part; and

21 “(ii) the performance targets under
22 subsection (g);

23 “(E) consumer education plans in accord-
24 ance with section 12106;

1 “(F) a customer service process, such as a
2 process for answering citizen or customer ques-
3 tions and resolving issues;

4 “(G) sound management practices for
5 worker health and safety;

6 “(H) plans for complying with design-for-
7 environment and labeling requirements under
8 sections 12303 and 12304, respectively;

9 “(I) the means by which responsible par-
10 ties will work with and improve existing recy-
11 cling, composting, litter cleanup, and disposal
12 programs and infrastructure;

13 “(J) any plans to transition to reusable
14 covered products;

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

17 “(L) the means by which responsible par-
18 ties will consult with the Federal Government,
19 State and local governments, and any other im-
20 portant stakeholders; and

21 “(M) plans for market development.

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

25 “(1) approve or deny the Plan; and

1 “(2) notify the applicable Organization of the
2 determination of the Administrator under paragraph
3 (1).

4 “(d) IMPLEMENTATION.—Beginning on August 1,
5 2022, not later than 60 days after receiving a notification
6 of approval of a Plan under subsection (c)(2), the applica-
7 ble Organization shall begin implementation of the Plan.

8 “(e) EXPIRATION.—A Plan—

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

11 “(2) may be renewed.

12 “(f) REVISIONS.—The Administrator may require a
13 revision to a Plan before the expiration date of the Plan
14 if—

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

17 “(2) there is a change in circumstances that
18 otherwise warrants a revision.

19 “(g) PERFORMANCE TARGETS.—

20 “(1) IN GENERAL.—Each Plan shall contain
21 achievable performance targets for the collection and
22 recycling of the applicable covered product or bev-
23 erage container in accordance with section 12103 or
24 12104, as applicable.

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

4 “(A) by December 31, 2027—

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

7 “(ii) 75 percent of all beverage con-
8 tainers and paper covered products recy-
9 cled; and

10 “(iii) 50 percent of all industrially
11 compostable covered products composted;
12 and

13 “(B) by December 31, 2032—

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

16 “(ii) 90 percent of all beverage con-
17 tainers and paper covered products recy-
18 cled; and

19 “(iii) 70 percent of all industrially
20 compostable covered products composted.

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

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

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

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

5 “(3) how to prevent litter of covered products
6 and beverage containers; and

7 “(4) recycling and composting instructions that
8 are—

9 “(A) consistent nationwide, except as nec-
10 essary to take into account differences among
11 State and local laws;

12 “(B) easy to understand; and

13 “(C) easily accessible.

14 “(b) ACTIVITIES.—Outreach and education under
15 subsection (a) shall—

16 “(1) be designed to achieve the management
17 goals of covered products and beverage containers
18 under this part, including the prevention of contami-
19 nation by covered products and beverage containers
20 in other management systems or in other materials;

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

23 “(3) include, at a minimum—

24 “(A) consulting on education, outreach,
25 and communications with the advisory com-

1 mittee of the applicable Organization and other
2 stakeholders;

3 “(B) coordinating with and assisting local
4 municipal programs, municipal contracted pro-
5 grams, solid waste collection companies, and
6 other entities providing services to the Pro-
7 gram;

8 “(C) developing and providing outreach
9 and education to the diverse ethnic populations
10 of the United States through translated and
11 culturally appropriate materials, including in-
12 language and targeted outreach;

13 “(D) establishing consumer websites and
14 mobile applications that provide information
15 about methods to prevent covered product and
16 beverage container pollution and how consumers
17 may access and use collection services;

18 “(E) working with Program participants to
19 label covered products and beverage containers
20 with information to assist consumers in respon-
21 sibly managing covered product and beverage
22 container waste; and

23 “(F) determining the effectiveness of out-
24 reach, education, communications, and conven-

1 ience of services through periodic surveys of
2 consumers.

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

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

11 “(2) develop information that may be used to
12 improve outreach and education efforts under this
13 section.

14 **“SEC. 12107. REPORTING.**

15 “(a) IN GENERAL.—An Organization shall annually
16 make available on a publicly available website a report that
17 contains—

18 “(1) with respect to covered products or bev-
19 erages in beverage containers sold or imported by
20 members of the Organization, a description of, at a
21 minimum—

22 “(A) the quantity of covered products or
23 beverage containers sold or imported and col-
24 lected, by submaterial type and State, for the
25 year covered by the report and each prior year;

1 “(B) management of the covered products
2 or beverage containers, including recycling
3 rates, by submaterial type, for the year covered
4 by the report and each prior year;

5 “(C) data on the final destination and
6 quantity of reclaimed covered products or bev-
7 erage containers, by submaterial type, including
8 the form of any covered products or beverage
9 containers exported;

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

12 “(E) collection service vendors and collec-
13 tion locations, including—

14 “(i) the geographic distribution of col-
15 lection;

16 “(ii) distance to population centers;

17 “(iii) hours;

18 “(iv) actions taken to reduce barriers
19 to collection by expanding curbside collec-
20 tion or facilitating drop-offs; and

21 “(v) frequency of collection avail-
22 ability; and

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

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

3 “(3) expenses of the Organization;

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

6 “(5) customer service efforts and results;

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

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

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

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

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

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

5 “(1) the effect of this part on costs incurred by
 6 State and local governments for the management
 7 and cleanup of covered products and beverage con-
 8 tainers; and

9 “(2) any reductions in State and local taxes as
 10 a result of any reductions of costs described in para-
 11 graph (1).

12 **“PART II—REDUCTION OF SINGLE-USE**
 13 **PRODUCTS**

14 **“SEC. 12201. PROHIBITION ON SINGLE-USE PLASTIC CARRY-**
 15 **OUT BAGS.**

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

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

20 “(A) made of—

21 “(i) plastic film; or

22 “(ii) woven or nonwoven nylon, poly-
 23 propylene, polyethylene-terephthalate, or
 24 Tyvek in a quantity less than 80 grams
 25 per square meter; and

1 “(B) provided by a covered retail or service
2 establishment to a customer at the point of
3 sale, home delivery, the check stand, cash reg-
4 ister, or other point of departure to a customer
5 for use to transport, deliver, or carry away pur-
6 chases.

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

9 “(A) a bag that is subject to taxation
10 under section 4056 of the Internal Revenue
11 Code of 1986; or

12 “(B) a covered product that is—

13 “(i) used by a consumer inside a
14 store—

15 “(I) to package bulk items, such
16 as fruit, vegetables, nuts, grains,
17 candy, unwrapped prepared foods or
18 bakery goods, or small hardware
19 items; or

20 “(II) to contain or wrap—

21 “(aa) prepackaged or non-
22 prepackaged frozen foods, meat,
23 or fish; or

24 “(bb) flowers, potted plants,
25 or other items the dampness of

1 which may require the use of the
2 nonhandled bag;

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

6 “(iii) a newspaper bag;

7 “(iv) a door hanger bag; or

8 “(v) a laundry or dry cleaning bag.

