

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

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
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A BILL FOR AN ACT

101 CONCERNING THE CREATION OF THE PRODUCER RESPONSIBILITY
102 PROGRAM FOR STATEWIDE RECYCLING.

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 residences, businesses, schools, government buildings, and public places.

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.

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:

- Utilize and expand on providers' existing recycling services

to provide statewide recycling services at no charge to covered entities for all covered materials on the minimum recyclable list;

- Develop and implement a statewide education and outreach program on the recycling and reuse of covered materials;
- Contract with an independent third party to conduct an annual audit of the program; and
- Submit an annual report to the advisory board and the executive director describing the progress of the program (annual report).

Effective July 1, 2025, a producer may not sell or distribute any products that use covered materials in the state unless the producer is participating in the program or, after January 1, 2029, as set forth in an additional producer responsibility program that has been approved by the executive director.

The advisory board has the following duties:

- Advise the organization on the needs assessment;
- Review the needs assessment;
- Review the plan proposal and make recommendations to the executive director regarding its approval or rejection;
- Review any necessary amendments to the program, make recommendations on the amendments to the organization, and then make recommendations to the executive director regarding approval or rejection of the amendments;
- Review the annual report submitted by the organization; and
- Consult with the organization on the development and updating of the minimum recyclable list.

The bill establishes an administrative penalty for the organization's or a producer's violation of the relevant statutes and rules. The collected penalties are deposited into the recycling resources economic opportunity fund.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 6 to article
3 17 of title 25 as follows:

4 PART 6
5 PRODUCER RESPONSIBILITY PROGRAM
6 FOR STATEWIDE RECYCLING

7 **25-17-601. Short title.** THE SHORT TITLE OF THIS PART 6 IS THE

1 "PRODUCER RESPONSIBILITY PROGRAM FOR STATEWIDE RECYCLING
2 ACT".

3 **25-17-602. Legislative declaration.** (1) THE GENERAL ASSEMBLY
4 HEREBY FINDS AND DECLARES THAT:

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

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

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

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

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

24 (f) ALL PARTIES HAVE THE OBLIGATION TO SHARE IN THE
25 RESPONSIBILITY TO REDUCE NEGATIVE IMPACTS OF END-OF-USE
26 MANAGEMENT FOR COVERED MATERIALS BY BUILDING A SYSTEM
27 DESIGNED TO MINIMIZE WASTE AND TO INCREASE REUSE AND RECYCLING

1 OF PRODUCTS AND PACKAGING; AND

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

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

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

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

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

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

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

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

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

25 (2) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT IT IS IN
26 THE PUBLIC INTEREST OF COLORADO TO REQUIRE PRODUCERS TO FINANCE
27 A PRODUCER RESPONSIBILITY PROGRAM THAT PROVIDES STATEWIDE

1 RECYCLING SERVICES FOR COVERED MATERIALS.

2 **25-17-603. Definitions.** AS USED IN THIS PART 6, UNLESS THE
3 CONTEXT OTHERWISE REQUIRES:

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

8 (2) "ADDITIONAL PRODUCER RESPONSIBILITY PROGRAM" MEANS
9 A PROGRAM IMPLEMENTED IN ACCORDANCE WITH AN ADDITIONAL
10 PROGRAM PLAN.

11 (3) "ADDITIONAL PROGRAM PLAN" MEANS THE ADDITIONAL
12 PROGRAM PLAN PROPOSAL THAT HAS BEEN DESIGNATED AS THE
13 ADDITIONAL PROGRAM PLAN BY THE EXECUTIVE DIRECTOR PURSUANT TO
14 SECTION 25-17-608 (2)(d).

15 (4) "ADDITIONAL PROGRAM PLAN PROPOSAL" MEANS THE
16 ADDITIONAL PROGRAM PLAN PROPOSAL THAT IS SUBMITTED BY THE
17 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION TO THE ADVISORY
18 BOARD IN ACCORDANCE WITH SECTION 25-17-608 (2)(c).

19 (5) "ADVISORY BOARD" MEANS THE PRODUCER RESPONSIBILITY
20 PROGRAM FOR STATEWIDE RECYCLING ADVISORY BOARD CREATED IN
21 SECTION 25-17-604 (1).

22 (6) "AMENDED PLAN PROPOSAL" MEANS AN AMENDED PLAN
23 PROPOSAL FOR THE IMPLEMENTATION OF THE PROGRAM SUBMITTED TO
24 THE ADVISORY BOARD AFTER THE ADVISORY BOARD'S INITIAL REVIEW OF
25 THE PLAN PROPOSAL IN ACCORDANCE WITH SECTION 25-17-605 (5).

26 (7) "COLLECTION" MEANS THE GATHERING AND TRANSPORTATION
27 OF COVERED MATERIALS FROM COVERED ENTITIES FOR THE PURPOSE OF

1 RECYCLING.

2 (8) "COLLECTION RATE" MEANS THE WEIGHT OF COVERED
3 MATERIALS THAT ARE COLLECTED UNDER THE PROGRAM IN A CALENDAR
4 YEAR DIVIDED BY THE WEIGHT OF COVERED MATERIALS USED FOR
5 PRODUCTS SOLD, OFFERED FOR SALE, OR DISTRIBUTED BY PRODUCERS
6 WITHIN OR INTO THE STATE IN THE SAME CALENDAR YEAR, EXPRESSED AS
7 A PERCENTAGE.

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

10 (10) "COMPOST" MEANS THE MATERIAL OR PRODUCT THAT IS
11 DEVELOPED UNDER CONTROLLED CONDITIONS AND THAT RESULTS FROM
12 BIOLOGICAL DEGRADATION PROCESSES BY WHICH ORGANIC WASTES
13 DECOMPOSE.

14 (11) (a) "COMPOST FACILITY" MEANS A SITE WHERE COMPOST IS
15 PRODUCED.

16 (b) "COMPOST FACILITY" INCLUDES ONLY THOSE COMPOST
17 FACILITIES THAT READILY ACCEPT AND PROCESS PACKAGING MATERIAL
18 COLLECTED FROM CONSUMERS.

19 (12) "CONSUMER" MEANS ANY PERSON WHO PURCHASES OR
20 RECEIVES COVERED MATERIALS IN THE STATE AND IS LOCATED AT A
21 COVERED ENTITY.

22 (13) "CONVENIENCE STANDARDS" MEANS THE STANDARDS FOR
23 THE PROGRAM AS DESCRIBED IN SECTION 25-17-606 (3).

24 (14) "COVERED ENTITY" MEANS THE FOLLOWING LOCATIONS IN
25 THE STATE FROM WHICH COVERED MATERIALS THAT ARE PROCESSED BY
26 A MATERIALS RECOVERY FACILITY OR SIMILAR FACILITY ARE COLLECTED:

27 (a) ALL SINGLE-FAMILY OR MULTIFAMILY RESIDENCES IN THE

1 STATE; AND

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

6 (15) (a) "COVERED MATERIALS" INCLUDES:

7 (I) PACKAGING MATERIAL, EXCEPT AS SPECIFIED IN SUBSECTION
8 (15)(b) OF THIS SECTION; AND

9 (II) PAPER PRODUCTS, EXCEPT AS SPECIFIED IN SUBSECTION (15)(b)
10 OF THIS SECTION.

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

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

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

18 (III) BOUND BOOKS;

19 (IV) BEVERAGE CONTAINERS SUBJECT TO A RETURNABLE
20 CONTAINER DEPOSIT, IF APPLICABLE;

21 (V) PACKAGING MATERIAL USED EXCLUSIVELY IN INDUSTRIAL OR
22 MANUFACTURING PROCESSES;

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

1 OR ANY EQUIPMENT AND MATERIALS USED TO MANUFACTURE SUCH
2 PRODUCTS;

3 (VII) PACKAGING MATERIAL USED TO CONTAIN A PRODUCT THAT
4 IS REGULATED AS ANIMAL BIOLOGICS, INCLUDING VACCINES, BACTERINS,
5 ANTISERA, DIAGNOSTIC KITS, AND OTHER PRODUCTS OF BIOLOGICAL
6 ORIGIN UNDER THE FEDERAL "VIRUS-SERUM-TOXIN ACT", 21 U.S.C. SEC.
7 151 ET SEQ., AS AMENDED;

8 (VIII) PACKAGING MATERIAL USED TO CONTAIN A PRODUCT THAT
9 IS REGULATED AS A TOXIC OR HAZARDOUS MATERIAL UNDER THE
10 "FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT", 7 U.S.C.
11 SEC. 136 ET SEQ., AS AMENDED;

12 (IX) PACKAGING MATERIAL USED TO CONTAIN ARCHITECTURAL
13 PAINT COVERED UNDER A PAINT STEWARDSHIP PROGRAM IN ACCORDANCE
14 WITH PART 4 OF THIS ARTICLE 17; AND

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

19 (16) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
20 AND ENVIRONMENT CREATED IN SECTION 24-1-119.

21 (17) "ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES"
22 MEANS POLICIES THAT ENSURE COMPLIANCE WITH ALL APPLICABLE
23 ENVIRONMENTAL LAWS, INCLUDING LAWS ADDRESSING:

24 (a) RECORD KEEPING;

25 (b) TRACKING AND DOCUMENTING THE DISPOSITION OF COVERED
26 MATERIALS COLLECTED FROM COVERED ENTITIES; AND

27 (c) ENVIRONMENTAL LIABILITY COVERAGE FOR PROFESSIONAL

1 SERVICES AND CONTRACTOR OPERATIONS.

2 (18) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
3 THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

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

7 (20) "FRONT RANGE" MEANS THE COUNTIES OF ADAMS,
8 ARAPAHOE, BOULDER, DOUGLAS, ELBERT, EL PASO, JEFFERSON,
9 LARIMER, PUEBLO, TELLER, AND WELD AND THE CITIES AND COUNTIES OF
10 BROOMFIELD AND DENVER.

