

**Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0075.02 Sarah Lozano x3858

**HOUSE BILL 22-1355**

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**HOUSE SPONSORSHIP**

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

**SENATE SPONSORSHIP**

**Priola and Gonzales**,

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**House Committees**

Energy & Environment  
Appropriations

**Senate Committees**

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**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.**

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**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.

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, OFFERED FOR SALE, OR DISTRIBUTED BY PRODUCERS  
24 WITHIN OR INTO THE STATE IN THE SAME CALENDAR YEAR, EXPRESSED AS  
25 A PERCENTAGE.

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

1 (7) "COMPOST" MEANS THE MATERIAL OR PRODUCT THAT IS  
2 DEVELOPED UNDER CONTROLLED CONDITIONS AND THAT RESULTS FROM  
3 BIOLOGICAL DEGRADATION PROCESSES BY WHICH ORGANIC WASTES  
4 DECOMPOSE.

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

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

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

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); AND STATE AND LOCAL GOVERNMENT  
26 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) BOUND BOOKS;

13 (IV) BEVERAGE CONTAINERS SUBJECT TO A RETURNABLE  
14 CONTAINER DEPOSIT, IF APPLICABLE;

15 (V) PACKAGING MATERIAL USED FOR COLORADO AGRICULTURAL  
16 PRODUCTS SOLD UNDER THE NAME OF THE FARMER, GROWER, OR GROWER  
17 COOPERATIVE;

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

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

27 (VIII) PACKAGING MATERIAL USED TO CONTAIN A PRODUCT THAT



1 IS REGULATED AS ANIMAL BIOLOGICS, INCLUDING VACCINES, BACTERINS,  
2 ANTISERA, DIAGNOSTIC KITS, AND OTHER PRODUCTS OF BIOLOGICAL  
3 ORIGIN UNDER THE FEDERAL "VIRUS-SERUM-TOXIN ACT", 21 U.S.C. SEC.  
4 151 ET SEQ., AS AMENDED;

5 (IX) PACKAGING MATERIAL USED TO CONTAIN A PRODUCT THAT  
6 IS REGULATED AS A TOXIC OR HAZARDOUS MATERIAL UNDER THE  
7 "FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT", 7 U.S.C.  
8 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 LOCAL NEWSPAPERS. AS USED  
20 IN THIS SUBSECTION (13)(b)(XIII), "LOCAL NEWSPAPER" MEANS A  
21 PUBLICATION THAT:

22 (A) PRIMARILY SERVES THE NEEDS OF THE STATE OR A REGIONAL  
23 OR LOCAL COMMUNITY;

24 (B) PRIMARILY HAS CONTENT DERIVED FROM PRIMARY SOURCES  
25 RELATED TO NEWS AND CURRENT EVENTS;

26 (C) EMPLOYS AT LEAST ONE JOURNALIST WHO RESIDES IN THE  
27 STATE AND WHO REGULARLY GATHERS, COLLECTS, PHOTOGRAPHS,

1 RECORDS, WRITES, OR REPORTS NEWS AND INFORMATION THAT CONCERNS  
2 LOCAL EVENTS OR OTHER MATTERS OF LOCAL INTEREST;

3 (D) HAS A MAJORITY OF ITS EMPLOYEES RESIDING IN THE STATE;

4 (E) IS COVERED BY MEDIA LIABILITY INSURANCE;

5 (F) DISCLOSES ITS OWNERSHIP TO THE PUBLIC; AND

6 (G) IS NEITHER A DISQUALIFIED ORGANIZATION NOR AN

7 ORGANIZATION THAT HAS RECEIVED MORE THAN FIFTY PERCENT OF ITS

8 GROSS REVENUE IN THE PREVIOUS TAX YEAR FROM DISQUALIFIED

9 ORGANIZATIONS. AS USED IN THIS SUBSECTION (13)(b)(XIII)(G),

10 "DISQUALIFIED ORGANIZATION" MEANS ANY ORGANIZATION THAT IS

11 DESCRIBED IN SECTION 501 (c)(4) OF THE FEDERAL "INTERNAL REVENUE

12 CODE OF 1986", AS AMENDED, AND IS EXEMPT FROM TAXATION UNDER

13 SECTION 501 (a) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986",

14 AS AMENDED; THAT IS DESCRIBED IN SECTION 501 (c)(6) OF THE FEDERAL

15 "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND IS EXEMPT FROM

16 TAXATION UNDER SECTION 501 (a) OF THE FEDERAL "INTERNAL REVENUE

17 CODE OF 1986", AS AMENDED; THAT IS DESCRIBED IN SECTION 527 OF THE

18 FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED; OR THAT IS

19 OWNED OR CONTROLLED BY ONE OR MORE ORGANIZATIONS DESCRIBED

20 UNDER THIS SUBSECTION (13)(b)(XIII)(G).

21 (XIV) ANY OTHER MATERIAL THAT, BASED ON AN ANALYSIS BY

22 THE ORGANIZATION OF THE OPERATIONAL AND FINANCIAL IMPACTS OF THE

23 PROPOSED CHANGES AND AFTER CONSULTATION WITH THE ADVISORY

24 BOARD, THE COMMISSION DETERMINES BY RULE TO NOT BE A COVERED

25 MATERIAL.

26 (14) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH

27 AND ENVIRONMENT CREATED IN SECTION 24-1-119.

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

4           (a) RECORD KEEPING;