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

12 “(c) ENFORCEMENT.—

13 “(1) WRITTEN NOTIFICATION FOR FIRST VIO-
14 LATION.—If a covered retail or service establishment
15 violates subsection (b), the Administrator shall pro-
16 vide that covered retail or service establishment with
17 written notification regarding the violation of the re-
18 quirement under that subsection.

19 “(2) SUBSEQUENT VIOLATIONS.—

20 “(A) IN GENERAL.—If a covered retail or
21 service establishment, subsequent to receiving a
22 written notification described in paragraph (1),
23 violates subsection (b), the Administrator shall
24 fine the covered retail or service establishment
25 in accordance with subparagraph (B).

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) SEIZURE.—On a third violation or
11 any subsequent violation under this paragraph
12 by a covered retail or service establishment, the
13 Administrator may seize any single-use plastic
14 bags in the possession of the covered retail or
15 service establishment.

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

21 “(3) STATE ENFORCEMENT.—The Adminis-
22 trator may permit a State to carry out enforcement
23 under this subsection if the Administrator deter-
24 mines that the State meets such requirements as the
25 Administrator may establish.

1 “(iv) shall keep in stock plastic straws
2 for customers who request plastic straws.

3 “(B) EFFECTIVE FUNCTIONAL EQUIVA-
4 LENTS.—If the Administrator, in consultation
5 with the National Council on Disability and ad-
6 vocates representing the disability and environ-
7 mental communities, determines that an effec-
8 tive functional equivalent to a plastic straw that
9 can be recycled, composted, or disposed with
10 minimal harm to the environment has been de-
11 veloped—

12 “(i) subparagraph (A) shall no longer
13 apply; and

14 “(ii) a covered retail or service estab-
15 lishment may not provide a plastic straw to
16 a customer.

17 “(C) EXCLUSION.—Subparagraph (A)
18 shall not apply to the sale of plastic straws in
19 bulk for home or personal use.

20 “(3) NONPLASTIC ALTERNATIVES.—A covered
21 retail or service establishment may provide, dis-
22 tribute, or sell a reusable, compostable, or recyclable
23 alternative to a plastic utensil or plastic straw
24 only—

25 “(A) on request of a customer; and

1 “(B) in the case of a compostable or recy-
2 clable alternative, if composting or recycling, as
3 applicable, for the item is provided and locally
4 accessible.

5 “(b) PROHIBITION ON OTHER SINGLE-USE PROD-
6 UCTS.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graphs (3) and (4), a covered retail or service estab-
9 lishment may not sell or distribute any single-use
10 product that the Administrator determines is not re-
11 cyclable or compostable and can be replaced by a re-
12 usable or refillable item.

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

15 “(A) expanded polystyrene for use in food
16 service products, disposable consumer coolers,
17 or shipping packaging;

18 “(B) single-use personal care products,
19 such as miniature bottles containing shampoo,
20 soap, and lotion that are provided at hotels or
21 motels;

22 “(C) noncompostable produce stickers; and

23 “(D) such other products that the Admin-
24 istrator determines by regulation to be appro-
25 priate.

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

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

10 “(c) ENFORCEMENT.—

11 “(1) WRITTEN NOTIFICATION FOR FIRST VIO-
12 LATION.—If a covered retail or service establishment
13 violates subsection (a) or (b), the Administrator
14 shall provide that covered retail or service establish-
15 ment with written notification regarding the viola-
16 tion of the requirement under that subsection.

17 “(2) SUBSEQUENT VIOLATIONS.—

18 “(A) IN GENERAL.—If any covered retail
19 or service establishment, subsequent to receiv-
20 ing a written notification described in para-
21 graph (1), violates subsection (a) or (b), the
22 Administrator shall fine the covered retail or
23 service establishment in accordance with sub-
24 paragraph (B).

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) SEIZURE.—On a third violation or
11 any subsequent violation under this paragraph
12 by a covered retail or service establishment, the
13 Administrator may seize any plastic products
14 prohibited under subsection (a) or (b) that are
15 in the possession of the covered retail or service
16 establishment.

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

22 “(3) STATE ENFORCEMENT.—The Adminis-
23 trator may permit a State to carry out enforcement
24 under this subsection if the Administrator deter-

1 mines that the State meets such requirements as the
2 Administrator may establish.

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

5 **“SEC. 12203. STUDY AND ACTION ON PLASTIC TOBACCO FIL-**
6 **TERS AND ELECTRONIC CIGARETTES.**

7 “(a) STUDY.—Not later than 2 years after the date
8 of enactment of this subtitle, the Administrator, in con-
9 junction with the Commissioner of Food and Drugs and
10 the Director of the National Institutes of Health, shall
11 conduct a study on—

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

14 “(2) the environmental impacts of electronic
15 cigarettes, including disposable components of elec-
16 tronic cigarettes.

17 “(b) REPORT TO CONGRESS.—

18 “(1) IN GENERAL.—Not later than 180 days
19 after the date on which the study under subsection
20 (a) is concluded, the Administrator, in conjunction
21 with the Commissioner of Food and Drugs, shall
22 submit to the committees described in paragraph (2)
23 a report describing recommendations to establish a
24 program to reduce litter from, and the environ-

1 mental impacts of, single-use tobacco filter products
2 and electronic cigarettes.

3 “(2) COMMITTEES.—The committees referred
4 to in paragraph (1) are—

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

7 “(B) the Committee on Environment and
8 Public Works of the Senate;

9 “(C) the Committee on Commerce,
10 Science, and Transportation of the Senate; and

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

13 “(c) PUBLICATION.—On submission of the report
14 under subsection (b)(1), the Administrator, in conjunction
15 with the Commissioner of Food and Drugs, shall publish
16 in the Federal Register for public comment—

17 “(1) the report; and

18 “(2) a description of the actions the Adminis-
19 trator and the Commissioner of Food and Drugs in-
20 tend to take during the 1-year period after the date
21 of publication to reduce litter from, and the environ-
22 mental impacts of, single-use tobacco filter products
23 and electronic cigarettes, including recommendations
24 for incorporating plastic tobacco filters and elec-

1 tronic cigarette components into an extended pro-
2 ducer responsibility program.

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

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

5 “‘The Administrator, in consultation with Organiza-
6 tions, State and local governments, and affected stake-
7 holders, shall issue guidance to standardize recycling and
8 composting collection across communities and States.

9 **“SEC. 12302. REQUIREMENTS FOR THE PRODUCTION OF**
10 **PRODUCTS CONTAINING RECYCLED CON-**
11 **TENT.**

12 “(a) PLASTIC BEVERAGE CONTAINERS.—

13 “(1) IN GENERAL.—Subject to paragraph (2),
14 the Administrator shall require each responsible
15 party for plastic beverage containers to make the
16 plastic beverage containers—

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

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

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

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

25 and

1 “(E) by such dates thereafter as the Ad-
2 ministrator shall establish, such percentages of
3 post-consumer recycled content from United
4 States sources as the Administrator determines
5 by a rule to be appropriate.