11 (21) "INDUSTRIAL RECYCLING" MEANS THE PROCESSES OF
12 COLLECTING, AGGREGATING, AND SIZE-REDUCING AND OTHER OPERATIONS
13 THAT TURN PRECONSUMER MATERIALS, INCLUDING PRODUCTS THAT DO
14 NOT MEET QUALITY SPECIFICATIONS, DAMAGED PRODUCTS, AND ITEMS OR
15 BY-PRODUCTS GENERATED BY THE MANUFACTURE OF A PRODUCT BEFORE
16 THE PRODUCT REACHES AN END USER, INTO FEEDSTOCK FOR USE IN THE
17 MANUFACTURE OF NEW PRODUCTS.

18 (22) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY
19 COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

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

24 (24) "MECHANICAL RECYCLING" MEANS A FORM OF RECYCLING
25 THAT DOES NOT CHANGE THE BASIC MOLECULAR STRUCTURE OF THE
26 MATERIAL BEING RECYCLED.

27 (25) "MINIMUM RECYCLABLE LIST" MEANS THE LIST OF COVERED

1 MATERIALS DEVELOPED UNDER SECTION 25-17-606 (1)(a).

2 (26) "NEEDS ASSESSMENT" MEANS THE ASSESSMENT OF THE
3 STATE'S RECYCLING NEEDS CONDUCTED PURSUANT TO SECTION 25-17-605
4 (3).

5 (27) "NONPROFIT ORGANIZATION" MEANS A TAX-EXEMPT
6 CHARITABLE OR SOCIAL WELFARE ORGANIZATION OPERATING UNDER 26
7 U.S.C. 501 (c)(3) OR 501 (c)(4) OF THE FEDERAL "INTERNAL REVENUE
8 CODE OF 1986", AS AMENDED.

9 (28) (a) (I) "PACKAGING MATERIAL" MEANS ANY MATERIAL,
10 REGARDLESS OF RECYCLABILITY, THAT IS INTENDED FOR SINGLE OR
11 SHORT-TERM USE AND IS USED FOR THE CONTAINMENT, PROTECTION,
12 HANDLING, DELIVERY, OR PRESENTATION OF PRODUCTS TO THE CONSUMER
13 AT THE POINT OF SALE, INCLUDING THROUGH AN INTERNET TRANSACTION.

14 (II) "PACKAGING MATERIAL" INCLUDES PRODUCTS SUPPLIED TO OR
15 PURCHASED BY CONSUMERS FOR THE EXPRESS PURPOSE OF FACILITATING
16 FOOD OR BEVERAGE CONSUMPTION AND THAT ARE:

17 (A) ORDINARILY DISPOSED OF AFTER A SINGLE OR SHORT-TERM
18 USE; AND

19 (B) NOT DESIGNED FOR REUSE OR REFILL.

20 (III) "PACKAGING MATERIAL" INCLUDES PAPER, PLASTIC, GLASS,
21 METAL, CARTONS, FLEXIBLE FOAM, RIGID PACKAGING, OR OTHER
22 MATERIALS OR COMBINATION OF THESE MATERIALS.

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

24 (I) PACKAGING MATERIALS USED SOLELY IN TRANSPORTATION OR
25 DISTRIBUTION TO NONCONSUMERS;

26 (II) PACKAGING MATERIALS USED SOLELY IN
27 BUSINESS-TO-BUSINESS TRANSACTIONS WHERE A COVERED MATERIAL IS

1 NOT INTENDED TO BE DISTRIBUTED TO THE END CONSUMER;

2 (III) PACKAGING MATERIALS THAT ARE NOT SOLD OR DISTRIBUTED
3 TO COVERED ENTITIES; OR

4 (IV) PACKAGING MATERIALS THAT ARE USED FOR PRODUCTS SOLD,
5 OFFERED FOR SALE, OR DISTRIBUTED OUTSIDE THE STATE.

6 (29) "PAPER PRODUCTS" MEANS PAPER AND OTHER CELLULOSIC
7 FIBERS, WHETHER OR NOT THEY ARE USED AS A MEDIUM FOR TEXT OR
8 IMAGES, INCLUDING:

9 (a) FLYERS;

10 (b) BROCHURES;

11 (c) BOOKLETS;

12 (d) CATALOGS;

13 (e) TELEPHONE DIRECTORIES;

14 (f) NEWSPAPERS;

15 (g) MAGAZINES; AND

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

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

20 (31) "POSTCONSUMER-RECYCLED-CONTENT RATE" MEANS THE
21 AMOUNT OF POSTCONSUMER RECYCLED MATERIALS USED IN THE
22 PRODUCTION OF COVERED MATERIALS IN A CALENDAR YEAR DIVIDED BY
23 THE AMOUNT OF COVERED MATERIALS USED FOR PRODUCTS SOLD,
24 OFFERED FOR SALE, OR DISTRIBUTED BY PRODUCERS WITHIN OR INTO THEIR
25 UNITED STATES MARKET TERRITORY IN THE SAME CALENDAR YEAR,
26 EXPRESSED AS A PERCENTAGE.

27 (32) (a) "POSTCONSUMER RECYCLED MATERIAL" MEANS ONLY

1 THOSE COVERED MATERIALS THAT HAVE SERVED THEIR INTENDED END USE
2 AS CONSUMER ITEMS AND THAT HAVE BEEN SEPARATED OR DIVERTED
3 FROM THE WASTE STREAM FOR THE PURPOSES OF COLLECTION AND
4 RECYCLING AS A SECONDARY MATERIAL FEEDSTOCK.

5 (b) "POSTCONSUMER RECYCLED MATERIAL" DOES NOT INCLUDE
6 WASTE MATERIAL GENERATED DURING OR AFTER THE COMPLETION OF A
7 MANUFACTURING PROCESS.

8 (33) "PRODUCER" MEANS:

9 (a) (I) IF THE PRODUCT IS SOLD, OFFERED FOR SALE, OR
10 DISTRIBUTED IN THE STATE USING PACKAGING MATERIALS UNDER THE
11 MANUFACTURER'S OWN BRAND OR IS SOLD, OFFERED FOR SALE, OR
12 DISTRIBUTED IN THE STATE USING PACKAGING MATERIALS THAT LACK
13 IDENTIFICATION OF A BRAND, THE PERSON THAT MANUFACTURES THE
14 PRODUCT; OR

15 (II) IF THE PRODUCT IS MANUFACTURED BY A PERSON OTHER THAN
16 THE BRAND OWNER, THE PERSON THAT IS THE LICENSEE OF A BRAND OR
17 TRADEMARK UNDER WHICH A PACKAGED ITEM IS SOLD, OFFERED FOR SALE,
18 OR DISTRIBUTED IN THE STATE, WHETHER OR NOT THE TRADEMARK IS
19 REGISTERED IN THE STATE;

20 (b) FOR THE PURPOSES OF PRODUCTS THAT ARE SOLD, OFFERED FOR
21 SALE, OR DISTRIBUTED IN THE STATE THROUGH AN INTERNET
22 TRANSACTION:

23 (I) THE PRODUCER OF THE PACKAGING MATERIAL USED TO
24 DIRECTLY PROTECT OR CONTAIN THE PRODUCT; AND

25 (II) FOR THE PURPOSES OF PACKAGING MATERIAL USED TO SHIP A
26 PRODUCT TO A CONSUMER, THE PERSON THAT PACKAGES OR SHIPS THE
27 PRODUCT TO THE CONSUMER;

1 (c) FOR THE PURPOSES OF A PAPER PRODUCT THAT IS A MAGAZINE,
2 NEWSPAPER, CATALOG, TELEPHONE DIRECTORY, OR SIMILAR PUBLICATION,
3 THE PUBLISHER OF THE PAPER PRODUCT; OR

4 (d) FOR ANY OTHER COVERED MATERIAL, THE PERSON THAT FIRST
5 DISTRIBUTES THE COVERED MATERIAL IN OR INTO THE STATE.

6 (34) "PRODUCER RESPONSIBILITY DUES" MEANS THE AMOUNTS
7 ESTABLISHED IN SECTION 25-17-605 (4)(h)(II) THAT A PRODUCER
8 PARTICIPATING IN THE PROGRAM PAYS ANNUALLY INTO THE PROGRAM
9 PURSUANT TO SECTION 25-17-609 (1).

10 (35) "PRODUCER RESPONSIBILITY ORGANIZATION" OR
11 "ORGANIZATION" MEANS THE NONPROFIT ORGANIZATION DESIGNATED TO
12 IMPLEMENT THE PROGRAM PURSUANT TO SECTION 25-17-605 (1)(b)(II).

13 (36) "PRODUCER RESPONSIBILITY PROGRAM FOR STATEWIDE
14 RECYCLING" OR "PROGRAM" MEANS THE PRODUCER RESPONSIBILITY
15 PROGRAM FOR STATEWIDE RECYCLING CREATED IN ACCORDANCE WITH
16 SECTION 25-17-605.

17 (37) "PROPRIETARY INFORMATION" MEANS INFORMATION THAT, IF
18 MADE PUBLIC:

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

21 (b) WOULD REASONABLY HINDER THE ENTITY'S COMPETITIVE
22 ADVANTAGE IN THE MARKET.

23 (38) (a) "PUBLIC PLACE" MEANS AN INDOOR OR OUTDOOR
24 LOCATION IN THE STATE THAT IS OPEN TO AND GENERALLY USED BY THE
25 PUBLIC.

26 (b) "PUBLIC PLACE" INCLUDES STREETS; SIDEWALKS; PLAZAS;
27 TOWN SQUARES; STATE-OWNED OR LOCAL-GOVERNMENT-OWNED PARKS,

1 BEACHES, AND FORESTS; OTHER STATE-OWNED OR
2 LOCAL-GOVERNMENT-OWNED LAND OPEN FOR RECREATION OR OTHER
3 PUBLIC USES; AND TRANSPORTATION FACILITIES, INCLUDING BUS AND
4 TRAIN STATIONS AND AIRPORTS.

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

7 (39) "READILY RECYCLABLE MATERIAL" MEANS A COVERED
8 MATERIAL THAT IS INCLUDED ON THE MINIMUM RECYCLABLE LIST.