5           (b) TRACKING AND DOCUMENTING THE DISPOSITION OF COVERED  
6 MATERIALS COLLECTED FROM COVERED ENTITIES; AND

7           (c) ENVIRONMENTAL LIABILITY COVERAGE FOR PROFESSIONAL  
8 SERVICES AND CONTRACTOR OPERATIONS.

9           (16) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF  
10 THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

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

14           (18) "FRONT RANGE" MEANS THE COUNTIES OF ADAMS,  
15 ARAPAHOE, BOULDER, DOUGLAS, ELBERT, EL PASO, JEFFERSON,  
16 LARIMER, PUEBLO, TELLER, AND WELD AND THE CITIES AND COUNTIES OF  
17 BROOMFIELD AND DENVER.

18

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

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

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

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

3           (23) "NEEDS ASSESSMENT" MEANS THE ASSESSMENT OF THE  
4 STATE'S RECYCLING NEEDS CONDUCTED PURSUANT TO SECTION 25-17-605  
5 (3).

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

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

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

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

20          (B) NOT DESIGNED FOR REUSE OR REFILL.

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

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

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

27          (II)        P A C K A G I N G   M A T E R I A L S   U S E D   S O L E L Y   I N

1 BUSINESS-TO-BUSINESS TRANSACTIONS WHERE A COVERED MATERIAL IS  
2 NOT INTENDED TO BE DISTRIBUTED TO THE END CONSUMER;

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

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

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

10 (a) FLYERS;

11 (b) BROCHURES;

12 (c) BOOKLETS;

13 (d) CATALOGS;

14 (e) TELEPHONE DIRECTORIES;

15 (f) NEWSPAPERS;

16 (g) MAGAZINES; AND

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

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

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

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

6           (b) "POSTCONSUMER RECYCLED MATERIAL" INCLUDES RETURNS OF  
7 MATERIAL FROM THE DISTRIBUTION CHAIN.

8           (c) "POSTCONSUMER RECYCLED MATERIAL" DOES NOT INCLUDE  
9 WASTE MATERIAL GENERATED DURING OR AFTER THE COMPLETION OF A  
10 MANUFACTURING PROCESS.

11           (30) "PRODUCER" MEANS:

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

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

23           (b) FOR THE PURPOSES OF PRODUCTS THAT ARE SOLD, OFFERED FOR  
24 SALE, OR DISTRIBUTED IN THE STATE THROUGH AN INTERNET  
25 TRANSACTION:

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

1 (II) FOR THE PURPOSES OF PACKAGING MATERIAL USED TO SHIP A  
2 PRODUCT TO A CONSUMER, THE PERSON THAT PACKAGES OR SHIPS THE  
3 PRODUCT TO THE CONSUMER;

4 (c) FOR THE PURPOSES OF A PAPER PRODUCT THAT IS A MAGAZINE,  
5 NEWSPAPER, CATALOG, TELEPHONE DIRECTORY, OR SIMILAR PUBLICATION,  
6 THE PUBLISHER OF THE PAPER PRODUCT;

7 (d) FOR THE PURPOSES OF PAPER PRODUCTS NOT DESCRIBED IN  
8 SUBSECTION (30)(c) OF THIS SECTION:

9 (I) THE PERSON THAT MANUFACTURES THE PAPER PRODUCT UNDER  
10 THE MANUFACTURER'S OWN BRAND; OR

11 (II) IF THE PAPER PRODUCT IS MANUFACTURED BY A PERSON OTHER  
12 THAN THE BRAND OWNER, THE PERSON THAT IS THE OWNER OR LICENSEE  
13 OF THE BRAND OR TRADEMARK UNDER WHICH THE PAPER PRODUCT IS USED  
14 IN A COMMERCIAL ENTERPRISE, SOLD, OFFERED FOR SALE, OR DISTRIBUTED  
15 IN OR INTO THE STATE, WHETHER OR NOT THE TRADEMARK IS REGISTERED  
16 IN THE STATE; OR

17 (e) FOR ANY OTHER COVERED MATERIAL, THE PERSON THAT FIRST  
18 DISTRIBUTES THE COVERED MATERIAL IN OR INTO THE STATE.

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

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

26 (33) "PRODUCER RESPONSIBILITY PROGRAM FOR STATEWIDE  
27 RECYCLING" OR "PROGRAM" MEANS THE PRODUCER RESPONSIBILITY

1 PROGRAM FOR STATEWIDE RECYCLING CREATED IN ACCORDANCE WITH  
2 SECTION 25-17-605.

3 (34) "PROPRIETARY INFORMATION" MEANS INFORMATION THAT, IF  
4 MADE PUBLIC:

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

7 (b) WOULD REASONABLY HINDER THE ENTITY'S COMPETITIVE  
8 ADVANTAGE IN THE MARKET.