6 “(2) ADJUSTMENT.—After consideration of the
7 results of the study under subsection (b)(1), the Ad-
8 ministrator may issue regulations to modify one or
9 more of the percentages described in subparagraphs
10 (A) through (D) of paragraph (1).

11 “(b) OTHER COVERED PRODUCTS AND BEVERAGE
12 CONTAINERS.—

13 “(1) STUDY.—The Administrator, in coordina-
14 tion with the Director of the National Institute of
15 Standards and Technology, the Commissioner of
16 Food and Drugs, and the head of any other relevant
17 Federal agency, shall carry out a study to determine
18 the technical and safe minimum post-consumer recy-
19 cled content requirements for covered products and
20 beverage containers, including beverage containers
21 composed of glass, aluminum, and other materials.

22 “(2) REPORT.—

23 “(A) IN GENERAL.—Not later than 1 year
24 after the date of enactment of this subtitle, the
25 Administrator shall submit to Congress a report

1 describing the results of the study under para-
2 graph (1), including—

3 “(i) an estimate of the current and
4 projected consumption of covered products
5 and use of beverage containers in the
6 United States;

7 “(ii) an estimate of current and pro-
8 jected future recycling rates of covered
9 products and beverage containers in the
10 United States;

11 “(iii) an assessment of techniques and
12 recommendations to minimize the creation
13 of new materials for covered products and
14 beverage containers; and

15 “(iv) an assessment of—

16 “(I) post-consumer recycled con-
17 tent standards for covered products
18 and beverage containers that are tech-
19 nologically feasible; and

20 “(II) the impact of the standards
21 described in subclause (I) on recycling
22 rates of covered products and bev-
23 erage containers.

24 “(B) PUBLICATION.—On submission of the
25 report under subparagraph (A) to Congress, the

1 Administrator shall publish in the Federal Reg-
2 ister for public comment—

3 “(i) the report; and

4 “(ii) a description of the actions the
5 Administrator intends to take during the
6 1-year period after the date of publication
7 in the Federal Register to establish min-
8 imum post-consumer recycled content
9 standards for covered products and bev-
10 erage containers.

11 “(3) MINIMUM STANDARDS.—

12 “(A) IN GENERAL.—Not later than 1 year
13 after the Administrator publishes the report
14 under paragraph (2)(B), the Administrator
15 shall establish minimum post-consumer recycled
16 content standards for covered products and bev-
17 erage containers.

18 “(B) REQUIREMENT.—The standards es-
19 tablished under subparagraph (A) shall increase
20 the percentage by which covered products and
21 beverage containers shall be composed of post-
22 consumer recycled content over a time period
23 established by the Administrator.

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

2 “(a) IN GENERAL.—The Administrator shall require
3 each responsible party of covered products and beverage
4 containers to design the covered products and beverage
5 containers to minimize the environmental and health im-
6 pacts of the covered products and beverage containers.

7 “(b) REQUIREMENTS.—In designing covered prod-
8 ucts and beverage containers in accordance with sub-
9 section (a), to minimize the impacts of extraction, manu-
10 facture, use, and end-of-life management, a responsible
11 party shall consider—

12 “(1) eliminating or reducing the quantity of
13 material used;

14 “(2) eliminating toxic substances;

15 “(3) designing for reuse, refill, and lifespan ex-
16 tension;

17 “(4) incorporating recycled materials;

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

20 “(6) incorporating sustainably and renewably
21 sourced material;

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

25 “(8) degradability of materials in cold-water en-
26 vironments; and

1 “(9) improving recyclability and compostability.

2 **“SEC. 12304. PRODUCT LABELING.**

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

5 “(1) are easy to read;

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

8 “(A) recyclable;

9 “(B) not recyclable;

10 “(C) compostable; or

11 “(D) reusable;

12 “(3) in the case of a covered product or bev-
13 erage container that is not recyclable, does not in-
14 clude the universal chasing arrows recycling symbol
15 or any other similar symbol that would lead a con-
16 sumer to believe that the item should be sorted for
17 recycling;

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

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

24 “(6) in the case of a covered product or bev-
25 erage container that is compostable, includes a green

1 or brown stripe or similar marking to identify that
2 the item is compostable.

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

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

9 “(1) shall be compatible with the intended
10 method of discard for the covered product or bev-
11 erage container; and

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

13 “(d) COMPATIBILITY.—The Administrator shall en-
14 courage label manufacturers, in coordination with the sup-
15 ply chains of those manufacturers, including substrate
16 suppliers, converters, and ink suppliers, to work with the
17 recycling industry to address label recycling compatibility
18 challenges.

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

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

1 “(A) on the front of the package near the
2 dispensing point, the statement ‘Do Not Flush’;
3 and

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

16 “(2) in the case of a wet wipe product sold in
17 the United States that is labeled with a claim that
18 the product is ‘flushable’, ‘sewer and septic safe’, or
19 any other claim that indicates that the product is in-
20 tended to be disposed of in a sewer or septic sys-
21 tem—

22 “(A) the label may include the statement
23 ‘flushable’, ‘sewer and septic safe’, or other
24 statement that the product is intended to be

1 disposed of in a sewer or septic system if the
2 product—

3 “(i) meets the performance standards
4 for dispersibility in a sewer system or sep-
5 tic system established by the International
6 Water Services Flushability Group (as in
7 effect on the date of enactment of this sub-
8 title); and

9 “(ii) does not contain chemicals or ad-
10 ditives harmful to the public wastewater
11 infrastructure; and

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

15 “(A) the label, marketing claims, or other
16 advertisements for the product may not identify
17 the product as intended for disposal in a sewer
18 or septic system; and

19 “(B) the label shall clearly and conspicu-
20 ously state that the product contains plastic or
21 other synthetic material.

22 **“SEC. 12305. RECYCLING AND COMPOSTING RECEPTACLE**
23 **LABELING.**

24 “(a) PURPOSE.—The purpose of this section is to es-
25 tablish guidelines for a national standardized labeling sys-

1 tem for the development of labels for recycling and
2 composting receptacles that use a methodology that is con-
3 sistent throughout the United States to assist members
4 of the public in properly recycling and composting.

5 “(b) DEFINITIONS.—In this section:

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

10 “(2) RECYCLING OR COMPOSTING RECEPTACLE.—The term ‘recycling or composting recep-
11 tacle’ means a recycling or composing bin, cart, or
12 dumpster.
13

14 “(3) RESIDENTIAL RECYCLING AND
15 COMPOSTING PROGRAM.—The term ‘residential recy-
16 cling and composting program’ means a recycling
17 and composting program that services single family
18 dwellings, multifamily dwellings or facilities, or both.

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

22 “(1) use a national standardized methodology
23 of colors, images, format, and terminology, including
24 to address diverse ethnic populations;

1 “(2) shall be placed on recycling and compost-
2 ing receptacles in public spaces and the service area
3 of the Organization in accordance with paragraphs
4 (1)(D) and (2) of subsection (e); and

5 “(3) communicate to users of those recycling
6 and composting receptacles—

7 “(A) the specific recyclables and compost-
8 ables that the Organization accepts; and

9 “(B) the specific rules of sorting for that
10 Organization.

