

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 22-0075.02 Sarah Lozano x3858

HOUSE BILL 22-1355

HOUSE SPONSORSHIP

Cutter, Bernett, Duran, Froelich, Hooton, Kipp, McCormick, Sirota, Titone, Woodrow

SENATE SPONSORSHIP

Priola and Gonzales,

House Committees

Energy & Environment
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE PRODUCER RESPONSIBILITY**
102 **PROGRAM FOR STATEWIDE RECYCLING, AND, IN CONNECTION**
103 **THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

On or before June 1, 2023, the executive director (executive director) of the Colorado department of public health and environment (department) must designate a nonprofit organization (organization) to implement and manage a statewide program (program) that provides recycling services to covered entities in the state, which are defined as

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
April 29, 2022

residences, businesses, schools, government buildings, and public places. The program is funded by annual dues (producer responsibility dues) paid by producers of products that use covered materials (producers). Covered materials are defined as packaging materials and paper products that are sold, offered for sale, or distributed in the state.

The bill creates the producer responsibility program for statewide recycling advisory board (advisory board) that consists of members who have expertise in recycling programs and are knowledgeable about recycling services in the different geographic regions of the state.

Prior to the implementation of the program, the organization must:

- On or before September 1, 2023, hire an independent third party to conduct an assessment of the recycling services currently provided in the state and the recycling needs in the state that are not being met (needs assessment);
- On or before April 1, 2024, report the results of the needs assessment to the advisory board and the executive director; and
- On or before February 1, 2025, after soliciting input from the advisory board and other key stakeholders, submit a plan proposal for the program (plan proposal) to the advisory board and executive director.

The plan proposal will initially cover recycling services only for residential covered entities. The plan proposal must:

- Describe how the organization will meet certain convenience standards and statewide recycling, collection, and postconsumer-recycled-content rates (rates);
- Establish a funding mechanism through the collection of producer responsibility dues that covers the organization's costs in implementing the program and the costs of the department in overseeing the program;
- Establish an objective formula to reimburse 100% of the net recycling services costs of public and private recycling service providers (providers) performing services under the program;
- Provide a list of covered materials (minimum recyclable list) that providers performing services under the program must collect to be eligible for reimbursement under the program;
- Set minimum rate targets that the state will strive to meet by January 1, 2030, and January 1, 2035, and describe how the state can meet increased rates after 2035; and
- Describe a process and timeline, beginning no later than 2028, to expand recycling services to applicable nonresidential covered entities.

As part of the program, the organization must:

1 **25-17-601. Short title.** THE SHORT TITLE OF THIS PART 6 IS THE
2 "PRODUCER RESPONSIBILITY PROGRAM FOR STATEWIDE RECYCLING
3 ACT".

4 **25-17-602. Legislative declaration.** (1) THE GENERAL ASSEMBLY
5 HEREBY FINDS AND DECLARES THAT:

6 (a) RECYCLING HAS A POSITIVE IMPACT ON THE ENVIRONMENT AND
7 PUBLIC HEALTH BY SAVING ENERGY, CONSERVING NATURAL RESOURCES,
8 AND REDUCING GREENHOUSE GAS EMISSIONS;

9 (b) RECYCLING HAS A POSITIVE BENEFIT ON COLORADO'S
10 ECONOMY, WITH THE RECYCLING, REMANUFACTURING, AND REUSE
11 INDUSTRIES AFFECTING EIGHTY-SIX THOUSAND JOBS IN COLORADO AND
12 CONTRIBUTING OVER EIGHT BILLION DOLLARS IN ECONOMIC BENEFITS
13 ANNUALLY;

14 (c) IN 2020, COLORADO ONLY RECYCLED FIFTEEN PERCENT OF ITS
15 WASTE, WHICH IS LESS THAN HALF OF THE NATIONAL AVERAGE;

16 (d) COLORADO IS NOT ON TRACK TO MEET THE STATEWIDE
17 RECYCLING AND WASTE DIVERSION GOALS THAT THE POLLUTION
18 PREVENTION ADVISORY BOARD ASSISTANCE COMMITTEE, CREATED IN
19 SECTION 25-16.5-105.5 (2), ADOPTED IN 2016 AND SET FORTH IN AN
20 INTEGRATED SOLID WASTE AND MATERIALS MANAGEMENT PLAN;

21 (e) THERE CAN BE NEGATIVE ENVIRONMENTAL, SOCIAL,
22 ECONOMIC, AND HEALTH IMPACTS IN THE PRODUCTION, CONSUMPTION,
23 AND END-OF-USE MANAGEMENT OF CONSUMER PRODUCTS AND PACKAGING
24 ACROSS THEIR LIFE CYCLES;

25 (f) ALL PARTIES HAVE THE OBLIGATION TO SHARE IN THE
26 RESPONSIBILITY TO REDUCE NEGATIVE IMPACTS OF END-OF-USE
27 MANAGEMENT FOR COVERED MATERIALS BY BUILDING A SYSTEM

1 DESIGNED TO MINIMIZE WASTE AND TO INCREASE REUSE AND RECYCLING
2 OF PRODUCTS AND PACKAGING; AND

3 (g) A PRODUCER RESPONSIBILITY PROGRAM IN COLORADO WOULD:

4 (I) ESTABLISH A CENTRALIZED SYSTEM FOR MANAGING RECYCLING
5 IN THE STATE THAT IS FUNDED THROUGH ANNUAL PRODUCER
6 RESPONSIBILITY DUES PAID BY THE PRODUCERS OF COVERED MATERIALS;

7 (II) ESTABLISH A CLEAR AND UNIFORM STATEWIDE LIST OF
8 READILY RECYCLABLE MATERIALS;

9 (III) PROVIDE A SUSTAINABLE FUNDING MECHANISM FOR
10 RECYCLING SERVICES AND RECYCLING INFRASTRUCTURE ACROSS ALL
11 AREAS OF COLORADO;

12 (IV) PROMOTE THE INCREASED USE OF READILY RECYCLABLE
13 MATERIALS IN NEW PRODUCTS AND PACKAGING;

14 (V) ENCOURAGE PRODUCERS TO DESIGN AND MANAGE COVERED
15 MATERIALS TO PREVENT OR MINIMIZE THEIR NEGATIVE ENVIRONMENTAL,
16 SOCIAL, ECONOMIC, AND HEALTH IMPACTS;

17 (VI) BE MANAGED BY AN INDEPENDENT NONPROFIT ORGANIZATION
18 THAT CONSULTS WITH AN ADVISORY BOARD OF RECYCLING EXPERTS AND
19 WOULD BE OVERSEEN BY THE DEPARTMENT;

20 (VII) INVEST IN RECYCLING END-MARKET DEVELOPMENT AND
21 INNOVATIONS THAT COULD ATTRACT NEW BUSINESSES TO COLORADO AND
22 CREATE A MORE RESILIENT DOMESTIC SUPPLY CHAIN; AND


23 (VIII) LEVERAGE EXISTING RECYCLING SYSTEMS AND
24 INFRASTRUCTURE BY WORKING WITH BOTH PUBLIC AND PRIVATE SERVICE
25 PROVIDERS.

26 (2) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT IT IS IN
27 THE PUBLIC INTEREST OF COLORADO TO REQUIRE PRODUCERS TO FINANCE

1 A PRODUCER RESPONSIBILITY PROGRAM THAT PROVIDES STATEWIDE
2 RECYCLING SERVICES FOR COVERED MATERIALS.

3 **25-17-603. Definitions.** AS USED IN THIS PART 6, UNLESS THE
4 CONTEXT OTHERWISE REQUIRES:

5 (1) "ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION"
6 MEANS A NONPROFIT ORGANIZATION DESIGNATED BY THE DEPARTMENT AS
7 AN ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION PURSUANT TO
8 SECTION 25-17-608 (2)(b).

9 
10 (2) "ADVISORY BOARD" MEANS THE PRODUCER RESPONSIBILITY
11 PROGRAM FOR STATEWIDE RECYCLING ADVISORY BOARD CREATED IN
12 SECTION 25-17-604 (1).

13 (3) "AMENDED PLAN PROPOSAL" MEANS AN AMENDED PLAN
14 PROPOSAL FOR THE IMPLEMENTATION OF THE PROGRAM SUBMITTED TO
15 THE ADVISORY BOARD AFTER THE ADVISORY BOARD'S INITIAL REVIEW OF
16 THE PLAN PROPOSAL IN ACCORDANCE WITH SECTION 25-17-605 (5).

17 (4) "COLLECTION" MEANS THE GATHERING AND TRANSPORTATION
18 OF COVERED MATERIALS FROM COVERED ENTITIES FOR THE PURPOSE OF
19 RECYCLING.

20 (5) "COLLECTION RATE" MEANS THE WEIGHT OF COVERED
21 MATERIALS THAT ARE COLLECTED UNDER THE PROGRAM IN A CALENDAR
22 YEAR DIVIDED BY THE WEIGHT OF COVERED MATERIALS USED FOR
23 PRODUCTS SOLD OR DISTRIBUTED BY PRODUCERS WITHIN OR INTO THE
24 STATE IN THE SAME CALENDAR YEAR, EXPRESSED AS A PERCENTAGE.

25 (6) "COMMISSION" MEANS THE SOLID AND HAZARDOUS WASTE
26 COMMISSION CREATED UNDER SECTION 25-15-302 (1)(a).

27 (7) "COMPOST" MEANS THE MATERIAL OR PRODUCT THAT IS

1 DEVELOPED UNDER CONTROLLED CONDITIONS AND THAT RESULTS FROM
2 BIOLOGICAL DEGRADATION PROCESSES BY WHICH ORGANIC WASTES
3 DECOMPOSE.

4 (8) (a) "COMPOST FACILITY" MEANS A SITE WHERE COMPOST IS
5 PRODUCED.

6 (b) "COMPOST FACILITY" INCLUDES ONLY THOSE COMPOST
7 FACILITIES THAT READILY ACCEPT AND PROCESS PACKAGING MATERIAL
8 COLLECTED FROM CONSUMERS.

9 (9) "COMPOSTABLE" MEANS A COVERED MATERIAL ASSOCIATED
10 WITH ORGANIC WASTE STREAMS THAT IS CAPABLE OF UNDERGOING
11 AEROBIC BIOLOGICAL DECOMPOSITION IN A CONTROLLED COMPOSTING
12 SYSTEM AS DEMONSTRATED BY MEETING ASTM D6400 OR ASTM D6868,
13 OR ANY SUCCESSOR STANDARDS.

14 (10) "CONSUMER" MEANS ANY PERSON WHO PURCHASES OR
15 RECEIVES COVERED MATERIALS IN THE STATE AND IS LOCATED AT A
16 COVERED ENTITY.

17 (11) "CONVENIENCE STANDARDS" MEANS THE STANDARDS FOR
18 THE PROGRAM AS DESCRIBED IN SECTION 25-17-606 (3).

19 (12) "COVERED ENTITY" MEANS THE FOLLOWING LOCATIONS IN
20 THE STATE FROM WHICH COVERED MATERIALS ARE COLLECTED:

21 (a) ALL SINGLE-FAMILY OR MULTIFAMILY RESIDENCES IN THE
22 STATE; AND

23 (b) NONRESIDENTIAL LOCATIONS IDENTIFIED IN THE FINAL PLAN,
24 INCLUDING PUBLIC PLACES; SMALL BUSINESSES; SCHOOLS, AS DEFINED IN
25 SECTION 22-1-132 (2)(c); HOSPITALITY LOCATIONS; AND STATE AND
26 LOCAL GOVERNMENT BUILDINGS.

27 (13) (a) "COVERED MATERIALS" INCLUDES:

1 (I) PACKAGING MATERIAL, EXCEPT AS SPECIFIED IN SUBSECTION
2 (13)(b) OF THIS SECTION; AND

3 (II) PAPER PRODUCTS, EXCEPT AS SPECIFIED IN SUBSECTION (13)(b)
4 OF THIS SECTION.

5 (b) "COVERED MATERIALS" DOES NOT INCLUDE:

6 (I) PACKAGING MATERIALS INTENDED TO BE USED FOR THE
7 LONG-TERM STORAGE OR PROTECTION OF A DURABLE PRODUCT AND THAT
8 ARE INTENDED TO TRANSPORT, PROTECT, OR STORE THE PRODUCT FOR AT
9 LEAST FIVE YEARS;

10 (II) PAPER PRODUCTS THAT, THROUGH THEIR USE, COULD BECOME
11 UNSAFE OR UNSANITARY TO HANDLE;

12 (III) PRINTED PAPER USED TO DISTRIBUTE FINANCIAL STATEMENTS,
13 BILLING STATEMENTS, MEDICAL DOCUMENTS, OR OTHER VITAL
14 DOCUMENTS REQUIRED TO BE PROVIDED IN PAPER FORM BY APPLICABLE
15 CONSUMER PROTECTIONS LAWS OR OTHER STATE OR FEDERAL LAWS;

16 (IV) BOUND BOOKS;

17 (V) BEVERAGE CONTAINERS SUBJECT TO A RETURNABLE
18 CONTAINER DEPOSIT, IF APPLICABLE;

19 (VI) PACKAGING MATERIAL USED EXCLUSIVELY IN INDUSTRIAL OR
20 MANUFACTURING PROCESSES;

21 (VII) PACKAGING MATERIAL USED TO CONTAIN A PRODUCT THAT
22 IS REGULATED AS A DRUG, MEDICAL DEVICE, OR DIETARY SUPPLEMENT BY
23 THE FEDERAL FOOD AND DRUG ADMINISTRATION UNDER THE "FEDERAL
24 FOOD, DRUG, AND COSMETIC ACT", 21 U.S.C. SEC. 301 ET SEQ., AS
25 AMENDED, OR ANY FEDERAL REGULATION PROMULGATED UNDER THE ACT,
26 OR ANY EQUIPMENT AND MATERIALS USED TO MANUFACTURE SUCH
27 PRODUCTS;

1 (VIII) PACKAGING MATERIAL USED TO CONTAIN A PRODUCT THAT
2 IS REGULATED AS ANIMAL BIOLOGICS, INCLUDING VACCINES, BACTERINS,
3 ANTISERA, DIAGNOSTIC KITS, AND OTHER PRODUCTS OF BIOLOGICAL
4 ORIGIN UNDER THE FEDERAL "VIRUS-SERUM-TOXIN ACT", 21 U.S.C. SEC.
5 151 ET SEQ., AS AMENDED;

6 (IX) PACKAGING MATERIAL USED TO CONTAIN A PRODUCT THAT
7 IS REGULATED UNDER THE "FEDERAL INSECTICIDE, FUNGICIDE, AND
8 RODENTICIDE ACT", 7 U.S.C. SEC. 136 ET SEQ., AS AMENDED;

9 (X) PACKAGING MATERIAL USED TO CONTAIN ARCHITECTURAL
10 PAINT COVERED UNDER A PAINT STEWARDSHIP PROGRAM IN ACCORDANCE
11 WITH PART 4 OF THIS ARTICLE 17;

12 (XI) PACKAGING MATERIAL USED TO CONTAIN A PRODUCT THAT
13 IS REQUIRED UNDER STATE LAW TO BE SOLD IN PACKAGING MATERIAL
14 THAT MEETS THE STANDARDS SET FORTH IN THE "POISON PREVENTION
15 PACKAGING ACT OF 1970", 15 U.S.C. SEC. 1471 ET SEQ., AS AMENDED.

16 (XII) PACKAGING MATERIAL USED TO CONTAIN A PORTABLE
17 ELECTRONIC DEVICE, AS DEFINED IN SECTION 10-4-1501, THAT HAS BEEN
18 REPAIRED AND RECONDITIONED TO BE SOLD AS A REFURBISHED PRODUCT;

19 (XIII) PAPER PRODUCTS USED FOR A PRINT PUBLICATION THAT
20 PRIMARILY INCLUDES CONTENT DERIVED FROM PRIMARY SOURCES
21 RELATED TO NEWS AND CURRENT EVENTS;

22 (XIV) PACKAGING MATERIAL USED TO CONTAIN A PRODUCT THAT
23 IS REGULATED AS INFANT FORMULA, AS DEFINED IN 21 U.S.C. SEC. 321 (z),
24 AS A MEDICAL FOOD, AS DEFINED IN 21 U.S.C. SEC. 360ee (b)(3), OR AS
25 FORTIFIED NUTRITIONAL SUPPLEMENTS USED FOR INDIVIDUALS WHO
26 REQUIRE SUPPLEMENTAL OR SOLE SOURCE NUTRITION TO MEET
27 NUTRITIONAL NEEDS DUE TO SPECIAL DIETARY NEEDS DIRECTLY RELATED

1 TO CANCER, CHRONIC KIDNEY DISEASE, DIABETES, MALNUTRITION, OR
2 FAILURE TO THRIVE, AS THOSE TERMS ARE DEFINED BY THE WORLD
3 HEALTH ORGANIZATION'S "INTERNATIONAL CLASSIFICATION OF
4 DISEASES" (TENTH REVISION), AS AMENDED OR REVISED, OR ANY OTHER
5 MEDICAL CONDITIONS AS DETERMINED BY THE COMMISSION BY RULE; AND

6 (XV) ANY OTHER MATERIAL THAT, BASED ON AN ANALYSIS BY THE
7 ORGANIZATION OF THE OPERATIONAL AND FINANCIAL IMPACTS OF THE
8 PROPOSED CHANGES AND AFTER CONSULTATION WITH THE ADVISORY
9 BOARD, THE COMMISSION DETERMINES BY RULE TO NOT BE A COVERED
10 MATERIAL.

