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Title: To amend the Solid Waste Disposal Act to reduce the production and use of certain commonly polluting single-use plastic products, to improve the responsibility of producers of consumer products in the collection and disposal of the products the producers sell into the marketplace, to prevent pollution from consumer products from entering into animal and human food chains and waterways in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

## SECTION 1. SHORT TITLE.

This Act may be cited as the [“\_\_\_\_\_ Act of \_\_\_\_”].

## SEC. 2. PRODUCER RESPONSIBILITY FOR PRODUCT AND PACKAGING WASTE.

The Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) is amended by adding at the end the following:

### “Subtitle K—Producer Responsibility for Product and Packaging Waste

#### “SEC. 12001. DEFINITIONS.

“In this subtitle:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(2) ADVISORY COMMITTEE.—The term ‘advisory committee’ means an advisory committee established by an Organization under section 12102(c).

“(3) BEVERAGE.—

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

- “(i) water;
- “(ii) flavored water;
- “(iii) soda water;
- “(iv) mineral water;
- “(v) beer;
- “(vi) malt beverages;
- “(vii) carbonated soft drinks;
- “(viii) liquor;
- “(ix) tea;
- “(x) coffee;
- “(xi) hard cider;
- “(xii) fruit juice;
- “(xiii) energy and sports drinks;
- “(xiv) coconut water;
- “(xv) wine;
- “(xvi) yogurt drinks;
- “(xvii) probiotic drinks; and
- “(xviii) any other beverage determined to be appropriate by the Administrator.

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

- “(i) dairy milk;
- “(ii) plant-based milk;
- “(iii) infant formula; or
- “(iv) meal replacement beverages.

“(4) BEVERAGE CONTAINER.—

“(A) IN GENERAL.—The term ‘beverage container’ means a beverage container—

- “(i) made of any material, including glass, plastic, metal, and multimaterial;  
and
- “(ii) the volume of which is not more than 1 gallon.

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

- “(i) a covered material;
- “(ii) a carton;
- “(iii) a beverage pouch; or
- “(iv) a drink box.

**JENNIE ROMER, SURFRIDER FOUNDATION - COMMENTS**

“(5) COMPOSTABLE.—The term ‘compostable’ means capable of undergoing aerobic biological decomposition in a system that results in the material broken down primarily into carbon dioxide, water, inorganic compounds, and biomass.

“(6) COVERED ENTITY.—The term ‘covered entity’ means a single family or multifamily dwelling or publicly owned land (such as a sidewalk, plaza, and park) for which a recycling collection service is available free of charge.

“(7) COVERED MATERIAL.—

“(A) IN GENERAL.—The term ‘covered material’ means—

“(i) packaging, regardless of the recyclability, compostability, and type of material of the packaging;

“(ii) consumer paper products, regardless of the recyclability, compostability, and type of the consumer paper product;

“(iii) printed paper;

“(iv) biobased products;

“(v) tobacco products, including filtered cigarettes;

“(vi) fishing gear; and

“(vii) a container for a beverage that is not included in the definition of ‘beverage container’ under this subsection, such as a carton, foil pouch, or drink box.

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

“(8) ORGANIZATION.—The term ‘Organization’ means a Producer Responsibility Organization established under section 12102(a)(1).

“(9) PACKAGING.—

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

“(i) any package or container; and

“(ii) any part of a package or container that includes material that is used for the containment, protection, handling, delivery, and presentation of goods that are sold, offered for sale, or distributed to consumers in the United States, including through an internet transaction.

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

“(i) packaging intended for the consumer market;

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

“(iii) any packaging, regardless of whether the packaging is recyclable or compostable;

“(iv) food packages and containers;

“(v) packets and wrappers; and

“(vi) drink cups and lids.

“(C) EXCLUSIONS.—The term ‘packaging’ does not include any packaging that would not customarily reach a consumer.

“(10) PLAN.—The term ‘Plan’ means a Product Stewardship Plan described in section 12105.

“(11) PRINTED PAPER.—

“(A) IN GENERAL.—The term ‘printed paper’ means paper that is—

“(i) sold, offered for sale, delivered, or distributed to consumers in the United States; and

“(ii) printed with text or graphics as a medium for communicating information.

“(B) INCLUSIONS.—The term ‘printed paper’ includes—

“(i) newsprint and inserts;

“(ii) magazines and catalogs;

“(iii) direct mail; and

“(iv) telephone directories.

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

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

“(ii) bound reference books;

“(iii) bound literary books; or

“(iv) bound textbooks.

“(12) PRODUCER.—The term ‘producer’ means, with respect to a covered material or beverage container product—

“(A) a producer that manufactures and uses in a commercial enterprise, sells, offers for sale, or distributes the product in the United States under the brand of the manufacturer;

“(B) if subparagraph (A) does not apply, a producer that is not the manufacturer of the product but is the owner or licensee of a trademark under which the product is used in a commercial enterprise, sold, offered for sale, or distributed in the United States, whether or not the trademark is registered; or

“(C) if subparagraphs (A) and (B) do not apply, a producer that imports the product into the United States for use in a commercial enterprise, sale, offer for sale or distribution in the United States.

“(13) PROGRAM.—The term ‘Program’ means a Product Stewardship Program established

under section 120102(a)(2).

“(14) RECYCLE.—

“(A) IN GENERAL.—The term ‘recycle’ means the series of activities by which recyclables are—

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

“(ii)(I) converted into raw materials; or

“(II) used in the production of new products; ~~or~~

~~“(III) in the case of organic recyclables, used productively for soil improvement.~~

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

“(i) thermal treatment (other than anaerobic digestion); or

“(ii) the use of waste—

“(I) as a fuel substitute;

“(II) for energy production;

“(III) for alternate operating cover; or

“(IV) within the footprint of a landfill.

“(15) RECYCLABLE.—The term ‘recyclable’ means, with respect to a covered material or beverage container, that—

“(A) the covered material or beverage container is economically and technically recyclable in United States market conditions;

“(B) United States processing capacity is in operation to recycle not less than 60 percent of the total quantity of the covered material product or beverage container; and

“(C) the consumer that uses the covered material or beverage container is not required to remove an attached component of the product, such as a shrink sleeve, label, or filter, before the product can be recycled.

“(16) SECRETARY.—The term ‘Secretary’ means the Secretary of Commerce.

## “PART I—PRODUCTS IN THE MARKETPLACE

### “SEC. 12101. EXTENDED PRODUCER RESPONSIBILITY.

“(a) In General.—Except as provided in subsection (b), beginning on January 1, 2023, each producer of any covered material or beverage container sold, distributed, or imported into the United States shall—

“(1) be a member of an Organization for which a Plan is approved by the Administrator, in consultation with the Secretary; and

“(2) through that participation, satisfy the performance targets under section 12105(f).

“(b) Exemptions.—A producer of a covered material or beverage container, including a

producer that operates as a single point of retail sale and is not supplied by, or operated as part of, a franchise, shall not be subject to this part if the producer—

“(1)(A) for fiscal year 2021, has an annual revenue of less than \$1,000,000; and

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

“(2) produces or distributes less than 1 ton of covered materials or beverage containers in commerce each year.

“(c) Enforcement.—

“(1) PROHIBITION.—It shall be unlawful for any person that is a producer of a covered material or beverage container to sell, use, or distribute any covered material or beverage container in commerce except in compliance with this part.