9 (40) (a) "RECYCLING" MEANS THE REPROCESSING, BY MEANS OF A
10 MANUFACTURING PROCESS, OF A USED MATERIAL INTO A PRODUCT OR A
11 SECONDARY RAW MATERIAL.

12 (b) "RECYCLING" DOES NOT INCLUDE:

13 (I) ENERGY RECOVERY OR ENERGY GENERATION BY MEANS OF
14 COMBUSTION;

15 (II) USE AS A FUEL;

16 (III) USE AS ALTERNATIVE DAILY COVER AS DEFINED IN SECTION
17 30-20-1402 (1); OR

18 (IV) LANDFILL DISPOSAL OF DISCARDED COVERED MATERIALS.

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

25 (b) THE RECYCLING RATE IS MEASURED AT THE POINT WHERE
26 COLLECTED COVERED MATERIALS HAVE BEEN PROCESSED AND ARE READY
27 FOR SALE OR DELIVERY TO MATERIAL RECLAIMERS OR END MARKETS

1 AFTER PROCESSING AT A MATERIALS RECOVERY FACILITY OR SIMILAR
2 ESTABLISHMENT.

3 (42) (a) (I) "RECYCLING SERVICES" MEANS SERVICES PROVIDED
4 FOR THE RECYCLING OF COVERED MATERIALS, INCLUDING THE
5 COLLECTION, TRANSPORTATION, AND PROCESSING OF COVERED MATERIALS
6 FROM THE CONSUMER TO THE END MARKET.

7 (II) "RECYCLING SERVICES" INCLUDES CURBSIDE SERVICES AND
8 DROP-OFF CENTERS.

9 (b) "RECYCLING SERVICES" DOES NOT INCLUDE INDUSTRIAL
10 RECYCLING SERVICES.

11 (43) "RECYCLING SERVICES COSTS" MEANS THE COSTS OF
12 RECYCLING PROGRAMS TO PROVIDE RECYCLING SERVICES, INCLUDING
13 COSTS RELATED TO:

14 (a) THE ADMINISTRATION OF RECYCLING PROGRAMS;

15 (b) CAPITAL IMPROVEMENTS TO RECYCLING PROGRAMS;

16 (c) THE COLLECTION, TRANSPORTATION, SORTING, AND
17 PROCESSING OF COVERED MATERIALS;

18 (d) PUBLIC EDUCATION ABOUT RECYCLING PROGRAMS; AND

19 (e) DISPOSAL OF NONRECYCLABLE COLLECTED COVERED
20 MATERIALS.

21 (44) "RESPONSIBLE END MARKET" MEANS A MATERIALS MARKET
22 IN WHICH THE RECYCLING OF MATERIALS OR THE DISPOSAL OF
23 CONTAMINANTS IS CONDUCTED IN A WAY THAT:

24 (a) BENEFITS THE ENVIRONMENT; AND

25 (b) MINIMIZES RISKS TO PUBLIC HEALTH AND WORKER HEALTH
26 AND SAFETY.

27 (45) "RETAILER" MEANS A PERSON THAT SELLS OR OFFERS FOR

1 SALE TO CONSUMERS WITHIN OR INTO THE STATE, INCLUDING SALES MADE
2 THROUGH AN INTERNET TRANSACTION, PRODUCTS FOR WHICH COVERED
3 MATERIALS ARE USED.

4 (46) "REUSE" OR "REFILL" MEANS THE RETURN INTO THE
5 MARKETPLACE OF A COVERED MATERIAL THAT:

6 (a) HAS ALREADY BEEN USED IN THE SAME MANNER AS
7 ORIGINALLY INTENDED WITHOUT A CHANGE IN THE COVERED MATERIAL'S
8 PURPOSE; AND

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

11 (47) "SERVICE PROVIDER" MEANS A PUBLIC OR PRIVATE ENTITY,
12 OTHER THAN THE PRODUCER RESPONSIBILITY ORGANIZATION, THAT
13 PROVIDES RECYCLING SERVICES IN THE STATE.

14 **25-17-604. Producer responsibility program for statewide**
15 **recycling advisory board - creation - membership.** (1) THE PRODUCER
16 RESPONSIBILITY PROGRAM FOR STATEWIDE RECYCLING ADVISORY BOARD
17 IS HEREBY CREATED IN THE DEPARTMENT. THE DEPARTMENT MAY SELECT
18 AN IMPARTIAL, THIRD-PARTY FACILITATOR TO CONVENE AND PROVIDE
19 ADMINISTRATIVE SUPPORT TO THE ADVISORY BOARD.

20 (2) (a) THE ADVISORY BOARD CONSISTS OF THE FOLLOWING
21 THIRTEEN VOTING MEMBERS AND TWO NONVOTING MEMBERS APPOINTED
22 BY THE EXECUTIVE DIRECTOR:

23 (I) THREE VOTING MEMBERS REPRESENTING LOCAL GOVERNMENTS
24 IN THE STATE, INCLUDING:

25 (A) ONE MEMBER REPRESENTING A MUNICIPALITY OR CITY AND
26 COUNTY;

27 (B) ONE MEMBER REPRESENTING A COUNTY; AND

- 1 (C) ONE MEMBER REPRESENTING A LOCAL GOVERNMENT NOT
2 LOCATED IN THE FRONT RANGE;
- 3 (II) ONE VOTING MEMBER REPRESENTING A MATERIALS RECOVERY
4 FACILITY;
- 5 (III) ONE VOTING MEMBER REPRESENTING A HAULER OF
6 RECYCLABLE MATERIALS, WHETHER REPRESENTING THE PUBLIC OR
7 PRIVATE SECTOR;
- 8 (IV) ONE VOTING MEMBER REPRESENTING AN ENVIRONMENTAL OR
9 COMMUNITY-BASED NONPROFIT ORGANIZATION;
- 10 (V) ONE VOTING MEMBER REPRESENTING A PACKAGING MATERIAL
11 SUPPLIER THAT IS NOT A PRODUCER;
- 12 (VI) ONE VOTING MEMBER REPRESENTING A MANUFACTURER OF
13 RECYCLED PAPER PRODUCTS THAT IS NOT A PRODUCER;
- 14 (VII) ONE VOTING MEMBER REPRESENTING A TRADE ASSOCIATION,
15 CHAMBER OF COMMERCE, OR OTHER BUSINESS ADVOCACY ORGANIZATION
16 REPRESENTING BUSINESSES THAT ARE HEADQUARTERED IN THE STATE;
- 17 (VIII) ONE VOTING MEMBER REPRESENTING A RETAILER'S
18 ASSOCIATION OR A RETAILER THAT IS NOT A PRODUCER;
- 19 (IX) ONE VOTING MEMBER REPRESENTING A COMPOST FACILITY;
- 20 (X) ONE VOTING MEMBER WHO HAS EXPERIENCE IN
21 ENVIRONMENTAL JUSTICE AND REPRESENTING UNDERSERVED
22 COMMUNITIES;
- 23 (XI) ONE VOTING MEMBER REPRESENTING A SOLID WASTE
24 LANDFILL OR TRANSFER STATION OPERATING AN ON-SITE, PUBLIC-FACING
25 RECYCLING COLLECTION PROGRAM;
- 26 (XII) ONE NONVOTING MEMBER REPRESENTING THE DEPARTMENT;
27 AND

1 (XIII) ONE NONVOTING MEMBER REPRESENTING THE PRODUCER
2 RESPONSIBILITY ORGANIZATION.

3 (b) (I) THE MEMBERS OF THE ADVISORY BOARD MUST HAVE
4 RELEVANT KNOWLEDGE AND EXPERTISE IN RECYCLING PROGRAMS OR THE
5 IMPACTS OF COVERED MATERIALS ON THE STATE AND THE ENVIRONMENT.

6 (II) IN APPOINTING MEMBERS, THE EXECUTIVE DIRECTOR SHALL
7 ENSURE TO THE EXTENT POSSIBLE THE GEOGRAPHIC DIVERSITY OF THE
8 ADVISORY BOARD'S MEMBERSHIP.

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

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

26 (5) THE ADVISORY BOARD IS SUBJECT TO THE OPEN MEETINGS
27 PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", CONTAINED IN

1 PART 4 OF ARTICLE 6 OF TITLE 24, AND THE "COLORADO OPEN RECORDS
2 ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

3 (6) ADVISORY BOARD MEMBERS ARE ENTITLED TO BE REIMBURSED
4 AT A RATE CONSISTENT WITH OTHER BOARDS AND COMMISSIONS CREATED
5 WITHIN THE DEPARTMENT FOR NECESSARY TRAVEL AND OTHER
6 REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR
7 OFFICIAL DUTIES.

8 (7) THE ADVISORY BOARD SHALL:

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

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

13 (c) REVIEW THE PLAN PROPOSAL SUBMITTED UNDER SECTION
14 25-17-605 (4);

15 (d) RECOMMEND AMENDMENTS TO THE PLAN PROPOSAL AND THE
16 AMENDED PLAN PROPOSAL TO THE ORGANIZATION;

17 (e) RECOMMEND THAT THE EXECUTIVE DIRECTOR APPROVE OR
18 REJECT THE PLAN PROPOSAL OR AMENDED PLAN PROPOSAL;

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

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

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

27 **25-17-605. Producer responsibility program for statewide**

1 **recycling - needs assessment - plan proposal - rules.** (1) (a) ON OR
2 BEFORE JUNE 1, 2023, PRODUCERS OR THEIR DESIGNATED AGENTS SHALL
3 ESTABLISH A NONPROFIT ORGANIZATION TO FULFILL THE REQUIREMENTS
4 OF THIS PART 6 AND SHALL PROVIDE NOTIFICATION TO THE DEPARTMENT
5 THAT INCLUDES:

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

9 (II) A LIST OF PARTICIPATING PRODUCERS; AND

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

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

15 (I) ACKNOWLEDGE RECEIPT OF THE NOTIFICATION; AND

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

19 (c) THE ORGANIZATION DESIGNATED BY THE EXECUTIVE DIRECTOR
20 PURSUANT TO SUBSECTION (1)(b)(II) OF THIS SECTION MUST HAVE A
21 GOVERNING BOARD WITH VOTING MEMBERS THAT REPRESENT A DIVERSE
22 RANGE OF PRODUCERS AND REPRESENT PRODUCERS OF DIFFERENT TYPES
23 OF COVERED MATERIALS. THE GOVERNING BOARD OF THE ORGANIZATION
24 MAY INCLUDE NONVOTING MEMBERS THAT REPRESENT A DIVERSITY OF
25 MATERIAL TRADE ASSOCIATIONS.