11 (14) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
12 AND ENVIRONMENT CREATED IN SECTION 24-1-119.

13 (15) "ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES"
14 MEANS POLICIES THAT ENSURE COMPLIANCE WITH ALL APPLICABLE
15 ENVIRONMENTAL LAWS, INCLUDING LAWS ADDRESSING:

- 16 (a) RECORD KEEPING;
- 17 (b) TRACKING AND DOCUMENTING THE DISPOSITION OF COVERED
18 MATERIALS COLLECTED FROM COVERED ENTITIES; AND
- 19 (c) ENVIRONMENTAL LIABILITY COVERAGE FOR PROFESSIONAL
20 SERVICES AND CONTRACTOR OPERATIONS.

21 (16) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
22 THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

23 (17) "FINAL PLAN" MEANS THE PLAN PROPOSAL OR AMENDED PLAN
24 PROPOSAL THAT HAS BEEN DESIGNATED AS THE FINAL PLAN BY THE
25 EXECUTIVE DIRECTOR PURSUANT TO SECTION 25-17-605 (5)(c)(I).

26 (18) "FRONT RANGE" MEANS THE COUNTIES OF ADAMS,
27 ARAPAHOE, BOULDER, DOUGLAS, ELBERT, EL PASO, JEFFERSON,

1 LARIMER, PUEBLO, TELLER, AND WELD AND THE CITIES AND COUNTIES OF
2 BROOMFIELD AND DENVER.

3
4 (19) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY
5 COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

6 (20) "MATERIALS RECOVERY FACILITY" MEANS A FACILITY FOR
7 PROCESSING COVERED MATERIALS THAT ARE COLLECTED FOR RECYCLING
8 BEFORE THEY ARE CONVEYED TO END-MARKET BUSINESSES, AS DEFINED
9 IN SECTION 25-16.5-112 (4)(a).

10 (21) "MECHANICAL RECYCLING" MEANS A FORM OF RECYCLING
11 THAT DOES NOT CHANGE THE BASIC MOLECULAR STRUCTURE OF THE
12 MATERIAL BEING RECYCLED.

13 (22) "MINIMUM RECYCLABLE LIST" MEANS THE LIST OF COVERED
14 MATERIALS DEVELOPED UNDER SECTION 25-17-606 (1)(a).

15 (23) "NEEDS ASSESSMENT" MEANS THE ASSESSMENT OF THE
16 STATE'S RECYCLING NEEDS CONDUCTED PURSUANT TO SECTION 25-17-605
17 (3).

18 (24) "NONPROFIT ORGANIZATION" MEANS A TAX-EXEMPT
19 CHARITABLE OR SOCIAL WELFARE ORGANIZATION OPERATING UNDER 26
20 U.S.C. 501 (c)(3) OR 501 (c)(4) OF THE FEDERAL "INTERNAL REVENUE
21 CODE OF 1986", AS AMENDED.

22 (25) (a) (I) "PACKAGING MATERIAL" MEANS ANY MATERIAL,
23 REGARDLESS OF RECYCLABILITY, THAT IS INTENDED FOR SINGLE OR
24 SHORT-TERM USE AND IS USED FOR THE CONTAINMENT, PROTECTION,
25 HANDLING, OR DELIVERY OF PRODUCTS TO THE CONSUMER AT THE POINT
26 OF SALE, INCLUDING THROUGH AN INTERNET TRANSACTION.

27 (II) "PACKAGING MATERIAL" INCLUDES PRODUCTS SUPPLIED TO OR

1 PURCHASED BY CONSUMERS FOR THE EXPRESS PURPOSE OF FACILITATING
2 FOOD OR BEVERAGE CONSUMPTION AND THAT ARE:

3 (A) ORDINARILY DISPOSED OF AFTER A SINGLE OR SHORT-TERM
4 USE; AND

5 (B) NOT DESIGNED FOR REUSE OR REFILL.

6 (III) "PACKAGING MATERIAL" INCLUDES PAPER, PLASTIC, GLASS,
7 METAL, CARTONS, FLEXIBLE FOAM, RIGID PACKAGING, OR OTHER
8 MATERIALS OR COMBINATION OF THESE MATERIALS.

9 (b) "PACKAGING MATERIAL" DOES NOT INCLUDE:

10 (I) PACKAGING MATERIALS USED SOLELY IN TRANSPORTATION OR
11 DISTRIBUTION TO NONCONSUMERS;

12 (II) PACKAGING MATERIALS USED SOLELY IN
13 BUSINESS-TO-BUSINESS TRANSACTIONS WHERE A COVERED MATERIAL IS
14 NOT INTENDED TO BE DISTRIBUTED TO THE END CONSUMER;

15 (III) PACKAGING MATERIALS THAT ARE NOT SOLD OR DISTRIBUTED
16 TO COVERED ENTITIES; OR

17 (IV) PACKAGING MATERIALS THAT ARE USED FOR PRODUCTS
18 SOLD OR DISTRIBUTED OUTSIDE THE STATE.

19 (26) "PAPER PRODUCTS" MEANS PAPER AND OTHER CELLULOSIC
20 FIBERS, WHETHER OR NOT THEY ARE USED AS A MEDIUM FOR TEXT OR
21 IMAGES, INCLUDING:

22 (a) FLYERS;

23 (b) BROCHURES;

24 (c) BOOKLETS;

25 (d) CATALOGS;

26 (e) TELEPHONE DIRECTORIES;

27 (f) NEWSPAPERS;

1 (g) MAGAZINES; AND

2 (h) PAPER USED FOR WRITING OR ANY OTHER PURPOSE.

3 (27) "PLAN PROPOSAL" MEANS THE PLAN PROPOSAL FOR THE
4 IMPLEMENTATION OF THE PROGRAM SUBMITTED TO THE ADVISORY BOARD
5 IN ACCORDANCE WITH SECTION 25-17-605 (4).

6 (28) "POSTCONSUMER-RECYCLED-CONTENT RATE" MEANS THE
7 AMOUNT OF POSTCONSUMER RECYCLED MATERIALS USED IN THE
8 PRODUCTION OF COVERED MATERIALS IN A CALENDAR YEAR DIVIDED BY
9 THE AMOUNT OF COVERED MATERIALS USED FOR PRODUCTS SOLD OR
10 DISTRIBUTED BY PRODUCERS WITHIN OR INTO THEIR UNITED STATES
11 MARKET TERRITORY IN THE SAME CALENDAR YEAR, EXPRESSED AS A
12 PERCENTAGE.

13 (29) (a) "POSTCONSUMER RECYCLED MATERIAL" MEANS ONLY
14 THOSE COVERED MATERIALS THAT HAVE SERVED THEIR INTENDED END USE
15 AS CONSUMER ITEMS AND THAT HAVE BEEN SEPARATED OR DIVERTED
16 FROM THE WASTE STREAM FOR THE PURPOSES OF COLLECTION AND
17 RECYCLING AS A SECONDARY MATERIAL FEEDSTOCK.

18 (b) "POSTCONSUMER RECYCLED MATERIAL" INCLUDES RETURNS OF
19 MATERIAL FROM THE DISTRIBUTION CHAIN.

20 (c) "POSTCONSUMER RECYCLED MATERIAL" DOES NOT INCLUDE
21 WASTE MATERIAL GENERATED DURING OR AFTER THE COMPLETION OF A
22 MANUFACTURING PROCESS.

23 (30) "PRODUCER" MEANS:

24 (a) (I) IF THE PRODUCT IS SOLD OR DISTRIBUTED IN THE STATE
25 USING PACKAGING MATERIALS UNDER THE MANUFACTURER'S OWN BRAND
26 OR IS SOLD OR DISTRIBUTED IN THE STATE USING PACKAGING MATERIALS
27 THAT LACK IDENTIFICATION OF A BRAND, THE PERSON THAT

1 MANUFACTURES THE PRODUCT; OR

2 (II) IF THE PRODUCT IS MANUFACTURED BY A PERSON OTHER THAN

3 THE BRAND OWNER, THE PERSON THAT IS THE LICENSEE OF A BRAND OR

4 TRADEMARK UNDER WHICH A PACKAGED ITEM IS SOLD OR DISTRIBUTED IN

5 THE STATE, WHETHER OR NOT THE TRADEMARK IS REGISTERED IN THE

6 STATE;

7 (b) FOR THE PURPOSES OF PRODUCTS THAT ARE SOLD OR

8 DISTRIBUTED IN THE STATE THROUGH AN INTERNET TRANSACTION:

9 (I) THE PRODUCER OF THE PACKAGING MATERIAL USED TO

10 DIRECTLY PROTECT OR CONTAIN THE PRODUCT; AND

11 (II) FOR THE PURPOSES OF PACKAGING MATERIAL USED TO SHIP A

12 PRODUCT TO A CONSUMER, THE PERSON THAT PACKAGES OR SHIPS THE

13 PRODUCT TO THE CONSUMER;

14 (c) FOR THE PURPOSES OF A PAPER PRODUCT THAT IS A MAGAZINE,

15 NEWSPAPER, CATALOG, TELEPHONE DIRECTORY, OR SIMILAR PUBLICATION,

16 THE PUBLISHER OF THE PAPER PRODUCT;

17 (d) FOR THE PURPOSES OF PAPER PRODUCTS NOT DESCRIBED IN

18 SUBSECTION (30)(c) OF THIS SECTION:

19 (I) THE PERSON THAT MANUFACTURES THE PAPER PRODUCT UNDER

20 THE MANUFACTURER'S OWN BRAND; OR

21 (II) IF THE PAPER PRODUCT IS MANUFACTURED BY A PERSON OTHER

22 THAN THE BRAND OWNER, THE PERSON THAT IS THE OWNER OR LICENSEE

23 OF THE BRAND OR TRADEMARK UNDER WHICH THE PAPER PRODUCT IS USED

24 IN A COMMERCIAL ENTERPRISE, SOLD, OR DISTRIBUTED IN OR INTO THE

25 STATE, WHETHER OR NOT THE TRADEMARK IS REGISTERED IN THE STATE;

26 OR

27 (e) FOR ANY OTHER COVERED MATERIAL, THE PERSON THAT FIRST

1 DISTRIBUTES THE COVERED MATERIAL IN OR INTO THE STATE.

2 (31) "PRODUCER RESPONSIBILITY DUES" MEANS THE AMOUNTS
3 ESTABLISHED IN SECTION 25-17-605 (4)(h)(II) THAT A PRODUCER
4 PARTICIPATING IN THE PROGRAM PAYS ANNUALLY INTO THE PROGRAM
5 PURSUANT TO SECTION 25-17-609 (1).

6 (32) "PRODUCER RESPONSIBILITY ORGANIZATION" OR
7 "ORGANIZATION" MEANS THE NONPROFIT ORGANIZATION DESIGNATED TO
8 IMPLEMENT THE PROGRAM PURSUANT TO SECTION 25-17-605 (1)(b)(II).

9 (33) "PRODUCER RESPONSIBILITY PROGRAM FOR STATEWIDE
10 RECYCLING" OR "PROGRAM" MEANS THE PRODUCER RESPONSIBILITY
11 PROGRAM FOR STATEWIDE RECYCLING CREATED IN ACCORDANCE WITH
12 SECTION 25-17-605.

13 (34) "PROPRIETARY INFORMATION" MEANS INFORMATION THAT, IF
14 MADE PUBLIC:

15 (a) WOULD DIVULGE COMPETITIVE BUSINESS INFORMATION OR
16 TRADE SECRETS OF THE ENTITY THAT DEVELOPED THE INFORMATION; OR

17 (b) WOULD REASONABLY HINDER THE ENTITY'S COMPETITIVE
18 ADVANTAGE IN THE MARKET.

19 (35) (a) "PUBLIC PLACE" MEANS AN INDOOR OR OUTDOOR
20 LOCATION IN THE STATE THAT IS OPEN TO AND GENERALLY USED BY THE
21 PUBLIC.

22 (b) "PUBLIC PLACE" INCLUDES STREETS; SIDEWALKS; PLAZAS;
23 TOWN SQUARES; STATE-OWNED OR LOCAL-GOVERNMENT-OWNED PARKS,
24 BEACHES, AND FORESTS; OTHER STATE-OWNED OR
25 LOCAL-GOVERNMENT-OWNED LAND OPEN FOR RECREATION OR OTHER
26 PUBLIC USES; AND TRANSPORTATION FACILITIES, INCLUDING BUS AND
27 TRAIN STATIONS AND AIRPORTS.

1 (c) "PUBLIC PLACE" DOES NOT INCLUDE INDUSTRIAL, COMMERCIAL,
2 OR PRIVATELY OWNED PROPERTY.

3 (36) "READILY RECYCLABLE MATERIAL" MEANS A COVERED
4 MATERIAL THAT IS INCLUDED ON THE MINIMUM RECYCLABLE LIST.

5 (37) (a) "RECYCLING" MEANS THE REPROCESSING, BY MEANS OF A
6 MANUFACTURING PROCESS, OF A USED MATERIAL INTO A PRODUCT OR A
7 SECONDARY RAW MATERIAL.

8 (b) "RECYCLING" DOES NOT INCLUDE:

9 (I) ENERGY RECOVERY OR ENERGY GENERATION BY MEANS OF
10 COMBUSTION;

11 (II) USE AS A FUEL;

12 (III) USE AS ALTERNATIVE DAILY COVER AS DEFINED IN SECTION
13 30-20-1402 (1); OR

14 (IV) LANDFILL DISPOSAL OF DISCARDED COVERED MATERIALS.

15 (38) (a) "RECYCLING RATE" MEANS THE WEIGHT OF COVERED
16 MATERIALS THAT ARE RECYCLED UNDER THE PROGRAM IN A CALENDAR
17 YEAR DIVIDED BY THE WEIGHT OF COVERED MATERIALS USED FOR
18 PRODUCTS SOLD OR DISTRIBUTED BY PRODUCERS WITHIN OR INTO THE
19 STATE IN THE SAME CALENDAR YEAR, EXPRESSED AS A PERCENTAGE.

20 (b) THE RECYCLING RATE IS MEASURED AT THE POINT WHERE
21 COLLECTED COVERED MATERIALS HAVE BEEN PREPARED FOR SALE OR
22 DELIVERY TO MATERIAL RECLAIMERS OR END MARKETS AFTER PROCESSING
23 AT A MATERIALS RECOVERY FACILITY OR SIMILAR ESTABLISHMENT THAT
24 SELLS DIRECTLY TO RECLAIMERS OR END MARKETS.

25 (39) (a) "RECYCLING SERVICES" MEANS SERVICES PROVIDED
26 FOR THE RECYCLING OF COVERED MATERIALS, INCLUDING THE
27 COLLECTION, TRANSPORTATION, AND PROCESSING OF COVERED MATERIALS

1 FROM THE CONSUMER TO THE END MARKET.

2 (b) "RECYCLING SERVICES" INCLUDES CURBSIDE SERVICES AND
3 DROP-OFF CENTERS.

4

5 (40) "RECYCLING SERVICES COSTS" MEANS THE COSTS OF
6 RECYCLING PROGRAMS TO PROVIDE RECYCLING SERVICES, INCLUDING
7 APPLICABLE COSTS RELATED TO:

8 (a) THE ADMINISTRATION OF RECYCLING PROGRAMS;

9 (b) CAPITAL IMPROVEMENTS TO RECYCLING PROGRAMS;

10 (c) THE COLLECTION, TRANSPORTATION, SORTING, AND
11 PROCESSING OF COVERED MATERIALS;

12 (d) PUBLIC EDUCATION ABOUT RECYCLING PROGRAMS; AND

13 (e) DISPOSAL OF NONRECYCLABLE COLLECTED COVERED
14 MATERIALS.