“(2) CIVIL PENALTY.—Any person that violates paragraph (1) shall be subject to a fine for each violation and for each day that the violation occurs in the amount of—

“(A) for fiscal year 2022, not more than \$37,500; and

“(B) for fiscal year 2023 and each subsequent fiscal year, the applicable amount during the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending on the preceding November 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

“(d) Inapplicability of the Antitrust Laws.—The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), shall not apply to a producer or Organization that carries out activities in accordance with an approved Plan if the conduct is necessary to plan and implement the Plan.

## “SEC. 12102. PRODUCER RESPONSIBILITY ORGANIZATIONS.

“(a) In General.—

“(1) ESTABLISHMENT.—To satisfy the requirement under section 12101(a)(1), 1 or more producers of a category of covered material or beverage container shall establish a Producer Responsibility Organization that shall act as an agent and on behalf of each producer to carry out the responsibilities of the producer under this part with respect to that category of covered material or beverage container.

“(2) PROGRAM.—An Organization shall establish a Product Stewardship Program to carry out the responsibilities of the Organization under this part.

“(3) COORDINATION.—If more than 1 Organization is established under paragraph (1) with respect to a category of covered material or beverage container, the Administrator, in consultation with the Secretary, shall—

“(A) coordinate and manage those Organizations; or

“(B) establish an entity to carry out subparagraph (A).

“(4) MULTIPLE ORGANIZATIONS.—A producer—

“(A) may participate in more than 1 Organization if each Organization is established for a different category of covered materials or beverage containers; and

“(B) may only participate in 1 Organization with respect to each category of covered materials or beverage containers.

“(5) NONPROFIT STATUS.—An Organization shall be established and operated as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under 501(a) of that Code.

“(6) CATEGORIES.—The Administrator, in consultation with the Secretary and Organizations, shall promulgate regulations to establish categories of covered materials and beverage containers for purposes of this part.

“(b) Participation Fees.—

“(1) IN GENERAL.—Subject to paragraph (5), an Organization shall charge each producer a fee for membership in the Organization in accordance with this subsection.

“(2) COMPONENTS.—A fee charged to a producer under paragraph (1) shall include—

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

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

“(3) COLLECTION AND CLEANUP COSTS.—

“(A) IN GENERAL.—A fee under paragraph (1) shall include, with respect to a producer, the costs of collecting or cleaning up the covered materials or beverage containers of the producer after disposal or recycling through the applicable Program, including administrative costs.

“(B) CONSIDERATIONS.—In determining the costs of collection and cleanup described in subparagraph (A) with respect to a producer, an Organization shall take into account—

“(i) the cost to properly manage the applicable category of covered material or beverage container waste;

“(ii) the cost to clean up the covered material or beverage container waste of the producer from—

“(I) public places;

“(II) freshwater and marine environments, to the extent that clean up can be accomplished without harming the existing marine life and intact ecosystems; and

“(III) materials in compost facilities or other facilities handling organic wastes;

“(iii) to the extent that clean up of the covered material or beverage containers from freshwater and marine environments cannot be accomplished without

harming the existing marine life and intact ecosystems, the cost of other appropriate mitigation measures;

“(iv) the higher cost of managing packaging that—

“(I) bonds covered materials together with other materials that make the packaging more difficult to recycle, such as plastic bonded with paper or metal;

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

“(III) includes labels, inks, and adhesives containing heavy metals or other toxic substances;

“(v) the lower cost of managing—

“(I) beverage containers that have—

“(aa) nondetachable caps; or

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

“(II) contact containers and other contact packaging that—

“(aa) is specifically designed to be reusable or refillable; and

“(bb) has a high reuse or refill rate; and

“(III) plastic packaging that is made of at least 90 percent by weight of any combination of—

“(aa) postconsumer plastic packaging recycled content; or

“(bb) plastics derived from land or freshwater or marine environment litter; and

“(vi) the percentage of postconsumer plastic recycled content verified by a third party that exceeds the minimum requirements established under section 12302 in the packaging, if the recycled content does not disrupt the potential for future recycling.

“(4) ADMINISTRATIVE COSTS.—

“(A) IN GENERAL.—A fee under paragraph (1) shall include—

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

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

“(I) oversight, including annual oversight;

“(II) issuance of any rules;

“(III) planning;

“(IV) Plan review;

“(V) compliance;

“(VI) enforcement;

“(VII) sufficient staff positions to administer this part; and

“(VIII) other activities directly related to the activities described in subclauses (I) through (VII).

“(B) CONSIDERATION.—In determining the fee for a producer under subparagraph (A), an Organization shall consider the company size and annual revenue of the producer.

“(5) APPROVAL.—

“(A) IN GENERAL.—Before charging a fee, or revising the amount of a fee to be charged, under paragraph (1), an Organization shall—

“(i) submit to the Administrator the fee structure and the methodology for determining that fee structure; and

“(ii) receive notification of approval of the fee structure under subparagraph (B)(ii).

“(B) APPROVAL.—Not later than 60 days after receipt of a fee structure under subparagraph (A)(i), the Administrator shall—

“(i)(I) approve the fee structure if the Administrator, in consultation with the Secretary, determines that the fee structure is in accordance with this subsection; or

“(II) deny the fee structure if the Administrator, in consultation with the Secretary, determines that the fee structure is not in accordance with this subsection; and

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

“(c) Advisory Committees.—

“(1) IN GENERAL.—An Organization shall establish an advisory committee that represents a range of interested and engaged persons relevant to the category of covered materials or beverage containers of the applicable Program, including—

“(A) collection providers; and

“(B) clean-up service providers.

“(2) REQUIREMENTS.—At a minimum, an advisory committee shall include 1 individual representing each of—

“(A) the Environmental Protection Agency;

“(B) the Department of Commerce;

“(C) States;

“(D) cities, including—

“(i) small and large cities; and

“(ii) cities located in urban and rural counties;

“(E) counties, including—

“(i) small and large counties; and

“(ii) urban and rural counties;

“(F) public sector recycling and solid waste industries;

“(G) private sector recycling and solid waste industries;

“(H) recycled plastic feedstock users;

“(I) public place litter programs;

“(J) freshwater and marine litter programs;

“(K) environmental organizations; and

“(L) Indian Tribes.

“(3) PUBLIC COMMENT.—An Organization shall periodically provide a process to receive comments from additional stakeholders and community members, which to the maximum extent practicable shall include diverse ethnic populations.

“(4) EXPENSES.—

“(A) IN GENERAL.—An Organization shall reimburse representatives of community groups, Tribal, and nonprofit members for expenses related to participating on the advisory committee.

“(B) OTHER MEMBERS.—Other members of the advisory committee may be compensated for travel expenses as needed to ensure the ability of those members to participate on the advisory committee.

“(5) DUTIES.—An Organization shall—

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

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

“(C) report comments of the advisory committee to the Administrator as an appendix to any revisions to a Plan submitted to the Administrator; and

“(D) include a summary of advisory committee engagement and input in the report under section 12107.

## “SEC. 12103. COLLECTION AND CLEANUP.

“(a) In General.—In carrying out a Program, a producer, acting through an Organization, shall—

“(1) to meet the performance targets under the applicable Plan, as described in section 12105(f)—

“(A) in the case of covered materials, provide for the collection of covered materials in accordance with subsection (b); or

“(B) in the case of beverage containers, carry out the responsibilities under section 12104(e); and

“(2) in accordance with subsection (c), provide for the cleanup of covered materials or beverage containers that become litter.

