

116TH CONGRESS
2D SESSION

S. 3944

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 SENATE OF THE UNITED STATES

JUNE 11, 2020

Mr. UDALL introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

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

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

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

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

12 **“SEC. 12001. DEFINITIONS.**

13 “In this subtitle:

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

17 “(2) BEVERAGE.—

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

21 “(i) water;

22 “(ii) flavored water;

23 “(iii) soda water;

24 “(iv) mineral water;

25 “(v) beer;

26 “(vi) a malt beverage;

1 “(vii) a carbonated soft drink;
 2 “(viii) liquor;
 3 “(ix) tea;
 4 “(x) coffee;
 5 “(xi) hard cider;
 6 “(xii) fruit juice;
 7 “(xiii) an energy or sports drink;
 8 “(xiv) coconut water;
 9 “(xv) wine;
 10 “(xvi) a yogurt drink;
 11 “(xvii) a probiotic drink;
 12 “(xviii) a wine cooler; and
 13 “(xix) any other beverage determined
 14 to be appropriate by the Administrator.

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

17 “(i) a drug regulated under the Fed-
 18 eral Food, Drug, and Cosmetic Act (21
 19 U.S.C. 301 et seq.);
 20 “(ii) infant formula; or
 21 “(iii) a meal replacement liquid.

22 “(3) BEVERAGE CONTAINER.—

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

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

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

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

10 “(i) a carton;

11 “(ii) a pouch; or

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

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

22 “(4) COMPOSTABLE.—

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

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

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

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

10 “(II) is labeled to reflect that the cov-
 11 ered product meets a standard described in
 12 subclause (I);

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

16 “(iii) comprises only—

17 “(I) wood without any coatings,
 18 additives, or toxic substances; or

19 “(II) fiber without any coatings,
 20 additives, or toxic substances.

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

23 “(5) COVERED ENTITY.—The term ‘covered en-
 24 tity’ means a single family or multifamily dwelling
 25 or publicly owned land (such as a sidewalk, plaza,

and park) for which a recycling collection service is provided.

“(6) COVERED PRODUCT.—

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

“(i) packaging;

“(ii) a food service product;

“(iii) paper;

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

“(v) a container for a beverage that is not described in subparagraphs (A) and (B) of paragraph (3), such as a carton, pouch, or aseptic packaging, such as a drink box, the responsible party for which does not elect to participate in the program under section 12104.

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

“(7) COVERED RETAIL OR SERVICE ESTABLISHMENT.—The term ‘covered retail or service establishment’ means a store, grocery store, restaurant, beverage provider, vendor, hotel, motel, or other re-

1 tail or service establishment operating in the United
2 States.

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

7 “(A) a utensil;

8 “(B) a straw;

9 “(C) a drink cup;

10 “(D) a drink lid;

11 “(E) a food package;

12 “(F) a food container;

13 “(G) a plate;

14 “(H) a bowl;

15 “(I) a meat tray; and

16 “(J) a food wrap.

17 “(9) ORGANIZATION.—The term ‘Organization’
18 means a Producer Responsibility Organization estab-
19 lished under section 12102(a)(1).

20 “(10) PACKAGING.—

21 “(A) IN GENERAL.—The term ‘packaging’
22 means—

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

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

10 “(B) INCLUSIONS.—The term ‘packaging’
11 includes—

12 “(i) packaging intended for the con-
13 sumer market;

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

19 “(iii) secondary packaging used to
20 group products for multiunit sale;

21 “(iv) tertiary packaging used for
22 transportation or distribution directly to a
23 consumer; and

1 “(v) ancillary elements hung or at-
2 tached to a product and performing a
3 packaging function.

4 “(C) EXCLUSION.—The term ‘packaging’
5 does not include packaging—

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

8 “(ii) with a life of not less than 5
9 years.

10 “(11) PAPER.—

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

15 “(B) INCLUSIONS.—The term ‘paper’ in-
16 cludes—

17 “(i) newsprint and inserts;

18 “(ii) magazines and catalogs;

19 “(iii) direct mail;

20 “(iv) office paper; and

21 “(v) telephone directories.

22 “(C) EXCLUSIONS.—The term ‘paper’ does
23 not include—

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

4 “(ii) a bound book.