15 (41) "RESPONSIBLE END MARKET" MEANS A MATERIALS MARKET
16 IN WHICH THE RECYCLING OF MATERIALS OR THE DISPOSAL OF
17 CONTAMINANTS IS CONDUCTED IN A WAY THAT:

18 (a) BENEFITS THE ENVIRONMENT; AND

19 (b) MINIMIZES RISKS TO PUBLIC HEALTH AND WORKER HEALTH
20 AND SAFETY.

21 (42) "RETAILER" MEANS A PERSON THAT SELLS TO CONSUMERS
22 WITHIN OR INTO THE STATE, INCLUDING SALES MADE THROUGH AN
23 INTERNET TRANSACTION, PRODUCTS FOR WHICH COVERED MATERIALS ARE
24 USED.

25 (43) "REUSE" OR "REFILL" MEANS THE RETURN INTO THE
26 MARKETPLACE OF A COVERED MATERIAL THAT:

27 (a) HAS ALREADY BEEN USED IN THE SAME MANNER AS

1 ORIGINALLY INTENDED WITHOUT A CHANGE IN THE COVERED MATERIAL'S
2 PURPOSE; AND

3 (b) WAS INTENDED TO BE USED FOR ITS ORIGINAL PURPOSE AT
4 LEAST FIVE TIMES.

5 (44) "SERVICE PROVIDER" MEANS A PUBLIC OR PRIVATE ENTITY,
6 OTHER THAN THE PRODUCER RESPONSIBILITY ORGANIZATION, THAT
7 PROVIDES RECYCLING SERVICES IN THE STATE.

8 **25-17-604. Producer responsibility program for statewide**
9 **recycling advisory board - creation - membership.** (1) THE PRODUCER
10 RESPONSIBILITY PROGRAM FOR STATEWIDE RECYCLING ADVISORY BOARD
11 IS HEREBY CREATED IN THE DEPARTMENT. THE DEPARTMENT MAY SELECT
12 AN IMPARTIAL, THIRD-PARTY FACILITATOR TO CONVENE AND PROVIDE
13 ADMINISTRATIVE SUPPORT TO THE ADVISORY BOARD.

14 (2) (a) THE ADVISORY BOARD CONSISTS OF THE FOLLOWING
15 THIRTEEN VOTING MEMBERS AND TWO NONVOTING MEMBERS APPOINTED
16 BY THE EXECUTIVE DIRECTOR:

17 (I) THREE VOTING MEMBERS REPRESENTING LOCAL GOVERNMENTS
18 IN THE STATE, INCLUDING:

19 (A) ONE MEMBER REPRESENTING A MUNICIPALITY OR CITY AND
20 COUNTY;

21 (B) ONE MEMBER REPRESENTING A COUNTY; AND

22 (C) ONE MEMBER REPRESENTING A LOCAL GOVERNMENT NOT
23 LOCATED IN THE FRONT RANGE;

24 (II) ONE VOTING MEMBER REPRESENTING A MATERIALS RECOVERY
25 FACILITY;

26 (III) ONE VOTING MEMBER REPRESENTING A HAULER OF
27 RECYCLABLE MATERIALS, WHETHER REPRESENTING THE PUBLIC OR

- 1 PRIVATE SECTOR;
- 2 (IV) ONE VOTING MEMBER REPRESENTING AN ENVIRONMENTAL OR
3 COMMUNITY-BASED NONPROFIT ORGANIZATION;
- 4 (V) ONE VOTING MEMBER REPRESENTING A PACKAGING MATERIAL
5 SUPPLIER THAT IS NOT A PRODUCER, WITH THE MEMBER ROTATING TO A
6 PACKAGING MATERIAL SUPPLIER OF A DIFFERENT TYPE OF PACKAGING
7 MATERIAL AFTER EACH NEW TERM;
- 8 (VI) ONE VOTING MEMBER REPRESENTING A MANUFACTURER OF
9 RECYCLED PAPER PRODUCTS THAT IS NOT A PRODUCER;
- 10 (VII) ONE VOTING MEMBER REPRESENTING A TRADE ASSOCIATION,
11 CHAMBER OF COMMERCE, OR OTHER BUSINESS ADVOCACY ORGANIZATION
12 REPRESENTING BUSINESSES THAT ARE HEADQUARTERED IN THE STATE;
- 13 (VIII) ONE VOTING MEMBER REPRESENTING A RETAILER'S
14 ASSOCIATION OR A RETAILER THAT IS NOT A PRODUCER;
- 15 (IX) ONE VOTING MEMBER REPRESENTING A COMPOST FACILITY;
- 16 (X) ONE VOTING MEMBER WHO HAS EXPERIENCE IN
17 ENVIRONMENTAL JUSTICE AND REPRESENTING UNDERSERVED
18 COMMUNITIES;
- 19 (XI) ONE VOTING MEMBER REPRESENTING A SOLID WASTE
20 LANDFILL OR TRANSFER STATION OPERATING AN ON-SITE, PUBLIC-FACING
21 RECYCLING COLLECTION PROGRAM;
- 22 (XII) ONE NONVOTING MEMBER REPRESENTING THE DEPARTMENT;
23 AND
- 24 (XIII) ONE NONVOTING MEMBER REPRESENTING THE PRODUCER
25 RESPONSIBILITY ORGANIZATION.
- 26 (b) (I) THE MEMBERS OF THE ADVISORY BOARD MUST HAVE
27 RELEVANT KNOWLEDGE AND EXPERTISE IN RECYCLING PROGRAMS OR THE

1 IMPACTS OF COVERED MATERIALS ON THE STATE AND THE ENVIRONMENT.

2 (II) IN APPOINTING MEMBERS, THE EXECUTIVE DIRECTOR SHALL
3 ENSURE TO THE EXTENT POSSIBLE THE GEOGRAPHIC DIVERSITY OF THE
4 ADVISORY BOARD'S MEMBERSHIP, INCLUDING REGIONS OUTSIDE OF THE
5 FRONT RANGE.

6 (3) THE EXECUTIVE DIRECTOR SHALL MAKE ALL APPOINTMENTS TO
7 THE ADVISORY BOARD NO LATER THAN DECEMBER 31, 2022. THE
8 APPOINTMENTS FOR INITIAL TERMS TO THE ADVISORY BOARD SHALL BE
9 STAGGERED SO THAT SOME OF THE MEMBERS SERVE INITIAL TWO-YEAR
10 TERMS AND OTHER MEMBERS SERVE INITIAL THREE-YEAR TERMS, AND ALL
11 MEMBERS SERVE SUBSEQUENT TERMS OF THREE YEARS. THE EXECUTIVE
12 DIRECTOR SHALL FILL ANY VACANCY BY APPOINTMENT FOR THE
13 REMAINDER OF THE UNEXPIRED TERM.

14 (4) THE ADVISORY BOARD SHALL CONVENE ITS FIRST MEETING NO
15 LATER THAN MARCH 1, 2023. AT THE FIRST MEETING, THE VOTING
16 MEMBERS SHALL SELECT A CHAIR AND VICE-CHAIR FROM AMONG THE
17 VOTING MEMBERS FOR A TERM NOT TO EXCEED TWO YEARS, AS
18 DETERMINED BY THE ADVISORY BOARD. THE ADVISORY BOARD SHALL
19 CONDUCT ANNUAL MEETINGS AND MAY CONDUCT MEETINGS MORE
20 FREQUENTLY UPON THE REQUEST OF THE CHAIR OR OF AT LEAST SEVEN OF
21 THE VOTING MEMBERS OF THE ADVISORY BOARD. THE ORGANIZATION MAY
22 PROVIDE TECHNICAL AND STAFF ASSISTANCE TO THE ADVISORY BOARD.

23 (5) THE ADVISORY BOARD IS SUBJECT TO THE OPEN MEETINGS
24 PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", CONTAINED IN
25 PART 4 OF ARTICLE 6 OF TITLE 24, AND THE "COLORADO OPEN RECORDS
26 ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

27 (6) ADVISORY BOARD MEMBERS ARE ENTITLED TO BE REIMBURSED

1 AT A RATE CONSISTENT WITH OTHER BOARDS AND COMMISSIONS CREATED
2 WITHIN THE DEPARTMENT FOR NECESSARY TRAVEL AND OTHER
3 REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR
4 OFFICIAL DUTIES.

5 (7) THE ADVISORY BOARD SHALL:

6 (a) ADVISE THE ORGANIZATION THROUGHOUT THE NEEDS
7 ASSESSMENT PROCESS IN ACCORDANCE WITH SECTION 25-17-605 (3)(b);

8 (b) REVIEW THE NEEDS ASSESSMENT REPORTED TO THE ADVISORY
9 BOARD PURSUANT TO SECTION 25-17-605 (3)(c);

10 (c) REVIEW THE PLAN PROPOSAL SUBMITTED UNDER SECTION
11 25-17-605 (4);

12 (d) CONSULT WITH THE ORGANIZATION ON AMENDMENTS TO THE
13 PLAN PROPOSAL AND THE AMENDED PLAN PROPOSAL TO THE
14 ORGANIZATION;

15 (e) RECOMMEND THAT THE EXECUTIVE DIRECTOR APPROVE OR
16 REJECT THE PLAN PROPOSAL OR AMENDED PLAN PROPOSAL;

17 (f) REVIEW THE ANNUAL REPORT SUBMITTED BY THE
18 ORGANIZATION UNDER SECTION 25-17-609 (2)(a); AND

19 (g) CONSULT WITH THE ORGANIZATION ON THE DEVELOPMENT AND
20 UPDATING OF THE MINIMUM RECYCLABLE LIST.

21 (8) IN CONSULTATION WITH THE ORGANIZATION, THE ADVISORY
22 BOARD MAY RECOMMEND AMENDMENTS TO THE FINAL PLAN TO THE
23 EXECUTIVE DIRECTOR FOR INCLUSION IN THE ANNUAL REPORT UNDER
24 SECTION 25-17-609 (2)(c).

25 **25-17-605. Producer responsibility program for statewide**
26 **recycling - needs assessment - plan proposal - rules.** (1) (a) ON OR
27 BEFORE JUNE 1, 2023, PRODUCERS OR THEIR DESIGNATED AGENTS SHALL

1 ESTABLISH A NONPROFIT ORGANIZATION TO FULFILL THE REQUIREMENTS
2 OF THIS PART 6 AND SHALL PROVIDE NOTIFICATION TO THE DEPARTMENT
3 THAT INCLUDES:

4 (I) THE NAME, ADDRESS, AND CONTACT INFORMATION OF A PERSON
5 RESPONSIBLE FOR ENSURING THE COMPLIANCE OF THE NONPROFIT
6 ORGANIZATION AND PARTICIPATING PRODUCERS WITH THIS PART 6;

7 (II) A LIST OF PARTICIPATING PRODUCERS; AND

8 (III) A DESCRIPTION OF THE FUNDING MECHANISM THAT THE
9 NONPROFIT ORGANIZATION WILL USE TO CONDUCT THE NEEDS
10 ASSESSMENT.

11 (b) UPON RECEIPT OF THE NOTIFICATION GIVEN PURSUANT TO
12 SUBSECTION (1)(a) OF THIS SECTION, THE EXECUTIVE DIRECTOR SHALL:

13 (I) ACKNOWLEDGE RECEIPT OF THE NOTIFICATION; AND

14 (II) DESIGNATE THE NONPROFIT ORGANIZATION AS THE PRODUCER
15 RESPONSIBILITY ORGANIZATION TO IMPLEMENT AND ADMINISTER THE
16 PRODUCER RESPONSIBILITY PROGRAM FOR STATEWIDE RECYCLING.

17 (c) THE ORGANIZATION DESIGNATED BY THE EXECUTIVE DIRECTOR
18 PURSUANT TO SUBSECTION (1)(b)(II) OF THIS SECTION MUST HAVE A
19 GOVERNING BOARD WITH VOTING MEMBERS THAT REPRESENT A DIVERSE
20 RANGE OF PRODUCERS BY SIZE AND TYPE AND REPRESENT PRODUCERS OF
21 DIFFERENT TYPES OF COVERED MATERIALS. THE MEMBERS OF THE
22 GOVERNING BOARD SHALL NOT HAVE MORE THAN ONE MEMBER PER
23 CORPORATE ENTITY. THE GOVERNING BOARD OF THE ORGANIZATION
24 SHALL INCLUDE NONVOTING MEMBERS THAT REPRESENT TRADE
25 ASSOCIATIONS FOR TYPES OF COVERED MATERIALS.

26 (2) THE PRODUCER RESPONSIBILITY ORGANIZATION SHALL:

27 (a) FACILITATE A NEEDS ASSESSMENT IN CONSULTATION WITH THE

1 ADVISORY BOARD;

2 (b) CONSULT WITH THE ADVISORY BOARD IN THE DEVELOPMENT
3 OF THE PLAN PROPOSAL PRIOR TO ITS SUBMISSION, INCLUDING IN THE
4 DEVELOPMENT OF THE COST FORMULAS FOR REIMBURSEMENTS TO SERVICE
5 PROVIDERS PURSUANT TO SUBSECTION (3)(a)(III) OF THIS SECTION;

6 (c) SUBMIT A PLAN PROPOSAL IN ACCORDANCE WITH SUBSECTION
7 (4) OF THIS SECTION THAT COVERS A PERIOD OF FIVE YEARS; AND

8 (d) OPERATE AND ADMINISTER THE PROGRAM IN ACCORDANCE
9 WITH THE FINAL PLAN, THE PROVISIONS OF THIS PART 6, AND THE RULES
10 ADOPTED BY THE COMMISSION UNDER THIS PART 6.

11 (3) (a) ON OR BEFORE SEPTEMBER 1, 2023, THE ORGANIZATION
12 SHALL HIRE AN INDEPENDENT THIRD PARTY APPROVED BY THE EXECUTIVE
13 DIRECTOR TO CONDUCT AN ASSESSMENT OF THE STATE'S RECYCLING
14 NEEDS. PRIOR TO THE COMMENCEMENT OF THE NEEDS ASSESSMENT, THE
15 ORGANIZATION SHALL CONSULT WITH THE ADVISORY BOARD ON THE
16 SCOPE OF THE NEEDS ASSESSMENT AND PROVIDE ANY NECESSARY
17 RECOMMENDATIONS TO THE THIRD-PARTY CONSULTANT CONDUCTING THE
18 NEEDS ASSESSMENT. THE NEEDS ASSESSMENT SHALL BE INCLUSIVE OF AND
19 ADDRESS THE NEEDS OF ALL GEOGRAPHIC AREAS OF THE STATE. AT A
20 MINIMUM, THE NEEDS ASSESSMENT MUST IDENTIFY:

21 (I) THE SERVICE AVAILABILITY, CAPACITY, PERFORMANCE, AND
22 GAPS IN RECYCLING SERVICES PROVIDED TO RESIDENTIAL COVERED
23 ENTITIES THROUGHOUT THE STATE AND THE PRICES PAID FOR RECYCLING
24 SERVICES;

25 (II) THE DOCUMENTED RECYCLING SERVICES COSTS INCURRED BY
26 PUBLIC AND PRIVATE SERVICE PROVIDERS TO PROVIDE RECYCLING
27 SERVICES FOR RESIDENTIAL COVERED ENTITIES;

1 (III) DEMOGRAPHIC FACTORS AND OTHER VARIABLES TO BE
2 CONSIDERED IN THE DEVELOPMENT OF REIMBURSEMENT RATES FOR
3 SERVICE PROVIDERS IN ACCORDANCE WITH SUBSECTION (4)(i) OF THIS
4 SECTION;

5 (IV) THE LEVELS OF CONTAMINATION AT MATERIALS RECOVERY
6 FACILITIES AND COMPOST FACILITIES THROUGHOUT THE STATE AND THE
7 IMPACTS OF CONTAMINATION ON THOSE FACILITIES;

8 (V) THE SERVICE AVAILABILITY, GAPS, AND RECYCLING SERVICES
9 COSTS ASSOCIATED WITH PROVIDING RECYCLING SERVICES TO
10 NONRESIDENTIAL COVERED ENTITIES, WITH PARTICULAR ATTENTION TO
11 SMALL BUSINESSES, AND WHICH TYPES AND LOCATIONS OF
12 NONRESIDENTIAL COVERED ENTITIES COULD BE PROVIDED WITH
13 RECYCLING SERVICES THAT WOULD INCREASE STATEWIDE COLLECTION
14 AND RECYCLING RATES IN A COST-EFFECTIVE MANNER;