“(b) Collection.—

“(1) IN GENERAL.—A Program shall provide widespread, convenient, and equitable access to opportunities for the collection of covered materials in accordance with this subsection.

“(2) CONVENIENCE.—

“(A) IN GENERAL.—Subject to subparagraph (B), collection opportunities described in paragraph (1) shall—

“(i) be provided throughout each State, Tribal land, and territory in which the applicable covered material is sold, including in rural and island communities;

“(ii) be as convenient as trash collection in the applicable area; and

“(iii) in a case in which collection of the applicable covered material by curbside collection is not practicable, be, as determined by the Administrator, and in the case of a city with a population of 1,000,000 or more residents, subject to the approval of the city, available for 95 percent of the population of the applicable area within—

“(I) in the case of an urban area, a 30-minute drive; or

“(II) in the case of a rural area, a 45-minute drive.

“(B) WAIVER.—The Administrator, after consultation with the advisory committee of the applicable Organization and other stakeholders, may waive the requirement under subparagraph (A).

“(3) METHODS.—

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

“(i) the category of covered material—

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

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

“(ii) the provider of the service agrees—

“(I) to accept the category of covered material; and

“(II) to a compensation agreement described in subparagraph (C).

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

“(i) entering into an agreement with—

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

“(II) a retailer that accepts the covered material from consumers (commonly known as ‘retailer take-back’); or

“(ii) such other means as the Organization determines to be appropriate, including by establishing a collection program or service.

“(C) COMPENSATION AGREEMENTS.—

“(i) IN GENERAL.—An Organization may comply with this subsection by entering into an agreement with a governmental or private entity under which the Organization compensates the entity for the collection of covered material.

“(ii) REQUIREMENT.—As part of a compensation agreement under clause (i), an Organization shall offer to provide reimbursement of not less than 100 percent of the cost to the entity of managing the covered material, including, as applicable, administrative costs, sorting, and reprocessing.

“(4) MANAGING COLLECTED COVERED MATERIALS.—In carrying out this subsection, an Organization shall—

“(A) ensure that—

“(i) the collection means and systems used direct the covered material waste to facilities that are effective in sorting and reprocessing covered material waste prior to shipment in a form ready for remanufacture into new products;

“(ii) covered material waste exported for recycling is managed in an environmentally sound and socially just manner at reprocessing facilities operating with human health and environmental protection standards that are broadly equivalent to the standards required in—

“(I) the United States; or

“(II) other countries—

“(aa) that are members of the Organization for Economic Cooperation and Development; and

“(bb) the waste mismanagement rates of which are less than 10 percent; and

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

“(B) take measures to—

“(i) promote high-quality recycling;

“(ii) meet the necessary quality standards for the relevant facilities that manufacture new products from the collected, sorted, and reprocessed materials; and

“(iii) prioritize the recycling of product and packaging into the same category of product as the original over recycling that results in a product of a lower quality, functionality, or value than the original item.

“(5) COSTS.—A producer or an Organization may not charge a covered entity any amount for the cost of carrying out this subsection.

“(6) EFFECT.—Nothing in this subsection requires a governmental entity to provide for the collection of covered materials.

“(c) Cleanup; Reduction in Waste.—A Program shall—

“(1) provide funding to, and coordinate with, entities that collect covered material or beverage container litter from public places or freshwater or marine environments in the United States, including Tribal land and territories; and

“(2) coordinate product design and Program innovations to reduce covered material or beverage container waste.

“(d) Minimum Funding Requirements.—

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

“(A) not less than 10 percent is used for market and recycling infrastructure development in the United States, which may include installing or upgrading equipment at existing sorting and reprocessing facilities—

“(i) to improve sorting of product and packaging waste; or

“(ii) to mitigate the impacts of product and packaging waste to other commodities; and

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

“(i) cleanup activities under subsection (c)(1); and

“(ii) the removal of covered material or beverage container contaminants at compost facilities and other facilities that manage organic materials.

“(2) DETERMINATION OF EXPENDITURES.—For purposes of carrying out paragraph (1), Program expenditures for a fiscal year shall be based on—

“(A) in the case of the first fiscal year of the Program, budgeted expenditures for the fiscal year; and

“(B) in the case of each fiscal year thereafter, Program expenditures for the previous fiscal year.

## “SEC. 12104. NATIONAL CONTAINER DEPOSIT.

“(a) Responsibilities of Distributors.—

“(1) IN GENERAL.—Each distributor of beverages in beverage containers shall—

“(A) charge to a retailer to which the beverage in a beverage container is delivered the applicable deposit described in subsection (c) on delivery; and

“(B) on receipt of an empty beverage container from a retailer, pay to the retailer the applicable deposit described in subsection (c).

“(2) USE OF UNREDEEMED DEPOSITS.—A distributor shall use any amounts received as deposits under paragraph (1)(A) for which an empty beverage container is not returned for investment in collection and recycling infrastructure.

“(b) Responsibilities of Retailers.—

“(1) IN GENERAL.—Except as provided in paragraph (2), each retailer of beverages in beverage containers shall—

“(A) charge to the customer to which the beverage in a beverage container is sold the applicable deposit described in subsection (c) on the sale;

“(B) on receipt of an empty beverage container from a customer, pay to the customer the applicable deposit described in subsection (c);

“(C) accept a beverage container and pay a deposit under subparagraph (B)—

“(i) during any period that the retailer is open for business; and

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

“(D) in the case of a retailer that is equal to or greater than 5,000 square feet, accept any brand and size of beverage container and pay a deposit under subparagraph (B) for the beverage container, regardless of whether the retailer sells that brand or size of beverage container.

“(2) EXCEPTIONS.—

“(A) DIRTY OR DAMAGED.—A retailer described in paragraph (1) may refuse to accept a beverage container and pay a deposit under paragraph (1)(B) if the beverage container—

“(i) visibly contains or is contaminated by a substance other than—

“(I) water;

“(II) residue of the original contents; or

“(III) ordinary dust; or

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

“(B) CONTAINER LIMITATION.—

“(i) LARGE RETAILERS.—A retailer described in paragraph (1) that is equal to or greater than 5,000 square feet may refuse to accept, and pay a deposit under paragraph (1)(B) for, more than 200 beverage containers per person per day.

“(ii) SMALL RETAILERS.—A retailer described in paragraph (1) that is less than 5,000 square feet may refuse to accept, and pay a deposit under paragraph (1)(B) for, more than 50 beverage containers per person per day.

“(C) BRAND AND SIZE.—A retailer described in paragraph (1) that is less than 5,000 square feet may refuse to accept, and pay a deposit under paragraph (1)(B) for, a brand or size of beverage container that the retailer does not sell.

“(D) OTHER MEANS OF RETURN.—The Administrator may exempt a retailer from this subsection if the Administrator determines that other similarly accessible means will be available to a consumer in that geographical area to return a beverage container and receive a deposit refund under this section.

“(c) Applicable Deposit.—

“(1) IN GENERAL.—The amount of a deposit referred to in subsections (a) and (b) shall be—

“(A) in the case of a beverage container the volume of which is less than 24 ounces, 10 cents; and

“(B) in the case of a beverage container the volume of which is not less than 24 ounces and less than 1 gallon, 20 cents.