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

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

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

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

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

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

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

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

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

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

13 “(15) RECYCLE.—

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

17 “(i) collected, sorted, and processed;
 18 and

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

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

23 “(III) in the case of composting or or-
 24 ganic recycling, productively used for soil
 25 improvement.

1 “(B) EXCLUSION.—The term ‘recycle’ does
2 not include—

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

11 “(ii) the use of waste—

12 “(I) as a fuel or fuel substitute;

13 “(II) for energy production;

14 “(III) for alternate operating
15 cover; or

16 “(IV) within the footprint of a
17 landfill; or

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

21 “(I) pyrolysis;

22 “(II) hydrolysis;

23 “(III) methanolysis;

24 “(IV) gasification;

25 “(V) enzymatic breakdown; or

1 “(VI) a similar technology, as de-
2 termined by the Administrator.

3 “(16) RESPONSIBLE PARTY.—

4 “(A) BEVERAGE CONTAINERS.—

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

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

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

19 “(III) if subclauses (I) and (II)
20 do not apply, a person that imports
21 the beverage sold in a beverage con-
22 tainer into the United States for use
23 in a commercial enterprise, sale, offer
24 for sale, or distribution in the United
25 States.

1 “(ii) RELATED DEFINITIONS.—In this
2 subparagraph:

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

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

13 “(III) RETAILER.—

14 “(aa) IN GENERAL.—The
15 term ‘retailer’ means a person in
16 the United States that—

17 “(AA) engages in the
18 sale of beverages in beverage
19 containers to a consumer; or

20 “(BB) provides bev-
21 erages in beverage con-
22 tainers to a person in com-
23 merce, including provision
24 free of charge, such as at a
25 workplace or event.

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

8 “(B) COVERED PRODUCTS.—With respect
9 to a covered product, the term ‘responsible
10 party’ means—

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

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

24 “(iii) if clauses (i) and (ii) do not
25 apply, a person that imports the covered

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

4 “(17) RESTAURANT.—

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

8 “(i) for consumption by the public;

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

15 “(iii) in a consumable form for con-
16 sumption outside the place where the food
17 or beverage is prepared.

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

20 “(18) REUSABLE.—The term ‘reusable’ means,
21 with respect to a covered product or beverage con-
22 tainer, that the covered product or beverage con-
23 tainer is—

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

1 “(B) reusable or refillable for such number
 2 of cycles, but not less than 100 cycles, as the
 3 Administrator determines to be appropriate for
 4 the covered product or beverage container.

5 “(19) SINGLE-USE PRODUCT.—

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

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

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

17 “(ii) a personal hygiene product that,
 18 due to the intended use of the product,
 19 could become unsafe or unsanitary to recy-
 20 cle, such as a diaper; or

21 “(iii) packaging that is—

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

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

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

6 “(20) TOXIC SUBSTANCE.—

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

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

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

20 “(II) the Comprehensive Envi-
21 ronmental Response, Compensation,
22 and Liability Act of 1980 (42 U.S.C.
23 9601 et seq.); or

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

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

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

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

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

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

21 “(i) a pesticide applied—

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

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

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

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

12 “(22) UTENSIL.—

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

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

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

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

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

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

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

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

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

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

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

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

4 “(c) ENFORCEMENT.—

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

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

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

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

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

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

8 “(a) IN GENERAL.—

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

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

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

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

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

5 “(B) establish an entity—

6 “(i) to carry out subparagraph (A);
7 and

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

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

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

17 “(B) may participate in—

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

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

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

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

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

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

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

16 “(b) PARTICIPATION FEES.—

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

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

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

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

3 “(3) MANAGEMENT AND CLEANUP COSTS.—

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

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

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

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

24 “(I) public places;

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

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

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

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

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

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

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

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

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

8 “(v) the lower cost of managing—

9 “(I) beverage containers that
 10 have—

11 “(aa) nondetachable caps; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 “(4) ADMINISTRATIVE COSTS.—

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

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

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

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

10 “(II) issuance of any rules;

11 “(III) planning;

12 “(IV) Plan review;

13 “(V) compliance;

14 “(VI) outreach and education;

15 “(VII) enforcement;

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

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

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

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

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

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

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

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

12 “(5) APPROVAL.—

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

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

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

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

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

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

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

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

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

19 “(c) ADVISORY COMMITTEES.—

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

1 “(A) collection providers;

2 “(B) cleanup service providers;

3 “(C) recyclers; and

4 “(D) composters.