15 (VI) THE PROCESSING CAPACITY OF EXISTING INFRASTRUCTURE
16 AND THE ADDITIONAL INFRASTRUCTURE NEEDED TO MEET OR EXCEED THE
17 CONVENIENCE STANDARDS, REDUCE CONTAMINATION, AND IMPROVE THE
18 QUALITY OF RECYCLABLE MATERIALS AND THE PROJECTED SCENARIOS FOR
19 INCREASING THE RECYCLING RATE AND COLLECTION RATE OF COVERED
20 MATERIALS, AS IDENTIFIED PURSUANT TO SUBSECTION (3)(a)(XIII) OF THIS
21 SECTION;

22 (VII) AN EVALUATION OF THE OPPORTUNITIES AND COSTS OF
23 VARIOUS SERVICE METHODS TO INCREASE RECYCLING RATES OVERALL FOR
24 SPECIFIC COVERED MATERIAL TYPES;

25 (VIII) A PROPOSED LIST OF COVERED MATERIALS FOR INCLUSION
26 IN THE MINIMUM RECYCLABLE LIST AND ADDITIONAL MATERIALS THAT
27 MAY BE COLLECTED IN DIFFERENT GEOGRAPHIC AREAS THROUGH

1 CURBSIDE SERVICES, DROP-OFF CENTERS, OR OTHER MEANS;

2 (IX) THE MARKET CONDITIONS AND OPPORTUNITIES FOR THE USE
3 OF RECYCLED COVERED MATERIALS IN THE STATE AND IN DIFFERENT
4 GEOGRAPHIC AREAS OF THE STATE, INCLUDING THE TRANSPORTATION
5 GAPS AND OPPORTUNITIES AFFECTING ACCESS TO MARKETS;

6 (X) OPPORTUNITIES FOR THE USE OF INNOVATIVE NEW
7 TECHNOLOGIES, INCLUDING ARTIFICIAL INTELLIGENCE TECHNOLOGIES, FOR
8 THE RECYCLING AND REUSE OF COVERED MATERIALS;

9 (XI) THE AVAILABILITY AND SCOPE OF ANY REUSE OR REFILL
10 SYSTEMS IN THE STATE AFFECTING THE USE OF COVERED MATERIALS;

11 (XII) EDUCATION NEEDS IN THE STATE WITH RESPECT TO THE
12 EDUCATION NEEDS DESCRIBED IN SECTION 25-17-607; AND

13 (XIII) AT LEAST THREE PROJECTED SCENARIOS FOR INCREASING
14 THE RECYCLING RATE AND COLLECTION RATE OF COVERED MATERIALS IN
15 THE STATE, INCLUDING RECYCLING RATES AND COLLECTION RATES THAT
16 THE STATE COULD MEET BY JANUARY 1, 2030, AND JANUARY 1, 2035, AND
17 THE OPERATING AND CAPITAL COSTS NEEDED TO REACH EACH PROJECTED
18 SCENARIO; AND

19 (XIV) THE CAPACITY, COSTS, AND GAPS FOR COMPOST FACILITIES
20 TO PROCESS AND RECOVER COMPOSTABLE MATERIALS.

21 (b) THE ORGANIZATION SHALL CONSULT WITH THE ADVISORY
22 BOARD THROUGHOUT THE NEEDS ASSESSMENT PROCESS AND IN
23 DETERMINING WHICH PROJECTED SCENARIO IDENTIFIED PURSUANT TO
24 SUBSECTION (3)(a)(XIII) OF THIS SECTION TO IMPLEMENT IN ITS PLAN
25 PROPOSAL.

26 (c) ON OR BEFORE APRIL 1, 2024, THE ORGANIZATION SHALL
27 REPORT THE RESULTS OF THE NEEDS ASSESSMENT TO THE ADVISORY

1 BOARD AND THE EXECUTIVE DIRECTOR. THE EXECUTIVE DIRECTOR SHALL
2 POST THE RESULTS OF THE NEEDS ASSESSMENT ON THE DEPARTMENT'S
3 WEBSITE AND PROVIDE PUBLIC NOTICE AND AN OPPORTUNITY TO COMMENT
4 ON THE RESULTS OF THE NEEDS ASSESSMENT.

5 (d) WITHIN SIXTY DAYS AFTER REPORTING THE RESULTS OF THE
6 NEEDS ASSESSMENT PURSUANT TO SUBSECTION (3)(c) OF THIS SECTION,
7 THE ADVISORY BOARD MAY PROVIDE THE ORGANIZATION WITH A
8 RECOMMENDATION OF WHICH PROJECTED SCENARIO IDENTIFIED PURSUANT
9 TO SUBSECTION (3)(a)(XIII) OF THIS SECTION TO IMPLEMENT IN ITS PLAN
10 PROPOSAL.

11 (e) ON OR BEFORE MAY 1, 2029, AND ON OR BEFORE MAY 1 EVERY
12 FIVE YEARS THEREAFTER, THE ORGANIZATION SHALL HIRE AN
13 INDEPENDENT THIRD PARTY APPROVED BY THE EXECUTIVE DIRECTOR TO
14 CONDUCT AN UPDATED ASSESSMENT OF THE STATE'S RECYCLING NEEDS TO
15 REEVALUATE THE PROGRAM AND IDENTIFY ANY RECYCLING SERVICE
16 NEEDS IN THE STATE THAT ARE NOT BEING MET BY THE PROGRAM. IN
17 CONSULTATION WITH THE ADVISORY BOARD, THE ORGANIZATION MAY
18 MODIFY THE SCOPE OF AN UPDATED NEEDS ASSESSMENT BY APRIL 15,
19 2029, AND ON OR BEFORE EVERY APRIL 15 EVERY FIVE YEARS
20 THEREAFTER. THE ORGANIZATION SHALL REPORT THE RESULTS OF THE
21 UPDATED NEEDS ASSESSMENT TO THE EXECUTIVE DIRECTOR IN
22 ACCORDANCE WITH THE REPORTING REQUIREMENTS SET FORTH IN
23 SUBSECTION (3)(c) OF THIS SECTION. THE ORGANIZATION SHALL USE THE
24 FINDINGS OF THE UPDATED NEEDS ASSESSMENT TO CREATE AN UPDATED
25 PLAN PROPOSAL AND SUBMIT THE UPDATED PLAN PROPOSAL TO THE
26 ADVISORY BOARD IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION.
27 IN CONSULTATION WITH THE ADVISORY BOARD AND THE ORGANIZATION,

1 THE EXECUTIVE DIRECTOR MAY WAIVE THE REQUIREMENT TO CONDUCT AN
2 UPDATED NEEDS ASSESSMENT UNDER THIS SUBSECTION (3)(e).

3 (4) ON OR BEFORE FEBRUARY 1, 2025, THE ORGANIZATION SHALL
4 SUBMIT A PLAN PROPOSAL FOR THE PROGRAM TO THE ADVISORY BOARD,
5 THAT, EXCEPT AS SET FORTH IN SUBSECTION (4)(y) OF THIS SECTION, ONLY
6 ADDRESSES RECYCLING SERVICES FOR RESIDENTIAL COVERED ENTITIES.
7 THE PLAN PROPOSAL MUST COVER A PERIOD OF FIVE YEARS, AND AN
8 UPDATED PLAN PROPOSAL MUST BE SUBMITTED TO THE ADVISORY BOARD
9 ON OR BEFORE FEBRUARY 1 EVERY FIVE YEARS THEREAFTER. ANY
10 UPDATED PLAN PROPOSAL MUST ADDRESS RECYCLING SERVICES FOR BOTH
11 RESIDENTIAL AND ANY APPLICABLE NONRESIDENTIAL COVERED ENTITIES,
12 AS IDENTIFIED IN THE NEEDS ASSESSMENT PURSUANT TO SUBSECTION
13 (3)(a)(V) OF THIS SECTION. IN DEVELOPING THE PLAN PROPOSAL AND ANY
14 UPDATED PLAN PROPOSALS, THE ORGANIZATION SHALL SOLICIT AND
15 CONSIDER INPUT FROM THE ADVISORY BOARD AND PROVIDE OPPORTUNITY
16 FOR ADDITIONAL STAKEHOLDER INPUT. TO BE APPROVED, A PLAN
17 PROPOSAL MUST:

18 (a) PROVIDE CONTACT INFORMATION FOR THE ORGANIZATION AND
19 A REPRESENTATIVE OF THE ORGANIZATION;

20 (b) DESCRIBE HOW THE PLAN PROPOSAL WILL ADDRESS AND
21 IMPLEMENT THE FINDINGS OF THE NEEDS ASSESSMENT;

22 (c) DESCRIBE THE MANNER IN WHICH THE ORGANIZATION
23 SOLICITED AND CONSIDERED INPUT FROM STAKEHOLDERS AND THE
24 ADVISORY BOARD IN DEVELOPING THE PLAN PROPOSAL. THE
25 ORGANIZATION MUST PROVIDE A SUMMARY OF ANY COMMENTS ABOUT
26 THE PLAN PROPOSAL FROM THE ADVISORY BOARD AND ADDITIONAL
27 STAKEHOLDERS AND IDENTIFY CHANGES MADE TO THE PLAN PROPOSAL

1 BASED ON THE COMMENTS.

2 (d) DESCRIBE HOW THE ORGANIZATION WILL TRACK COMPLIANCE
3 AMONG PRODUCERS AND WILL COLLABORATE WITH THE EXECUTIVE
4 DIRECTOR TO BRING PRODUCERS INTO COMPLIANCE;

5 (e) INCLUDE A COMPREHENSIVE LIST OF THE COVERED MATERIALS
6 INCLUDED IN THE PROGRAM IN ACCORDANCE WITH THIS PART 6;

7 (f) ESTABLISH RECYCLING PRACTICES THAT:

8 (I) MEET OR EXCEED THE CONVENIENCE STANDARDS;

9 (II) USE OPEN, COMPETITIVE, AND FAIR PROCUREMENT PRACTICES
10 WHEN ENTERING INTO CONTRACTS WITH SERVICE PROVIDERS, AND, WHEN
11 ENTERING INTO CONTRACTS WITH PRIVATE SERVICE PROVIDERS, ADOPT A
12 PREFERENCE FOR SERVICE PROVIDERS WITH STRONG LABOR STANDARDS
13 AND WORKER SAFETY PRACTICES;

14 (III) ENSURE THAT ANY COVERED MATERIALS COLLECTED FOR
15 RECYCLING WILL BE TRANSFERRED TO A RESPONSIBLE END MARKET; AND

16 (IV) USE ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES;

17 (g) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH
18 NEWSPAPER PUBLISHERS AND MAGAZINE AND PERIODICAL PUBLISHERS TO
19 ACCEPT PRINT OR ONLINE ADVERTISING IN LIEU OF ALL OR A PORTION OF
20 THE PRODUCER RESPONSIBILITY DUES FOR NEWSPAPERS CIRCULATED
21 WITHIN THE STATE;

22 (h) ESTABLISH A FUNDING MECHANISM THAT:

23 (I) DOES NOT EXCEED THE DIRECT AND INDIRECT COSTS OF
24 IMPLEMENTING THE PROGRAM, INCLUDING THE COSTS OF:

25 (A) PROVIDING RECYCLING SERVICES UNDER THE PROGRAM
26 THROUGH CONTRACTS WITH SERVICE PROVIDERS OR REIMBURSEMENT OF
27 RECYCLING SERVICES COSTS UNDER THE REIMBURSEMENT RATES

1 PROPOSED PURSUANT TO SUBSECTION (4)(i) OF THIS SECTION;

2 (B) MEETING THE REPORTING REQUIREMENTS SET FORTH IN
3 SECTION 25-17-609 (2);

4 (C) CONDUCTING THE NEEDS ASSESSMENT;

5 (D) DEVELOPING AND UPDATING THE FINAL PLAN; █

6 (E) IMPLEMENTING THE EDUCATION AND OUTREACH PROGRAM SET
7 FORTH IN SECTION 25-17-607;

8 (F) REIMBURSING THE DEPARTMENT PURSUANT TO SECTION
9 25-17-616 FOR ITS COSTS IN ADMINISTERING AND IMPLEMENTING THIS
10 PART 6, INCLUDING THE COSTS OF THE ADVISORY BOARD; AND

11 (G) REIMBURSING THE DEPARTMENT PURSUANT TO SECTION
12 25-17-616 FOR THE COSTS OF ENFORCING THIS PART 6 PURSUANT TO
13 SECTION 25-17-610;

14 (II) IS FUNDED THROUGH PRODUCER RESPONSIBILITY DUES. THE
15 █ PRODUCER RESPONSIBILITY DUES MUST VARY BY THE TYPE OF
16 COVERED MATERIAL, WHETHER OR NOT THE MATERIAL IS READILY
17 RECYCLABLE, AND BE BASED ON THE NET RECYCLING SERVICES COSTS FOR
18 EACH COVERED MATERIAL IN THE STATE.

19 (III) REQUIRES:

20 (A) ANY SURPLUS MONEY GENERATED BY THE PROGRAM TO BE
21 PLACED BACK INTO THE PROGRAM FOR PROGRAM IMPROVEMENTS OR A
22 REDUCTION IN PRODUCER RESPONSIBILITY DUES; AND

23 (B) THE ORGANIZATION TO MAINTAIN A FINANCIAL RESERVE
24 SUFFICIENT TO OPERATE THE PROGRAM IN A FISCALLY PRUDENT AND
25 RESPONSIBLE MANNER;

26 (IV) INCLUDES ECO-MODULATION FACTORS THAT LOWER
27 PRODUCER RESPONSIBILITY DUES TO INCENTIVIZE:

1 (A) REDUCTIONS IN THE AMOUNT OF PACKAGING MATERIALS USED
2 FOR PRODUCTS;

3 (B) INNOVATIONS AND PRACTICES TO ENHANCE THE
4 RECYCLABILITY OR COMMODITY VALUE OF COVERED MATERIALS;

5 (C) HIGH LEVELS OF POSTCONSUMER RECYCLED MATERIAL USE;

6 (D) DESIGNS FOR THE REUSE AND REFILL OF COVERED MATERIALS;

7 AND

8 (E) HIGH RECYCLING AND REFILL RATES OF COVERED MATERIALS;

9 (V) INCLUDES ECO-MODULATION FACTORS THAT INCREASE
10 PRODUCER RESPONSIBILITY DUES TO DISCOURAGE:

11 (A) DESIGNS AND PRACTICES THAT INCREASE THE COSTS OF
12 RECYCLING, REUSING, OR COMPOSTING COVERED MATERIALS;

13 (B) DESIGNS AND PRACTICES THAT DISRUPT THE RECYCLING OF
14 OTHER MATERIALS; AND

15 (C) PRODUCERS FROM USING COVERED MATERIALS THAT ARE NOT
16 ON THE MINIMUM RECYCLABLE LIST; AND

17 (VI) AT THE REQUEST OF A PRODUCER OR PRODUCERS OF A
18 COVERED MATERIAL, MAY INCLUDE A SPECIAL ASSESSMENT PAID BY THE
19 PRODUCERS OF THAT COVERED MATERIAL TO COVER SYSTEM
20 IMPROVEMENTS THAT IMPROVE THE COLLECTION AND RECYCLING OF THAT
21 COVERED MATERIAL OR FACILITATE THE ADDITION OF THE COVERED
22 MATERIAL TO THE LIST OF READILY RECYCLABLE MATERIALS;

23 (i) INCLUDE REIMBURSEMENT RATES FOR ONE HUNDRED PERCENT
24 OF THE NET RECYCLING SERVICES COSTS OF THE RECYCLING SERVICES
25 PROVIDED BY SERVICE PROVIDERS UNDER THE PROGRAM CONSISTENT WITH
26 THE REQUIREMENTS OF SECTION 25-17-606. THE REIMBURSEMENT RATES
27 MUST:

1 (I) BE CALCULATED USING AN OBJECTIVE COST FORMULA OR
2 FORMULAS;

3 (II) INCORPORATE THE RELEVANT COST INFORMATION IDENTIFIED
4 BY THE NEEDS ASSESSMENT PURSUANT TO SUBSECTION (3)(a)(III) OF THIS
5 SECTION;

6 (III) BE CALCULATED ON A PER UNIT BASIS SUCH AS PER TON, PER
7 HOUSEHOLD, OR OTHER UNIT OF MEASUREMENT; AND

8 (IV) TAKE INTO ACCOUNT:

9 (A) REGIONAL RECYCLING SERVICES COSTS;

10 (B) POPULATION DENSITY;

11 (C) THE NUMBER AND TYPES OF HOUSEHOLDS SERVED;

12 (D) THE COLLECTION METHOD USED;

13 (E) THE REVENUE GENERATED FROM COVERED MATERIALS;

14 (F) THE AMOUNT OF INBOUND CONTAMINATION AND OTHER
15 FACTORS AFFECTING THE QUALITY OF COVERED MATERIALS; AND

16 (G) OTHER DEMOGRAPHIC FACTORS IDENTIFIED IN THE NEEDS
17 ASSESSMENT PURSUANT TO SUBSECTION (3)(a)(III) OF THIS SECTION.