“(2) ADJUSTMENTS.—Beginning on the date that is 5 years after the date of enactment of this part, the Administrator may increase the amount of a deposit referred to in subsections (a) and (b) to account for—

“(A) inflation; and

“(B) other factors, such as the need to collect more beverage containers.

“(d) Labeling.—Any manufacturer, importer, or distributor of a beverage in a beverage container that is sold in the United States shall include on the label of the beverage container a description of the applicable deposit in such a manner that the description is clearly visible.

“(e) Responsibilities of Organizations.—

“(1) COLLECTION AND STORAGE.—An Organization of beverage container producers shall facilitate collection and storage of beverage containers that are returned to retailers under this section by providing storage or other means to collect the beverage containers until collection for recycling, such as reverse vending or other convenient options for consumers.

“(2) BOTTLE DROP CENTERS.—

“(A) IN GENERAL.—An Organization of beverage container producers shall establish and operate facilities to accept beverage containers from consumers.

“(B) REQUIREMENTS.—A facility established under subparagraph (A) shall—

“(i) be staffed and open—

“(I) each day; and

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

“(ii) accept—

“(I) any beverage container; and

“(II) not more than 350 beverage containers per person per day; and

“(iii) provide—

“(I) hand counts by staff of the facility;

“(II) a drop door for consumers who are bottle drop account holders to drop off bags of beverage containers for staff of the facility to count; or

“(III) any other convenient means of receiving beverage containers, as determined by the Administrator.

“(3) CURBSIDE COLLECTION.—An Organization shall pay an entity that collects curbside recycling the value of the applicable deposit under subsection (c) for beverage containers collected, based on weight or another measurement that approximates the amount of the deposits, as negotiated by the Organization and the entity.

“(f) Excluded States.—

“(1) IN GENERAL.—In the case of a State described in paragraph (2), compliance with the State law by a distributor, retailer, manufacturer, importer, or Organization shall be considered to be compliance with this section.

“(2) STATES DESCRIBED.—A State referred to in paragraph (1) is a State—

“(A) that has in effect a beverage container law before January 1, 2020; and

“(B) the beverage container law described in subparagraph (A) of which is updated after the date of enactment of this part to be consistent with the deposit amounts under, and beverage containers covered by, this part.

## “SEC. 12105. PRODUCT STEWARDSHIP PLANS.

“(a) In General.—Not later than January 1, 2022, each Organization shall submit to the Administrator a Product Stewardship Plan that describes how the Organization will carry out the responsibilities of the Organization under this part.

“(b) Contents.—Each Plan shall contain, at a minimum—

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

“(2) a list of participating producers and brands covered by the applicable Program, including organization structure for each producer; and

“(3) a description of—

“(A) each category of covered material or beverage container covered by the Plan;

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

“(C) performance targets under subsection (f);

“(D) covered material or beverage container collection methods in accordance with section 12103 or 12104, as applicable, including consumer convenience and geographic coverage of those collection methods;

“(E) consumer education plans in accordance with section 12106;

“(F) a customer service process, such as a process for answering citizen or customer questions and resolving issues;

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

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

“(I) how producers will work with existing recycling, composting, litter clean-up, and disposal programs and infrastructure;

“(J) how producers will consult with the Federal Government, State and local governments, and any other important stakeholders; and

“(K) plans for market development.

“(c) Approval or Denial.—Not later than 60 days after receiving a Plan under subsection (a), the Administrator shall—

“(1) approve or deny the Plan; and

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

“(d) Implementation.—Beginning on August 1, 2022, not later than 60 days after receiving a notification of approval of a Plan under subsection (c)(2), the applicable Organization shall begin implementation of the Plan.

“(e) Revisions.—The Administrator may require a revision to a Plan before the expiration date of the Plan if—

“(1) the performance targets under subsection (f) are not being met; or

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

“(f) Performance Targets.—

“(1) IN GENERAL.—Each Plan shall contain achievable performance targets for the collection and recycling of the applicable covered material or beverage container in accordance with section 12103 or 12104, as applicable.

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

“(A) by December 31, 2025—

“(i) 65 percent of all packaging ~~reduced~~~~reduced~~, reused or recycled;

“(ii) 75 percent of all consumer paper products and printed paper recycled;

~~“(iii) 50 percent of all biobased products composted;~~

[“(iv) [\_\_ percent of all] tobacco filtered cigarettes; and]

[“(v) [\_\_ percent of all] fishing gear; and]

“(B) by December 31, 2030—

- “(i) 70 percent of all packaging reduced, reused or recycled;
- “(ii) 85 percent of all consumer paper products and printed paper recycled;
- ~~“(iii) 70 percent of all biobased products composted;~~
- [“(iv) [\_\_ percent of all] tobacco filtered cigarettes; and]
- [“(v) [\_\_ percent of all] fishing gear.]

## “SEC. 12106. OUTREACH AND EDUCATION.

“(a) In General.—A Program shall include the provision of outreach and education to consumers throughout the United States regarding—

- “(1) proper end-of-life management of covered materials and beverage containers;
- “(2) the location and availability of curbside and drop-off collection opportunities;
- “(3) how to prevent litter of covered materials and beverage containers; and
- “(4) recycling instructions that are—
  - “(A) consistent nationwide, except as necessary to take into account differences among State and local laws;
  - “(B) easy to understand; and
  - “(C) easily accessible.

“(b) Activities.—Outreach and education under subsection (a) shall—

- “(1) be designed to achieve the management goals of covered materials and beverage containers under this part, including the prevention of contamination by covered materials and beverage containers in other management systems or in other materials; and
- “(2) include, at a minimum—
  - “(A) consulting on education, outreach, and communications with the advisory committee of the applicable Organization and other stakeholders;
  - “(B) coordinating with and assisting local municipal programs, municipal contracted programs, solid waste collection companies, and other entities providing services to the Program;
  - “(C) developing and providing outreach and education to the diverse ethnic populations of the United States through translated and culturally appropriate materials, including in-language and targeted outreach;
  - “(D) establishing consumer websites and mobile applications that provide information about methods to prevent product and packaging pollution and how consumers may access and use collection services;
  - “(E) working with Program participants to label product and packaging with information to assist consumers in responsibly managing product and packaging waste; and
  - “(F) determining the effectiveness of outreach, education, communications, and

convenience of services through periodic surveys of consumers.

“(c) Evaluation.—If the Administrator determines that performance targets under section 12105(f) are not being met with respect to an Organization, the Organization shall—

“(1) conduct an evaluation of outreach and education efforts under this section to determine whether changes are necessary to make those outreach and education efforts effective; and

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

## “SEC. 12107. REPORTING.

“(a) In General.—An Organization shall annually make available on a publicly available website a report that contains—

“(1) with respect to covered materials or beverage containers produced by members of the Organization, a description of, at a minimum—

“(A) the quantity of covered materials produced and collected, by submaterial type;

“(B) management of the covered materials or beverage containers, including recycling rates, by submaterial type;

“(C) data on the final destination and quantity of reclaimed covered materials or beverage containers, by submaterial type, including the form of any covered materials or beverage containers exported;

“(D) contamination in the recycling stream of the covered materials or beverage containers;

“(E) collection service vendors and collection locations, including—

“(i) the geographic distribution of collection;

“(ii) distance to population centers;

“(iii) hours; and

“(iv) frequency of collection availability; and

“(F) efforts to reduce environmental impacts at each stage of the lifecycle of the covered materials;

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

“(3) expenses of the Organization;

“(4) outreach and education efforts under section 12106, including the results of those efforts;

“(5) customer service efforts and results;

“(6) performance relative to the performance targets of the Plan under section 12105(f); and

“(7) any other information that the Administrator determines to be appropriate.