5 “(2) COMPOSITION.—

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

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

11 “(ii) States;

12 “(iii) cities, including—

13 “(I) small and large cities; and

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

16 “(iv) counties, including—

17 “(I) small and large counties;

18 and

19 “(II) urban and rural counties;

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

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

- 1 “(vii) recycled feedstock users for the
- 2 applicable type of product or packaging;
- 3 “(viii) public place litter programs;
- 4 “(ix) freshwater and marine litter pro-
- 5 grams;
- 6 “(x) environmental organizations;
- 7 “(xi) disability advocates;
- 8 “(xii) Indian Tribes; and
- 9 “(xiii) environmental and human
- 10 health scientists.

11 “(B) REQUIREMENTS.—

12 “(i) IN GENERAL.—Each individual

13 serving on an advisory committee may rep-

14 resent only 1 category described in clauses

15 (i) through (xiii) of subparagraph (A).

16 “(ii) DISPROPORTIONATE REPRESENTATION.—An Organization shall ensure

17 that no category described in clauses (i)

18 through (xiii) of subparagraph (A) has dis-

19 proportionate representation on an advi-

20 sory committee.

22 “(3) PUBLIC COMMENT.—Each year, an Orga-

23 nization shall provide a process to receive comments

24 from additional stakeholders and community mem-

1 bers, which to the maximum extent practicable shall
2 include diverse ethnic populations.

3 “(4) EXPENSES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

18 “(b) COLLECTION.—

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

23 “(2) CONVENIENCE.—

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

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

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

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

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

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

23 “(aa) a 45-minute drive; and

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

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

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

“(ii) approval by the unit of local government with jurisdiction over the applicable area.

“(3) METHODS.—

“(A) CURBSIDE OR MULTIFAMILY COLLECTION.—With respect to a geographic area described in paragraph (2)(A), an Organization shall, at a minimum, provide the opportunity for the collection of the applicable covered product through a curbside or multifamily recycling collection service, if—

“(i) the category of covered product—

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

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

“(ii) the provider of the service agrees—

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

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

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

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

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

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

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

1 “(C) COMPENSATION AGREEMENTS.—

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

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

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

19 “(A) ensure that—

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

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

1 ready for remanufacture into new
2 products; or

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

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

13 “(I) the United States; or

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

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

22 “(B) take measures—

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

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

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

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

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

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

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

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

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

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

4 “(d) MINIMUM FUNDING REQUIREMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 “(b) RESPONSIBILITIES OF RETAILERS.—

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

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

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

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

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

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

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

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

17 “(2) EXCEPTIONS.—

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

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

24 “(I) water;

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

3 “(III) ordinary dust; or

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

7 “(B) CONTAINER LIMITATION.—

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

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

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

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

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

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

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

18 “(c) APPLICABLE REFUND VALUE.—

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

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

1 “(A) inflation; and

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

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

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

16 “(e) RESPONSIBILITIES OF ORGANIZATIONS.—

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

25 “(2) REDEMPTION CENTERS.—

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

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

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

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

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

14 “(ii) accept—

15 “(I) any beverage container; and

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

18 “(iii) provide—

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

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

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

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

12 “(f) EXCLUDED STATES.—

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

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

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

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

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

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

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

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

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

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

25 “(3) a description of—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 “(M) plans for market development.

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

20 “(1) approve or deny the Plan; and

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

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

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

3 “(e) EXPIRATION.—A Plan—

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

6 “(2) may be renewed.

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

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

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

14 “(g) PERFORMANCE TARGETS.—

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

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

23 “(A) by December 31, 2027—

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

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

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

7 “(B) by December 31, 2032—

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

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

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

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

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

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

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

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

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

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

6 “(B) easy to understand; and

7 “(C) easily accessible.