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

12 (b) "PUBLIC PLACE" INCLUDES STREETS; SIDEWALKS; PLAZAS;  
13 TOWN SQUARES; STATE-OWNED OR LOCAL-GOVERNMENT-OWNED PARKS,  
14 BEACHES, AND FORESTS; OTHER STATE-OWNED OR  
15 LOCAL-GOVERNMENT-OWNED LAND OPEN FOR RECREATION OR OTHER  
16 PUBLIC USES; AND TRANSPORTATION FACILITIES, INCLUDING BUS AND  
17 TRAIN STATIONS AND AIRPORTS.

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

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

22 (37) (a) "RECYCLING" MEANS THE REPROCESSING, BY MEANS OF A  
23 MANUFACTURING PROCESS, OF A USED MATERIAL INTO A PRODUCT OR A  
24 SECONDARY RAW MATERIAL.

25 (b) "RECYCLING" DOES NOT INCLUDE:

26 (I) ENERGY RECOVERY OR ENERGY GENERATION BY MEANS OF  
27 COMBUSTION;



1 (II) USE AS A FUEL;

2 (III) USE AS ALTERNATIVE DAILY COVER AS DEFINED IN SECTION  
3 30-20-1402 (1); OR

4 (IV) LANDFILL DISPOSAL OF DISCARDED COVERED MATERIALS.

5 (38) (a) "RECYCLING RATE" MEANS THE WEIGHT OF COVERED  
6 MATERIALS THAT ARE RECYCLED UNDER THE PROGRAM IN A CALENDAR  
7 YEAR DIVIDED BY THE WEIGHT OF COVERED MATERIALS USED FOR  
8 PRODUCTS SOLD, OFFERED FOR SALE, OR DISTRIBUTED BY PRODUCERS  
9 WITHIN OR INTO THE STATE IN THE SAME CALENDAR YEAR, EXPRESSED AS  
10 A PERCENTAGE.

11 (b) THE RECYCLING RATE IS MEASURED AT THE POINT WHERE  
12 COLLECTED COVERED MATERIALS HAVE BEEN PREPARED FOR SALE OR  
13 DELIVERY TO MATERIAL RECLAIMERS OR END MARKETS AFTER PROCESSING  
14 AT A MATERIALS RECOVERY FACILITY OR SIMILAR ESTABLISHMENT THAT  
15 SELLS DIRECTLY TO RECLAIMERS OR END MARKETS.

16 (39) (a) "RECYCLING SERVICES" MEANS SERVICES PROVIDED  
17 FOR THE RECYCLING OF COVERED MATERIALS, INCLUDING THE  
18 COLLECTION, TRANSPORTATION, AND PROCESSING OF COVERED MATERIALS  
19 FROM THE CONSUMER TO THE END MARKET.

20 (b) "RECYCLING SERVICES" INCLUDES CURBSIDE SERVICES AND  
21 DROP-OFF CENTERS.

22  
23 (40) "RECYCLING SERVICES COSTS" MEANS THE COSTS OF  
24 RECYCLING PROGRAMS TO PROVIDE RECYCLING SERVICES, INCLUDING  
25 COSTS RELATED TO:

26 (a) THE ADMINISTRATION OF RECYCLING PROGRAMS;

27 (b) CAPITAL IMPROVEMENTS TO RECYCLING PROGRAMS;

1 (c) THE COLLECTION, TRANSPORTATION, SORTING, AND  
2 PROCESSING OF COVERED MATERIALS;

3 (d) PUBLIC EDUCATION ABOUT RECYCLING PROGRAMS; AND

4 (e) DISPOSAL OF NONRECYCLABLE COLLECTED COVERED  
5 MATERIALS.

6 (41) "RESPONSIBLE END MARKET" MEANS A MATERIALS MARKET  
7 IN WHICH THE RECYCLING OF MATERIALS OR THE DISPOSAL OF  
8 CONTAMINANTS IS CONDUCTED IN A WAY THAT:

9 (a) BENEFITS THE ENVIRONMENT; AND

10 (b) MINIMIZES RISKS TO PUBLIC HEALTH AND WORKER HEALTH  
11 AND SAFETY.

12 (42) "RETAILER" MEANS A PERSON THAT SELLS OR OFFERS FOR  
13 SALE TO CONSUMERS WITHIN OR INTO THE STATE, INCLUDING SALES MADE  
14 THROUGH AN INTERNET TRANSACTION, PRODUCTS FOR WHICH COVERED  
15 MATERIALS ARE USED.