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 AND GAPS IN RECYCLING SERVICES
22 TO RESIDENTIAL COVERED ENTITIES THROUGHOUT THE STATE AND THE
23 PRICES PAID FOR RECYCLING SERVICES;

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

27 (III) DEMOGRAPHIC FACTORS AND OTHER VARIABLES TO BE

1 CONSIDERED IN THE DEVELOPMENT OF REIMBURSEMENT RATES FOR
2 SERVICE PROVIDERS IN ACCORDANCE WITH SUBSECTION (4)(i) OF THIS
3 SECTION;

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

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

14 (VI) THE PROCESSING CAPACITY AND INFRASTRUCTURE NEEDED
15 FOR THE PROGRAM TO MEET OR EXCEED THE CONVENIENCE STANDARDS
16 AND THE PROJECTED SCENARIOS FOR INCREASING THE RECYCLING RATE
17 AND COLLECTION RATE OF COVERED MATERIALS, AS IDENTIFIED PURSUANT
18 TO SUBSECTION (3)(a)(XII) OF THIS SECTION;

19 (VII) A PROPOSED LIST OF COVERED MATERIALS FOR INCLUSION IN
20 THE MINIMUM RECYCLABLE LIST AND ADDITIONAL MATERIALS THAT MAY
21 BE COLLECTED IN DIFFERENT GEOGRAPHIC AREAS THROUGH CURBSIDE
22 SERVICES OR DROP-OFF CENTERS;

23 (VIII) THE MARKET CONDITIONS AND OPPORTUNITIES FOR THE USE
24 OF RECYCLED COVERED MATERIALS IN THE STATE AND IN DIFFERENT
25 GEOGRAPHIC AREAS OF THE STATE;

26 (IX) OPPORTUNITIES FOR THE USE OF INNOVATIVE NEW
27 TECHNOLOGIES FOR THE RECYCLING AND REUSE OF COVERED MATERIALS;

1 (X) THE AVAILABILITY AND SCOPE OF ANY REUSE OR REFILL
2 SYSTEMS IN THE STATE AFFECTING THE USE OF COVERED MATERIALS;

3 (XI) EDUCATION NEEDS IN THE STATE WITH RESPECT TO THE
4 EDUCATION NEEDS DESCRIBED IN SECTION 25-17-607; AND

5 (XII) AT LEAST THREE PROJECTED SCENARIOS FOR INCREASING
6 THE RECYCLING RATE AND COLLECTION RATE OF COVERED MATERIALS IN
7 THE STATE, INCLUDING RECYCLING RATES AND COLLECTION RATES THAT
8 THE STATE COULD MEET BY JANUARY 1, 2030, AND JANUARY 1, 2035, AND
9 THE OPERATING AND CAPITAL COSTS NEEDED TO REACH EACH PROJECTED
10 SCENARIO.

11 (b) THE ORGANIZATION SHALL CONSULT WITH THE ADVISORY
12 BOARD THROUGHOUT THE NEEDS ASSESSMENT PROCESS AND IN
13 DETERMINING WHICH PROJECTED SCENARIO IDENTIFIED PURSUANT TO
14 SUBSECTION (3)(a)(XII) OF THIS SECTION TO IMPLEMENT IN ITS PLAN
15 PROPOSAL.

16 (c) ON OR BEFORE APRIL 1, 2024, THE ORGANIZATION SHALL
17 REPORT THE RESULTS OF THE NEEDS ASSESSMENT TO THE ADVISORY
18 BOARD AND THE EXECUTIVE DIRECTOR. THE EXECUTIVE DIRECTOR SHALL
19 POST THE RESULTS OF THE NEEDS ASSESSMENT ON THE DEPARTMENT'S
20 WEBSITE AND PROVIDE PUBLIC NOTICE AND AN OPPORTUNITY TO COMMENT
21 ON THE RESULTS OF THE NEEDS ASSESSMENT.

22 (d) WITHIN SIXTY DAYS AFTER REPORTING THE RESULTS OF THE
23 NEEDS ASSESSMENT PURSUANT TO SUBSECTION (3)(c) OF THIS SECTION,
24 THE ADVISORY BOARD MAY PROVIDE THE ORGANIZATION WITH A
25 RECOMMENDATION OF WHICH PROJECTED SCENARIO IDENTIFIED PURSUANT
26 TO SUBSECTION (3)(a)(XII) OF THIS SECTION TO IMPLEMENT IN ITS PLAN
27 PROPOSAL.

1 (e) ON OR BEFORE MAY 1, 2029, AND ON OR BEFORE MAY 1 EVERY
2 FIVE YEARS THEREAFTER, THE ORGANIZATION SHALL HIRE AN
3 INDEPENDENT THIRD PARTY APPROVED BY THE EXECUTIVE DIRECTOR TO
4 CONDUCT AN UPDATED ASSESSMENT OF THE STATE'S RECYCLING NEEDS TO
5 REEVALUATE THE PROGRAM AND IDENTIFY ANY RECYCLING SERVICE
6 NEEDS IN THE STATE THAT ARE NOT BEING MET BY THE PROGRAM. IN
7 CONSULTATION WITH THE ADVISORY BOARD, THE ORGANIZATION MAY
8 MODIFY THE SCOPE OF AN UPDATED NEEDS ASSESSMENT BY APRIL 15,
9 2029, AND ON OR BEFORE EVERY APRIL 15 EVERY FIVE YEARS
10 THEREAFTER. THE ORGANIZATION SHALL REPORT THE RESULTS OF THE
11 UPDATED NEEDS ASSESSMENT TO THE EXECUTIVE DIRECTOR IN
12 ACCORDANCE WITH THE REPORTING REQUIREMENTS SET FORTH IN
13 SUBSECTION (3)(c) OF THIS SECTION. THE ORGANIZATION SHALL USE THE
14 FINDINGS OF THE UPDATED NEEDS ASSESSMENT TO CREATE AN UPDATED
15 PLAN PROPOSAL AND SUBMIT THE UPDATED PLAN PROPOSAL TO THE
16 ADVISORY BOARD IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION.
17 IN CONSULTATION WITH THE ADVISORY BOARD AND THE ORGANIZATION,
18 THE EXECUTIVE DIRECTOR MAY WAIVE THE REQUIREMENT TO CONDUCT AN
19 UPDATED NEEDS ASSESSMENT UNDER THIS SUBSECTION (3)(e).

20 (4) ON OR BEFORE FEBRUARY 1, 2025, THE ORGANIZATION SHALL
21 SUBMIT A PLAN PROPOSAL FOR THE PROGRAM TO THE ADVISORY BOARD,
22 THAT, EXCEPT AS SET FORTH IN SUBSECTION (4)(y) OF THIS SECTION, ONLY
23 ADDRESSES RECYCLING SERVICES FOR RESIDENTIAL COVERED ENTITIES.
24 THE PLAN PROPOSAL MUST COVER A PERIOD OF FIVE YEARS, AND AN
25 UPDATED PLAN PROPOSAL MUST BE SUBMITTED TO THE ADVISORY BOARD
26 ON OR BEFORE FEBRUARY 1 EVERY FIVE YEARS THEREAFTER. ANY
27 UPDATED PLAN PROPOSAL MUST ADDRESS RECYCLING SERVICES FOR BOTH

1 RESIDENTIAL AND ANY APPLICABLE NONRESIDENTIAL COVERED ENTITIES,
2 AS IDENTIFIED IN THE NEEDS ASSESSMENT PURSUANT TO SUBSECTION
3 (3)(a)(V) OF THIS SECTION. IN DEVELOPING THE PLAN PROPOSAL AND ANY
4 UPDATED PLAN PROPOSALS, THE ORGANIZATION SHALL SOLICIT AND
5 CONSIDER INPUT FROM THE ADVISORY BOARD AND PROVIDE OPPORTUNITY
6 FOR ADDITIONAL STAKEHOLDER INPUT. TO BE APPROVED, A PLAN
7 PROPOSAL MUST:

8 (a) PROVIDE CONTACT INFORMATION FOR THE ORGANIZATION AND
9 A REPRESENTATIVE OF THE ORGANIZATION;

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

12 (c) DESCRIBE THE MANNER IN WHICH THE ORGANIZATION
13 SOLICITED AND CONSIDERED INPUT FROM STAKEHOLDERS AND THE
14 ADVISORY BOARD IN DEVELOPING THE PLAN PROPOSAL. THE
15 ORGANIZATION MUST PROVIDE A SUMMARY OF ANY COMMENTS ABOUT
16 THE PLAN PROPOSAL FROM THE ADVISORY BOARD AND ADDITIONAL
17 STAKEHOLDERS AND IDENTIFY CHANGES MADE TO THE PLAN PROPOSAL
18 BASED ON THE COMMENTS.