11 “(d) DEVELOPMENT OF LABELS.—

12 “(1) IN GENERAL.—Each Organization in the
13 United States shall, in accordance with the guide-
14 lines published under subsection (e), use the national
15 standardized labeling system to develop labels for
16 use on recycling and composting receptacles in pub-
17 lic spaces and the service area of the Organization
18 to communicate to users of those recycling and
19 composting receptacles—

20 “(A) the specific recyclables and compost-
21 ables that the Organization accepts; and

22 “(B) the specific rules of sorting for that
23 Organization.

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

4 “(A) a simple version of the label for use
5 on recycling and composting receptacles used in
6 public spaces, which shall list the basic
7 recyclables and compostables that the Organiza-
8 tion accepts; and

9 “(B) a detailed version of the label for use
10 on recycling and composting receptacles used as
11 part of a residential recycling and composting
12 program, taking into consideration the com-
13 plexity of the packaging and products disposed
14 of by single family dwellings and multifamily
15 dwellings and facilities.

16 “(e) DISTRIBUTION OF LABELS.—

17 “(1) SIMPLE VERSION.—

18 “(A) IN GENERAL.—An Organization shall
19 distribute the simple version of the label devel-
20 oped by that Organization under subsection
21 (d)(2)(A) to each customer of that Organization
22 that owns or operates a public space in the
23 service area of the Organization.

24 “(B) QUANTITY.—The quantity of labels
25 distributed to an owner or operator of a public

1 space under subparagraph (A) shall be reason-
2 ably sufficient to ensure that a label may be
3 placed on each recycling and composting recep-
4 tacle in that public space.

5 “(C) ADDITIONAL LABELS.—If the quan-
6 tity of labels distributed under subparagraph
7 (B) is insufficient, an Organization shall make
8 available to owners and operators described in
9 subparagraph (A) additional labels to purchase
10 or download.

11 “(D) REQUIREMENT OF OWNERS AND OP-
12 ERATORS.—An owner or operator of a public
13 space that receives labels under subparagraph
14 (A) shall display the labels on the recycling and
15 composting receptacles in that public space.

16 “(2) DETAILED VERSION.—An Organization or
17 municipality, as applicable, that services a residen-
18 tial recycling and composting program in the area
19 served by an Organization shall display a detailed
20 standardized label developed by that Organization
21 under subsection (d)(2)(B) on each recycling and
22 composting receptacle used by the residential recy-
23 cling and composting program.

1 **“SEC. 12306. PROHIBITION ON CERTAIN EXPORTS OF**
2 **WASTE.**

3 “No person may export from the United States plas-
4 tic waste, plastic parings, or scraps of plastic—

5 “(1) to a country that is not a member of the
6 Organization for Economic Cooperation and Devel-
7 opment;

8 “(2) without the prior informed consent of the
9 relevant authorities in a receiving country that is a
10 member of the Organization for Economic Coopera-
11 tion and Development, if those exports—

12 “(A) are not of a single, nonhalogenated
13 plastic polymer; or

14 “(B) are contaminated with greater than
15 0.5 percent of—

16 “(i) other plastics; or

17 “(ii) other materials, including—

18 “(I) labels, adhesives, varnishes,
19 waxes, inks, and paints; and

20 “(II) composite materials mixing
21 plastics with nonplastic materials; or

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

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

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

3 “Nothing in this subtitle or section 4056 of the Inter-
4 nal Revenue Code of 1986 preempts any State or local
5 law in effect on or after the date of enactment of this sub-
6 title that—

7 “(1) requires the collection and recycling of
8 recyclables in a greater quantity than required under
9 section 12105(g);

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

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

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

18 “(5) in any way exceeds the requirements of
19 this subtitle.

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

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

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

3 “(2) implementing source reduction solutions.

4 **“PART V—FISHING GEAR**

5 **“SEC. 12501. STUDY AND ACTION ON DERELICT FISHING**
6 **GEAR.**

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

15 “(1) an analysis of the scale of fishing gear
16 losses by United States and foreign fisheries, includ-
17 ing—

18 “(A) the variance in the quantity of gear
19 lost among—

20 “(i) domestic and foreign fisheries;

21 “(ii) types of fishing gear; and

22 “(iii) methods of fishing;

23 “(B) the means by which lost fishing gear
24 is transported by ocean currents; and

1 “(C) common reasons that fishing gear is
2 lost;

3 “(2) an evaluation of the ecological, human
4 health, and maritime safety impacts of derelict fish-
5 ing gear, and how those impacts vary across—

6 “(A) types of fishing gear;

7 “(B) materials used to construct fishing
8 gear; and

9 “(C) geographic location;

10 “(3) recommendations on management meas-
11 ures—

12 “(A) to prevent fishing gear losses; and

13 “(B) to reduce the impacts of lost fishing
14 gear;

15 “(4) an assessment of the cost of implementing
16 management measures described in paragraph (3);
17 and

18 “(5) an assessment of the impact of fishing
19 gear loss attributable to foreign countries.

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

23 “(1) the report; and

24 “(2) a description of the actions the Under Sec-
25 retary intends to take during the 1-year period after

1 the date of publication to reduce litter from, and the
 2 environmental impacts of, commercial fishing gear.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
 4 for the Solid Waste Disposal Act (Public Law 89–272; 79
 5 Stat. 997) is amended by inserting after the item relating
 6 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 cigarettes.

“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—

22 “(I) sells food, alcohol, or any
23 other good or product to the public at
24 retail, or

1 “(II) elects to comply with the
2 requirements under this section.

3 “(B) EXCEPTION.—

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

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

19 “(2) CARRYOUT BAG.—

20 “(A) IN GENERAL.—The term ‘carryout
21 bag’ means a bag of any material that is pro-
22 vided to a consumer at the point of sale to
23 carry or cover purchases, merchandise, or other
24 items.

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

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

8 “(f) EXCEPTIONS.—The tax imposed under sub-
9 section (a) shall not apply to any carryout bag that is pro-
10 vided to a customer as part of a transaction in which the
11 customer is purchasing any item using benefits received
12 under the supplemental nutrition assistance program es-
13 tablished under the Food and Nutrition Act of 2008 (7
14 U.S.C. 2011 et seq.) or the supplemental nutrition pro-
15 gram for women, infants, and children authorized under
16 section 17 of the Child Nutrition Act of 1966 (42 U.S.C.
17 1786).

18 “(g) PENALTIES.—

19 “(1) WRITTEN NOTIFICATION FOR FIRST VIO-
20 LATION.—If any applicable entity fails to collect the
21 tax imposed under subsection (a) or satisfy the re-
22 quirements under subsection (e), the Secretary shall
23 provide such entity with written notification regard-
24 ing the violation of the requirements under such
25 subsections.