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

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

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

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

26 **25-17-604. Producer responsibility program for statewide**  
27 **recycling advisory board - creation - membership.** (1) THE PRODUCER

1 RESPONSIBILITY PROGRAM FOR STATEWIDE RECYCLING ADVISORY BOARD  
2 IS HEREBY CREATED IN THE DEPARTMENT. THE DEPARTMENT MAY SELECT  
3 AN IMPARTIAL, THIRD-PARTY FACILITATOR TO CONVENE AND PROVIDE  
4 ADMINISTRATIVE SUPPORT TO THE ADVISORY BOARD.

5 (2) (a) THE ADVISORY BOARD CONSISTS OF THE FOLLOWING  
6 THIRTEEN VOTING MEMBERS AND TWO NONVOTING MEMBERS APPOINTED  
7 BY THE EXECUTIVE DIRECTOR:

8 (I) THREE VOTING MEMBERS REPRESENTING LOCAL GOVERNMENTS  
9 IN THE STATE, INCLUDING:

10 (A) ONE MEMBER REPRESENTING A MUNICIPALITY OR CITY AND  
11 COUNTY;

12 (B) ONE MEMBER REPRESENTING A COUNTY; AND

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

15 (II) ONE VOTING MEMBER REPRESENTING A MATERIALS RECOVERY  
16 FACILITY;

17 (III) ONE VOTING MEMBER REPRESENTING A HAULER OF  
18 RECYCLABLE MATERIALS, WHETHER REPRESENTING THE PUBLIC OR  
19 PRIVATE SECTOR;

20 (IV) ONE VOTING MEMBER REPRESENTING AN ENVIRONMENTAL OR  
21 COMMUNITY-BASED NONPROFIT ORGANIZATION;

22 (V) ONE VOTING MEMBER REPRESENTING A PACKAGING MATERIAL  
23 SUPPLIER THAT IS NOT A PRODUCER, WITH THE MEMBER ROTATING TO A  
24 PACKAGING MATERIAL SUPPLIER OF A DIFFERENT TYPE OF PACKAGING  
25 MATERIAL AFTER EACH NEW TERM;

26 (VI) ONE VOTING MEMBER REPRESENTING A MANUFACTURER OF  
27 RECYCLED PAPER PRODUCTS THAT IS NOT A PRODUCER;

1 (VII) ONE VOTING MEMBER REPRESENTING A TRADE ASSOCIATION,  
2 CHAMBER OF COMMERCE, OR OTHER BUSINESS ADVOCACY ORGANIZATION  
3 REPRESENTING BUSINESSES THAT ARE HEADQUARTERED IN THE STATE;

4 (VIII) ONE VOTING MEMBER REPRESENTING A RETAILER'S  
5 ASSOCIATION OR A RETAILER THAT IS NOT A PRODUCER;

6 (IX) ONE VOTING MEMBER REPRESENTING A COMPOST FACILITY;

7 (X) ONE VOTING MEMBER WHO HAS EXPERIENCE IN  
8 ENVIRONMENTAL JUSTICE AND REPRESENTING UNDERSERVED  
9 COMMUNITIES;

10 (XI) ONE VOTING MEMBER REPRESENTING A SOLID WASTE  
11 LANDFILL OR TRANSFER STATION OPERATING AN ON-SITE, PUBLIC-FACING  
12 RECYCLING COLLECTION PROGRAM;

13 (XII) ONE NONVOTING MEMBER REPRESENTING THE DEPARTMENT;

14 AND

15 (XIII) ONE NONVOTING MEMBER REPRESENTING THE PRODUCER  
16 RESPONSIBILITY ORGANIZATION.

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

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

23 (3) THE EXECUTIVE DIRECTOR SHALL MAKE ALL APPOINTMENTS TO  
24 THE ADVISORY BOARD NO LATER THAN DECEMBER 31, 2022. THE  
25 APPOINTMENTS FOR INITIAL TERMS TO THE ADVISORY BOARD SHALL BE  
26 STAGGERED SO THAT SOME OF THE MEMBERS SERVE INITIAL TWO-YEAR  
27 TERMS AND OTHER MEMBERS SERVE INITIAL THREE-YEAR TERMS, AND ALL

1 MEMBERS SERVE SUBSEQUENT TERMS OF THREE YEARS. THE EXECUTIVE  
2 DIRECTOR SHALL FILL ANY VACANCY BY APPOINTMENT FOR THE  
3 REMAINDER OF THE UNEXPIRED TERM.

4 (4) THE ADVISORY BOARD SHALL CONVENE ITS FIRST MEETING NO  
5 LATER THAN MARCH 1, 2023. AT THE FIRST MEETING, THE VOTING  
6 MEMBERS SHALL SELECT A CHAIR AND VICE-CHAIR FROM AMONG THE  
7 VOTING MEMBERS FOR A TERM NOT TO EXCEED TWO YEARS, AS  
8 DETERMINED BY THE ADVISORY BOARD. THE ADVISORY BOARD SHALL  
9 CONDUCT ANNUAL MEETINGS AND MAY CONDUCT MEETINGS MORE  
10 FREQUENTLY UPON THE REQUEST OF THE CHAIR OR OF AT LEAST SEVEN OF  
11 THE VOTING MEMBERS OF THE ADVISORY BOARD. THE ORGANIZATION MAY  
12 PROVIDE TECHNICAL AND STAFF ASSISTANCE TO THE ADVISORY BOARD.