19 (d) DESCRIBE HOW THE ORGANIZATION WILL TRACK COMPLIANCE
20 AMONG PRODUCERS AND WILL COLLABORATE WITH THE EXECUTIVE
21 DIRECTOR TO BRING PRODUCERS INTO COMPLIANCE;

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

24 (f) ESTABLISH RECYCLING PRACTICES THAT:

25 (I) MEET OR EXCEED THE CONVENIENCE STANDARDS;

26 (II) USE OPEN, COMPETITIVE, AND FAIR PROCUREMENT PRACTICES
27 WHEN ENTERING INTO CONTRACTS WITH SERVICE PROVIDERS, AND, WHEN

1 ENTERING INTO CONTRACTS WITH PRIVATE SERVICE PROVIDERS, ADOPT A
2 PREFERENCE FOR SERVICE PROVIDERS WITH STRONG LABOR STANDARDS
3 AND WORKER SAFETY PRACTICES;

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

6 (IV) USE ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES;

7 (g) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH
8 NEWSPAPER PUBLISHERS TO ACCEPT PRINT OR ONLINE ADVERTISING IN
9 LIEU OF ALL OR A PORTION OF THE PRODUCER RESPONSIBILITY DUES FOR
10 NEWSPAPERS CIRCULATED WITHIN THE STATE;

11 (h) ESTABLISH A FUNDING MECHANISM THAT:

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

14 (A) PROVIDING RECYCLING SERVICES UNDER THE PROGRAM
15 THROUGH CONTRACTS WITH SERVICE PROVIDERS OR REIMBURSEMENT OF
16 RECYCLING SERVICES COSTS UNDER THE REIMBURSEMENT RATES
17 PROPOSED PURSUANT TO SUBSECTION (4)(i) OF THIS SECTION;

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

20 (C) CONDUCTING THE NEEDS ASSESSMENT;

21 (D) DEVELOPING AND UPDATING THE FINAL PLAN; AND

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

24 (II) IS FUNDED THROUGH PRODUCER RESPONSIBILITY DUES. THE
25 PRODUCER RESPONSIBILITY DUES PAID BY A PRODUCER MUST BE BASED ON
26 THE WEIGHT OF THE COVERED MATERIALS THAT ARE USED FOR PRODUCTS
27 SOLD, OFFERED FOR SALE, OR DISTRIBUTED BY THE PRODUCER IN THE

1 STATE. THE PRODUCER RESPONSIBILITY DUES FOR EACH COVERED
2 MATERIAL TYPE DEFINED BY THE ORGANIZATION MUST VARY BASED ON
3 THE MARKET VALUE OF EACH TYPE OF COVERED MATERIAL USED AND THE
4 COST TO COLLECT, TRANSPORT, PROCESS, AND MARKET THAT TYPE OF
5 COVERED MATERIAL.

6 (III) REQUIRES:

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

10 (B) THE ORGANIZATION TO MAINTAIN A FINANCIAL RESERVE
11 SUFFICIENT TO OPERATE THE PROGRAM IN A FISCALLY PRUDENT AND
12 RESPONSIBLE MANNER;

13 (IV) INCENTIVIZES:

14 (A) REDUCTIONS IN THE AMOUNT OF PACKAGING MATERIALS USED
15 FOR PRODUCTS;

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

18 (C) HIGH LEVELS OF POSTCONSUMER RECYCLED MATERIAL USE IN
19 A MANNER THAT DOES NOT DISRUPT THE RECYCLING OF OTHER
20 MATERIALS;

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

22 AND

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

24 (V) DISINCENTIVIZES:

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

27 (B) DESIGNS AND PRACTICES THAT DISRUPT THE RECYCLING OF

1 OTHER MATERIALS; AND

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

4 (VI) AT THE REQUEST OF A PRODUCER OR PRODUCERS OF A
5 COVERED MATERIAL, MAY INCLUDE A SPECIAL ASSESSMENT PAID BY THE
6 PRODUCERS OF THAT COVERED MATERIAL TO COVER SYSTEM
7 IMPROVEMENTS THAT IMPROVE THE COLLECTION AND RECYCLING OF THAT
8 COVERED MATERIAL OR FACILITATE THE ADDITION OF THE COVERED
9 MATERIAL TO THE LIST OF READILY RECYCLABLE MATERIALS;

10 (i) INCLUDE REIMBURSEMENT RATES FOR ONE HUNDRED PERCENT
11 OF THE NET RECYCLING SERVICES COSTS OF THE RECYCLING SERVICES
12 PROVIDED BY SERVICE PROVIDERS UNDER THE PROGRAM CONSISTENT WITH
13 THE REQUIREMENTS OF SECTION 25-17-606. THE REIMBURSEMENT RATES
14 MUST:

15 (I) BE CALCULATED USING AN OBJECTIVE COST FORMULA OR
16 FORMULAS;

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

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

22 (IV) TAKE INTO ACCOUNT:

23 (A) REGIONAL RECYCLING SERVICES COSTS;

24 (B) POPULATION DENSITY;

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

26 (D) THE COLLECTION METHOD USED;

27 (E) THE REVENUE GENERATED FROM COVERED MATERIALS; AND

1 (F) OTHER DEMOGRAPHIC FACTORS IDENTIFIED IN THE NEEDS
2 ASSESSMENT PURSUANT TO SUBSECTION (3)(a)(III) OF THIS SECTION.

3 (j) DESCRIBE THE PROCESS TO EVALUATE AND REVISE THE
4 OBJECTIVE COST FORMULA AS NECESSARY. IF THE PLAN PROPOSAL
5 INCLUDES MORE THAN ONE OBJECTIVE COST FORMULA FOR RECYCLING
6 SERVICES, THE PLAN PROPOSAL MUST DESCRIBE THE CONDITIONS UNDER
7 WHICH EACH FORMULA WILL BE APPLIED.

8 (k) INCLUDE A SCHEDULE OF REIMBURSEMENT RATES FOR SERVICE
9 PROVIDERS THAT ELECT TO PARTICIPATE IN THE PROGRAM AND BE
10 REIMBURSED BY THE ORGANIZATION FOR PROVIDING RECYCLING SERVICES
11 FOR THE PROGRAM AND DESCRIBE A PROCESS FOR UPDATING THE
12 SCHEDULE PERIODICALLY AND AS NECESSARY;

13 (l) INCLUDE A PROPOSED BUDGET AND A DESCRIPTION OF THE
14 PROCESS USED TO DETERMINE PRODUCER RESPONSIBILITY DUES;

15 (m) DESCRIBE A PLAN THAT OUTLINES, IF THE ORGANIZATION
16 CEASES TO EXIST OR CEASES TO ADMINISTER THE PROGRAM, HOW ANY
17 PRODUCER RESPONSIBILITY DUES THAT HAVE NOT BEEN USED TO
18 IMPLEMENT THE PROGRAM WILL BE TRANSFERRED TO ANOTHER
19 ORGANIZATION DESIGNATED BY THE EXECUTIVE DIRECTOR UNDER
20 SUBSECTION (1)(b)(II) OF THIS SECTION TO ADMINISTER THE PROGRAM;

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

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

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

5 (q) DESCRIBE HOW THE ORGANIZATION WILL VERIFY MINIMUM
6 POSTCONSUMER-RECYCLED-CONTENT RATES AND HOW
7 POSTCONSUMER-RECYCLED-CONTENT RATES WILL BE CALCULATED USING
8 WEIGHT AND OTHER METRICS;

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

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

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

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

22 (t) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH SERVICE
23 PROVIDERS TO:

24 (I) UTILIZE AND EXPAND ON EXISTING RECYCLING SERVICES AND
25 INFRASTRUCTURE AND EXISTING EDUCATION AND OUTREACH PROGRAMS;

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

1 (A) REQUIRING EACH MATERIALS RECOVERY FACILITY AND
2 COMPOST FACILITY PARTICIPATING IN THE PROGRAM TO REPORT
3 ANNUALLY TO THE ORGANIZATION ON CONTAMINATION LEVELS AT EACH
4 FACILITY; AND

5 (B) PROVIDING FUNDING OR OTHER ASSISTANCE TO COMPOST
6 FACILITIES TO REDUCE THE COSTS OF MANAGING OR INCREASE THE
7 EFFECTIVENESS OF EFFORTS TO MANAGE CONTAMINATION;

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

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

13 (V) MITIGATE THE IMPACTS OF COVERED MATERIALS ON OTHER
14 MATERIALS AND EQUIPMENT AT SORTING AND PROCESSING FACILITIES;
15 AND

16 (VI) INVEST IN MARKET DEVELOPMENT FOR COVERED 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 POST-CONSUMER 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 SIXTY 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 THIRTY DAYS AFTER THE SUBMISSION OF THE AMENDED PLAN PROPOSAL
22 TO THE ADVISORY BOARD, THE ADVISORY BOARD SHALL FORWARD THE
23 AMENDED PLAN PROPOSAL TO THE EXECUTIVE DIRECTOR WITH ITS
24 RECOMMENDATION FOR APPROVAL OR REJECTION AND, IF APPLICABLE, A
25 WRITTEN EXPLANATION OF THE BASIS FOR RECOMMENDING REJECTION OF
26 THE PLAN PROPOSAL.

27 (b) (I) WITHIN SIXTY DAYS AFTER RECEIVING THE PLAN PROPOSAL

1 OR AMENDED PLAN PROPOSAL, THE EXECUTIVE DIRECTOR SHALL:

2 (A) APPROVE THE PLAN PROPOSAL OR AMENDED PLAN PROPOSAL;

3 OR

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

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

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

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

25 (6) (a) THE ORGANIZATION MAY SUBMIT PROPOSED AMENDMENTS
26 TO THE FINAL PLAN ANNUALLY TO THE ADVISORY BOARD FOR INCLUSION
27 IN THE ANNUAL REPORT UNDER SECTION 25-17-609 (2)(c). THE ADVISORY

1 BOARD SHALL REVIEW THE PROPOSED AMENDMENTS AND MAY
2 RECOMMEND THOSE PROPOSED AMENDMENTS TO THE EXECUTIVE
3 DIRECTOR IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN
4 SUBSECTION (5)(a) OF THIS SECTION. THE EXECUTIVE DIRECTOR SHALL
5 APPROVE OR REJECT THE PROPOSED AMENDMENTS BASED ON THE PLAN
6 PROPOSAL REQUIREMENTS SPECIFIED IN SUBSECTION (4) OF THIS SECTION.