“(b) Consistency.—Organizations shall make efforts to coordinate reporting under this section to provide for consistency of information across a category of covered materials or beverage containers.

## “PART II—REDUCTION OF SINGLE-USE PLASTIC PRODUCTS

### “SEC. 12201. PROHIBITION ON SINGLE-USE PLASTIC CARRYOUT BAGS.

“(a) Definitions.—In this section:

“(1) SINGLE-USE PLASTIC CARRYOUT BAG.—

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

“(i) made of plastic film; or

\_\_\_\_\_ (b) woven or nonwoven nylon, polypropylene, polyethylene-terephthalate, or Tyvek under 80 grams per square meter; and

“(ii) provided by a store to a customer at the point of sale, home delivery, the check stand, cash register, or other point of departure to a customer for use to transport, deliver, or carry away purchases.

“(B) EXCLUSIONS.—The term ‘single-use plastic carryout bag’ does not include—

“(i) a bag that is subject to taxation under section 4056 of the Internal Revenue Code of 1986;

“(ii) a bag used by a consumer inside a store—

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

“(II) to contain or wrap—

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

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

“(iii) a bag sold at retail in packages containing multiple bags intended to contain garbage, pet waste, or yard waste;

“(iv) a newspaper bag;

“(v) a door hanger bag; or

“(vi) a laundry or dry cleaning bag.

“(2) STORE.—

“(A) IN GENERAL.—The term ‘store’ means any business that—

“(i) sells food or alcohol; or

“(ii) elects to comply with this section.

“(B) INCLUSION.—The term ‘store’ includes a restaurant, including a fast food establishment.

“(b) Prohibition.—A store shall not provide at the point of sale a single-use plastic carryout bag to a customer.

“(c) Enforcement.—

“(1) WRITTEN NOTIFICATION FOR FIRST VIOLATION.—If a store violates subsection (b), the Administrator shall provide that store with written notification regarding the violation of the requirement under that subsection.

“(2) SUBSEQUENT VIOLATIONS.—

“(A) IN GENERAL.—If any store, subsequent to receiving a written notification described in paragraph (1), violates subsection (b), the Administrator shall fine the store in accordance with subparagraph (B).

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

“(i) in the case of the first violation, \$100;

“(ii) in the case of the second violation, \$200; and

“(iii) in the case of the third violation or any subsequent violation, \$500.

“(C) LIMITATION.—A penalty shall not be imposed under this paragraph more than once during any 7-day period.

“(d) Effective Date.—The prohibition under this section shall take effect on January 1, 2022.

## “SEC. 12202. REDUCTION OF OTHER SINGLE-USE PLASTIC PRODUCTS.

“(a) Definition of Covered Retail or Service Establishment.—In this section, the term ‘covered retail or service establishment’ means a store, grocery store, restaurant (including a fast food restaurant), beverage provider, vendor, or other retail or service establishment.

“(b) Prohibition on Plastic Straws, Stirrers, Plates, and Cutlery.—

“(1) IN GENERAL.—Except as provided in paragraph (2)(B), a covered retail or service establishment may not use, provide, distribute, or sell plastic beverage straws, plastic stirrers, plastic plates, or plastic cutlery.

“(2) NONPLASTIC ALTERNATIVES; ACCOMMODATIONS.—

“(A) IN GENERAL.—Nothing in this subsection precludes a covered retail or service establishment from using or making nonplastic alternatives, such as alternatives made from paper, grain stalks, sugar cane, or bamboo, available to a consumer.

“(B) ACCOMMODATIONS.—

“(i) IN GENERAL.—To provide accessibility options for persons with disabilities and medical requirements, any covered retail or service establishment that

provides nonplastic beverage straws pursuant to subparagraph (A) shall make plastic beverage straws available to any person, on request of the person.

“(ii) REQUIREMENT.—A covered retail or service establishment may not require proof of disability or need to receive a plastic beverage straw as described in clause (i).

“(c) Prohibition on Other Commonly Polluting Single-use Products.—

“(1) IN GENERAL.—Except as provided in paragraph (3), a covered retail or service establishment may not sell or distribute any single-use product that the Administrator determines is the most commonly polluting.

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

“(A) expanded polystyrene for use in foodware, drinkware, non-encapsulated disposal consumer coolers, or shipping packaging;

“(B) cotton buds that include plastic;

“(C) single-use personal care products distributed through a hotel or similar hospitality business;

“(D) plastic produce stickers and any noncompostable alternative; and

“(E) such other products that the Administrator determines by regulation to be appropriate.

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

“(d) Enforcement.—

“(1) WRITTEN NOTIFICATION FOR FIRST VIOLATION.—If a covered retail or service establishment violates subsection (a), the Administrator shall provide that covered retail or service establishment with written notification regarding the violation of the requirement under that subsection.

“(2) SUBSEQUENT VIOLATIONS.—

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

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

“(i) in the case of the first violation, \$100;

“(ii) in the case of the second violation, \$200; and

“(iii) in the case of the third violation or any subsequent violation, \$500.

“(C) LIMITATION.—A penalty shall not be imposed under this paragraph more than once during any 7-day period.

“(e) Effective Date.—The prohibition under this section shall take effect on January 1, 2022.

## “PART III—RECYCLABILITY AND RECYCLING CAPACITY

### “SEC. 12301. RECYCLING COLLECTION.

“The Administrator, in consultation with the Secretary and Organizations, shall issue nonbinding guidance to standardize recycling collection across communities and States.

### “SEC. 12302. REQUIREMENTS FOR THE PRODUCTION OF PRODUCTS CONTAINING RECYCLED CONTENT.

“The Administrator shall require each producer of covered materials and beverage containers to make the covered materials and beverage containers of—

“(1) by 2025, [XX] percent post-consumer recycled content;

“(2) by 2030, [XX] percent post-consumer recycled content;

“(3) by 2035, [XX] percent post-consumer recycled content;

“(4) by 2040, [XX] percent post-consumer recycled content; and

“(5) by such dates thereafter as the Administrator shall establish, such percentages of post-consumer recycled content as the Administrator determines by a rule to be appropriate.

### “SEC. 12303. DESIGNING FOR THE ENVIRONMENT.

“(a) In General.—The Administrator shall require each producer of covered materials and beverage containers to design the covered materials and beverage containers to minimize the environmental and health impacts of the covered materials and beverage containers.

“(b) Requirements.—In designing covered materials and beverage containers in accordance with subsection (a), to minimize the impacts of extraction, manufacture, use, and end-of-life management, a producer shall consider—

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

“(2) eliminating toxic substances;

“(3) designing for reuse and lifespan extension;

“(4) incorporating recycled materials;

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

“(6) improving recyclability.

### “SEC. 12304. LABELING.

“(a) In General.—A producer that is a member of an Organization shall include labels on covered materials and beverage containers that—

“(1) are easy to read; and

“(2) indicate that, under the applicable Program, the covered material or beverage container is—

“(A) recyclable;

“(B) not recyclable; or

“(C) compostable; and

“(3) in the case of a covered material or beverage container that is recyclable, provide instructions for how to recycle the covered material or beverage container under the applicable Program, including, in the case of a mixed material covered material or beverage container, how to recycle or dispose of each individual part.