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

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

22 (7) THE ADVISORY BOARD SHALL:

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

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

27 (c) REVIEW THE PLAN PROPOSAL SUBMITTED UNDER SECTION

1 25-17-605 (4);

2 (d) CONSULT WITH THE ORGANIZATION ON AMENDMENTS TO THE  
3 PLAN PROPOSAL AND THE AMENDED PLAN PROPOSAL TO THE  
4 ORGANIZATION;

5 (e) RECOMMEND THAT THE EXECUTIVE DIRECTOR APPROVE OR  
6 REJECT THE PLAN PROPOSAL OR AMENDED PLAN PROPOSAL;

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

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

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

15 **25-17-605. Producer responsibility program for statewide**  
16 **recycling - needs assessment - plan proposal - rules.** (1) (a) ON OR  
17 BEFORE JUNE 1, 2023, PRODUCERS OR THEIR DESIGNATED AGENTS SHALL  
18 ESTABLISH A NONPROFIT ORGANIZATION TO FULFILL THE REQUIREMENTS  
19 OF THIS PART 6 AND SHALL PROVIDE NOTIFICATION TO THE DEPARTMENT  
20 THAT INCLUDES:

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

24 (II) A LIST OF PARTICIPATING PRODUCERS; AND

25 (III) A DESCRIPTION OF THE FUNDING MECHANISM THAT THE  
26 NONPROFIT ORGANIZATION WILL USE TO CONDUCT THE NEEDS  
27 ASSESSMENT.

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

3 (I) ACKNOWLEDGE RECEIPT OF THE NOTIFICATION; AND

4 (II) DESIGNATE THE NONPROFIT ORGANIZATION AS THE PRODUCER  
5 RESPONSIBILITY ORGANIZATION TO IMPLEMENT AND ADMINISTER THE  
6 PRODUCER RESPONSIBILITY PROGRAM FOR STATEWIDE RECYCLING.

7 (c) THE ORGANIZATION DESIGNATED BY THE EXECUTIVE DIRECTOR  
8 PURSUANT TO SUBSECTION (1)(b)(II) OF THIS SECTION MUST HAVE A  
9 GOVERNING BOARD WITH VOTING MEMBERS THAT REPRESENT A DIVERSE  
10 RANGE OF PRODUCERS BY SIZE AND TYPE AND REPRESENT PRODUCERS OF  
11 DIFFERENT TYPES OF COVERED MATERIALS. THE GOVERNING BOARD OF  
12 THE ORGANIZATION MAY INCLUDE NONVOTING MEMBERS THAT REPRESENT  
13 TRADE ASSOCIATIONS FOR TYPES OF COVERED MATERIALS.

14 (2) THE PRODUCER RESPONSIBILITY ORGANIZATION SHALL:

15 (a) FACILITATE A NEEDS ASSESSMENT IN CONSULTATION WITH THE  
16 ADVISORY BOARD;

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

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

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

26 (3) (a) ON OR BEFORE SEPTEMBER 1, 2023, THE ORGANIZATION  
27 SHALL HIRE AN INDEPENDENT THIRD PARTY APPROVED BY THE EXECUTIVE

1 DIRECTOR TO CONDUCT AN ASSESSMENT OF THE STATE'S RECYCLING  
2 NEEDS. PRIOR TO THE COMMENCEMENT OF THE NEEDS ASSESSMENT, THE  
3 ORGANIZATION SHALL CONSULT WITH THE ADVISORY BOARD ON THE  
4 SCOPE OF THE NEEDS ASSESSMENT AND PROVIDE ANY NECESSARY  
5 RECOMMENDATIONS TO THE THIRD-PARTY CONSULTANT CONDUCTING THE  
6 NEEDS ASSESSMENT. THE NEEDS ASSESSMENT SHALL BE INCLUSIVE OF AND  
7 ADDRESS THE NEEDS OF ALL GEOGRAPHIC AREAS OF THE STATE. AT A  
8 MINIMUM, THE NEEDS ASSESSMENT MUST IDENTIFY:

9 (I) THE SERVICE AVAILABILITY, CAPACITY, PERFORMANCE, AND  
10 GAPS IN RECYCLING SERVICES PROVIDED TO RESIDENTIAL COVERED  
11 ENTITIES THROUGHOUT THE STATE AND THE PRICES PAID FOR RECYCLING  
12 SERVICES;

13 (II) THE ACTUAL RECYCLING SERVICES COSTS INCURRED BY PUBLIC  
14 AND PRIVATE SERVICE PROVIDERS TO PROVIDE RECYCLING SERVICES FOR  
15 RESIDENTIAL COVERED ENTITIES;