1 “(2) SUBSEQUENT VIOLATIONS.—

2 “(A) IN GENERAL.—If any applicable enti-
3 ty, subsequent to receiving a written notifica-
4 tion described in paragraph (1), fails to collect
5 the tax imposed under subsection (a) or satisfy
6 the requirements under subsection (e), such en-
7 tity shall pay a penalty in addition to the tax
8 imposed under this section.

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

12 “(i) in the case of the first violation,
13 \$250,

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

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

18 “(C) LIMITATION.—In the case of any ap-
19 plicable entity with less than \$1,000,000 in
20 total revenue for the year preceding the imposi-
21 tion of any penalty under this paragraph, any
22 such penalty may not be imposed under this
23 paragraph more than once during any 7-day pe-
24 riod.

1 “(h) **RULE OF CONSTRUCTION.**—Nothing in this sec-
2 tion or any regulations promulgated under this section
3 shall preempt, limit, or supersede, or be interpreted to pre-
4 empt, limit, or supersede—

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

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

12 (b) **CARRYOUT BAG CREDIT PROGRAM.**—Subchapter
13 B of chapter 65 of such Code is amended by adding at
14 the end the following new section:

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

16 “(a) **ALLOWANCE OF CREDIT.**—If—

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

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

21 “(3) such entity has kept and can produce
22 records for purposes of this section and section 4056
23 that include—

24 “(A) the total number of carryout bags
25 provided to customers for which the tax was im-

1 posed under section 4056(a) and the amounts
2 passed through to customers for such bags pur-
3 suant to section 4056(e), and

4 “(B) the total number of bags for which a
5 refund was provided to customers pursuant to
6 a carryout bag credit program,

7 the Secretary shall pay (without interest) to such entity
8 an amount equal to the applicable amount for each bag
9 provided by such entity in connection with a point of sale
10 transaction.

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

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

16 “(2) in the case of an applicable entity that has
17 not established a carryout bag credit program,
18 \$0.04.

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

23 “(1) for each bag provided by the customer to
24 package any items purchased from the applicable en-

1 the amounts received in the Treasury pursuant to section
2 4056.

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

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

7 “(2) making grants for—

8 “(A) reusable carryout bags, and

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

11 (d) STUDY.—Not later than the date which is 18
12 months after the date of enactment of this Act, the Comp-
13 troller General of the United States shall conduct a study
14 on the effectiveness of sections 4056, 6431, and 9512 of
15 the Internal Revenue Code of 1986 (as added by this Act)
16 at reducing the use of carryout bags and encouraging the
17 use of reusable bags. The report shall address—

18 (1) the use of plastic or paper single-use carry-
19 out bags during the period preceding the enactment
20 of such sections;

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

23 (A) the percentage reduction in the use of
24 plastic or paper single-use carryout bags as a
25 result of the enactment of such sections;

1 (B) the opinion among citizens and resi-
2 dents of the United States regarding the effect
3 of such sections, disaggregated by race and in-
4 come level; and

5 (C) the amount of substitution between
6 other types of plastic bags for single-use carry-
7 out bags;

8 (3) measures that the Comptroller General de-
9 termines may increase the effectiveness of such sec-
10 tions, including the amount of tax imposed on each
11 carryout bag; and

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

16 The Comptroller General shall submit a report of such
17 study to the Committee on Ways and Means of the House
18 of Representatives and the Committee on Finance of the
19 Senate.

20 (e) CLERICAL AMENDMENTS.—

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

“SUBCHAPTER D. CARRYOUT BAGS”.

1 (3) COVERED PRODUCTS.—The term “covered
2 plastic” means—

3 (A) ethylene;

4 (B) propylene;

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

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

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

11 or

12 (F) other plastic polymer raw materials in
13 any form (including pellets, resin, nurdle, pow-
14 der, and flakes).

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

22 (A) communities of color, indigenous com-
23 munities, and low-income communities have ac-
24 cess to public information and opportunities for
25 meaningful public participation with respect to

1 human health and environmental planning, reg-
2 ulations, and enforcement;

3 (B) no community of color, indigenous
4 community, or low-income community is ex-
5 posed to a disproportionate burden of the nega-
6 tive human health and environmental impacts
7 of pollution or other environmental hazards;
8 and

9 (C) the 17 principles described in the docu-
10 ment entitled “The Principles of Environmental
11 Justice”, written and adopted at the First Na-
12 tional People of Color Environmental Leader-
13 ship Summit held on October 24 through 27,
14 1991, in Washington, DC, are upheld.

15 (5) FENCELINE MONITORING.—The term
16 “fenceline monitoring” means continuous, real-time
17 monitoring of ambient air quality around the entire
18 perimeter of a facility.

19 (6) FRONTLINE COMMUNITY.—

20 (A) IN GENERAL.—The term “frontline
21 community” means a community located near a
22 covered facility that has experienced systemic
23 socioeconomic disparities or other forms of in-
24 justice.

1 (B) INCLUSIONS.—The term “frontline
2 community” includes a low-income community,
3 a community that includes indigenous peoples,
4 and a community of color.

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

8 (8) SINGLE-USE PLASTIC.—

9 (A) IN GENERAL.—The term “single-use
10 plastic” means a plastic product or packaging
11 that is routinely disposed of, recycled, or other-
12 wise discarded after a single use.

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

15 (i) medical food, supplements, devices,
16 or other products determined by the Sec-
17 retary of Health and Human Services to
18 necessarily be made of plastic for the pro-
19 tection of public health; or

20 (ii) packaging that is—

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

23 (II) used for the shipment of
24 hazardous materials that is prohibited
25 from being composed of used mate-

1 rials under section 178.509 or section
2 178.522 of title 49, Code of Federal
3 Regulations (as in effect on the date
4 of enactment of this Act).

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

7 (A) beginning on the date of enactment of
8 this Act; and

9 (B) ending on the date that is the first
10 date on which all regulations required under
11 subsections (d) and (e) are in effect.

12 (10) ZERO-EMISSIONS ENERGY.—The term
13 “zero-emissions energy” means renewable energy the
14 production of which emits no greenhouse gases at
15 the production source.

16 (b) TEMPORARY PAUSE.—During the temporary
17 pause period, notwithstanding any other provision of
18 law—

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

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

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

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

4 (3) the Administrator shall object in writing
5 under subsections (b) and (c) of section 505 of the
6 Clean Air Act (42 U.S.C. 7661d) or section
7 402(d)(2) of the Federal Water Pollution Control
8 Act (33 U.S.C. 1342(d)(2)), as applicable, to any
9 new permit issued to a covered facility by a State
10 agency delegated authority under the Clean Air Act
11 (42 U.S.C. 7401 et seq.) or the Federal Water Pol-
12 lution Control Act (33 U.S.C. 1251 et seq.); and

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

15 (c) STUDY.—

16 (1) IN GENERAL.—

17 (A) AGREEMENT.—The Administrator
18 shall offer to enter into an agreement with the
19 National Academy of Sciences and the National
20 Institutes of Health to conduct a study of—

21 (i) the existing and planned expansion
22 of the industry of the producers of covered
23 products, including the entire supply chain,
24 end uses, disposal fate, and lifecycle im-
25 pacts of covered products;

1 (ii) the environmental justice and pol-
2 lution impacts of covered facilities and the
3 products of covered facilities;

4 (iii) the existing standard technologies
5 and practices of covered facilities with re-
6 spect to the discharge and emission of pol-
7 lutants into the environment; and

8 (iv) the best available technologies
9 and practices that reduce or eliminate the
10 environmental justice and pollution im-
11 pacts of covered facilities and the products
12 of covered facilities.