“(b) Standardized Labels.—The Administrator shall establish a standardized label for each category of covered material and beverage container to be used by producers under subsection (a).

“(c) Requirement.—A label described in subsection (a), including a shrink sleeve, shall be compatible with conventional mechanical recycling processes and not require removal by customers.

“(d) Wet Wipes.—With respect to the label described in subsection (a) for a wet wipe product—

“(1) in the case of a wet wipe product sold in the United States that is intended to be disposed of in the solid waste stream, the label shall include the statements ‘Do Not Flush’ and ‘contains plastic’, in accordance with the voluntary guidelines for labeling practices of the nonwoven fabrics industry contained in the Code of Practice of the Association of the Nonwoven Fabrics Industry and the European Disposables and Nonwovens Association, entitled ‘Communicating Appropriate Disposal Pathways for Nonwoven Wipes to Protect Wastewater Systems’, second edition, as published in April 2017; and

“(2) in the case of a wet wipe product sold in the United States that is intended to be disposed of in the sewer system—

“(A) the label shall include the statement ‘flushable’ or ‘sewer and septic safe’; and

“(B) the product—

“(i) shall meet specified performance standards for dispersibility in the sewer system;

“(ii) may not be buoyant; and

“(iii) may not contain chemicals or additives harmful to the public wastewater infrastructure; and

“(3) in the case of a wet wipe product that contains plastic or other synthetic material, the label, marketing, or other advertisements for the product may not identify the product as intended for disposal in the sewer system.

## “SEC. 12305. PROHIBITION ON CERTAIN EXPORTS OF WASTE.

“No person may export waste from a covered material to a country that is not a member of the Organization for Economic Cooperation and Development.

## “PART IV—LOCAL GOVERNMENT EFFORTS

### “SEC. 12401. PROTECTION OF LOCAL GOVERNMENTS.

“Nothing in this subtitle or section 4056 of the Internal Revenue Code of 1986 preempts any State or local law in effect on or after the date of enactment of this subtitle that—

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

“(2) prohibits the sale or distribution of commonly polluting products that are not prohibited under part II;

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

“(4) imposes a fee or other charge for products not subject to taxation under section 4056 of the Internal Revenue Code of 1986.

### “SEC. 12402. CLEAN COMMUNITIES PROGRAM.

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

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

“(2) implementing source reduction solutions.”.

## SEC. 3. IMPOSITION OF TAX ON CARRYOUT BAGS.

(a) General Rule.—Chapter 31 of the Internal Revenue Code of 1986 is amended by inserting after subchapter C the following new subchapter:

### “Subchapter D—Carryout Bags

“Sec.4056.Imposition of tax.

### “SEC. 4056. IMPOSITION OF TAX.

“(a) General Rule.—There is hereby imposed on any retail sale a tax on each carryout bag provided to a customer by an applicable retailer.

“(b) Amount of Tax.—The amount of tax imposed by subsection (a) shall be \$0.10 per carryout bag.

“(c) Liability for Tax.—The applicable retailer shall be liable for the tax imposed by this section.

“(d) Definitions.—For purposes of this section—

“(1) APPLICABLE RETAILER.—The term ‘applicable retailer’ means any business which—

“(A) sells food or alcohol, or

“(B) elects to comply with the requirements under this section.

“(2) CARRYOUT BAG.—

“(A) IN GENERAL.—The term ‘carryout bag’ means a bag of any material, ~~commonly kraft paper~~, which is provided to a consumer at the point of sale to carry or cover purchases, merchandise, or other items.

“(B) EXCEPTIONS.—Such term does not include—

“(i) any bag manufactured for use by a customer inside a store to package bulk items such as fruit, vegetables, nuts, grains, candy, or small hardware items, such as nails and bolts,

“(ii) any bag that contains or wraps frozen foods, prepared foods, or baked goods when not prepackaged, or

“(iii) any bag manufactured to be sold at retail in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.

“(e) Exceptions.—

“(1) IN GENERAL.—The tax imposed under subsection (a) shall not apply to any carryout bag that is provided to a customer as part of a transaction in which the customer is purchasing any item using benefits received under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) or the supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

“(2) PUBLIC NOTICE.—An applicable retailer shall provide public notification, in such manner as is determined appropriate by the Secretary (in consultation with the Administrator of the Environmental Protection Agency), of the exceptions to the tax imposed on carryout bags under subsection (a) which are described in paragraph (1).

“(f) Bag Tax Stated Separately on Receipt.—The tax imposed by subsection (a) shall be separately stated on the receipt of sale provided to the customer.

“(g) Penalties.—

“(1) WRITTEN NOTIFICATION FOR FIRST VIOLATION.—If any applicable retailer fails to collect the tax imposed under subsection (a) or satisfy the requirements under subsection (f), the Secretary shall provide such retailer with written notification regarding the violation of the requirements under such subsections.

“(2) SUBSEQUENT VIOLATIONS.—

“(A) IN GENERAL.—If any applicable retailer, subsequent to receiving a written notification described in paragraph (1), fails to collect the tax imposed under subsection (a) or satisfy the requirements under subsection (f), such retailer shall pay a penalty in addition to the tax imposed under this section.

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

“(i) in the case of the first violation, \$100,

“(ii) in the case of the second violation, \$200, and

“(iii) in the case of the third violation or any subsequent violation, \$500.

“(C) LIMITATION.—A penalty shall not be imposed under this paragraph more than once during any 7-day period.

“(h) Rule of Construction.—Nothing in this section or any regulations promulgated under this section shall preempt, limit, or supersede, or be interpreted to preempt, limit, or supersede—

“(1) any law or regulation relating to any tax or fee on carryout bags which is imposed by a State or local government entity, or any political subdivision, agency, or instrumentality thereof, or

“(2) any additional fees imposed by any applicable retailer on carryout bags provided to its customers.”.

(b) Carryout Bag Credit Program.—Subchapter B of chapter 65 of such Code is amended by adding at the end the following new section:

## “SEC. 6431. CARRYOUT BAG CREDIT PROGRAM.

“(a) Allowance of Credit.—If—

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

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

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

“(A) the total number of carryout bags provided to customers for which the tax was imposed under section 4056(a) and the amounts passed through to customers for such bags pursuant to section 4056(f), and

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

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

“(b) Applicable Amount.—For purposes of subsection (a), the applicable amount is an amount equal to—

“(1) in the case of an applicable retailer that has established a carryout bag credit program, \$0.04, and

“(2) in the case of an applicable retailer that has not established a carryout bag credit program, \$0.02.

“(c) Carryout Bag Credit Program.—For purposes of this section, the term ‘carryout bag credit program’ means a program established by an applicable retailer which—

“(1) for each bag provided by the customer to package any items purchased from the

applicable retailer, such retailer refunds such customer \$0.10 for each such bag from the total cost of their purchase,

“(2) separately states the amount of such refund on the receipt of sale provided to the customer, and

“(3) prominently advertises such program at each checkout register of the applicable retailer.

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

(c) Establishment of Trust Fund.—Subchapter A of chapter 98 of such Code is amended by adding at the end the following:

## “SEC. 9512. RECYCLING AND LITTER CLEANUP TRUST FUND.

“(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the ‘Recycling and Litter Cleanup Trust Fund’ (referred to in this section as the ‘Trust Fund’), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

“(b) Transfers to Trust Fund.—There is hereby appropriated to the Trust Fund an amount equivalent to the amounts received in the Treasury pursuant to section 4056.