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

20 (IV) THE LEVELS OF CONTAMINATION AT MATERIALS RECOVERY  
21 FACILITIES AND COMPOST FACILITIES THROUGHOUT THE STATE AND THE  
22 IMPACTS OF CONTAMINATION ON THOSE FACILITIES;

23 (V) THE SERVICE AVAILABILITY, GAPS, AND RECYCLING SERVICES  
24 COSTS ASSOCIATED WITH PROVIDING RECYCLING SERVICES TO  
25 NONRESIDENTIAL COVERED ENTITIES, WITH PARTICULAR ATTENTION TO  
26 SMALL BUSINESSES, AND WHICH TYPES AND LOCATIONS OF  
27 NONRESIDENTIAL COVERED ENTITIES COULD BE PROVIDED WITH



1 RECYCLING SERVICES THAT WOULD INCREASE STATEWIDE COLLECTION  
2 AND RECYCLING RATES IN A COST-EFFECTIVE MANNER;

3 (VI) THE PROCESSING CAPACITY OF EXISTING INFRASTRUCTURE  
4 AND THE ADDITIONAL INFRASTRUCTURE NEEDED TO MEET OR EXCEED THE  
5 CONVENIENCE STANDARDS, REDUCE CONTAMINATION, AND IMPROVE THE  
6 QUALITY OF RECYCLABLE MATERIALS AND THE PROJECTED SCENARIOS FOR  
7 INCREASING THE RECYCLING RATE AND COLLECTION RATE OF COVERED  
8 MATERIALS, AS IDENTIFIED PURSUANT TO SUBSECTION (3)(a)(XIII) OF THIS  
9 SECTION;

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

13 (VIII) A PROPOSED LIST OF COVERED MATERIALS FOR INCLUSION  
14 IN THE MINIMUM RECYCLABLE LIST AND ADDITIONAL MATERIALS THAT  
15 MAY BE COLLECTED IN DIFFERENT GEOGRAPHIC AREAS THROUGH  
16 CURBSIDE SERVICES, DROP-OFF CENTERS, OR OTHER MEANS;

17 (IX) THE MARKET CONDITIONS AND OPPORTUNITIES FOR THE USE  
18 OF RECYCLED COVERED MATERIALS IN THE STATE AND IN DIFFERENT  
19 GEOGRAPHIC AREAS OF THE STATE, INCLUDING THE TRANSPORTATION  
20 GAPS AND OPPORTUNITIES AFFECTING ACCESS TO MARKETS;

21 (X) OPPORTUNITIES FOR THE USE OF INNOVATIVE NEW  
22 TECHNOLOGIES, INCLUDING ARTIFICIAL INTELLIGENCE TECHNOLOGIES, FOR  
23 THE RECYCLING AND REUSE OF COVERED MATERIALS;

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

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

1 (XIII) AT LEAST THREE PROJECTED SCENARIOS FOR INCREASING  
2 THE RECYCLING RATE AND COLLECTION RATE OF COVERED MATERIALS IN  
3 THE STATE, INCLUDING RECYCLING RATES AND COLLECTION RATES THAT  
4 THE STATE COULD MEET BY JANUARY 1, 2030, AND JANUARY 1, 2035, AND  
5 THE OPERATING AND CAPITAL COSTS NEEDED TO REACH EACH PROJECTED  
6 SCENARIO; AND

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

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

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

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

26 (e) ON OR BEFORE MAY 1, 2029, AND ON OR BEFORE MAY 1 EVERY  
27 FIVE YEARS THEREAFTER, THE ORGANIZATION SHALL HIRE AN

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

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

1 (3)(a)(V) OF THIS SECTION. IN DEVELOPING THE PLAN PROPOSAL AND ANY  
2 UPDATED PLAN PROPOSALS, THE ORGANIZATION SHALL SOLICIT AND  
3 CONSIDER INPUT FROM THE ADVISORY BOARD AND PROVIDE OPPORTUNITY  
4 FOR ADDITIONAL STAKEHOLDER INPUT. TO BE APPROVED, A PLAN  
5 PROPOSAL MUST:

6 (a) PROVIDE CONTACT INFORMATION FOR THE ORGANIZATION AND  
7 A REPRESENTATIVE OF THE ORGANIZATION;

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

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

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

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

22 (f) ESTABLISH RECYCLING PRACTICES THAT:

23 (I) MEET OR EXCEED THE CONVENIENCE STANDARDS;

24 (II) USE OPEN, COMPETITIVE, AND FAIR PROCUREMENT PRACTICES  
25 WHEN ENTERING INTO CONTRACTS WITH SERVICE PROVIDERS, AND, WHEN  
26 ENTERING INTO CONTRACTS WITH PRIVATE SERVICE PROVIDERS, ADOPT A  
27 PREFERENCE FOR SERVICE PROVIDERS WITH STRONG LABOR STANDARDS