13 (B) FAILURE TO ENTER AGREEMENT.—If
14 the Administrator fails to enter into an agree-
15 ment described in subparagraph (A), the Ad-
16 ministrator shall conduct the study described in
17 that subparagraph.

18 (2) REQUIREMENTS.—The study under para-
19 graph (1) shall—

20 (A) consider—

21 (i) the direct, indirect, and cumulative
22 environmental impacts of the industries of
23 covered facilities to date; and

24 (ii) the impacts of the planned expan-
25 sion of those industries, including local, re-

1 gional, national, and international air,
2 water, waste, climate change, public health,
3 and environmental justice impacts of those
4 industries; and

5 (B) recommend technologies, standards,
6 and practices to remediate or eliminate the
7 local, regional, national, and international air,
8 water, waste, climate change, public health, and
9 environmental justice impacts of covered facili-
10 ties and the industries of covered facilities.

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

15 (d) CLEAN AIR.—

16 (1) TIMELY REVISION OF EMISSIONS STAND-
17 ARDS.—Section 111(b)(1)(B) of the Clean Air Act
18 (42 U.S.C. 7411(b)(1)(B)) is amended by striking
19 the fifth sentence.

20 (2) NATIONAL SOURCE PERFORMANCE STAND-
21 ARDS IMPLEMENTATION IMPROVEMENTS.—

22 (A) ZERO-EMISSIONS ENERGY.—Not later
23 than 3 years after the date of enactment of this
24 Act, the Administrator shall promulgate a final
25 rule requiring that—

1 (i) covered facilities that manufacture
2 olefins, including ethylene and propylene,
3 use only zero-emissions energy sources, ex-
4 cept to the extent that waste gases are re-
5 cycled; and

6 (ii) covered facilities that manufacture
7 low-density polyethylene, linear low-density
8 polyethylene, high-density polyethylene,
9 styrene, vinyl chloride, or synthetic organic
10 fibers use only zero-emissions energy
11 sources, except to the extent that waste
12 gases are recycled, unless the Adminis-
13 trator—

14 (I) determines that under certain
15 conditions (such as during the com-
16 mencement or shut down of produc-
17 tion at a covered facility), expendi-
18 tures of energy that are not from
19 zero-emissions energy sources are re-
20 quired; and

21 (II) publishes the determination
22 under subclause (I) and a proposed
23 mixture of zero-emissions energy and
24 non-zero-emissions energy for those
25 conditions in a rulemaking.

1 (B) NEW SOURCE PERFORMANCE STAND-
2 ARDS FOR CERTAIN FACILITIES.—Not later
3 than 3 years after the date of enactment of this
4 Act, the Administrator shall promulgate a final
5 rule—

6 (i) designating ethylene, propylene,
7 polyethylene, and polypropylene production
8 facilities as a category of stationary source
9 under section 111(b)(1)(A) of the Clean
10 Air Act (42 U.S.C. 7411(b)(1)(A)); and

11 (ii) establishing new source perform-
12 ance standards for the category of sta-
13 tionary source designated under clause (i)
14 under section 111(f)(1) of the Clean Air
15 Act (42 U.S.C. 7411(f)(1)).

16 (C) STORAGE VESSELS FOR COVERED
17 PRODUCTS.—Not later than 3 years after the
18 date of enactment of this Act, the Adminis-
19 trator shall promulgate a final rule modifying
20 section 60.112b(a) of title 40, Code of Federal
21 Regulations (as in effect on the date of enact-
22 ment of this Act), to ensure that an owner or
23 operator of a storage vessel containing liquid
24 with a vapor pressure of equal to or more than
25 5 millimeters of mercury under actual storage

1 conditions that is regulated under that section
2 uses—

3 (i) an internal floating roof tank con-
4 nected to a volatile organic compound con-
5 trol device; or

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

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

11 (i) modifying title 40, Code of Federal
12 Regulations (as in effect on the date of en-
13 actment of this Act), to ensure that flar-
14 ing, either at ground-level or elevated, shall
15 only be permitted when necessary solely for
16 safety reasons; and

17 (ii) modifying sections
18 60.112b(a)(3)(ii), 60.115b(d)(1), 60.482–
19 10a(d), 60.662(b), 60.702(b), and 60.562–
20 1(a)(1)(i)(C) of title 40, Code of Federal
21 Regulations (as in effect on the date of en-
22 actment of this Act), to ensure that—

23 (I) references to flare standards
24 under those sections refer to the flare

1 standards established under clause (i);
2 and

3 (II) the flare standards under
4 those sections are, without exception,
5 continuously applied.

6 (E) SOCMI EQUIPMENT LEAKS.—Not
7 later than 3 years after the date of enactment
8 of this Act, the Administrator shall promulgate
9 a final rule—

10 (i) modifying section 60.482–1a of
11 title 40, Code of Federal Regulations (as
12 in effect on the date of enactment of this
13 Act), to ensure that, whenever possible,
14 owners and operators use process units
15 and components with a leak-less or seal-
16 less design;

17 (ii) modifying section 60.482–1a(f) of
18 title 40, Code of Federal Regulations (as
19 in effect on the date of enactment of this
20 Act), to ensure that owners and operators
21 use optical gas imaging monitoring pursu-
22 ant to section 60.5397a of title 40, Code of
23 Federal Regulations (as in effect on the
24 date of enactment of this Act), on a quar-
25 terly basis, unless the owner or operator

1 receives approval from the Administrator
2 in writing to use Method 21 of the Envi-
3 ronmental Protection Agency (as described
4 in appendix A-7 of part 60 of title 40,
5 Code of Federal Regulations (as in effect
6 on the date of enactment of this Act)) with
7 a repair threshold of 500 parts per million;

8 (iii) modifying 60.482-6a of title 40,
9 Code of Federal Regulations (as in effect
10 on the date of enactment of this Act), to
11 ensure that the use of open-ended valves or
12 lines is prohibited except if a showing is
13 made that the use of an open-ended valve
14 or line is necessary for safety reasons; and

15 (iv) modifying subpart VVa of part 60
16 of title 40, Code of Federal Regulations
17 (as in effect on the date of enactment of
18 this Act), to ensure that—

19 (I) the term “no detectable emis-
20 sions” is defined to mean an instru-
21 ment reading of less than 50 parts
22 per million above background con-
23 centrations; and

24 (II) the term “leak” is defined to
25 mean an instrument reading of great-

1 er than or equal to 50 parts per mil-
2 lion above background concentrations.