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

14 (7) THE EXECUTIVE DIRECTOR SHALL ENFORCE THIS PART 6 IN
15 ACCORDANCE WITH SECTION 25-17-610 AND THE COMMISSION SHALL
16 PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24 AS MAY
17 BE NECESSARY FOR THE ADMINISTRATION OF THIS PART 6 AND THE
18 ENFORCEMENT OF THIS PART 6 PURSUANT TO SECTION 25-17-610.

19 **25-17-606. Minimum recyclable list - convenience standards.**

20 (1)(a) THE ORGANIZATION SHALL DEVELOP A MINIMUM RECYCLABLE LIST
21 BASED ON THE AVAILABILITY OF RECYCLING SERVICES, RECYCLING
22 COLLECTION AND PROCESSING INFRASTRUCTURE, AND RECYCLING END
23 MARKETS FOR COVERED MATERIALS, AS DETERMINED BY THE NEEDS
24 ASSESSMENT.

25 (b) THE ORGANIZATION SHALL UPDATE THE MINIMUM RECYCLABLE
26 LIST, AND SUBMIT ANY UPDATES FOR INCLUSION IN THE ANNUAL REPORT
27 PURSUANT TO SECTION 25-17-609 (2)(a), IN RESPONSE TO RECYCLING

1 COLLECTION AND PROCESSING IMPROVEMENTS AND CHANGES IN
2 RECYCLING END MARKETS. THE ADVISORY BOARD SHALL CONSULT WITH
3 THE ORGANIZATION ON ANY UPDATES TO THE MINIMUM RECYCLABLE LIST
4 IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SECTION 25-17-605
5 (6).

6 (2) (a) TO BE ELIGIBLE FOR REIMBURSEMENT FOR RECYCLING
7 SERVICES PROVIDED UNDER THE PROGRAM, SERVICE PROVIDERS MUST
8 PROVIDE RECYCLING SERVICES FOR ALL READILY RECYCLABLE MATERIALS.

9 (b) THE EXECUTIVE DIRECTOR MAY GRANT A SERVICE PROVIDER
10 AN EXCEPTION TO THE REQUIREMENTS OF SUBSECTION (2)(a) OF THIS
11 SECTION IF THE SERVICE PROVIDER DEMONSTRATES TO THE REASONABLE
12 SATISFACTION OF THE EXECUTIVE DIRECTOR THAT IT IS NOT ABLE TO
13 PROVIDE RECYCLING SERVICES FOR A READILY RECYCLABLE MATERIAL.

14 (c) SERVICE PROVIDERS ARE ELIGIBLE FOR REIMBURSEMENT FROM
15 THE ORGANIZATION FOR THE COLLECTION OF COVERED MATERIALS THAT
16 ARE NOT INCLUDED IN THE MINIMUM RECYCLABLE LIST FOR THE REGION
17 IF THE SERVICE PROVIDER DEMONSTRATES TO THE ORGANIZATION THAT
18 THE COVERED MATERIALS CAN BE COLLECTED AT A REASONABLE COST
19 AND HAVE A RESPONSIBLE END MARKET.

20 (d) THE ORGANIZATION SHALL REIMBURSE SERVICE PROVIDERS
21 FOR THE RECYCLING SERVICES COSTS TO PROVIDE RECYCLING SERVICES
22 FOR ALL READILY RECYCLABLE MATERIALS AND COVERED MATERIALS
23 THAT THE ORGANIZATION APPROVES PURSUANT TO SUBSECTION (2)(c) OF
24 THIS SECTION.

25 (e) NOTWITHSTANDING ANY LAW TO THE CONTRARY, NOTHING IN
26 THIS PART 6 RESTRICTS A SERVICE PROVIDER FROM COLLECTING OR
27 PROCESSING COVERED MATERIALS THAT ARE NOT INCLUDED IN THE

1 MINIMUM RECYCLABLE LIST.

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

9 (b) TO THE EXTENT REASONABLE, THE COLLECTION OF READILY
10 RECYCLABLE MATERIALS MUST BE PROVIDED IN A MANNER THAT IS AS
11 CONVENIENT AS THE COLLECTION OF SOLID WASTE IN THE GEOGRAPHIC
12 AREA IN WHICH THE COVERED ENTITY IS LOCATED.

13 (c) TO THE EXTENT REASONABLE, ANY COVERED ENTITIES IN THE
14 STATE THAT ARE RECEIVING RECYCLING SERVICES ON DECEMBER 31,
15 2022, MUST CONTINUE TO RECEIVE EQUIVALENT RECYCLING SERVICES
16 THROUGH THE PROGRAM OR A SERVICE PROVIDER ON AND AFTER
17 DECEMBER 31, 2022.

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

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

25 **25-17-607. Education and outreach program.** (1) THE
26 ORGANIZATION SHALL DEVELOP AND IMPLEMENT A STATEWIDE
27 EDUCATION AND OUTREACH PROGRAM THAT IS DESIGNED TO INCREASE

1 THE RECYCLING AND REUSE OF COVERED MATERIALS AND INCLUDES
2 EDUCATION AND OUTREACH ON:

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

4 (b) THE LOCATION AND AVAILABILITY OF RECYCLING SERVICES
5 UNDER THE PROGRAM; AND

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

8 (2) THE EDUCATION AND OUTREACH PROGRAM MUST, AT A
9 MINIMUM:

10 (a) PROVIDE CLEAR AND CONCISE RECYCLING INSTRUCTIONS THAT
11 ARE CONSISTENT STATEWIDE AND ACCESSIBLE FOR ALL DEMOGRAPHIC
12 GROUPS;

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

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

20 (3) THE ORGANIZATION SHALL CONSULT WITH THE ADVISORY
21 BOARD AND OTHER ENTITIES PROVIDING RECYCLING EDUCATION IN THE
22 STATE ON THE DEVELOPMENT AND DISTRIBUTION OF EDUCATION
23 OUTREACH SERVICES AND MATERIALS. THE ORGANIZATION MAY
24 CONTRACT WITH SERVICE PROVIDERS, LOCAL GOVERNMENTS, AND
25 NONPROFIT ORGANIZATIONS TO CONDUCT RECYCLING EDUCATION AND
26 OUTREACH SERVICES UNDER THE EDUCATION AND OUTREACH PROGRAM
27 DEVELOPED UNDER SUBSECTION (1) OF THIS SECTION.

1 (4) THE ORGANIZATION SHALL DEVELOP A PROPOSED
2 METHODOLOGY FOR EVALUATING AND REPORTING ON THE EFFECTIVENESS
3 OF THE EDUCATION AND OUTREACH PROGRAM.

4 **25-17-608. Producer requirements - additional program plan**
5 **- confidentiality - compliance with local government codes - audit.**

6 (1) EFFECTIVE JULY 1, 2025, A PRODUCER SHALL NOT SELL, OFFER FOR
7 SALE, OR DISTRIBUTE ANY PRODUCTS THAT USE COVERED MATERIALS IN
8 THE STATE UNLESS THE PRODUCER IS PARTICIPATING IN THE PROGRAM OR,
9 ON OR AFTER JANUARY 1, 2029, EXCEPT AS SET FORTH IN AN ADDITIONAL
10 PROGRAM PLAN.

11 (2) (a) ON JANUARY 1, 2029, AND EVERY JANUARY 1 THEREAFTER,
12 A NONPROFIT ORGANIZATION MAY REQUEST THAT THE EXECUTIVE
13 DIRECTOR DESIGNATE THE NONPROFIT ORGANIZATION AS AN ADDITIONAL
14 PRODUCER RESPONSIBILITY ORGANIZATION.

15 (b) THE EXECUTIVE DIRECTOR MAY DESIGNATE A NONPROFIT
16 ORGANIZATION AS AN ADDITIONAL PRODUCER RESPONSIBILITY
17 ORGANIZATION IF THE EXECUTIVE DIRECTOR, IN COORDINATION WITH THE
18 ADVISORY BOARD, DETERMINES THAT THE DESIGNATION OF THE
19 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION IS NECESSARY TO:

- 20 (I) INCREASE RECYCLING RATES;
- 21 (II) EXPAND RECYCLING SERVICES TO COVERED ENTITIES THAT ARE
22 NOT COVERED UNDER THE FINAL PLAN; OR
- 23 (III) PROVIDE RECYCLING SERVICES FOR A SPECIFIC TYPE OF
24 COVERED MATERIAL.

25 (c) IF THE EXECUTIVE DIRECTOR DESIGNATES AN ADDITIONAL
26 PRODUCER RESPONSIBILITY ORGANIZATION, THE ADDITIONAL PRODUCER
27 RESPONSIBILITY ORGANIZATION SHALL SUBMIT AN ADDITIONAL PROGRAM

1 PLAN PROPOSAL TO THE ADVISORY BOARD THAT COMPLIES WITH THE
2 REQUIREMENTS OF SECTION 25-17-605 (4), AS APPLICABLE. THE ADVISORY
3 BOARD SHALL REVIEW AND MAKE RECOMMENDATIONS ON, AND THE
4 EXECUTIVE DIRECTOR SHALL APPROVE OR REJECT, ANY ADDITIONAL
5 PROGRAM PLAN PROPOSAL OR AMENDMENTS TO THE ADDITIONAL
6 PROGRAM PLAN PROPOSAL IN ACCORDANCE WITH THE PROCEDURES SET
7 FORTH IN SECTION 25-17-605 (5) AND (6).

8 (d) IF THE EXECUTIVE DIRECTOR APPROVES THE ADDITIONAL
9 PROGRAM PLAN PROPOSAL PURSUANT TO SUBSECTION (2)(c) OF THIS
10 SECTION, THE EXECUTIVE DIRECTOR SHALL DESIGNATE THE ADDITIONAL
11 PROGRAM PLAN PROPOSAL AS THE ADDITIONAL PROGRAM PLAN AND SHALL
12 PUBLISH THE ADDITIONAL PROGRAM PLAN ON THE DEPARTMENT'S
13 WEBSITE.