1 AND WORKER SAFETY PRACTICES;

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

4 (IV) USE ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES;

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

10 (h) ESTABLISH A FUNDING MECHANISM THAT:

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

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

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

19 (C) CONDUCTING THE NEEDS ASSESSMENT;

20 (D) DEVELOPING AND UPDATING THE FINAL PLAN; ■

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

23 (F) REIMBURSING THE DEPARTMENT PURSUANT TO SECTION  
24 25-17-616 FOR ITS COSTS IN ADMINISTERING AND IMPLEMENTING THIS  
25 PART 6, INCLUDING THE COSTS OF THE ADVISORY BOARD; AND

26 (G) REIMBURSING THE DEPARTMENT PURSUANT TO SECTION  
27 25-17-616 FOR THE COSTS OF ENFORCING THIS PART 6 PURSUANT TO

1 SECTION 25-17-610;

2 (II) IS FUNDED THROUGH PRODUCER RESPONSIBILITY DUES. THE  
3 PRODUCER RESPONSIBILITY DUES MUST VARY BY THE TYPE OF  
4 COVERED MATERIAL, WHETHER OR NOT THE MATERIAL IS READILY  
5 RECYCLABLE, AND BE BASED ON THE NET RECYCLING SERVICES COSTS FOR  
6 EACH COVERED MATERIAL IN THE STATE.

7 (III) REQUIRES:

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

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

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

16 (A) REDUCTIONS IN THE AMOUNT OF PACKAGING MATERIALS USED  
17 FOR PRODUCTS;

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

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

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) INCLUDES ECO-MODULATION FACTORS THAT INCREASE  
25 PRODUCER RESPONSIBILITY DUES TO DISCOURAGE:

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

1 (B) DESIGNS AND PRACTICES THAT DISRUPT THE RECYCLING OF  
2 OTHER MATERIALS; AND

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

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

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

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

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

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

23 (IV) TAKE INTO ACCOUNT:

24 (A) REGIONAL RECYCLING SERVICES COSTS;

25 (B) POPULATION DENSITY;

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

27 (D) THE COLLECTION METHOD USED;

1 (E) THE REVENUE GENERATED FROM COVERED MATERIALS; [REDACTED]

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

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

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

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

16 (l) INCLUDE A PROPOSED BUDGET AND A DESCRIPTION OF THE  
17 PROCESS USED TO DETERMINE PRODUCER RESPONSIBILITY DUES,  
18 INCLUDING A DE MINIMIS LEVEL IN WHICH NO DUES ARE CHARGED AND AN  
19 OPTIONAL FLAT RATE FOR PRODUCERS BELOW A CERTAIN SIZE TO MINIMIZE  
20 THE ADMINISTRATIVE AND REPORTING COSTS OF THE PRODUCERS AND THE  
21 ORGANIZATION;

22 (m) DESCRIBE A PLAN THAT OUTLINES, IF THE ORGANIZATION  
23 CEASES TO EXIST OR CEASES TO ADMINISTER THE PROGRAM, HOW ANY  
24 PRODUCER RESPONSIBILITY DUES THAT HAVE NOT BEEN USED TO  
25 IMPLEMENT THE PROGRAM WILL BE TRANSFERRED TO ANOTHER  
26 ORGANIZATION DESIGNATED BY THE EXECUTIVE DIRECTOR UNDER  
27 SUBSECTION (1)(b)(II) OF THIS SECTION TO ADMINISTER THE PROGRAM;



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

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

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

12 (q) DESCRIBE HOW THE ORGANIZATION WILL VERIFY MINIMUM  
13 POSTCONSUMER-RECYCLED-CONTENT RATES AND HOW  
14 POSTCONSUMER-RECYCLED-CONTENT RATES WILL BE CALCULATED USING  
15 WEIGHT AND OTHER METRICS, AND DESCRIBE ANY WAIVERS FROM  
16 MINIMUM POSTCONSUMER-RECYCLED-CONTENT RATES GRANTED TO A  
17 TYPE OR SUBCATEGORY OF COVERED MATERIALS AND THE CRITERIA FOR  
18 EVALUATING SUCH WAIVERS, INCLUDING FOOD SAFETY REQUIREMENTS,  
19 TECHNOLOGICAL FEASIBILITY, OR INADEQUATE SUPPLY, AND HOW OFTEN  
20 THE WAIVERS WILL BE REVIEWED;

21 (r) DESCRIBE HOW THE ORGANIZATION WILL PROVIDE PRODUCERS  
22 WITH THE OPPORTUNITY TO PURCHASE POSTCONSUMER-RECYCLED  
23 MATERIALS FROM PROCESSORS AT MARKET PRICES IF THE PRODUCER IS  
24 INTERESTED IN OBTAINING RECYCLED FEEDSTOCK TO ACHIEVE MINIMUM  
25 POSTCONSUMER-RECYCLED-CONTENT RATES;