18 (j) DESCRIBE THE PROCESS TO EVALUATE AND REVISE THE
19 OBJECTIVE COST FORMULAS AS NECESSARY AND USING DOCUMENTED
20 COSTS. IF THE PLAN PROPOSAL INCLUDES MORE THAN ONE OBJECTIVE COST
21 FORMULA FOR RECYCLING SERVICES, THE PLAN PROPOSAL MUST DESCRIBE
22 THE CONDITIONS UNDER WHICH EACH FORMULA WILL BE APPLIED.

23 (k) INCLUDE A SCHEDULE OF REIMBURSEMENT RATES FOR SERVICE
24 PROVIDERS THAT ELECT TO PARTICIPATE IN THE PROGRAM AND BE
25 REIMBURSED BY THE ORGANIZATION FOR PROVIDING RECYCLING SERVICES
26 FOR THE PROGRAM AND DESCRIBE A PROCESS FOR UPDATING THE
27 SCHEDULE PERIODICALLY AND AS NECESSARY;

1 (l) INCLUDE A PROPOSED BUDGET AND A DESCRIPTION OF THE
2 PROCESS USED TO DETERMINE PRODUCER RESPONSIBILITY DUES,
3 INCLUDING A DE MINIMIS LEVEL IN WHICH NO DUES ARE CHARGED AND AN
4 OPTIONAL FLAT RATE FOR PRODUCERS BELOW A CERTAIN SIZE TO MINIMIZE
5 THE ADMINISTRATIVE AND REPORTING COSTS OF THE PRODUCERS AND THE
6 ORGANIZATION;

7 (m) DESCRIBE A PLAN THAT OUTLINES, IF THE ORGANIZATION
8 CEASES TO EXIST OR CEASES TO ADMINISTER THE PROGRAM, HOW ANY
9 PRODUCER RESPONSIBILITY DUES THAT HAVE NOT BEEN USED TO
10 IMPLEMENT THE PROGRAM WILL BE TRANSFERRED TO ANOTHER
11 ORGANIZATION DESIGNATED BY THE EXECUTIVE DIRECTOR UNDER
12 SUBSECTION (1)(b)(II) OF THIS SECTION TO ADMINISTER THE PROGRAM;

13 (n) INCLUDE THE MINIMUM RECYCLABLE LIST ESTABLISHED IN
14 ACCORDANCE WITH SECTION 25-17-606 (1)(a);

15 (o) SET TARGETS FOR THE MINIMUM COLLECTION RATES, MINIMUM
16 RECYCLING RATES, AND MINIMUM POSTCONSUMER-RECYCLED-CONTENT
17 RATES FOR CERTAIN TYPES OF COVERED MATERIALS, INCLUDING PAPER
18 PRODUCTS, GLASS, METAL, AND PLASTIC, THAT THE STATE WILL STRIVE TO
19 MEET BY JANUARY 1, 2030, AND JANUARY 1, 2035;

20 (p) DESCRIBE HOW THE ORGANIZATION PLANS TO CONTINUE TO
21 INCREASE THE STATE'S MINIMUM COLLECTION RATES, MINIMUM
22 RECYCLING RATES, AND MINIMUM POSTCONSUMER-RECYCLED-CONTENT
23 RATES AFTER JANUARY 1, 2030, AND JANUARY 1, 2035;

24 (q) DESCRIBE HOW THE ORGANIZATION WILL VERIFY MINIMUM
25 POSTCONSUMER-RECYCLED-CONTENT RATES AND HOW
26 POSTCONSUMER-RECYCLED-CONTENT RATES WILL BE CALCULATED USING
27 WEIGHT AND OTHER METRICS, AND DESCRIBE ANY WAIVERS FROM

1 MINIMUM POSTCONSUMER-RECYCLED-CONTENT RATES GRANTED TO A
2 TYPE OR SUBCATEGORY OF COVERED MATERIALS AND THE CRITERIA FOR
3 EVALUATING SUCH WAIVERS, INCLUDING FOOD SAFETY REQUIREMENTS,
4 TECHNOLOGICAL FEASIBILITY, OR INADEQUATE SUPPLY, AND HOW OFTEN
5 THE WAIVERS WILL BE REVIEWED;

6 (r) DESCRIBE HOW THE ORGANIZATION WILL PROVIDE PRODUCERS
7 WITH THE OPPORTUNITY TO PURCHASE POSTCONSUMER-RECYCLED
8 MATERIALS FROM PROCESSORS AT MARKET PRICES IF THE PRODUCER IS
9 INTERESTED IN OBTAINING RECYCLED FEEDSTOCK TO ACHIEVE MINIMUM
10 POSTCONSUMER-RECYCLED-CONTENT RATES;

11 (s) DESCRIBE HOW THE ORGANIZATION WILL REDUCE OR OFFSET
12 THE PRODUCER RESPONSIBILITY DUES FOR ANY PRODUCER OR GROUP OF
13 PRODUCERS THAT FUND OR OPERATE A COLLECTION PROGRAM THAT:

14 (I) COVERS A SPECIFIC TYPE OF COVERED MATERIAL THAT IS NOT
15 PROCESSED BY MATERIALS RECOVERY FACILITIES; AND

16 (II) HAS RECYCLING RATES THAT MEET OR EXCEED THE MINIMUM
17 RECYCLING RATE TARGET SET FORTH IN THE PLAN PROPOSAL PURSUANT TO
18 SUBSECTION (4)(o) OF THIS SECTION;

19 (t) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH SERVICE
20 PROVIDERS TO:

21 (I) UTILIZE AND EXPAND ON EXISTING RECYCLING SERVICES AND
22 INFRASTRUCTURE AND EXISTING EDUCATION AND OUTREACH PROGRAMS;

23 (II) REDUCE CONTAMINATION OF COVERED MATERIALS DELIVERED
24 TO MATERIALS RECOVERY FACILITIES AND COMPOST FACILITIES BY:

25 (A) REQUIRING EACH MATERIALS RECOVERY FACILITY AND
26 COMPOST FACILITY PARTICIPATING IN THE PROGRAM TO REPORT
27 ANNUALLY TO THE ORGANIZATION ON CONTAMINATION LEVELS AT EACH

1 FACILITY; AND

2 (B) PROVIDING FUNDING OR OTHER ASSISTANCE TO COMPOST
3 FACILITIES TO REDUCE THE COSTS OF MANAGING OR INCREASE THE
4 EFFECTIVENESS OF EFFORTS TO MANAGE CONTAMINATION AND TO
5 PROCESS AND RECOVER COMPOSTABLE PACKAGING MATERIALS;

6 (III) INVEST IN NEW OR UPGRADED RECYCLING INFRASTRUCTURE;

7 (IV) PROPOSE AN APPROACH TO MEASURE AND REPORT ON THE USE
8 OF REUSABLE AND REFILLABLE COVERED MATERIALS AND ESTABLISH
9 GOALS AND STRATEGIES FOR INCREASING THE USE OF REUSABLE AND
10 REFILLABLE COVERED MATERIALS;

11 (V) MITIGATE THE IMPACTS OF COVERED MATERIALS ON OTHER
12 MATERIALS AND EQUIPMENT AT SORTING AND PROCESSING FACILITIES;

13 (VI) INVEST IN MARKET DEVELOPMENT FOR COVERED MATERIALS
14 IN THE STATE; AND

15 (VII) INCREASE THE RECYCLING OF COLLECTED COVERED
16 MATERIALS;

17 (u) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH AND
18 INCENTIVIZE PRODUCERS TO REDUCE THE PACKAGING OF PRODUCTS USING
19 COVERED MATERIALS THROUGH PRODUCT DESIGN CHANGES, THE
20 DEVELOPMENT OR EXPANSION OF SYSTEMS FOR REUSABLE PACKAGING,
21 AND PRODUCT INNOVATION;

22 (v) DESCRIBE HOW THE PROGRAM WILL PRIORITIZE THE USE OF END
23 MARKETS THAT RETURN POSTCONSUMER RECYCLED MATERIALS TO THEIR
24 ORIGINAL PRODUCT TYPE;

25 (w) DESCRIBE HOW THE ORGANIZATION WILL EVALUATE AND
26 MONITOR THE USE OF RESPONSIBLE END MARKETS THROUGH METHODS
27 SUCH AS PROCESSOR CONTRACTS OR FINANCIAL INCENTIVES;

1 (x) DESCRIBE HOW THE ORGANIZATION WILL IMPLEMENT THE
2 EDUCATION AND OUTREACH PROGRAM SET FORTH IN SECTION 25-17-607;

3 (y) DESCRIBE A PROCESS AND TIMELINE, BEGINNING NO LATER
4 THAN 2028, TO EXPAND RECYCLING SERVICES TO APPLICABLE
5 NONRESIDENTIAL COVERED ENTITIES, AS IDENTIFIED IN THE NEEDS
6 ASSESSMENT PURSUANT TO SUBSECTION (3)(a)(V) OF THIS SECTION; AND

7 (z) INCLUDE ANY ADDITIONAL INFORMATION REQUIRED BY THE
8 DEPARTMENT.

9 (5) (a) THE ADVISORY BOARD SHALL REVIEW THE PLAN PROPOSAL
10 FOR COMPLIANCE WITH THIS PART 6. THE ADVISORY BOARD SHALL
11 CONSULT WITH THE ORGANIZATION THROUGHOUT ITS REVIEW OF THE PLAN
12 PROPOSAL. WITHIN NINETY DAYS AFTER THE SUBMISSION OF THE PLAN
13 PROPOSAL TO THE ADVISORY BOARD, THE ADVISORY BOARD SHALL EITHER
14 PROVIDE ANY RECOMMENDED AMENDMENTS TO THE PLAN PROPOSAL TO
15 THE ORGANIZATION OR, IF THE ADVISORY BOARD DOES NOT HAVE ANY
16 RECOMMENDED AMENDMENTS, FORWARD THE PLAN PROPOSAL TO THE
17 EXECUTIVE DIRECTOR. THE ORGANIZATION SHALL PROVIDE RESPONSIVE
18 ANSWERS TO THE ADVISORY BOARD'S RECOMMENDATIONS AND SUBMIT
19 THE AMENDED PLAN PROPOSAL TO THE ADVISORY BOARD WITHIN SIXTY
20 DAYS AFTER ITS RECEIPT OF THE RECOMMENDED AMENDMENTS. WITHIN
21 FORTY-FIVE DAYS AFTER THE SUBMISSION OF THE AMENDED PLAN
22 PROPOSAL TO THE ADVISORY BOARD, THE ADVISORY BOARD SHALL
23 FORWARD THE AMENDED PLAN PROPOSAL TO THE EXECUTIVE DIRECTOR
24 WITH ITS RECOMMENDATION FOR APPROVAL OR REJECTION AND, IF
25 APPLICABLE, A WRITTEN EXPLANATION OF THE BASIS FOR RECOMMENDING
26 REJECTION OF THE PLAN PROPOSAL.

27 (b) (I) WITHIN ONE HUNDRED TWENTY DAYS AFTER RECEIVING THE

1 PLAN PROPOSAL OR AMENDED PLAN PROPOSAL, THE EXECUTIVE DIRECTOR
2 SHALL:

3 (A) APPROVE THE PLAN PROPOSAL OR AMENDED PLAN PROPOSAL;
4 OR

5 (B) REJECT THE PLAN PROPOSAL OR AMENDED PLAN PROPOSAL.

6 (II) IF THE EXECUTIVE DIRECTOR REJECTS THE PLAN PROPOSAL OR
7 AMENDED PLAN PROPOSAL, THE EXECUTIVE DIRECTOR SHALL NOTIFY THE
8 ORGANIZATION OF THE REJECTION AND THE REASONS FOR THE REJECTION,
9 WHICH REASONS MUST BE BASED ON THE FAILURE OF THE PLAN PROPOSAL
10 OR AMENDED PLAN PROPOSAL TO COMPLY WITH THE REQUIREMENTS
11 SPECIFIED IN SUBSECTION (4) OF THIS SECTION. THE ORGANIZATION MUST
12 SUBMIT A NEW PLAN PROPOSAL TO THE ADVISORY BOARD WITHIN SIXTY
13 DAYS AFTER RECEIVING THE EXECUTIVE DIRECTOR'S REJECTION. THE NEW
14 PLAN PROPOSAL MUST BE REVIEWED BY THE ADVISORY BOARD AND THE
15 NEW PLAN PROPOSAL OR NEW AMENDED PLAN PROPOSAL MUST BE
16 REVIEWED AND APPROVED OR REJECTED BY THE EXECUTIVE DIRECTOR IN
17 ACCORDANCE WITH SUBSECTION (5)(a) OF THIS SECTION AND THIS
18 SUBSECTION (5)(b).

19 (c) (I) IF THE EXECUTIVE DIRECTOR APPROVES THE PLAN PROPOSAL
20 OR AMENDED PLAN PROPOSAL PURSUANT TO SUBSECTION (5)(b)(I) OF THIS
21 SECTION, THE EXECUTIVE DIRECTOR SHALL DESIGNATE THE PLAN
22 PROPOSAL OR AMENDED PLAN PROPOSAL AS THE FINAL PLAN AND SHALL
23 PUBLISH THE FINAL PLAN ON THE DEPARTMENT'S WEBSITE.

24 (II) THE ORGANIZATION SHALL BEGIN IMPLEMENTING THE FINAL
25 PLAN WITHIN SIX MONTHS AFTER IT IS APPROVED.

26 (6) (a) THE ORGANIZATION MAY SUBMIT PROPOSED AMENDMENTS
27 TO THE FINAL PLAN ANNUALLY TO THE ADVISORY BOARD FOR INCLUSION

1 IN THE ANNUAL REPORT UNDER SECTION 25-17-609 (2)(c). AT LEAST
2 THIRTY DAYS PRIOR TO SUBMITTING THE ANNUAL REPORT PURSUANT TO
3 SECTION 25-17-609 (2)(a), THE ORGANIZATION SHALL CONSULT WITH THE
4 ADVISORY BOARD ON ANY PROPOSED AMENDMENTS TO THE FINAL PLAN.
5 THE ADVISORY BOARD SHALL SUBMIT ANY PROPOSED AMENDMENTS TO
6 THE EXECUTIVE DIRECTOR. THE EXECUTIVE DIRECTOR SHALL APPROVE OR
7 REJECT THE PROPOSED AMENDMENTS BASED ON THE PLAN PROPOSAL
8 REQUIREMENTS SPECIFIED IN SUBSECTION (4) OF THIS SECTION.

9 (b) THE ORGANIZATION SHALL CONTINUE TO OPERATE THE
10 PROGRAM IN ACCORDANCE WITH THE FINAL PLAN PENDING THE APPROVAL
11 OR REJECTION OF A PROPOSED AMENDMENT BY THE EXECUTIVE DIRECTOR.
12 THE EXECUTIVE DIRECTOR'S REJECTION OF A PROPOSED AMENDMENT
13 PURSUANT TO THIS SUBSECTION (6) DOES NOT RELIEVE THE ORGANIZATION
14 OF ITS RESPONSIBILITY TO CONTINUE TO OPERATE THE PROGRAM IN
15 ACCORDANCE WITH THE FINAL PLAN.

16 (7) THE EXECUTIVE DIRECTOR SHALL ENFORCE THIS PART 6 IN
17 ACCORDANCE WITH SECTION 25-17-610 AND THE COMMISSION SHALL
18 PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24 AS MAY
19 BE NECESSARY FOR THE ADMINISTRATION OF THIS PART 6 AND THE
20 ENFORCEMENT OF THIS PART 6 PURSUANT TO SECTION 25-17-610.
21 NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE ORGANIZATION
22 MAY NOT MAKE ANY DETERMINATION AS TO A PERSON'S COMPLIANCE WITH
23 THIS PART 6.