14 (3) THE EXECUTIVE DIRECTOR, ADVISORY BOARD, ORGANIZATION,
15 AND AN ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION:

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, AN ADDITIONAL PROGRAM PLAN PROPOSAL, THE FINAL PLAN,
21 AN ADDITIONAL PROGRAM PLAN, OR ANY AMENDMENT TO THE FINAL PLAN
22 OR AN ADDITIONAL PROGRAM PLAN.

23 (4) (a) THE PROGRAM AND AN ADDITIONAL PRODUCER
24 RESPONSIBILITY PROGRAM MUST COMPLY WITH ANY FIRE, SOLID WASTE,
25 OR OTHER RELEVANT ORDINANCES OR RESOLUTIONS ADOPTED BY A LOCAL
26 GOVERNMENT AND WITH APPLICABLE STATE AND FEDERAL LAWS,
27 INCLUDING THE EXEMPTIONS SET FORTH IN SECTION 30-20-102 (5).

1 (b) NOTWITHSTANDING ANY LAW TO THE CONTRARY, A LOCAL
2 GOVERNMENT IS NOT REQUIRED TO PROVIDE RECYCLING SERVICES UNDER
3 THE PROGRAM OR AN ADDITIONAL PRODUCER RESPONSIBILITY PROGRAM.
4 TO THE EXTENT THAT A LOCAL GOVERNMENT ELECTS TO PROVIDE
5 RECYCLING SERVICES UNDER THE PROGRAM OR AN ADDITIONAL PRODUCER
6 RESPONSIBILITY PROGRAM, THE ORGANIZATION OR ADDITIONAL PRODUCER
7 RESPONSIBILITY ORGANIZATION SHALL REIMBURSE THE LOCAL
8 GOVERNMENT FOR THOSE RECYCLING SERVICES IN ACCORDANCE WITH
9 SECTION 25-17-606 (2) AND THE FINAL PLAN OR ADDITIONAL PROGRAM
10 PLAN.

11 (5) THE ORGANIZATION AND ANY ADDITIONAL PRODUCER
12 RESPONSIBILITY ORGANIZATION SHALL CAUSE TO BE CONDUCTED AN
13 ANNUAL FINANCIAL AUDIT OF THE PROGRAM OR ADDITIONAL PRODUCER
14 RESPONSIBILITY PROGRAM BY AN INDEPENDENT THIRD-PARTY AUDITOR.
15 THE AUDIT MUST INCLUDE A DETAILED LIST OF THE PROGRAM'S OR
16 ADDITIONAL PRODUCER RESPONSIBILITY PROGRAM'S COSTS AND REVENUES
17 FROM THE PRODUCER RESPONSIBILITY DUES.

18 **25-17-609. Producer responsibility dues - inspection of records**
19 **- annual reporting.** (1) (a) EXCEPT AS SET FORTH IN AN ADDITIONAL
20 PROGRAM PLAN APPROVED BY THE EXECUTIVE DIRECTOR ON OR AFTER
21 JANUARY 1, 2029, BY A DATE DETERMINED BY THE ORGANIZATION THAT
22 IS NO LATER THAN JANUARY 1, 2025, AND ANNUALLY THEREAFTER BY A
23 DATE DETERMINED BY THE ORGANIZATION, A PRODUCER SHALL PAY
24 PRODUCER RESPONSIBILITY DUES TO THE ORGANIZATION BASED ON THE
25 FUNDING MECHANISM DESCRIBED IN THE PLAN PROPOSAL PURSUANT TO
26 SECTION 25-17-605 (4)(h).

27 (b) A PRODUCER SHALL MAKE ALL DOCUMENTS AND RECORDS

1 RELATED TO THE CALCULATION AND PAYMENT OF PRODUCER
2 RESPONSIBILITY DUES AVAILABLE FOR INSPECTION BY THE EXECUTIVE
3 DIRECTOR. IN CONNECTION WITH ENFORCING A VIOLATION BY A PRODUCER
4 PURSUANT TO SECTION 25-17-610, THE EXECUTIVE DIRECTOR MAY
5 REQUEST IN WRITING THAT THE PRODUCER PROVIDE ANY SUCH
6 DOCUMENTS OR RECORDS TO THE EXECUTIVE DIRECTOR.

7 (2) (a) BEFORE MARCH 31 OF THE SECOND YEAR OF THE
8 PROGRAM'S IMPLEMENTATION, AND ANNUALLY ON MARCH 31
9 THEREAFTER, THE ORGANIZATION SHALL SUBMIT A REPORT TO THE
10 ADVISORY BOARD DESCRIBING THE PROGRESS OF THE PROGRAM. THE
11 ADVISORY BOARD SHALL REVIEW THE REPORT AND FORWARD THE REPORT
12 TO THE EXECUTIVE DIRECTOR. THE ADVISORY BOARD SHALL ALSO REVIEW
13 ANY PROPOSED AMENDMENTS TO THE FINAL PLAN AND ANY UPDATES TO
14 THE MINIMUM RECYCLABLE LIST AND FORWARD THE AMENDMENTS AND
15 UPDATES TO THE EXECUTIVE DIRECTOR WITH ITS RECOMMENDATION FOR
16 APPROVAL OR REJECTION. THE EXECUTIVE DIRECTOR SHALL POST THE
17 REPORT ON THE DEPARTMENT'S WEBSITE. THE PROGRAM REPORT MUST
18 INCLUDE THE FOLLOWING INFORMATION FROM THE PRECEDING CALENDAR
19 YEAR:

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

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

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

27 (IV) THE TOTAL WEIGHT OF THE COVERED MATERIALS THAT

1 PRODUCERS USED FOR PRODUCTS THAT ARE SOLD, OFFERED FOR SALE, OR
2 DISTRIBUTED IN THE STATE;

3 (V) THE TOTAL AMOUNT OF PRODUCER RESPONSIBILITY DUES
4 COLLECTED UNDER THE PROGRAM, INCLUDING AN ANNUAL SCHEDULE OF
5 PRODUCER RESPONSIBILITY DUES ASSESSED BY WEIGHT FOR EACH TYPE OF
6 COVERED MATERIAL;

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

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

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

14 (C) THE METHOD USED TO HANDLE THE COLLECTED COVERED
15 MATERIAL; AND

16 (D) GEOGRAPHIC AREA;

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

22 (VIII) THE RATE SCHEDULES FOR REIMBURSEMENT TO SERVICE
23 PROVIDERS, ANY PROPOSED ADJUSTMENTS TO THE RATE SCHEDULES, AND
24 A SUMMARY OF ANY DISPUTES ARISING BETWEEN THE ORGANIZATION AND
25 SERVICE PROVIDERS CONCERNING RATES AND HOW THE DISPUTES WERE
26 ADDRESSED;

27 (IX) A SUMMARY OF THE EDUCATION AND OUTREACH EFFORTS

1 IMPLEMENTED IN ACCORDANCE WITH SECTION 25-17-607, INCLUDING:

2 (A) SAMPLES OF ANY MATERIALS DISTRIBUTED; AND

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

5 (X) A LIST OF THE NAMES, LOCATIONS, AND HOURS OF OPERATION
6 FOR CURBSIDE SERVICES AND DROP-OFF CENTERS ACCEPTING OR
7 COLLECTING COVERED MATERIALS UNDER THE PROGRAM;

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

11 (XII) A LIST OF THE RECYCLING END MARKETS OF ANY COVERED
12 MATERIALS, AND IF THE COVERED MATERIALS ARE PROCESSED THROUGH
13 A METHOD OTHER THAN MECHANICAL RECYCLING, THE LIST MUST
14 INCLUDE:

15 (A) A DESCRIPTION OF HOW THE METHOD WILL AFFECT THE
16 ABILITY TO RECYCLE THE COVERED MATERIAL INTO FEEDSTOCK FOR THE
17 MANUFACTURE OF NEW PRODUCTS;

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

21 (C) A DESCRIPTION OF ANY APPLICABLE STATE AND FEDERAL AIR,
22 WATER, AND WASTE PERMITTING COMPLIANCE REQUIREMENTS FOR THE
23 METHOD; AND

24 (D) AN ANALYSIS OF THE ENVIRONMENTAL IMPACTS OF THE
25 METHOD COMPARED TO THE ENVIRONMENTAL IMPACTS OF INCINERATION
26 OF SOLID WASTE IN LANDFILLS;

27 (XIII) A COPY OF AN INDEPENDENT THIRD PARTY'S REPORT

1 AUDITING THE PROGRAM PURSUANT TO SECTION 25-17-608 (5);

2 (XIV) A DESCRIPTION OF THE STATUS OF RESERVE FUNDS, AN
3 ASSESSMENT OF THE ADEQUACY OF THOSE FUNDS TO COVER PROGRAM
4 COSTS, AND A DESCRIPTION OF HOW ANY PROGRAM SHORTFALLS WILL BE
5 ADDRESSED;

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

8 (XVI) ANY UPDATES TO THE MINIMUM RECYCLABLE LIST IN
9 ACCORDANCE WITH SECTION 25-17-606 (1)(b).

10 (b) BEFORE MARCH 31 OF THE SECOND YEAR OF ANY ADDITIONAL
11 PROGRAM PLAN, AND ANNUALLY ON MARCH 31 THEREAFTER, AN
12 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION SHALL SUBMIT A
13 REPORT TO THE ADVISORY BOARD DESCRIBING THE PROGRESS OF THE
14 ADDITIONAL PROGRAM PLAN. THE REPORT MUST INCLUDE THE
15 INFORMATION DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION, AS
16 APPLICABLE, FROM THE PRECEDING CALENDAR YEAR. THE ADVISORY
17 BOARD SHALL REVIEW THE REPORT AND FORWARD THE REPORT TO THE
18 EXECUTIVE DIRECTOR. THE ADVISORY BOARD SHALL ALSO REVIEW ANY
19 PROPOSED AMENDMENTS TO THE ADDITIONAL PRODUCER RESPONSIBILITY
20 PROGRAM AND FORWARD THE AMENDMENTS TO THE EXECUTIVE DIRECTOR
21 WITH ITS RECOMMENDATION FOR APPROVAL OR REJECTION. THE
22 EXECUTIVE DIRECTOR SHALL POST THE REPORT ON THE DEPARTMENT'S
23 WEBSITE.