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

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

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

17 “(3) include, at a minimum—

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

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

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

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

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

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

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

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

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

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

8 **“SEC. 12107. REPORTING.**

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

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

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

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

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

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

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

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

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

10 “(ii) distance to population centers;

11 “(iii) hours;

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

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

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

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

22 “(3) expenses of the Organization;

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

25 “(5) customer service efforts and results;

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

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

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

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

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

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

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

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

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

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

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

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

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

14 “(A) made of—

15 “(i) plastic film; or

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

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

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

3 “(A) used by a consumer inside a store—

4 “(i) to package bulk items, such as
5 fruit, vegetables, nuts, grains, candy, un-
6 wrapped prepared foods or bakery goods,
7 or small hardware items; or

8 “(ii) to contain or wrap—

9 “(I) prepackaged or non-pre-
10 packaged frozen foods, meat, or fish;
11 or

12 “(II) flowers, potted plants, or
13 other items the dampness of which
14 may require the use of the nonhandled
15 bag;

16 “(B) a bag sold at retail in packages con-
17 taining multiple bags intended to contain gar-
18 bage or pet waste;

19 “(C) a newspaper bag;

20 “(D) a door hanger bag; or

21 “(E) a laundry or dry cleaning bag.

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

25 “(c) ENFORCEMENT.—

1 “(1) WRITTEN NOTIFICATION FOR FIRST VIO-
 2 LATION.—If a covered retail or service establishment
 3 violates subsection (b), the Administrator shall pro-
 4 vide that covered retail or service establishment with
 5 written notification regarding the violation of the re-
 6 quirement under that subsection.

7 “(2) SUBSEQUENT VIOLATIONS.—

8 “(A) IN GENERAL.—If a covered retail or
 9 service establishment, subsequent to receiving a
 10 written notification described in paragraph (1),
 11 violates subsection (b), the Administrator shall
 12 fine the covered retail or service establishment
 13 in accordance with subparagraph (B).

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

17 “(i) in the case of the first violation,
 18 \$250;

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

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

23 “(C) SEIZURE.—On a third violation or
 24 any subsequent violation under this paragraph
 25 by a covered retail or service establishment, the

1 Administrator may seize any single-use plastic
 2 bags in the possession of the covered retail or
 3 service establishment.

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

9 “(3) STATE ENFORCEMENT.—The Adminis-
 10 trator may permit a State to carry out enforcement
 11 under this subsection if the Administrator deter-
 12 mines that the State meets such requirements as the
 13 Administrator may establish.

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

16 **“SEC. 12202. REDUCTION OF OTHER SINGLE-USE PROD-**
 17 **UCTS.**

18 “(a) PROHIBITION ON PLASTIC UTENSILS AND PLAS-
 19 TIC STRAWS.—

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

23 “(2) PLASTIC STRAWS.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graphs (B) and (C), a covered retail or service
3 establishment that sells food or beverages—

4 “(i) except as provided in clause (ii),
5 may not provide a plastic straw to a cus-
6 tomer;

7 “(ii) shall provide a plastic straw to a
8 customer who requests a plastic straw;

9 “(iii) shall provide accessible means of
10 communication, across all ordering plat-
11 forms used by the covered retail or service
12 establishment (such as online, mobile, and
13 in-person), for customers to request a plas-
14 tic straw; and

15 “(iv) shall keep in stock plastic straws
16 for customers who request plastic straws.

17 “(B) EFFECTIVE FUNCTIONAL EQUIVA-
18 LENTS.—If the Administrator, in consultation
19 with the National Council on Disability and ad-
20 vocates representing the disability and environ-
21 mental communities, determines that an effec-
22 tive functional equivalent to a plastic straw that
23 can be recycled, composted, or disposed with
24 minimal harm to the environment has been de-
25 veloped—

1 “(i) subparagraph (A) shall no longer
2 apply; and

3 “(ii) a covered retail or service estab-
4 lishment may not provide a plastic straw to
5 a customer.

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

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

14 “(A) on request of a customer; and

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

19 “(b) PROHIBITION ON OTHER SINGLE-USE PROD-
20 UCTS.—

21 “(1) IN GENERAL.—Except as provided in para-
22 graphs (3) and (4), a covered retail or service estab-
23 lishment may not sell or distribute any single-use
24 product that the Administrator determines is not re-

1 cyclable or compostable and can be replaced by a re-
2 usable or refillable item.