24 (8) (a) ON JANUARY 1, 2025, AND EACH JANUARY 1 THEREAFTER,
25 AS AN ALTERNATIVE TO PARTICIPATING IN THE PROGRAM, A PRODUCER
26 MAY SUBMIT TO THE ADVISORY BOARD AN INDIVIDUAL PROGRAM PLAN
27 PROPOSAL. A PRODUCER MUST NOTIFY THE DEPARTMENT OF ITS INTENT TO

1 SUBMIT AN INDIVIDUAL PROGRAM PLAN PROPOSAL BY JANUARY 1, 2024,
2 AND BY EACH JANUARY 1 THEREAFTER. THE INDIVIDUAL PROGRAM PLAN
3 PROPOSAL MUST:

4 (I) COMPLY WITH THE REQUIREMENTS OF SECTION 25-17-605 (4),
5 AS APPLICABLE;

6 (II) DESCRIBE HOW THE PRODUCER PARTICIPATING IN THE
7 INDIVIDUAL PROGRAM PLAN PROPOSAL WILL CONTRIBUTE TO THE COSTS
8 OF THE DEPARTMENT IN OVERSEEING THE PROGRAM;

9 (III) DESCRIBE HOW THE PRODUCER WILL REIMBURSE SERVICE
10 PROVIDERS THAT PROVIDE RECYCLING SERVICES FOR THE COVERED
11 MATERIALS COVERED BY THE INDIVIDUAL PROGRAM PLAN PROPOSAL; AND

12 (IV) DESCRIBE ANY ALTERNATIVE COLLECTION PROGRAMS RUN BY
13 THE PRODUCER AND ITS RECYCLING RATES.

14 (b) THE ADVISORY BOARD SHALL REVIEW AND MAKE
15 RECOMMENDATIONS ON, AND THE EXECUTIVE DIRECTOR SHALL APPROVE
16 OR REJECT, ANY INDIVIDUAL PROGRAM PLAN PROPOSALS IN ACCORDANCE
17 WITH THE PROCEDURES SET FORTH IN SUBSECTION (5) OF THIS SECTION.
18 AFTER THE EXECUTIVE DIRECTOR APPROVES THE INDIVIDUAL PROGRAM
19 PLAN PROPOSAL, THE EXECUTIVE DIRECTOR SHALL DESIGNATE THE
20 INDIVIDUAL PROGRAM PLAN PROPOSAL AS THE PLAN THAT THE PRODUCER
21 IS AUTHORIZED TO IMPLEMENT AND ADMINISTER AS AN ALTERNATIVE TO
22 PARTICIPATING IN THE PROGRAM.

23 (c) THE PRODUCER IMPLEMENTING A PLAN DESCRIBED IN
24 SUBSECTION (8)(b) OF THIS SECTION SHALL SUBMIT ANY AMENDMENTS TO
25 THE PLAN TO THE ADVISORY BOARD IN ACCORDANCE WITH SUBSECTION (6)
26 OF THIS SECTION. THE ADVISORY BOARD SHALL REVIEW AND MAKE
27 RECOMMENDATIONS ON, AND THE EXECUTIVE DIRECTOR SHALL APPROVE

1 OR REJECT, ANY AMENDMENTS TO THE PLAN IN ACCORDANCE WITH
2 SUBSECTION (6) OF THIS SECTION.

3 **25-17-606. Minimum recyclable list - convenience standards.**

4 (1)(a) THE ORGANIZATION SHALL DEVELOP A MINIMUM RECYCLABLE LIST
5 BASED ON THE AVAILABILITY OF RECYCLING SERVICES, RECYCLING
6 COLLECTION AND PROCESSING INFRASTRUCTURE, AND RECYCLING END
7 MARKETS FOR COVERED MATERIALS, AS DETERMINED BY THE NEEDS
8 ASSESSMENT.

9 (b) THE ORGANIZATION SHALL UPDATE THE MINIMUM RECYCLABLE
10 LIST, AND SUBMIT ANY UPDATES FOR INCLUSION IN THE ANNUAL REPORT
11 PURSUANT TO SECTION 25-17-609 (2)(a), IN RESPONSE TO RECYCLING
12 COLLECTION AND PROCESSING IMPROVEMENTS AND CHANGES IN
13 RECYCLING END MARKETS. THE ADVISORY BOARD SHALL CONSULT WITH
14 THE ORGANIZATION ON ANY UPDATES TO THE MINIMUM RECYCLABLE LIST
15 IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SECTION 25-17-605
16 (6).

17 (2) (a) TO BE ELIGIBLE FOR REIMBURSEMENT FOR RECYCLING
18 SERVICES PROVIDED UNDER THE PROGRAM, SERVICE PROVIDERS MUST
19 PROVIDE RECYCLING SERVICES FOR ALL READILY RECYCLABLE MATERIALS
20 IN A MANNER THAT FACILITATES ATTAINING THE RATE TARGETS
21 ESTABLISHED IN THE FINAL PLAN UNDER SECTION 25-17-605 (4)(o).

22 (b) THE EXECUTIVE DIRECTOR MAY GRANT A SERVICE PROVIDER
23 AN EXCEPTION TO THE REQUIREMENTS OF SUBSECTION (2)(a) OF THIS
24 SECTION IF THE SERVICE PROVIDER DEMONSTRATES TO THE REASONABLE
25 SATISFACTION OF THE EXECUTIVE DIRECTOR THAT IT IS NOT ABLE TO
26 PROVIDE RECYCLING SERVICES OR MEET THE CONVENIENCE STANDARDS
27 FOR A READILY RECYCLABLE MATERIAL.

1 (c) SERVICE PROVIDERS ARE ELIGIBLE FOR REIMBURSEMENT FROM
2 THE ORGANIZATION FOR THE COLLECTION OF COVERED MATERIALS THAT
3 ARE NOT INCLUDED IN THE MINIMUM RECYCLABLE LIST FOR THE REGIONS
4 WHERE THE ORGANIZATION HAS ESTABLISHED A REASONABLE COST FOR
5 THE SUPPLEMENTAL COLLECTION OF COVERED MATERIALS THAT ARE NOT
6 READILY RECYCLABLE AND A RESPONSIBLE END MARKET HAS BEEN
7 ESTABLISHED. THE SERVICES DESCRIBED IN THIS SUBSECTION (2)(c) ARE
8 NOT SUBJECT TO THE CONVENIENCE STANDARDS.

9 (d) THE ORGANIZATION SHALL REIMBURSE SERVICE PROVIDERS
10 FOR THE RECYCLING SERVICES COSTS TO PROVIDE RECYCLING SERVICES
11 FOR ALL READILY RECYCLABLE MATERIALS AND COVERED MATERIALS
12 THAT THE ORGANIZATION APPROVES PURSUANT TO SUBSECTION (2)(c) OF
13 THIS SECTION.

14 (e) NOTWITHSTANDING ANY LAW TO THE CONTRARY, NOTHING IN
15 THIS PART 6 RESTRICTS A SERVICE PROVIDER FROM COLLECTING OR
16 PROCESSING COVERED MATERIALS THAT ARE NOT INCLUDED IN THE
17 MINIMUM RECYCLABLE LIST.

18 (3) (a) THE ORGANIZATION SHALL CONTRACT WITH SERVICE
19 PROVIDERS TO PROVIDE COVERED ENTITIES WITH CONVENIENT AND
20 EQUITABLE ACCESS TO RECYCLING SERVICES FOR ALL READILY
21 RECYCLABLE MATERIALS, AT NO CHARGE TO THE COVERED ENTITY, WITH
22 THE GOAL OF ACHIEVING THE RECYCLING RATE, COLLECTION RATE, AND
23 POSTCONSUMER-RECYCLED-CONTENT RATE TARGETS ESTABLISHED IN THE
24 FINAL PLAN UNDER SECTION 25-17-605 (4)(o).

25 (b) THE COLLECTION OF READILY RECYCLABLE MATERIALS MUST
26 BE PROVIDED IN A MANNER THAT IS AS CONVENIENT AS THE COLLECTION
27 OF SOLID WASTE IN THE GEOGRAPHIC AREA IN WHICH THE COVERED ENTITY

1 IS LOCATED.

2 (c) ANY COVERED ENTITIES IN THE STATE THAT ARE RECEIVING
3 RECYCLING SERVICES ON DECEMBER 31, 2022, MUST CONTINUE TO
4 RECEIVE EQUIVALENT RECYCLING SERVICES THROUGH THE PROGRAM OR
5 A SERVICE PROVIDER ON AND AFTER DECEMBER 31, 2022.

6 (d) THE ORGANIZATION SHALL NOT RESTRICT A PERSON'S ABILITY
7 TO CONTRACT DIRECTLY WITH SERVICE PROVIDERS TO OBTAIN RECYCLING
8 SERVICES FOR COVERED MATERIALS.

9 (e) NOTWITHSTANDING ANY LAW TO THE CONTRARY, NOTHING IN
10 THIS PART 6 VOIDS OR CANCELS ANY CONTRACT BETWEEN A RESIDENT AND
11 A SERVICE PROVIDER FOR THE PROVISION OF RECYCLING SERVICES THAT
12 IS EXECUTED PRIOR TO DECEMBER 31, 2022.

13 **25-17-607. Education and outreach program.** (1) THE
14 ORGANIZATION SHALL DEVELOP AND IMPLEMENT A STATEWIDE
15 EDUCATION AND OUTREACH PROGRAM THAT IS DESIGNED TO INCREASE
16 THE RECYCLING AND REUSE OF COVERED MATERIALS AND INCLUDES
17 EDUCATION AND OUTREACH ON:

18 (a) PROPER END-OF-LIFE MANAGEMENT OF COVERED MATERIALS;

19 (b) THE LOCATION AND AVAILABILITY OF RECYCLING SERVICES
20 UNDER THE PROGRAM; AND

21 (c) HOW TO PREVENT LITTERING IN THE PROCESS OF PROVIDING
22 RECYCLING SERVICES FOR COVERED MATERIALS.

23 (2) THE EDUCATION AND OUTREACH PROGRAM MUST, AT A
24 MINIMUM:

25 (a) PROVIDE CLEAR AND CONCISE RECYCLING INSTRUCTIONS THAT
26 ARE CONSISTENT STATEWIDE AND ACCESSIBLE FOR ALL DEMOGRAPHIC
27 GROUPS;

1 (b) COORDINATE WITH EXISTING RECYCLING EDUCATION
2 MATERIALS AND SERVICES PROVIDED THROUGHOUT THE STATE; AND

3 (c) BE DESIGNED TO HELP THE STATE ACHIEVE THE MINIMUM
4 COLLECTION RATE AND MINIMUM RECYCLING RATE TARGETS ESTABLISHED
5 IN THE FINAL PLAN UNDER SECTION 25-17-605 (4)(o) AND REDUCE LEVELS
6 AND IMPACTS OF INBOUND CONTAMINATION FROM COVERED MATERIALS
7 AT MATERIALS RECOVERY FACILITIES AND COMPOST FACILITIES.

8 (3) THE ORGANIZATION SHALL CONSULT WITH THE ADVISORY
9 BOARD AND OTHER ENTITIES PROVIDING RECYCLING EDUCATION IN THE
10 STATE ON THE DEVELOPMENT AND DISTRIBUTION OF EDUCATION
11 OUTREACH SERVICES AND MATERIALS. THE ORGANIZATION MAY
12 CONTRACT WITH SERVICE PROVIDERS, LOCAL GOVERNMENTS, AND
13 NONPROFIT ORGANIZATIONS TO CONDUCT RECYCLING EDUCATION AND
14 OUTREACH SERVICES UNDER THE EDUCATION AND OUTREACH PROGRAM
15 DEVELOPED UNDER SUBSECTION (1) OF THIS SECTION.

16 (4) THE ORGANIZATION SHALL DEVELOP A PROPOSED
17 METHODOLOGY FOR EVALUATING AND REPORTING ON THE EFFECTIVENESS
18 OF THE EDUCATION AND OUTREACH PROGRAM.

19 **25-17-608. Producer requirements - additional producer**
20 **responsibility organization - coordination plan - rules -**
21 **confidentiality - compliance with local government codes - audit.**

22 (1) EFFECTIVE JULY 1, 2025, A PRODUCER SHALL NOT SELL OR
23 DISTRIBUTE ANY PRODUCTS THAT USE COVERED MATERIALS IN THE STATE
24 UNLESS THE PRODUCER IS PARTICIPATING IN THE PROGRAM OR, ON OR
25 AFTER JANUARY 1, 2029, EXCEPT AS SET FORTH IN THE FINAL PLAN OR ANY
26 OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS
27 PART 6. A PRODUCER MUST REPORT THE DATA NECESSARY TO MEET ITS

1 PLAN OBLIGATIONS AND MAY USE PRORATED NATIONAL DATA IF
2 STATE-SPECIFIC DATA IS NOT AVAILABLE OR FEASIBLE TO GENERATE.

3 (2) (a) ON JANUARY 1, 2029, AND EVERY JANUARY 1 THEREAFTER,
4 A NONPROFIT ORGANIZATION MAY REQUEST THAT THE EXECUTIVE
5 DIRECTOR DESIGNATE THE NONPROFIT ORGANIZATION AS AN ADDITIONAL
6 PRODUCER RESPONSIBILITY ORGANIZATION.

7 (b) THE EXECUTIVE DIRECTOR MAY DESIGNATE A NONPROFIT
8 ORGANIZATION AS AN ADDITIONAL PRODUCER RESPONSIBILITY
9 ORGANIZATION IF THE EXECUTIVE DIRECTOR, IN COORDINATION WITH THE
10 ADVISORY BOARD, DETERMINES THAT THE DESIGNATION OF THE
11 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION IS NECESSARY TO:

12 (I) INCREASE RECYCLING RATES;

13 (II) EXPAND RECYCLING SERVICES TO COVERED ENTITIES THAT ARE
14 NOT COVERED UNDER THE FINAL PLAN; OR

15 (III) PROVIDE RECYCLING SERVICES FOR A SPECIFIC TYPE OF
16 COVERED MATERIAL.

17 (c) IF THE EXECUTIVE DIRECTOR DESIGNATES AN ADDITIONAL
18 PRODUCER RESPONSIBILITY ORGANIZATION PURSUANT TO SUBSECTION
19 (2)(b) OF THIS SECTION, THE ADDITIONAL PRODUCER RESPONSIBILITY
20 ORGANIZATION SHALL SUBMIT A COORDINATION PLAN TO THE EXECUTIVE
21 DIRECTOR FOR APPROVAL IN ACCORDANCE WITH THE RULES
22 PROMULGATED PURSUANT TO THIS SUBSECTION (2)(c). WITHIN ONE
23 HUNDRED TWENTY DAYS AFTER THE DESIGNATION OF THE FIRST
24 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION, THE EXECUTIVE
25 DIRECTOR SHALL PROMULGATE BY RULE STANDARDS AND REQUIREMENTS
26 FOR A COORDINATION PLAN AND FOR COORDINATION BETWEEN THE
27 ORGANIZATION AND ANY ADDITIONAL PRODUCER RESPONSIBILITY

1 ORGANIZATIONS DESIGNATED BY THE EXECUTIVE DIRECTOR. A
2 COORDINATION PLAN APPROVED OR ORDERED BY THE EXECUTIVE
3 DIRECTOR SHALL BE IMPLEMENTED BY THE ORGANIZATION AND ANY
4 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATIONS DESIGNATED BY
5 THE EXECUTIVE DIRECTOR. IF THE COORDINATION PLAN CONFLICTS WITH
6 THE FINAL PLAN OR ANY OTHER PLAN APPROVED BY THE EXECUTIVE
7 DIRECTOR PURSUANT TO THIS PART 6, THE PROVISIONS OF THE
8 COORDINATION PLAN PREVAIL. A COORDINATION PLAN APPROVED OR
9 ORDERED BY THE EXECUTIVE DIRECTOR IS VALID UNTIL REVOKED OR UNTIL
10 A NEW COORDINATION PLAN IS APPROVED OR ORDERED BY THE EXECUTIVE
11 DIRECTOR.