3 (F) NATURAL-GAS FIRED STEAM BOIL-
4 ERS.—Not later than 3 years after the date of
5 enactment of this Act, the Administrator shall
6 promulgate a final rule revising subpart Db of
7 part 60 of title 40, Code of Federal Regulations
8 (as in effect on the date of enactment of this
9 Act), to ensure that boilers or heaters located
10 at an affected covered facility regulated under
11 that subpart may only burn gaseous fuels, not
12 solid fuels or liquid fuels.

13 (G) MONITORING.—Not later than 3 years
14 after the date of enactment of this Act, the Ad-
15 ministrator shall promulgate a final rule revis-
16 ing subparts DDD, NNN, RRR, and other rel-
17 evant subparts of part 60 of title 40, Code of
18 Federal Regulations (as in effect on the date of
19 enactment of this Act)—

20 (i) to require continuous emissions
21 monitoring of nitrogen oxides, sulfur diox-
22 ide, carbon monoxide, and filterable partic-
23 ulate matter for all combustion devices ex-
24 cept for non-enclosed flares, including dur-
25 ing startups, shutdowns, and malfunctions

1 of the facilities regulated by those sub-
2 parts;

3 (ii) to require—

4 (I) accurate and continuous rec-
5 ordkeeping when continuous moni-
6 toring is required under clause (i);
7 and

8 (II) the records required under
9 subclause (I) to be made available to
10 the public; and

11 (iii) to require fenceline monitoring
12 under section 63.658 of title 40, Code of
13 Federal Regulations (as in effect on the
14 date of enactment of this Act), for nitrogen
15 oxides, sulfur dioxide, carbon monoxide, fil-
16 terable and condensable particulate matter,
17 and all other relevant hazardous air pollut-
18 ants.

19 (3) NATIONAL EMISSION STANDARDS FOR HAZ-
20 ARDOUS AIR POLLUTANTS IMPLEMENTATION IM-
21 PROVEMENTS.—

22 (A) EQUIPMENT LEAKS OF BENZENE.—
23 Not later than 3 years after the date of enact-
24 ment of this Act, the Administrator shall pro-
25 mulgate a final rule modifying section 61.112

1 of title 40, Code of Federal Regulations (as in
2 effect on the date of enactment of this Act),
3 that strikes subsection (c).

4 (B) BENZENE WASTE OPERATIONS.—Not
5 later than 3 years after the date of enactment
6 of this Act, the Administrator shall promulgate
7 a final rule modifying subpart FF of part 61 of
8 title 40, Code of Federal Regulations (as in ef-
9 fect on the date of enactment of this Act), to
10 ensure that—

11 (i) the term “no detectable emissions”
12 is defined to mean an instrument reading
13 of less than 50 parts per million above
14 background concentrations; and

15 (ii) the term “leak” is defined to
16 mean an instrument reading of greater
17 than or equal to 50 parts per million above
18 background concentrations.

19 (C) MAXIMUM ACHIEVABLE CONTROL
20 TECHNOLOGY STANDARDS FOR COVERED FA-
21 CILITIES.—Not later than 3 years after the
22 date of enactment of this Act, the Adminis-
23 trator shall—

24 (i) promulgate a final rule modifying
25 subpart YY of part 63 of title 40, Code of

1 Federal Regulations (as in effect on the
2 date of enactment of this Act), to ensure
3 that—

4 (I) the generic maximum achiev-
5 able control technology standards de-
6 scribed in that subpart—

7 (aa) require no detectable
8 emissions of hazardous air pollut-
9 ants, unless the Administrator—

10 (AA) determines that
11 the maximum degree of re-
12 duction in emissions of haz-
13 ardous air pollutants achiev-
14 able pursuant to section
15 112(d)(2) of the Clean Air
16 Act (42 U.S.C. 7412(d)(2))
17 justifies higher limits; and

18 (BB) publishes the de-
19 termination under subitem
20 (AA) and the proposed high-
21 er limits in a rulemaking;

22 (bb) ensure an ample mar-
23 gin of safety to protect public
24 health and prevent an adverse
25 environmental effect; and

1 (cc) prevent adverse cumu-
2 lative effects to fetal health, the
3 health of children, and the health
4 of vulnerable subpopulations; and
5 (II) the term “no detectable
6 emissions”, as required under sub-
7 clause (I)(aa), is defined to mean an
8 instrument reading of less than 50
9 parts per million above background
10 concentrations; and

11 (ii) in promulgating the final rule re-
12 quired in clause (i)(I), consider—

13 (I) the effects and risks of expo-
14 sure from multiple sources of haz-
15 ardous air pollutants under the sub-
16 part modified under that clause; and

17 (II) the best available science, in-
18 cluding science provided by the Na-
19 tional Academies of Science.

20 (e) CLEAN WATER.—

21 (1) REVISED EFFLUENT LIMITATION GUIDE-
22 LINES FOR THE ORGANIC CHEMICAL, PLASTICS, AND
23 SYNTHETIC FIBERS INDUSTRIAL CATEGORY.—

24 (A) BAT AND NSPS STANDARDS FOR PLAS-
25 TIC POLYMER PRODUCTION.—Not later than 3

1 years after the date of enactment of this Act,
2 the Administrator shall promulgate a final
3 rule—

4 (i) that ensures that the best available
5 technology limitations described in part
6 414 of title 40, Code of Federal Regula-
7 tions (as modified under clause (ii)), ap-
8 plies to covered facilities that produce
9 fewer than 5,000,001 pounds of covered
10 products per year;

11 (ii) modifying part 414 of title 40,
12 Code of Federal Regulations (as in effect
13 on the date of enactment of this Act), to
14 ensure that the best available technology
15 and new source performance standard re-
16 quirements under that part reflect updated
17 best available technology and best available
18 demonstrated control technology for all
19 pollutants discharged by covered facilities
20 that produce covered products, including
21 pollutants of concern that are not regu-
22 lated on the date of enactment of this Act;
23 and

24 (iii) modifying sections 414.91(b),
25 414.101(b), and 414.111(b) of title 40,

1 Code of Federal Regulations (as in effect
2 on the date of enactment of this Act), to
3 ensure that—

4 (I) for new source performance
5 standards for applicable covered facili-
6 ties producing covered products, the
7 maximum effluent limit for any 1 day
8 and for any monthly average for the
9 priority pollutants described in appen-
10 dix A to part 423 of title 40, Code of
11 Federal Regulations (as in effect on
12 the date of enactment of this Act), is
13 0 milligrams per liter unless the Ad-
14 ministrators—

15 (aa) determines that higher
16 limits are justified using best
17 available demonstrated control
18 technology; and

19 (bb) publishes the deter-
20 mination under item (aa) and the
21 proposed higher limits in a rule-
22 making; and

23 (II) for best available technology
24 and new source performance stand-
25 ards, the maximum effluent limit for

1 any 1 day and for any monthly aver-
2 age for total plastic pellets and other
3 plastic material is 0 milligrams per
4 liter.