“(c) Expenditures From Trust Fund.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for—

“(1) making payments under section 6431, and

“(2) making grants for recycling infrastructure and litter cleanup.”.

(d) Study.—Not later than the date which is 18 months after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study on the effectiveness of sections 4056, 6431, and 9512 of the Internal Revenue Code of 1986 (as added by this Act) at reducing the use of carryout bags and encouraging recycling of such bags. The report shall address—

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

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

(B) the opinion among citizens and residents of the United States regarding the effect of such sections, disaggregated by race and income level, and

(C) the amount of substitution between other types of plastic bags for single-use carryout bags,

(2) measures that the Comptroller General determines may increase the effectiveness of such sections, including the amount of tax imposed on each carryout bag, and

(3) any effects, both positive and negative, on United States businesses as a result of the

enactment of such sections.

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

(e) Clerical Amendments.—

(1) The table of subchapters for chapter 31 of such Code is amended by inserting after the item relating to subchapter C the following new item:

“Subchapter D. Carryout bags.”.

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

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

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

“Sec.9512. Carryout bag trust fund.”.

(f) Effective Date.—The amendments made by this section shall take effect on January 1, 2022.

## SEC. 4. CLEAN AIR, CLEAN WATER, AND ENVIRONMENTAL JUSTICE.

(a) Definitions.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) COVERED FACILITY.—

(A) IN GENERAL.—The term “covered facility” means—

- (i) an industrial facility that transforms natural gas liquids into ethylene and propylene for later conversion into plastic polymers; or
- (ii) a plastic polymerization or polymer production facility.

(B) INCLUSIONS.—The term “covered facility” includes a facility—

(i) that is regulated under—

(I) subpart B, C, or E of part 419 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act);

(II) part 414 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act);

(III) subpart VVa, DDD, III, NNN, or RRR, of part 60 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act); or

(IV) subpart U or YY of part 63 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act);

(ii) within industry 2821 or 2869 of the Standard Industrial Classification system; and

(iii) within industry 325110 or 325211 of the North American Industry Classification System.

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

(A) ethylene;

(B) propylene;

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

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

or

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

(4) FRONTLINE COMMUNITY.—

(A) IN GENERAL.—The term “frontline community” means a community located near a covered facility that has experienced systemic socioeconomic disparities or other forms of injustice as a result of industrial development.

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

(5) MORATORIUM PERIOD.—The term “moratorium period” means the period—

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

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

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

(7) SINGLE-USE PLASTIC.—

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

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

(i) medical food, supplements, devices, or other products determined by the Secretary of Health and Human Services to necessarily be made of plastic for the protection of public health; or

(ii) packaging that is—

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

(II) used for the shipment of hazardous materials that is prohibited from being composed of used materials under section 178.509 or section 178.522 of title 49, Code of Federal Regulations (as in effect on the date of enactment

of this Act).

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

(b) Moratorium.—During the moratorium period, notwithstanding any other provision of law—

(1) the Administrator shall not issue a new permit for a covered facility under—

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

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

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

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

(4) subject to subsection (g), the export of covered products is prohibited.

(c) Study.—

(1) IN GENERAL.—The Administrator shall offer to enter into an agreement with the National Academy of Sciences and the National Institutes of Health to conduct a study of—

(A) the existing and planned expansion of the industry of the producers of covered products, including the entire supply chain, end uses, disposal fate, and lifecycle impacts of covered products;

(B) the environmental justice and pollution impacts of covered facilities and the products of covered facilities;

(C) the standard practices of covered facilities with respect to the discharge and emission of pollutants into the environment; and

(D) the best available technologies and practices that reduce or eliminate the environmental justice and pollution impacts of covered facilities and the products of covered facilities.

(2) REQUIREMENTS.—The study under paragraph (1) shall—

(A) consider—

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

(ii) the impacts of the planned expansion of those industries, including local, regional, national, and international air, water, waste, climate change, public health, and environmental justice impacts of those industries; and

(B) recommend technologies, standards, and practices to remediate or eliminate the local, regional, national, and international air, water, waste, climate change, public

health, and environmental justice impacts of covered facilities and the industries of covered facilities.

(3) REPORT.—If the Administrator enters into an agreement with the National Academy of Sciences and the National Institutes of Health under paragraph (1), not later than 18 months after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the results of the study under that paragraph.

(d) Clean Air.—

(1) TIMELY REVISION OF EMISSIONS STANDARDS.—Section 111(b)(1)(B) of the Clean Air Act (42 U.S.C. 7411(b)(1)(B)) is amended by striking the fifth sentence.

(2) NATIONAL SOURCE PERFORMANCE STANDARDS IMPLEMENTATION IMPROVEMENTS.—

(A) ZERO-EMISSIONS ENERGY.—Not later than 18 months after the Comptroller General of the United States issues the report under section 3(d), the Administrator shall promulgate a final rule requiring that—

(i) covered facilities that manufacture olefins, including ethylene and propylene, use only zero-emissions energy sources, except to the extent that waste gases are recycled; and

(ii) covered facilities that manufacture 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 Administrator—

(I) determines that under certain conditions (such as during the commencement or shut down of production at a covered facility), expenditures of energy that are not from zero-emissions energy sources are required; 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) ETHYLENE AND PROPYLENE PRODUCTION FACILITIES.—Not later than 18 months after the Comptroller General of the United States issues the report under section 3(d), the Administrator shall promulgate a final rule—

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

(ii) establishing new source performance standards for the category of stationary source designated under clause (i) under section 111(f)(1) of the Clean Air Act (42 U.S.C. 7411(f)(1)); and

(iii) promulgating regulations for existing ethylene and propylene production facilities under section 111(d)(1) of the Clean Air Act (42 U.S.C. 7411(d)(1)).

(C) STORAGE VESSELS IN ETHYLENE AND PROPYLENE MANUFACTURING.—Not later than 18 months after the Comptroller General of the United States issues the report under

section 3(d), the Administrator shall promulgate a final rule modifying section 60.112b(a) of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that an owner or operator of a storage vessel containing liquid with a vapor pressure of equal to or more than 5 millimeters of mercury under actual storage conditions that is regulated under that section uses—

- (i) an internal floating roof tank connected to a volatile organic compound control device; or
- (ii) a fixed-roof tank connected to a volatile organic compound control device.

(D) FLARING.—Not later than 30 days after the date of enactment of this Act, the Administrator shall promulgate a final rule—

(i) modifying title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that flaring, either at ground-level or elevated, shall only be permitted when necessary solely for safety reasons; and

(ii) modifying sections 60.112b(a)(3)(ii), 60.115b(d)(1), 60.482–10a(d), 60.662(b), 60.702(b), and 60.562–1(a)(1)(i)(C) of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that references to flare standards under those sections refer to the flare standards established under clause (i).