12 (3) THE EXECUTIVE DIRECTOR, THE ADVISORY BOARD, THE
13 ORGANIZATION, AN ADDITIONAL PRODUCER RESPONSIBILITY
14 ORGANIZATION, AND ANY OTHER PERSON ADMINISTERING A PLAN
15 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6:

16 (a) MUST KEEP CONFIDENTIAL ANY PROPRIETARY INFORMATION
17 PROVIDED BY A PRODUCER; AND

18 (b) SHALL NOT INCLUDE ANY PROPRIETARY INFORMATION
19 PROVIDED BY A PRODUCER IN THE PLAN PROPOSAL, THE AMENDED PLAN
20 PROPOSAL, THE FINAL PLAN, ANY OTHER PLAN APPROVED BY THE
21 EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6, OR ANY AMENDMENT TO
22 THE FINAL PLAN OR OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR
23 PURSUANT TO THIS PART 6.

24 (4) (a) THE PROGRAM AND ANY OTHER PLAN APPROVED BY THE
25 EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 MUST COMPLY WITH ANY
26 FIRE, SOLID WASTE, OR OTHER RELEVANT ORDINANCES OR RESOLUTIONS
27 ADOPTED BY A LOCAL GOVERNMENT AND WITH APPLICABLE STATE AND

1 FEDERAL LAWS, INCLUDING THE EXEMPTIONS SET FORTH IN SECTION
2 30-20-102 (5).

3 (b) NOTWITHSTANDING ANY LAW TO THE CONTRARY, A LOCAL
4 GOVERNMENT IS NOT REQUIRED TO PROVIDE RECYCLING SERVICES UNDER
5 THE PROGRAM OR ANY OTHER PLAN APPROVED BY THE EXECUTIVE
6 DIRECTOR PURSUANT TO THIS PART 6. TO THE EXTENT THAT A LOCAL
7 GOVERNMENT ELECTS TO PROVIDE RECYCLING SERVICES UNDER THE
8 PROGRAM OR ANY OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR
9 PURSUANT TO THIS PART 6, THE ORGANIZATION, ADDITIONAL PRODUCER
10 RESPONSIBILITY ORGANIZATION, OR OTHER PERSON RESPONSIBLE FOR
11 ADMINISTERING A PLAN APPROVED BY THE EXECUTIVE DIRECTOR UNDER
12 THIS PART 6 SHALL REIMBURSE THE LOCAL GOVERNMENT FOR THOSE
13 RECYCLING SERVICES IN ACCORDANCE WITH SECTION 25-17-606 (2) AND
14 THE FINAL PLAN OR ANY OTHER PLAN APPROVED BY THE EXECUTIVE
15 DIRECTOR PURSUANT TO THIS PART 6.

16 (c) A LOCAL GOVERNMENT THAT RECEIVES REIMBURSEMENT
17 FUNDS FROM THE ORGANIZATION SHALL USE SUCH FUNDS FOR THE LOCAL
18 GOVERNMENT'S RECYCLING PROGRAM.

19 (5) THE ORGANIZATION, ANY ADDITIONAL PRODUCER
20 RESPONSIBILITY ORGANIZATION, AND ANY PERSON ADMINISTERING A PLAN
21 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 SHALL
22 CAUSE TO BE CONDUCTED AN ANNUAL FINANCIAL AUDIT OF THE PROGRAM
23 OR ANY OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT
24 TO THIS PART 6 BY AN INDEPENDENT THIRD-PARTY AUDITOR. THE AUDIT
25 MUST INCLUDE A DETAILED LIST OF THE PROGRAM'S OR PLAN'S COSTS AND
26 REVENUES FROM THE PRODUCER RESPONSIBILITY DUES.

27 (6) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE

1 ORGANIZATION AND ANY ADDITIONAL PRODUCER RESPONSIBILITY
2 ORGANIZATION SHALL NOT BE CONSIDERED A STATE-SPONSORED OR
3 STATE-OWNED ENTITY AND SHALL NOT BE CONSIDERED AN ENTERPRISE, AS
4 DEFINED IN SECTION 20 (2)(d) OF ARTICLE X OF THE STATE CONSTITUTION.
5 EMPLOYEES OF THE ORGANIZATION AND ANY ADDITIONAL PRODUCER
6 RESPONSIBILITY ORGANIZATION SHALL NOT BE CONSIDERED EMPLOYEES
7 OF THE STATE.

8 **25-17-609. Producer responsibility dues - inspection of records**

9 **- annual reporting.** (1) (a) EXCEPT AS SET FORTH IN A PLAN APPROVED
10 BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 ON OR AFTER
11 JANUARY 1, 2029, BY A DATE DETERMINED BY THE ORGANIZATION THAT
12 IS NO LATER THAN JANUARY 1, 2026, AND ANNUALLY THEREAFTER BY A
13 DATE DETERMINED BY THE ORGANIZATION, A PRODUCER SHALL PAY
14 PRODUCER RESPONSIBILITY DUES TO THE ORGANIZATION BASED ON THE
15 FUNDING MECHANISM DESCRIBED IN THE PLAN PROPOSAL PURSUANT TO
16 SECTION 25-17-605 (4)(h).

17 (b) A PRODUCER SHALL MAKE ALL DOCUMENTS AND RECORDS
18 RELATED TO THE CALCULATION AND PAYMENT OF PRODUCER
19 RESPONSIBILITY DUES, RECYCLING RATES, COLLECTION RATES,
20 POSTCONSUMER-RECYCLED-CONTENT RATES, AND ANY OTHER MATERIALS
21 NECESSARY FOR THE EXECUTIVE DIRECTOR TO DETERMINE COMPLIANCE
22 WITH THIS PART 6 AVAILABLE FOR INSPECTION BY THE EXECUTIVE
23 DIRECTOR. IN CONNECTION WITH ENFORCING A VIOLATION BY A PRODUCER
24 PURSUANT TO SECTION 25-17-610, THE EXECUTIVE DIRECTOR MAY
25 REQUEST IN WRITING THAT THE PRODUCER PROVIDE ANY SUCH
26 DOCUMENTS OR RECORDS TO THE EXECUTIVE DIRECTOR.

27 (c) THE ORGANIZATION, ANY ADDITIONAL PRODUCER

1 RESPONSIBILITY ORGANIZATION, AND ANY PERSON ADMINISTERING A PLAN
2 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 SHALL
3 MAINTAIN ALL DOCUMENTS AND RECORDS NECESSARY FOR THE EXECUTIVE
4 DIRECTOR TO DETERMINE COMPLIANCE WITH THIS PART 6 AND SUBMIT ANY
5 SUCH DOCUMENTS AND RECORDS TO THE EXECUTIVE DIRECTOR UPON A
6 REQUEST BY THE EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (1)(b)
7 OF THIS SECTION.

8 (d) BY JANUARY 1, 2026, AND EACH YEAR THEREAFTER, THE
9 EXECUTIVE DIRECTOR SHALL DEVELOP AN ECO-MODULATION BONUS
10 SCHEDULE THAT IS DESIGNED TO REDUCE THE PRODUCER RESPONSIBILITY
11 DUES OF PRODUCERS THAT MEET CERTAIN BENCHMARKS ESTABLISHED BY
12 THE EXECUTIVE DIRECTOR BY RULE. THE EXECUTIVE DIRECTOR SHALL
13 CONSULT WITH THE ORGANIZATION AND THE ADVISORY BOARD IN
14 DEVELOPING THE ECO-MODULATION BONUS SCHEDULE. THE
15 ORGANIZATION SHALL REDUCE THE PRODUCER RESPONSIBILITY DUES OF
16 PRODUCERS IN ACCORDANCE WITH THE ECO-MODULATION BONUS
17 SCHEDULE DEVELOPED BY THE EXECUTIVE DIRECTOR.

18 (2) (a) BEFORE MARCH 31 OF THE SECOND YEAR OF THE
19 PROGRAM'S IMPLEMENTATION, AND BY MARCH 31 EACH YEAR
20 THEREAFTER, THE ORGANIZATION SHALL SUBMIT A REPORT TO THE
21 ADVISORY BOARD DESCRIBING THE PROGRESS OF THE PROGRAM. THE
22 ADVISORY BOARD SHALL REVIEW THE REPORT AND FORWARD THE REPORT
23 TO THE EXECUTIVE DIRECTOR. THE ADVISORY BOARD SHALL ALSO REVIEW
24 ANY PROPOSED AMENDMENTS TO THE FINAL PLAN AND ANY UPDATES TO
25 THE MINIMUM RECYCLABLE LIST AND FORWARD THE AMENDMENTS AND
26 UPDATES TO THE EXECUTIVE DIRECTOR WITH ITS RECOMMENDATION FOR
27 APPROVAL OR REJECTION. THE EXECUTIVE DIRECTOR SHALL POST THE

1 REPORT ON THE DEPARTMENT'S WEBSITE. THE PROGRAM REPORT MUST
2 INCLUDE THE FOLLOWING INFORMATION FROM THE PRECEDING CALENDAR
3 YEAR:

4 (I) A DETAILED DESCRIPTION OF THE PROGRESS TOWARD EACH
5 ELEMENT OF THE FINAL PLAN AS DESCRIBED IN SECTION 25-17-605 (4);

6 (II) A LIST OF ALL THE PRODUCERS, BRANDS, AND COVERED
7 MATERIALS COVERED BY THE FINAL PLAN;

8 (III) A LIST OF PRODUCERS THAT ARE NOT PARTICIPATING IN THE
9 PROGRAM AND THAT ARE KNOWN BY THE ORGANIZATION TO BE OUT OF
10 COMPLIANCE WITH THIS PART 6;

11 (IV) THE TOTAL WEIGHT OF THE COVERED MATERIALS THAT
12 PRODUCERS USED FOR PRODUCTS THAT ARE SOLD OR DISTRIBUTED IN THE
13 STATE;

14 (V) THE TOTAL AMOUNT OF PRODUCER RESPONSIBILITY DUES
15 COLLECTED UNDER THE PROGRAM, INCLUDING AN ANNUAL SCHEDULE OF
16 PRODUCER RESPONSIBILITY DUES ASSESSED BY WEIGHT FOR EACH TYPE OF
17 COVERED MATERIAL;

18 (VI) THE TOTAL WEIGHT OF EACH TYPE OF COVERED MATERIAL
19 THAT IS COLLECTED AND RECYCLED UNDER THE PROGRAM, WITH THE DATA
20 BROKEN DOWN BY:

21 (A) MEANS OF COLLECTION, INCLUDING BY CURBSIDE SERVICE OR
22 DROP-OFF CENTER OR OTHER MEANS;

23 (B) THE NUMBER OF COVERED ENTITIES, BY TYPE AND BY COUNTY,
24 SERVICED THROUGH CURBSIDE COLLECTION;

25 (C) THE METHOD USED TO HANDLE THE COLLECTED COVERED
26 MATERIAL; AND

27 (D) GEOGRAPHIC AREA;

1 (VII) THE RECYCLING RATE, COLLECTION RATE, AND
2 POSTCONSUMER-RECYCLED-CONTENT RATE FOR EACH TYPE OF COVERED
3 MATERIAL AND A DESCRIPTION OF THE ORGANIZATION'S PROCESS IN
4 ACHIEVING THE MINIMUM RATE TARGETS SET FORTH IN THE FINAL PLAN
5 PURSUANT TO SECTION 25-17-605 (4)(o);

6 (VIII) THE RATE SCHEDULES FOR REIMBURSEMENT TO SERVICE
7 PROVIDERS, ANY PROPOSED ADJUSTMENTS TO THE RATE SCHEDULES, AND
8 A SUMMARY OF ANY DISPUTES ARISING BETWEEN THE ORGANIZATION AND
9 SERVICE PROVIDERS CONCERNING RATES AND HOW THE DISPUTES WERE
10 ADDRESSED;

11 (IX) A SUMMARY OF THE EDUCATION AND OUTREACH EFFORTS
12 IMPLEMENTED IN ACCORDANCE WITH SECTION 25-17-607, INCLUDING:

13 (A) SAMPLES OF ANY MATERIALS DISTRIBUTED; AND

14 (B) A DESCRIPTION OF THE METHODOLOGY USED AND THE RESULTS
15 OF THE EVALUATION CONDUCTED PURSUANT TO SECTION 25-17-607 (4);

16 (X) A LIST OF THE NAMES, LOCATIONS, AND HOURS OF OPERATION
17 FOR CURBSIDE SERVICES, DROP-OFF CENTERS, AND OTHER ENTITIES
18 ACCEPTING OR COLLECTING COVERED MATERIALS UNDER THE PROGRAM;

19 (XI) A DESCRIPTION OF THE ORGANIZATION'S EFFORTS TO ENSURE
20 THAT COVERED MATERIALS HAVE BEEN RESPONSIBLY MANAGED AND
21 DELIVERED TO RESPONSIBLE END MARKETS UNDER THE PROGRAM;

22 (XII) A LIST OF THE RECYCLING END MARKETS OF ANY COVERED
23 MATERIALS, AND, IF THE COVERED MATERIALS ARE PROCESSED THROUGH
24 A METHOD OTHER THAN MECHANICAL RECYCLING, THE LIST MUST
25 INCLUDE:

26 (A) A DESCRIPTION OF HOW THE METHOD WILL AFFECT THE
27 ABILITY TO RECYCLE THE COVERED MATERIAL INTO FEEDSTOCK FOR THE

1 MANUFACTURE OF NEW PRODUCTS;

2 (B) A DESCRIPTION OF HOW THE METHOD WILL INCREASE THE
3 TYPES AND AMOUNTS OF RECYCLED PLASTIC FOR FOOD AND
4 PHARMACEUTICAL-GRADE PACKAGING AND APPLICATIONS;

5 (C) A DESCRIPTION OF ANY APPLICABLE STATE AND FEDERAL AIR,
6 WATER, AND WASTE PERMITTING COMPLIANCE REQUIREMENTS FOR THE
7 METHOD; AND

8 (D) AN ANALYSIS OF THE ENVIRONMENTAL IMPACTS OF THE
9 METHOD COMPARED TO THE ENVIRONMENTAL IMPACTS OF INCINERATION
10 OF SOLID WASTE IN LANDFILLS;

11 (XIII) A COPY OF AN INDEPENDENT THIRD PARTY'S REPORT
12 AUDITING THE PROGRAM PURSUANT TO SECTION 25-17-608 (5);

13 (XIV) A DESCRIPTION OF THE STATUS OF RESERVE FUNDS, AN
14 ASSESSMENT OF THE ADEQUACY OF THOSE FUNDS TO COVER PROGRAM
15 COSTS, AND A DESCRIPTION OF HOW ANY PROGRAM SHORTFALLS WILL BE
16 ADDRESSED;

17 (XV) ANY AMENDMENTS TO THE FINAL PLAN IN ACCORDANCE
18 WITH SECTION 25-17-605 (6);

19 (XVI) ANY UPDATES TO THE MINIMUM RECYCLABLE LIST IN
20 ACCORDANCE WITH SECTION 25-17-606 (1)(b); AND

21 (XVII) A DESCRIPTION OF THE ADVISORY BOARD'S FEEDBACK ON
22 ANY AMENDMENTS TO THE FINAL PLAN PURSUANT TO SECTION 25-17-605
23 (6)(a).

24 (b) BEFORE MARCH 31 OF THE SECOND YEAR OF ANY PLAN
25 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 THAT
26 IS NOT THE FINAL PLAN, AND BY MARCH 31 EACH YEAR THEREAFTER, AN
27 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION OR OTHER PERSON

1 RESPONSIBLE FOR ADMINISTERING A PLAN APPROVED BY THE EXECUTIVE
2 DIRECTOR PURSUANT TO THIS PART 6 SHALL SUBMIT A REPORT TO THE
3 ADVISORY BOARD DESCRIBING THE PROGRESS OF THE [REDACTED] PLAN. THE
4 REPORT MUST INCLUDE THE INFORMATION DESCRIBED IN SUBSECTION
5 (2)(a) OF THIS SECTION, AS APPLICABLE, FROM THE PRECEDING CALENDAR
6 YEAR. THE ADVISORY BOARD SHALL REVIEW THE REPORT AND FORWARD
7 THE REPORT TO THE EXECUTIVE DIRECTOR. THE ADVISORY BOARD SHALL
8 ALSO REVIEW ANY PROPOSED AMENDMENTS TO THE PLAN AND FORWARD
9 THE AMENDMENTS TO THE EXECUTIVE DIRECTOR WITH ITS
10 RECOMMENDATION FOR APPROVAL OR REJECTION. THE EXECUTIVE
11 DIRECTOR SHALL POST THE REPORT ON THE DEPARTMENT'S WEBSITE.