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

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

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

12 “(C) noncompostable produce stickers; and

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

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

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

25 “(c) ENFORCEMENT.—

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

7 “(2) SUBSEQUENT VIOLATIONS.—

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

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

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

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

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

24 “(C) SEIZURE.—On a third violation or
25 any subsequent violation under this paragraph

1 by a covered retail or service establishment, the
 2 Administrator may seize any plastic products
 3 prohibited under subsection (a) or (b) that are
 4 in the possession of the covered retail or service
 5 establishment.

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

11 “(3) STATE ENFORCEMENT.—The Adminis-
 12 trator may permit a State to carry out enforcement
 13 under this subsection if the Administrator deter-
 14 mines that the State meets such requirements as the
 15 Administrator may establish.

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

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

20 “(a) STUDY.—Not later than 2 years after the date
 21 of enactment of this subtitle, the Administrator, in con-
 22 junction with the Commissioner of Food and Drugs and
 23 the Director of the National Institutes of Health, shall
 24 conduct a study on—

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

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

6 “(b) REPORT TO CONGRESS.—

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

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

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

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

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

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

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

5 “(1) the report; and

6 “(2) a description of the actions the Adminis-
 7 trator and the Commissioner of Food and Drugs in-
 8 tend to take during the 1-year period after the date
 9 of publication to reduce litter from, and the environ-
 10 mental impacts of, single-use tobacco filter products
 11 and electronic cigarettes, including recommendations
 12 for incorporating plastic tobacco filters and elec-
 13 tronic cigarette components into an extended pro-
 14 ducer responsibility program.

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

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

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

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

24 “(a) PLASTIC BEVERAGE CONTAINERS.—

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

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

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

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

11 “(D) by 2040, of 80 percent post-consumer
12 recycled content from United States sources;
13 and

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

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

24 “(b) OTHER COVERED PRODUCTS AND BEVERAGE
25 CONTAINERS.—

1 “(1) STUDY.—The Administrator, in coordina-
2 tion with the Director of the National Institute of
3 Standards and Technology, the Commissioner of
4 Food and Drugs, and the head of any other relevant
5 Federal agency, shall carry out a study to determine
6 the technical and safe minimum post-consumer recy-
7 cled content requirements for covered products and
8 beverage containers, including beverage containers
9 composed of glass, aluminum, and other materials.

10 “(2) REPORT.—

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

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

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

24 “(iii) an assessment of techniques and
25 recommendations to minimize the creation

1 of new materials for covered products and
2 beverage containers; and

3 “(iv) an assessment of—

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

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

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

16 “(i) the report; and

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

24 “(3) MINIMUM STANDARDS.—

1 “(A) IN GENERAL.—Not later than 1 year
2 after the Administrator publishes the report
3 under paragraph (2)(B), the Administrator
4 shall establish minimum post-consumer recycled
5 content standards for covered products and bev-
6 erage containers.

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

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

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

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

24 “(1) eliminating or reducing the quantity of
25 material used;

1 “(2) eliminating toxic substances;

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

4 “(4) incorporating recycled materials;

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

7 “(6) incorporating sustainably and renewably
8 sourced material;

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

12 “(8) degradability of materials in cold-water en-
13 vironments; and

14 “(9) improving recyclability and compostability.

15 **“SEC. 12304. PRODUCT LABELING.**

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

18 “(1) are easy to read;

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

21 “(A) recyclable;

22 “(B) not recyclable;

23 “(C) compostable; or

24 “(D) reusable;

1 “(3) in the case of a covered product or bev-
2 erage container that is not recyclable, does not in-
3 clude the universal chasing arrows recycling symbol
4 or any other similar symbol that would lead a con-
5 sumer to believe that the item should be sorted for
6 recycling;

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

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

13 “(6) in the case of a covered product or bev-
14 erage container that is compostable, includes a green
15 or brown stripe or similar marking to identify that
16 the item is compostable.

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

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

23 “(1) shall be compatible with the intended
24 method of discard for the covered product or bev-
25 erage container; and

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

2 “(d) COMPATIBILITY.—The Administrator shall en-
3 courage label manufacturers, in coordination with the sup-
4 ply chains of those manufacturers, including substrate
5 suppliers, converters, and ink suppliers, to work with the
6 recycling industry to address label recycling compatibility
7 challenges.