(E) SOCM EQUIPMENT LEAKS.—Not later than 18 months after the Comptroller General of the United States issues the report under section 3(d), the Administrator shall promulgate a final rule—

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

(ii) modifying section 60.482–1a(f) of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that owners and operators use optical gas imaging monitoring pursuant to section 60.5397a of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), on a quarterly basis, unless the owner or operator receives approval from the Administrator in writing to use Method 21 of the Environmental Protection Agency (as described in appendix A–7 of part 60 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act)) with a repair threshold of 500 parts per million;

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

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

- (I) the term “no detectable emissions” is defined to mean an instrument reading of less than 50 parts per million above background concentrations;

and

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

(F) NATURAL-GAS FIRED STEAM BOILERS.—Not later than 18 months after the Comptroller General of the United States issues the report under section 3(d), the Administrator shall promulgate a final rule revising subpart Db of part 60 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that boilers or heaters located at an affected covered facility regulated under that subpart may only burn gaseous fuels, not solid fuels or liquid fuels.

(G) MONITORING.—Not later than 18 months after the Comptroller General of the United States issues the report under section 3(d), the Administrator shall promulgate a final rule revising subparts DDD, NNN, RRR, and other relevant subparts of part 60 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act)—

(i) to require continuous emissions monitoring of nitrogen oxides, sulfur dioxide, carbon monoxide, and filterable particulate matter for all combustion devices except for flares;

(ii) to require accurate and continuous recordkeeping when continuous monitoring is required under clause (i); and

(iii) to require fence-line monitoring under section 63.658 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), for nitrogen oxides, sulfur dioxide, carbon monoxide, filterable particulate matter, and other relevant hazardous air pollutants.

(3) NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS IMPLEMENTATION IMPROVEMENTS.—

(A) EQUIPMENT LEAKS OF BENZENE.—Not later than 18 months after the Comptroller General of the United States issues the report under section 3(d), the Administrator shall promulgate a final rule modifying section 61.112 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act) that strikes subsection (c).

(B) BENZENE WASTE OPERATIONS.—Not later than 18 months after the Comptroller General of the United States issues the report under section 3(d), the Administrator shall promulgate a final rule modifying subpart FF of part 61 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that—

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

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

(C) ETHYLENE AND PROPYLENE PRODUCTION FACILITIES.—Not later than 18 months after the Comptroller General issues the report under section 3(d), the Administrator shall promulgate a final rule modifying subpart YY of part 63 of title 40, Code of

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

(i) the generic maximum achievable control technology standards described in that subpart require no detectable emissions of hazardous air pollutants, unless the Administrator—

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

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

(ii) the term “no detectable emissions”, as required under clause (i), is defined to mean an instrument reading of less than 50 parts per million above background concentrations.

(e) Clean Water.—

(1) REVISED EFFLUENT LIMITATION GUIDELINES FOR THE ORGANIC CHEMICAL, PLASTICS, AND SYNTHETIC FIBERS INDUSTRIAL CATEGORY.—

(A) BAT AND NSPS STANDARDS FOR PLASTIC POLYMER PRODUCTION.—Not later than 18 months after the Comptroller General issues the report under section 3(d), the Administrator shall promulgate a final rule—

(i) that ensures that the best available technology limitations described in part 414 of title 40, Code of Federal Regulations (as modified under clause (ii)) applies to covered facilities that produce fewer than 5,000,001 pounds of plastic polymers 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 plastic polymers, 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 plastic polymers, the maximum effluent limit for any 1 day and for any monthly average for the priority pollutants described in appendix A to part 423 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), is 0 milligrams per liter unless the Administrator—

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

(bb) publishes the determination under item (aa) and the proposed higher limits in a rulemaking; and

(II) for best available technology and new source performance standards, the maximum effluent limit for any 1 day and for any monthly average for total plastic pellets and other plastic material is 0 milligrams per liter.

(B) EFFLUENT LIMITATIONS FOR RUNOFF FROM PLASTIC POLYMER FACILITIES.—Not later than 60 days after the date of enactment of this Act, the Administrator shall promulgate a final rule modifying sections 414.91, 414.101, and 414.111 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that—

(i) the runoff from covered facilities regulated under part 414 of that title contains, for any 1 day and for any monthly average, 0 milligrams per liter of plastic pellets or other plastic materials; and

(ii) the requirement under clause (i) is reflected in all stormwater and other permits issued by the Administrator and State-delegated programs under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342), in addition to other applicable limits and standards.

(2) REVISED EFFLUENT LIMITATIONS GUIDELINES FOR ETHYLENE AND PROPYLENE PRODUCTION.—

(A) BAT AND NSPS STANDARDS.—Not later than 18 months after the Comptroller General of the United States issues the report under section 3(d), the Administrator shall promulgate a final rule—

(i) modifying sections 419.23, 419.26, 419.33, and 419.36 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 standards reflect updated best available technology and best available demonstrated control technology for all pollutants discharged by covered facilities producing ethylene or propylene; and

(ii) modifying sections 419.26(a) and 419.36(a) of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that the new source performance standards for any 1 day and for average of daily values for 30 consecutive days for the priority pollutants described in appendix A to part 423 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), is 0 milligrams per liter unless the Administrator—

(I) determines that higher limits are justified using best available demonstrated control technology; and

(II) the Administrator publishes the determination under item (aa) and the proposed higher limits in a rulemaking.

(B) RUNOFF LIMITATIONS FOR ETHYLENE AND PROPYLENE PRODUCTION.—Not later than 18 months after the Comptroller General of the United States issues the report under section 3(d), the Administrator shall promulgate a final rule modifying sections 419.26(e) and 419.36(e) of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that runoff limitations that reflect best available demonstrated control technology are included.

(f) Environmental Justice Requirements for Plastics Industry Permits.—

(1) IN GENERAL.—Not later than 18 months after the Comptroller General of the United States issues the report under section 3(d), the Administrator shall promulgate a final rule to ensure that—

(A) any proposed permit to be issued by the Administrator or by a State agency delegated authority under the Clean Air Act (42 U.S.C. 7401 et seq.) or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) with respect to a covered facility is accompanied by an environmental justice assessment of the direct and cumulative economic, environmental, and public health impacts of the proposed permit on frontline communities;

(B) each proposed permit and environmental justice assessment described in subparagraph (A) is delivered to applicable frontline communities at the beginning of the public comment period for the proposed permit, which shall include notification through—

(i) direct means; and

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

(C) the Administrator or a State agency delegated authority under the Clean Air Act (42 U.S.C. 7401 et seq.) or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as applicable, in considering whether to approve a proposed permit described in subparagraph (A)—

(i) considers alternatives to the activities proposed in the proposed permit;

(ii) considers including conditions in the proposed permit to mitigate the negative impacts and maximize the benefits of the activities proposed in the proposed permit to those frontline communities; and

(iii) considers the alternatives and conditions described in clauses (i) and (ii) with input from residents of the frontline community in which the covered facility to which the proposed permit would apply is located or seeks to locate; and

(D) the approval of proposed permits described in subparagraph (A) is conditioned on comprehensive fence-line monitoring and response strategies that fully protect public health and the environment in frontline communities.

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

(A) residents of frontline communities; or

(B) representatives of frontline communities.

(g) Extended Producer Responsibility for International Plastic Exports.—The moratorium on the export of covered products under subsection (b)(4) shall remain in place until the Secretary of Commerce promulgates a final rule that—

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

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

(3) requires the Secretary of Commerce, not less frequently than once every 2 years and

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in consultation with the Administrator and the Secretary of Health and Human Services, to publish a report measuring and evaluating the environmental and environmental justice impacts of exporting covered products from sale to disposal; and

(4) establishes enforceable mechanisms for sellers or purchasers of covered products to mitigate the environmental and environmental justice impacts of those covered products from sale to disposal.