5 (B) EFFLUENT LIMITATIONS FOR RUNOFF
6 FROM PLASTIC POLYMER PRODUCTION AND
7 PLASTIC MOLDING AND FORMING FACILITIES.—
8 Not later than 60 days after the date of enact-
9 ment of this Act, the Administrator shall pro-
10 mulgate a final rule modifying parts 414 and
11 463 of title 40, Code of Federal Regulations (as
12 in effect on the date of enactment of this Act),
13 to ensure that—

14 (i) the runoff from facilities regulated
15 under part 414 or 463 of that title con-
16 tains, for any 1 day and for any monthly
17 average, 0 milligrams per liter of plastic
18 pellets or other plastic materials; and

19 (ii) the requirement under clause (i) is
20 reflected in all stormwater and other per-
21 mits issued by the Administrator and
22 State-delegated programs under section
23 402 of the Federal Water Pollution Con-
24 trol Act (33 U.S.C. 1342), in addition to
25 other applicable limits and standards.

1 (C) EFFLUENT LIMITATIONS FOR RUNOFF
2 FROM FACILITIES THAT TRANSPORT AND PACK-
3 AGE PLASTIC PELLETS OR OTHER PLASTIC MA-
4 TERIALS.—Not later than 180 days after the
5 date of enactment of this Act, the Adminis-
6 trator shall—

7 (i) identify, in addition to the facilities
8 described in subparagraph (B)(i), other
9 sources of runoff or other pollution con-
10 sisting of plastic pellets or other plastic
11 materials into navigable waters (as defined
12 in section 502 of the Federal Water Pollu-
13 tion Control Act (33 U.S.C. 1362)); and

14 (ii) promulgate a final rule that—

15 (I) limits the discharge of plastic
16 pellets or other plastic materials in
17 wastewater and runoff from facilities
18 identified under clause (i) to, for any
19 1 day and for any monthly average, 0
20 milligrams per liter; and

21 (II) requires the limitation under
22 subclause (I) to be reflected in all
23 stormwater and other permits issued
24 by the Administrator and State-dele-
25 gated programs under section 402 of

1 the Federal Water Pollution Control
2 Act (33 U.S.C. 1342), in addition to
3 other applicable limits and standards.

4 (2) REVISED EFFLUENT LIMITATIONS GUIDE-
5 LINES FOR ETHYLENE AND PROPYLENE PRODUC-
6 TION.—

7 (A) BAT AND NSPS STANDARDS.—Not
8 later than 3 years after the date of enactment
9 of this Act, the Administrator shall promulgate
10 a final rule—

11 (i) modifying sections 419.23, 419.26,
12 419.33, and 419.36 of title 40, Code of
13 Federal Regulations (as in effect on the
14 date of enactment of this Act), to ensure
15 that the best available technology and new
16 source performance standards reflect up-
17 dated best available technology and best
18 available demonstrated control technology
19 for all pollutants discharged by covered fa-
20 cilities producing ethylene or propylene;
21 and

22 (ii) modifying sections 419.26(a) and
23 419.36(a) of title 40, Code of Federal Reg-
24 ulations (as in effect on the date of enact-
25 ment of this Act), to ensure that the new

1 source performance standards for any 1
2 day and for average of daily values for 30
3 consecutive days for the priority pollutants
4 described in appendix A to part 423 of
5 title 40, Code of Federal Regulations (as
6 in effect on the date of enactment of this
7 Act), is 0 milligrams per liter unless the
8 Administrator—

9 (I) determines that higher limits
10 are justified using best available dem-
11 onstrated control technology; and

12 (II) the Administrator publishes
13 the determination under item (aa) and
14 the proposed higher limits in a rule-
15 making.

16 (B) RUNOFF LIMITATIONS FOR ETHYLENE
17 AND PROPYLENE PRODUCTION.—Not later than
18 3 years after the date of enactment of this Act,
19 the Administrator shall promulgate a final rule
20 modifying sections 419.26(e) and 419.36(e) of
21 title 40, Code of Federal Regulations (as in ef-
22 fect on the date of enactment of this Act), to
23 ensure that runoff limitations that reflect best
24 available demonstrated control technology are
25 included.

1 (f) ENVIRONMENTAL JUSTICE REQUIREMENTS FOR
2 COVERED FACILITY PERMITS.—

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

6 (A) any proposed permit to be issued by
7 the Administrator or by a State agency dele-
8 gated authority under the Clean Air Act (42
9 U.S.C. 7401 et seq.) or the Federal Water Pol-
10 lution Control Act (33 U.S.C. 1251 et seq.)
11 with respect to a covered facility is accompanied
12 by an environmental justice assessment that—

13 (i) assesses the direct and cumulative
14 economic, environmental, and public health
15 impacts of the proposed permit on front-
16 line communities; and

17 (ii) proposes changes or alterations to
18 the proposed permit that would, to the
19 maximum extent practicable, eliminate or
20 mitigate the impacts described in clause
21 (i);

22 (B) each proposed permit and environ-
23 mental justice assessment described in subpara-
24 graph (A) is delivered to applicable frontline
25 communities at the beginning of the public com-

1 ment period for the proposed permit, which
2 shall include notification through—

3 (i) direct means; and

4 (ii) publications likely to be obtained
5 by residents of the frontline community;

6 (C) the Administrator or a State agency
7 delegated authority under the Clean Air Act
8 (42 U.S.C. 7401 et seq.) or the Federal Water
9 Pollution Control Act (33 U.S.C. 1251 et seq.),
10 as applicable, shall not approve a proposed per-
11 mit described in subparagraph (A) unless—

12 (i) changes or alterations have been
13 incorporated into the proposed permit that,
14 to the maximum extent practicable, elimi-
15 nate or mitigate the environmental justice
16 impacts described in subparagraph (A)(i);
17 and

18 (ii) the changes or alterations de-
19 scribed in clause (i) have been developed
20 with input from residents or representa-
21 tives of the frontline community in which
22 the covered facility to which the proposed
23 permit would apply is located or seeks to
24 locate; and

1 (D) the approval of a proposed permit de-
2 scribed in subparagraph (A) is conditioned on
3 the covered facility providing comprehensive
4 fenceline monitoring and response strategies
5 that fully protect public health and safety and
6 the environment in frontline communities.

7 (2) REQUIREMENT.—The Administrator shall
8 develop the final rule required under paragraph (1)
9 with input from—

10 (A) residents of frontline communities; and

11 (B) representatives of frontline commu-
12 nities.

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

18 (1) requires the tracking of covered products
19 from sale to disposal;

20 (2) prohibits the export of covered products to
21 purchasers that convert those plastics into single-use
22 plastics;

23 (3) requires the Secretary of Commerce, not
24 less frequently than once every 2 years and in con-
25 sultation with the Administrator and the Secretary

1 of Health and Human Services, to publish a report
2 measuring and evaluating the environmental and en-
3 vironmental justice impacts of exporting covered
4 products from sale to disposal; and

5 (4) establishes enforceable mechanisms for sell-
6 ers or purchasers of covered products to mitigate the
7 environmental and environmental justice impacts of
8 those covered products from sale to disposal.

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