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

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

13 “(A) on the front of the package near the
14 dispensing point, the statement ‘Do Not Flush’;
15 and

16 “(B) in high contrast font and color, a ‘Do
17 Not Flush’ moniker and symbol that is other-
18 wise in accordance with the voluntary guidelines
19 for labeling practices of the nonwoven fabrics
20 industry contained in the Code of Practice of
21 the Association of the Nonwoven Fabrics Indus-
22 try and the European Disposables and
23 Nonwovens Association, entitled ‘Commu-
24 nicating Appropriate Disposal Pathways for
25 Nonwoven Wipes to Protect Wastewater Sys-

1 tems’, second edition, as published in April
2 2017;

3 “(2) in the case of a wet wipe product sold in
4 the United States that is labeled with a claim that
5 the product is ‘flushable’, ‘sewer and septic safe’, or
6 any other claim that indicates that the product is in-
7 tended to be disposed of in a sewer or septic sys-
8 tem—

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

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

20 “(ii) does not contain chemicals or ad-
21 ditives harmful to the public wastewater
22 infrastructure; and

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

1 “(A) the label, marketing claims, or other
 2 advertisements for the product may not identify
 3 the product as intended for disposal in a sewer
 4 or septic system; and

5 “(B) the label shall clearly and conspicu-
 6 ously state that the product contains plastic or
 7 other synthetic material.

8 **“SEC. 12305. RECYCLING AND COMPOSTING RECEPTACLE**
 9 **LABELING.**

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

16 “(b) DEFINITIONS.—In this section:

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

21 “(2) RECYCLING OR COMPOSTING RECEP-
 22 TACLE.—The term ‘recycling or composting recep-
 23 tacle’ means a recycling or composing bin, cart, or
 24 dumpster.

1 “(3) RESIDENTIAL RECYCLING AND
2 COMPOSTING PROGRAM.—The term ‘residential recy-
3 cling and composting program’ means a recycling
4 and composting program that services single family
5 dwellings, multifamily dwellings or facilities, or both.

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

9 “(1) use a national standardized methodology
10 of colors, images, format, and terminology, including
11 to address diverse ethnic populations;

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

16 “(3) communicate to users of those recycling
17 and composting receptacles—

18 “(A) the specific recyclables and compost-
19 ables that the Organization accepts; and

20 “(B) the specific rules of sorting for that
21 Organization.

22 “(d) DEVELOPMENT OF LABELS.—

23 “(1) IN GENERAL.—Each Organization in the
24 United States shall, in accordance with the guide-
25 lines published under subsection (c), use the national

1 standardized labeling system to develop labels for
2 use on recycling and composting receptacles in pub-
3 lic spaces and the service area of the Organization
4 to communicate to users of those recycling and
5 composting receptacles—

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

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

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

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

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

25 “(e) DISTRIBUTION OF LABELS.—

1 “(1) SIMPLE VERSION.—

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

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

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

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

1 “(2) DETAILED VERSION.—An Organization or
 2 municipality, as applicable, that services a residen-
 3 tial recycling and composting program in the area
 4 served by an Organization shall display a detailed
 5 standardized label developed by that Organization
 6 under subsection (d)(2)(B) on each recycling and
 7 composting receptacle used by the residential recy-
 8 cling and composting program.

9 **“SEC. 12306. PROHIBITION ON CERTAIN EXPORTS OF**
 10 **WASTE.**

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

13 “(1) to a country that is not a member of the
 14 Organization for Economic Cooperation and Devel-
 15 opment;

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

20 “(A) are not of a single, nonhalogenated
 21 plastic polymer; or

22 “(B) are contaminated with greater than
 23 0.5 percent of—

24 “(i) other plastics; or

25 “(ii) other materials, including—

1 “(I) labels, adhesives, varnishes,
2 waxes, inks, and paints; and

3 “(II) composite materials mixing
4 plastics with nonplastic materials; or

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

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

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

10 “Nothing in this subtitle preempts any State or local
11 law in effect on or after the date of enactment of this sub-
12 title that—

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

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

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

21 “(4) imposes a fee or other charge for products;
22 or

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

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

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

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

9 “(2) implementing source reduction solutions.