24 (c) THE EXECUTIVE DIRECTOR SHALL ANNUALLY COMPILE THE
25 RESULTS OF THE REPORTS RECEIVED PURSUANT TO SUBSECTIONS (2)(a)
26 AND (2)(b) OF THIS SECTION INTO A GENERAL REPORT DESCRIBING THE
27 PROGRESS OF THE PROGRAM AND ANY ADDITIONAL PRODUCER

1 RESPONSIBILITY PROGRAMS. THE EXECUTIVE DIRECTOR SHALL POST THE
2 REPORT ON THE DEPARTMENT'S WEBSITE AND SHALL ANNUALLY PRESENT
3 THE GENERAL REPORT TO THE HEALTH AND HUMAN SERVICES COMMITTEE
4 OF THE SENATE AND THE ENERGY AND ENVIRONMENT COMMITTEE OF THE
5 HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, AND THE
6 GOVERNOR. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE
7 REPORTING REQUIREMENT SPECIFIED IN THIS SUBSECTION (2)(c)
8 CONTINUES INDEFINITELY.

9 (3) IF, BASED ON THE ANNUAL REPORT SUBMITTED UNDER
10 SUBSECTION (2) OF THIS SECTION, THE PROGRAM OR ANY ADDITIONAL
11 PRODUCER RESPONSIBILITY PROGRAM IS NOT ON TRACK TO MEET THE
12 MINIMUM COLLECTION RATES, MINIMUM RECYCLING RATES, OR MINIMUM
13 POSTCONSUMER-RECYCLED-CONTENT RATES SET FORTH IN THE FINAL PLAN
14 OR ANY ADDITIONAL PROGRAM PLAN, THE EXECUTIVE DIRECTOR MAY
15 REQUIRE THE ORGANIZATION, WITH RESPECT TO THE PROGRAM, OR THE
16 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION, WITH RESPECT TO
17 AN ADDITIONAL PRODUCER RESPONSIBILITY PROGRAM, TO AMEND ITS
18 RESPECTIVE PLAN UNDER SECTION 25-17-605 (6).

19 **25-17-610. Violations - enforcement - administrative penalty**
20 **- injunction.** (1) IF THE ORGANIZATION, AN ADDITIONAL PRODUCER
21 RESPONSIBILITY ORGANIZATION, OR A PRODUCER VIOLATES ANY PORTION
22 OF THIS PART 6, THE ORGANIZATION, ADDITIONAL PRODUCER
23 RESPONSIBILITY ORGANIZATION, OR PRODUCER IS LIABLE FOR AN
24 ADMINISTRATIVE PENALTY NOT TO EXCEED:

25 (a) FOR A FIRST VIOLATION, AN INITIAL PENALTY OF FIVE
26 THOUSAND DOLLARS FOR THE FIRST DAY OF EACH VIOLATION AND ONE
27 THOUSAND FIVE HUNDRED DOLLARS PER DAY FOR EACH DAY THE

1 VIOLATION CONTINUES;

2 (b) FOR A SECOND VIOLATION COMMITTED WITHIN TWELVE
3 MONTHS AFTER A PRIOR VIOLATION, AN INITIAL PENALTY OF TEN
4 THOUSAND DOLLARS FOR THE FIRST DAY OF EACH VIOLATION AND THREE
5 THOUSAND DOLLARS PER DAY FOR EACH DAY THE VIOLATION CONTINUES;
6 AND

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

12 (2) (a) IF THE ORGANIZATION, AN ADDITIONAL PRODUCER
13 RESPONSIBILITY ORGANIZATION, OR A PRODUCER VIOLATES ANY PORTION
14 OF THIS PART 6, THE EXECUTIVE DIRECTOR SHALL SERVE BY PERSONAL
15 SERVICE OR BY CERTIFIED MAIL AN ORDER THAT IMPOSES AN
16 ADMINISTRATIVE PENALTY ON THE ORGANIZATION, ADDITIONAL
17 PRODUCER RESPONSIBILITY ORGANIZATION, OR PRODUCER.

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

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

1 ORGANIZATION, ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION,
2 OR PRODUCER FOR SUBSEQUENT VIOLATIONS OF THIS PART 6 COMMITTED
3 DURING THE PENDENCY OF THE STAY.

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

7 (3) THE EXECUTIVE DIRECTOR MAY ENTER INTO A SETTLEMENT
8 AGREEMENT WITH THE ORGANIZATION, ADDITIONAL PRODUCER
9 RESPONSIBILITY ORGANIZATION, OR PRODUCER ASSESSED AN
10 ADMINISTRATIVE PENALTY UNDER THIS SECTION.

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

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

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

18 (b) AUTHORIZES ENFORCEMENT OF THIS PART 6 AGAINST ANYONE
19 OTHER THAN THE ORGANIZATION, AN ADDITIONAL PRODUCER
20 RESPONSIBILITY ORGANIZATION, OR A PRODUCER.

21 **25-17-611. Limited exemption from antitrust, restraint of**
22 **trade, and unfair trade practices provisions.** IF THE PROGRAM OR AN
23 ADDITIONAL PRODUCER RESPONSIBILITY PROGRAM ENGAGES IN AN
24 ACTIVITY PERFORMED SOLELY IN FURTHERANCE OF IMPLEMENTING THE
25 PROGRAM OR ADDITIONAL PRODUCER RESPONSIBILITY PROGRAM AND IN
26 COMPLIANCE WITH THIS PART 6, THE ACTIVITY IS NOT A VIOLATION OF THE
27 ANTITRUST, RESTRAINT OF TRADE, AND UNFAIR TRADE PRACTICES

1 PROVISIONS OF THE "UNFAIR PRACTICES ACT", ARTICLE 2 OF TITLE 6, OR
2 THE "COLORADO ANTITRUST ACT OF 1992", ARTICLE 4 OF TITLE 6.

3 **25-17-612. Eligibility for state or local incentive programs.**

4 NOTHING IN THIS PART 6 AFFECTS A PERSON'S ELIGIBILITY FOR ANY STATE
5 OR LOCAL INCENTIVE PROGRAMS FOR WHICH THE PERSON IS OTHERWISE
6 ELIGIBLE.

7 **25-17-613. Producer exemptions - rules.** (1) A PRODUCER IS
8 EXEMPT FROM THE REQUIREMENTS OF THIS PART 6 IF THE PRODUCER IS:

9 (a) A PERSON WITH LESS THAN FIVE MILLION DOLLARS IN REALIZED
10 GROSS TOTAL REVENUE DURING THE PRIOR CALENDAR YEAR;

11 (b) A PERSON THAT HAS USED LESS THAN ONE TON OF COVERED
12 MATERIALS FOR PRODUCTS SOLD, OFFERED FOR SALE, OR DISTRIBUTED
13 WITHIN OR INTO THE STATE DURING THE PRIOR CALENDAR YEAR;

14 (c) THE STATE OR A LOCAL GOVERNMENT;

15 (d) A NONPROFIT ORGANIZATION;

16 (e) A RETAIL FOOD ESTABLISHMENT THAT PAYS:

17 (I) AN ANNUAL LICENSE FEE PURSUANT TO SECTION 25-4-1607
18 (1)(a); OR

19 (II) FEES REQUIRED FOR RETAIL FOOD ESTABLISHMENTS PURSUANT
20 TO SECTION 32-106.5 (1) TO SECTION 32-106.5 (5) OF THE DENVER CODE
21 OF ORDINANCES; AND

22 (f) A BUILDER, A CONSTRUCTION COMPANY, OR CONSTRUCTION
23 CONTRACTORS.

24 (2) THE COMMISSION SHALL ADJUST BY RULE THE DOLLAR
25 LIMITATION SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION ON JULY 1,
26 2023, AND ON JULY 1 OF EACH YEAR THEREAFTER, BASED ON THE
27 PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S

1 BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR
2 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN
3 CONSUMERS, OR ITS SUCCESSOR INDEX.

4 **25-17-614. Restriction on fees.** A PERSON SHALL NOT CHARGE
5 ANY KIND OF POINT-OF-SALE OR POINT-OF-COLLECTION FEE TO
6 CONSUMERS TO RECOUP ITS COSTS IN MEETING THE OBLIGATIONS OF OR
7 COMPLYING WITH THIS PART 6.

8 **25-17-615. Restrict use of producer responsibility dues.** THE
9 ORGANIZATION OR AN ADDITIONAL PRODUCER RESPONSIBILITY
10 ORGANIZATION SHALL NOT USE THE PRODUCER RESPONSIBILITY DUES
11 COLLECTED BY THE ORGANIZATION OR ANY DUES COLLECTED BY THE
12 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION PURSUANT TO
13 THIS PART 6 TO CARRY OUT LOBBYING ACTIVITIES, TO BRING OR DEFEND
14 A LAWSUIT AGAINST THE STATE, TO DEFEND LITIGATION INVOLVING
15 CLAIMS OF THE ORGANIZATION'S OR ADDITIONAL PRODUCER
16 RESPONSIBILITY ORGANIZATION'S FAILURE TO COMPLY WITH THE
17 REQUIREMENTS OF THIS PART 6, OR FOR PAYMENT OF ADMINISTRATIVE
18 PENALTIES AGAINST THE ORGANIZATION OR ADDITIONAL PRODUCER
19 RESPONSIBILITY ORGANIZATION ASSESSED BY THE EXECUTIVE DIRECTOR
20 UNDER SECTION 25-17-610.

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

23 **25-16.5-106.5. Recycling resources economic opportunity fund**
24 **- creation - repeal.** (1) (a) The recycling resources economic opportunity
25 fund, referred to in this section as the "fund", is hereby created in the state
26 treasury. The fund consists of:

27 (I.5) MONEY CREDITED TO THE FUND PURSUANT TO SECTION

1 25-17-610 (4);

2 **SECTION 3. 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.