12 (c) THE EXECUTIVE DIRECTOR SHALL ANNUALLY COMPILE THE
13 RESULTS OF THE REPORTS RECEIVED PURSUANT TO SUBSECTIONS (2)(a)
14 AND (2)(b) OF THIS SECTION INTO A GENERAL REPORT DESCRIBING THE
15 PROGRESS OF THE PROGRAM [REDACTED] AND ANY OTHER PLANS APPROVED BY THE
16 EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6. THE EXECUTIVE
17 DIRECTOR SHALL INCLUDE THE DEPARTMENT'S ACTIVITIES AND EXPENSES
18 THAT WERE REIMBURSED PURSUANT TO SECTION 25-17-616 IN THE
19 GENERAL REPORT. THE EXECUTIVE DIRECTOR SHALL POST THE REPORT ON
20 THE DEPARTMENT'S WEBSITE AND SHALL ANNUALLY PRESENT THE
21 GENERAL REPORT TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF
22 THE SENATE AND THE ENERGY AND ENVIRONMENT COMMITTEE OF THE
23 HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, AND THE
24 GOVERNOR. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE
25 REPORTING REQUIREMENT SPECIFIED IN THIS SUBSECTION (2)(c)
26 CONTINUES INDEFINITELY.

27 (3) IF, BASED ON THE ANNUAL REPORT SUBMITTED UNDER

1 SUBSECTION (2) OF THIS SECTION, THE PROGRAM OR ANY OTHER PLAN
2 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 IS NOT
3 ON TRACK TO MEET THE MINIMUM COLLECTION RATES, MINIMUM
4 RECYCLING RATES, OR MINIMUM POSTCONSUMER-RECYCLED-CONTENT
5 RATES SET FORTH IN THE PROGRAM OR PLAN, THE EXECUTIVE DIRECTOR
6 MAY REQUIRE THE ORGANIZATION, WITH RESPECT TO THE PROGRAM, OR
7 THE ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION OR OTHER
8 PERSON RESPONSIBLE FOR ADMINISTERING THE PLAN, WITH RESPECT TO
9 ANY OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO
10 THIS PART 6, TO AMEND ITS RESPECTIVE PLAN UNDER SECTION 25-17-605
11 (6).

12 **25-17-610. Violations - enforcement - administrative penalty**
13 **- injunction.** (1) IF THE ORGANIZATION, AN ADDITIONAL PRODUCER
14 RESPONSIBILITY ORGANIZATION, A PERSON ADMINISTERING A PLAN
15 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6, OR A
16 PRODUCER VIOLATES ANY PORTION OF THIS PART 6, THE ORGANIZATION,
17 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION, PERSON
18 ADMINISTERING A PLAN APPROVED BY THE EXECUTIVE DIRECTOR
19 PURSUANT TO THIS PART 6, OR PRODUCER IS LIABLE FOR AN
20 ADMINISTRATIVE PENALTY NOT TO EXCEED:

21 (a) FOR A FIRST VIOLATION, AN INITIAL PENALTY OF FIVE
22 THOUSAND DOLLARS FOR THE FIRST DAY OF EACH VIOLATION AND ONE
23 THOUSAND FIVE HUNDRED DOLLARS PER DAY FOR EACH DAY THE
24 VIOLATION CONTINUES;

25 (b) FOR A SECOND VIOLATION COMMITTED WITHIN TWELVE
26 MONTHS AFTER A PRIOR VIOLATION, AN INITIAL PENALTY OF TEN
27 THOUSAND DOLLARS FOR THE FIRST DAY OF EACH VIOLATION AND THREE

1 THOUSAND DOLLARS PER DAY FOR EACH DAY THE VIOLATION CONTINUES;
2 AND

3 (c) FOR A THIRD OR SUBSEQUENT VIOLATION COMMITTED WITHIN
4 TWELVE MONTHS AFTER TWO OR MORE PRIOR VIOLATIONS, AN INITIAL
5 PENALTY OF TWENTY THOUSAND DOLLARS FOR THE FIRST DAY OF EACH
6 VIOLATION AND SIX THOUSAND DOLLARS PER DAY FOR EACH DAY THE
7 VIOLATION CONTINUES.

8 (2) (a) IF THE ORGANIZATION, AN ADDITIONAL PRODUCER
9 RESPONSIBILITY ORGANIZATION, A PERSON ADMINISTERING A PLAN
10 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6, OR A
11 PRODUCER VIOLATES ANY PORTION OF THIS PART 6, THE EXECUTIVE
12 DIRECTOR SHALL SERVE BY PERSONAL SERVICE OR BY CERTIFIED MAIL AN
13 ORDER THAT IMPOSES AN ADMINISTRATIVE PENALTY ON THE
14 ORGANIZATION, ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION,
15 PERSON ADMINISTERING A PLAN APPROVED BY THE EXECUTIVE DIRECTOR
16 PURSUANT TO THIS PART 6, OR PRODUCER.

17 (b) THE ORGANIZATION, ADDITIONAL PRODUCER RESPONSIBILITY
18 ORGANIZATION, PERSON ADMINISTERING A PLAN APPROVED BY THE
19 EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6, OR PRODUCER MAY
20 SUBMIT A WRITTEN REQUEST FOR A HEARING TO THE EXECUTIVE DIRECTOR
21 BY PERSONAL SERVICE OR BY CERTIFIED MAIL WITHIN THIRTY-FIVE
22 CALENDAR DAYS AFTER THE DATE OF THE ORDER IMPOSING AN
23 ADMINISTRATIVE PENALTY. THE COMMISSION SHALL CONDUCT THE
24 HEARING IN ACCORDANCE WITH SECTION 24-4-105.

25 (c) IF A REQUEST FOR A HEARING IS FILED, THE REQUIREMENT TO
26 PAY A PENALTY IS STAYED PENDING A FINAL DECISION BY THE COMMISSION
27 AFTER A HEARING ON THE MERITS. THE EXECUTIVE DIRECTOR IS NOT

1 PRECLUDED FROM IMPOSING AN ADMINISTRATIVE PENALTY AGAINST THE
2 ORGANIZATION, ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION,
3 PERSON ADMINISTERING A PLAN APPROVED BY THE EXECUTIVE DIRECTOR
4 PURSUANT TO THIS PART 6, OR PRODUCER FOR SUBSEQUENT VIOLATIONS
5 OF THIS PART 6 COMMITTED DURING THE PENDENCY OF THE STAY.

6 (d) THE EXECUTIVE DIRECTOR BEARS THE BURDEN OF PROOF BY A
7 PREPONDERANCE OF THE EVIDENCE IN A HEARING HELD PURSUANT TO THIS
8 SECTION.

9 (3) THE EXECUTIVE DIRECTOR MAY ENTER INTO A SETTLEMENT
10 AGREEMENT WITH THE ORGANIZATION, ADDITIONAL PRODUCER
11 RESPONSIBILITY ORGANIZATION, PERSON ADMINISTERING A PLAN
12 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6, OR
13 PRODUCER ASSESSED AN ADMINISTRATIVE PENALTY UNDER THIS SECTION.

14 (4) THE EXECUTIVE DIRECTOR SHALL TRANSFER ANY MONEY
15 COLLECTED UNDER THIS SECTION TO THE STATE TREASURER, WHO SHALL
16 CREDIT THE MONEY TO THE RECYCLING RESOURCES ECONOMIC
17 OPPORTUNITY FUND CREATED IN SECTION 25-16.5-106.5 (1).

18 (5) NOTWITHSTANDING ANY LAW TO THE CONTRARY, NOTHING IN
19 THIS PART 6:

20 (a) CREATES A PRIVATE RIGHT OF ACTION; OR

21 (b) AUTHORIZES ENFORCEMENT OF THIS PART 6 AGAINST ANYONE
22 OTHER THAN THE ORGANIZATION, AN ADDITIONAL PRODUCER
23 RESPONSIBILITY ORGANIZATION, A PERSON ADMINISTERING A PLAN
24 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6, OR A
25 PRODUCER.

26 **25-17-611. Limited exemption from antitrust, restraint of**
27 **trade, and unfair trade practices provisions.** IF THE PROGRAM OR ANY

1 OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS
2 PART 6 ENGAGES IN AN ACTIVITY PERFORMED SOLELY IN FURTHERANCE OF
3 IMPLEMENTING THE PROGRAM OR PLAN AND IN COMPLIANCE WITH THIS
4 PART 6, THE ACTIVITY IS NOT A VIOLATION OF THE ANTITRUST, RESTRAINT
5 OF TRADE, AND UNFAIR TRADE PRACTICES PROVISIONS OF THE "UNFAIR
6 PRACTICES ACT", ARTICLE 2 OF TITLE 6, OR THE "COLORADO ANTITRUST
7 ACT OF 1992", ARTICLE 4 OF TITLE 6.

8 **25-17-612. Eligibility for state or local incentive programs.**
9 NOTHING IN THIS PART 6 AFFECTS A PERSON'S ELIGIBILITY FOR ANY STATE
10 OR LOCAL INCENTIVE PROGRAMS FOR WHICH THE PERSON IS OTHERWISE
11 ELIGIBLE.

12 **25-17-613. Producer exemptions - rules.** (1) A PRODUCER IS
13 EXEMPT FROM THE REQUIREMENTS OF THIS PART 6 IF THE PRODUCER IS:

14 (a) A PERSON WITH LESS THAN FIVE MILLION DOLLARS IN REALIZED
15 GROSS TOTAL REVENUE, NOT INCLUDING ON-PREMISES ALCOHOL SALES,
16 DURING THE PRIOR CALENDAR YEAR;

17 (b) A PERSON THAT HAS USED LESS THAN ONE TON OF COVERED
18 MATERIALS FOR PRODUCTS SOLD OR DISTRIBUTED WITHIN OR INTO THE
19 STATE DURING THE PRIOR CALENDAR YEAR;

20 (c) THE STATE OR A LOCAL GOVERNMENT;

21 (d) A NONPROFIT ORGANIZATION;

22 (e) AN AGRICULTURAL EMPLOYER, AS DEFINED IN SECTION 8-3-104
23 (1), REGARDLESS OF WHERE THE AGRICULTURAL EMPLOYER IS LOCATED,
24 WITH LESS THAN FIVE MILLION DOLLARS IN REALIZED GROSS TOTAL
25 REVENUE IN THE STATE FROM CONSUMER SALES OF AGRICULTURAL
26 PRODUCTS SOLD UNDER THE BRAND NAME OF THE FARMER, EGG
27 PRODUCER, GROWER, OR INDIVIDUAL GROWER COOPERATIVE;

1 (f) AN INDIVIDUAL BUSINESS OPERATING A RETAIL FOOD
2 ESTABLISHMENT THAT IS LOCATED AT A PHYSICAL BUSINESS LOCATION
3 AND THAT IS LICENSED UNDER SECTION 25-4-1607 (1)(a) OR SECTION
4 32-106.5 (1) TO SECTION 32-106.5 (5) OF THE DENVER CODE OF
5 ORDINANCES; OR

6 (g) A BUILDER, A CONSTRUCTION COMPANY, OR CONSTRUCTION
7 CONTRACTORS.

8 (2) THE COMMISSION SHALL ADJUST BY RULE THE DOLLAR
9 LIMITATION SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION ON JULY 1,
10 2023, AND ON JULY 1 OF EACH YEAR THEREAFTER, BASED ON THE
11 PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S
12 BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR
13 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN
14 CONSUMERS, OR ITS SUCCESSOR INDEX.

15 **25-17-614. Restriction on fees.** A PERSON SHALL NOT CHARGE
16 ANY KIND OF POINT-OF-SALE OR POINT-OF-COLLECTION FEE TO
17 CONSUMERS TO RECOUP ITS COSTS IN MEETING THE OBLIGATIONS OF OR
18 COMPLYING WITH THIS PART 6.

19
20 **25-17-615. Producer responsibility program for statewide**
21 **recycling administration fund - creation - purpose.** (1) THERE IS
22 HEREBY CREATED IN THE STATE TREASURY THE PRODUCER RESPONSIBILITY
23 PROGRAM FOR STATEWIDE RECYCLING ADMINISTRATION FUND, REFERRED
24 TO IN THIS SECTION AS THE "FUND". THE FUND CONSISTS OF ALL PRODUCER
25 RESPONSIBILITY DUES TRANSFERRED TO THE FUND PURSUANT TO THIS
26 SECTION AND MONEY THAT THE GENERAL ASSEMBLY TRANSFERS TO THE
27 FUND FOR USE BY THE DEPARTMENT. THE ORGANIZATION SHALL TRANSMIT

1 A PORTION OF THE PRODUCER RESPONSIBILITY DUES TO THE STATE
2 TREASURER FOR DEPOSIT IN THE FUND FOR PURPOSES OF REIMBURSING:

3 (a) THE DEPARTMENT, INCLUDING THE ADVISORY BOARD, FOR THE
4 REASONABLE COSTS INCURRED IN ADMINISTERING AND IMPLEMENTING
5 ANY PORTION OF THIS PART 6; AND

6 (b) THE DEPARTMENT FOR THE REASONABLE COSTS INCURRED IN
7 ENFORCING THIS PART 6 PURSUANT TO SECTION 25-17-610.

8 (2) (a) BY JUNE 30, 2026, THE DEPARTMENT SHALL NOTIFY THE
9 ORGANIZATION OF THE COSTS IN ADMINISTERING, IMPLEMENTING, AND
10 ENFORCING THIS PART 6 SINCE THE EFFECTIVE DATE OF THIS PART 6.

11 (b) BY JUNE 30 OF EACH YEAR AFTER JUNE 30, 2026, THE
12 DEPARTMENT SHALL NOTIFY THE ORGANIZATION OF THE COSTS OF
13 ADMINISTERING, IMPLEMENTING, AND ENFORCING THIS PART 6 DURING THE
14 IMMEDIATELY PRECEDING YEAR.

15 (c) UPON RECEIPT OF THE DEPARTMENT'S COST ACCOUNTING, THE
16 ORGANIZATION SHALL TRANSMIT TO THE STATE TREASURER, FOR DEPOSIT
17 IN THE FUND, AN AMOUNT OF PRODUCER RESPONSIBILITY DUES NECESSARY
18 TO REIMBURSE THE DEPARTMENT FOR ITS COSTS.

19 (3) THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE
20 MONEY FROM THE FUND TO THE DEPARTMENT FOR THE PURPOSES SET
21 FORTH IN SUBSECTION (1) OF THIS SECTION.

22 (4) ALL UNEXPENDED AND UNENCUMBERED MONEY IN THE FUND
23 AT THE END OF ANY STATE FISCAL YEAR REMAINS IN THE FUND AND SHALL
24 NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER
25 FUND. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF
26 MONEY IN THE FUND REMAINS IN THE FUND AND DOES NOT REVERT TO THE
27 GENERAL FUND.

1 **SECTION 2.** In Colorado Revised Statutes, 25-16.5-106.5, add
2 (1)(a)(I.5) as follows:

3 **25-16.5-106.5. Recycling resources economic opportunity fund**
4 **- creation - repeal.** (1) (a) The recycling resources economic opportunity
5 fund, referred to in this section as the "fund", is hereby created in the state
6 treasury. The fund consists of:

7 (I.5) MONEY CREDITED TO THE FUND PURSUANT TO SECTION
8 25-17-610 (4);

9 **SECTION 3. Appropriation.** (1) For the 2022-23 state fiscal
10 year, \$119,130 is appropriated to the department of public health and
11 environment. This appropriation is from the general fund. To implement
12 this act, the department may use this appropriation as follows:

13 (a) \$119,130 for use by the solid waste control program for solid
14 waste control, which amount is based on an assumption that the program
15 will require an additional 0.8 FTE; and

16 (b) \$20,503 for the purchase of legal services.

17 (2) For the 2022-23 state fiscal year, \$20,503 is appropriated to
18 the department of law. This appropriation is from reappropriated funds
19 received from the department of public health and environment under
20 subsection (1)(b) of this section and is based on an assumption that the
21 department of law will require an additional 0.1 FTE. To implement this
22 act, the department of law may use this appropriation to provide legal
23 services for the department of public health and environment.

24 **SECTION 4. Severability.** If any provision of this act or the
25 application thereof to any person or circumstance is held invalid, such
26 invalidity does not affect other provisions or applications of the act that
27 can be given effect without the invalid provision or application, and to

1 this end the provisions of this act are declared to be severable.

2 **SECTION 5. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly; except
5 that, if a referendum petition is filed pursuant to section 1 (3) of article V
6 of the state constitution against this act or an item, section, or part of this
7 act within such period, then the act, item, section, or part will not take
8 effect unless approved by the people at the general election to be held in
9 November 2022 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.