10 **“PART V—FISHING GEAR**

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

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

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

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

26 “(i) domestic and foreign fisheries;

1 “(ii) types of fishing gear; and

2 “(iii) methods of fishing;

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

5 “(C) common reasons that fishing gear is
6 lost;

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

10 “(A) types of fishing gear;

11 “(B) materials used to construct fishing
12 gear; and

13 “(C) geographic location;

14 “(3) recommendations on management meas-
15 ures—

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

17 “(B) to reduce the impacts of lost fishing
18 gear;

19 “(4) an assessment of the cost of implementing
20 management measures described in paragraph (3);
21 and

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

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

4 “(1) the report; and

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

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

“Subtitle K—Producer Responsibility for Products and Packaging

“Sec. 12001. Definitions.

“PART I—PRODUCTS IN THE MARKETPLACE

“Sec. 12101. Extended producer responsibility.

“Sec. 12102. Producer Responsibility Organizations.

“Sec. 12103. Covered product management.

“Sec. 12104. National beverage container program.

“Sec. 12105. Product Stewardship Plans.

“Sec. 12106. Outreach and education.

“Sec. 12107. Reporting.

“PART II—REDUCTION OF SINGLE-USE PRODUCTS

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

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

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

“PART III—RECYCLING AND COMPOSTING

“Sec. 12301. Recycling and composting collection.

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

“Sec. 12303. Designing for the environment.

“Sec. 12304. Product labeling.

“Sec. 12305. Recycling and composting receptacle labeling.

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

“PART IV—LOCAL GOVERNMENT EFFORTS

“Sec. 12401. Protection of local governments.

“Sec. 12402. Clean Communities Program.

“PART V—FISHING GEAR

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

1 **SEC. 3. CLEAN AIR, CLEAN WATER, AND ENVIRONMENTAL**
 2 **JUSTICE.**

3 (a) DEFINITIONS.—In this section:

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

7 (2) COVERED FACILITY.—The term “covered
 8 facility” means—

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

12 (B) a plastic polymerization or polymer
 13 production facility; and

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

17 (3) COVERED PRODUCTS.—The term “covered
 18 plastic” means—

19 (A) ethylene;

20 (B) propylene;

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

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

(E) polyvinyl chloride in any form (including pellets, resin, nurdle, powder, and flakes);
or

(F) other plastic polymer raw materials in any form (including pellets, resin, nurdle, powder, and flakes).

(4) ENVIRONMENTAL JUSTICE.—The term “environmental justice” means the fair treatment and meaningful involvement of all individuals, regardless of race, color, national origin, educational level, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies to ensure that—

(A) communities of color, indigenous communities, and low-income communities have access to public information and opportunities for meaningful public participation with respect to human health and environmental planning, regulations, and enforcement;

(B) no community of color, indigenous community, or low-income community is exposed to a disproportionate burden of the negative human health and environmental impacts

1 of pollution or other environmental hazards;
2 and

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

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

13 (6) FRONTLINE COMMUNITY.—

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

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

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

1 (8) SINGLE-USE PLASTIC.—

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

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

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

13 (ii) packaging that is—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (c) STUDY.—

9 (1) IN GENERAL.—

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

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

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

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

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

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

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

13 (A) consider—

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

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

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

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

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

8 (d) CLEAN AIR.—

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

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

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

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

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

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

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

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

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

(i) designating ethylene, propylene,
 polyethylene, and polypropylene production

1 facilities as a category of stationary source
2 under section 111(b)(1)(A) of the Clean
3 Air Act (42 U.S.C. 7411(b)(1)(A)); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (ii) to require—

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

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

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

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

15 (A) EQUIPMENT LEAKS OF BENZENE.—

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

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

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

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

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

12 (C) MAXIMUM ACHIEVABLE CONTROL
 13 TECHNOLOGY STANDARDS FOR COVERED FA-
 14 CILITIES.—Not later than 3 years after the
 15 date of enactment of this Act, the Adminis-
 16 trator shall—

17 (i) promulgate a final rule modifying
 18 subpart YY of part 63 of title 40, Code of
 19 Federal Regulations (as in effect on the
 20 date of enactment of this Act), to ensure
 21 that—

22 (I) the generic maximum achiev-
 23 able control technology standards de-
 24 scribed in that subpart—

1 (aa) require no detectable
2 emissions of hazardous air pollut-
3 ants, unless the Administrator—

4 (AA) determines that
5 the maximum degree of re-
6 duction in emissions of haz-
7 ardous air pollutants achiev-
8 able pursuant to section
9 112(d)(2) of the Clean Air
10 Act (42 U.S.C. 7412(d)(2))
11 justifies higher limits; and

12 (BB) publishes the de-
13 termination under subitem
14 (AA) and the proposed high-
15 er limits in a rulemaking;

16 (bb) ensure an ample mar-
17 gin of safety to protect public
18 health and prevent an adverse
19 environmental effect; and

20 (cc) prevent adverse cumu-
21 lative effects to fetal health, the
22 health of children, and the health
23 of vulnerable subpopulations; and

24 (II) the term “no detectable
25 emissions”, as required under sub-

1 clause (I)(aa), is defined to mean an
 2 instrument reading of less than 50
 3 parts per million above background
 4 concentrations; and

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

7 (I) the effects and risks of expo-
 8 sure from multiple sources of haz-
 9 ardous air pollutants under the sub-
 10 part modified under that clause; and

11 (II) the best available science, in-
 12 cluding science provided by the Na-
 13 tional Academies of Science.

14 (e) CLEAN WATER.—

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

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

23 (i) that ensures that the best available
 24 technology limitations described in part
 25 414 of title 40, Code of Federal Regula-

tions (as modified under clause (ii)), applies to covered facilities that produce fewer than 5,000,001 pounds of covered products per year;

(ii) modifying part 414 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that the best available technology and new source performance standard requirements under that part reflect updated best available technology and best available demonstrated control technology for all pollutants discharged by covered facilities that produce covered products, including pollutants of concern that are not regulated on the date of enactment of this Act; and

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

(I) for new source performance standards for applicable covered facilities producing covered products, the

1 maximum effluent limit for any 1 day
2 and for any monthly average for the
3 priority pollutants described in appen-
4 dix A to part 423 of title 40, Code of
5 Federal Regulations (as in effect on
6 the date of enactment of this Act), is
7 0 milligrams per liter unless the Ad-
8 ministrator—

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

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

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

24 (B) EFFLUENT LIMITATIONS FOR RUNOFF

25 FROM PLASTIC POLYMER PRODUCTION AND

1 PLASTIC MOLDING AND FORMING FACILITIES.—

2 Not later than 60 days after the date of enact-
3 ment of this Act, the Administrator shall pro-
4 mulgate a final rule modifying parts 414 and
5 463 of title 40, Code of Federal Regulations (as
6 in effect on the date of enactment of this Act),
7 to ensure that—

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

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

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

1 (i) identify, in addition to the facilities
2 described in subparagraph (B)(i), other
3 sources of runoff or other pollution con-
4 sisting of plastic pellets or other plastic
5 materials into navigable waters (as defined
6 in section 502 of the Federal Water Pollu-
7 tion Control Act (33 U.S.C. 1362)); and

8 (ii) promulgate a final rule that—

9 (I) limits the discharge of plastic
10 pellets or other plastic materials in
11 wastewater and runoff from facilities
12 identified under clause (i) to, for any
13 1 day and for any monthly average, 0
14 milligrams per liter; and

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

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

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

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

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

1 Act), is 0 milligrams per liter unless the
2 Administrator—

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

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

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

20 (f) ENVIRONMENTAL JUSTICE REQUIREMENTS FOR
21 COVERED FACILITY PERMITS.—

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

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

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

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

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

23 (i) direct means; and

24 (ii) publications likely to be obtained
25 by residents of the frontline community;

1 (C) the Administrator or a State agency
2 delegated authority under the Clean Air Act
3 (42 U.S.C. 7401 et seq.) or the Federal Water
4 Pollution Control Act (33 U.S.C. 1251 et seq.),
5 as applicable, shall not approve a proposed per-
6 mit described in subparagraph (A) unless—

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

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

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

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

4 (A) residents of frontline communities; and
5 (B) representatives of frontline commu-
6 nities.

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

12 (1) requires the tracking of covered products
13 from sale to disposal;

14 (2) prohibits the export of covered products to
15 purchasers that convert those plastics into single-use
16 plastics;

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

24 (4) establishes enforceable mechanisms for sell-
25 ers or purchasers of covered products to mitigate the

- 1 environmental and environmental justice impacts of
- 2 those covered products from sale to disposal.