26 (s) DESCRIBE HOW THE ORGANIZATION WILL REDUCE OR OFFSET  
27 THE PRODUCER RESPONSIBILITY DUES FOR ANY PRODUCER OR GROUP OF

1 PRODUCERS THAT FUND OR OPERATE A COLLECTION PROGRAM THAT:

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

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

7 (t) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH SERVICE  
8 PROVIDERS TO:

9 (I) UTILIZE AND EXPAND ON EXISTING RECYCLING SERVICES AND  
10 INFRASTRUCTURE AND EXISTING EDUCATION AND OUTREACH PROGRAMS;

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

13 (A) REQUIRING EACH MATERIALS RECOVERY FACILITY AND  
14 COMPOST FACILITY PARTICIPATING IN THE PROGRAM TO REPORT  
15 ANNUALLY TO THE ORGANIZATION ON CONTAMINATION LEVELS AT EACH  
16 FACILITY; AND

17 (B) PROVIDING FUNDING OR OTHER ASSISTANCE TO COMPOST  
18 FACILITIES TO REDUCE THE COSTS OF MANAGING OR INCREASE THE  
19 EFFECTIVENESS OF EFFORTS TO MANAGE CONTAMINATION AND TO  
20 PROCESS AND RECOVER COMPOSTABLE PACKAGING MATERIALS;

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

22 (IV) PROPOSE AN APPROACH TO MEASURE AND REPORT ON THE USE  
23 OF REUSABLE AND REFILLABLE COVERED MATERIALS AND ESTABLISH  
24 GOALS AND STRATEGIES FOR INCREASING THE USE OF REUSABLE AND  
25 REFILLABLE COVERED MATERIALS;

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

1 (VI) INVEST IN MARKET DEVELOPMENT FOR COVERED MATERIALS  
2 IN THE STATE; AND

3 (VII) INCREASE THE RECYCLING OF COLLECTED COVERED  
4 MATERIALS;

5 (u) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH AND  
6 INCENTIVIZE PRODUCERS TO REDUCE THE PACKAGING OF PRODUCTS USING  
7 COVERED MATERIALS THROUGH PRODUCT DESIGN CHANGES, THE  
8 DEVELOPMENT OR EXPANSION OF SYSTEMS FOR REUSABLE PACKAGING,  
9 AND PRODUCT INNOVATION;

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

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

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

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

22 (z) INCLUDE ANY ADDITIONAL INFORMATION REQUIRED BY THE  
23 DEPARTMENT.

24 (5) (a) THE ADVISORY BOARD SHALL REVIEW THE PLAN PROPOSAL  
25 FOR COMPLIANCE WITH THIS PART 6. THE ADVISORY BOARD SHALL  
26 CONSULT WITH THE ORGANIZATION THROUGHOUT ITS REVIEW OF THE PLAN  
27 PROPOSAL. WITHIN SIXTY DAYS AFTER THE SUBMISSION OF THE PLAN

1 PROPOSAL TO THE ADVISORY BOARD, THE ADVISORY BOARD SHALL EITHER  
2 PROVIDE ANY RECOMMENDED AMENDMENTS TO THE PLAN PROPOSAL TO  
3 THE ORGANIZATION OR, IF THE ADVISORY BOARD DOES NOT HAVE ANY  
4 RECOMMENDED AMENDMENTS, FORWARD THE PLAN PROPOSAL TO THE  
5 EXECUTIVE DIRECTOR. THE ORGANIZATION SHALL PROVIDE RESPONSIVE  
6 ANSWERS TO THE ADVISORY BOARD'S RECOMMENDATIONS AND SUBMIT  
7 THE AMENDED PLAN PROPOSAL TO THE ADVISORY BOARD WITHIN SIXTY  
8 DAYS AFTER ITS RECEIPT OF THE RECOMMENDED AMENDMENTS. WITHIN  
9 THIRTY DAYS AFTER THE SUBMISSION OF THE AMENDED PLAN PROPOSAL  
10 TO THE ADVISORY BOARD, THE ADVISORY BOARD SHALL FORWARD THE  
11 AMENDED PLAN PROPOSAL TO THE EXECUTIVE DIRECTOR WITH ITS  
12 RECOMMENDATION FOR APPROVAL OR REJECTION AND, IF APPLICABLE, A  
13 WRITTEN EXPLANATION OF THE BASIS FOR RECOMMENDING REJECTION OF  
14 THE PLAN PROPOSAL.

15 (b) (I) WITHIN ONE HUNDRED TWENTY DAYS AFTER RECEIVING THE  
16 PLAN PROPOSAL OR AMENDED PLAN PROPOSAL, THE EXECUTIVE DIRECTOR  
17 SHALL:

18 (A) APPROVE THE PLAN PROPOSAL OR AMENDED PLAN PROPOSAL;  
19 OR

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

21 (II) IF THE EXECUTIVE DIRECTOR REJECTS THE PLAN PROPOSAL OR  
22 AMENDED PLAN PROPOSAL, THE EXECUTIVE DIRECTOR SHALL NOTIFY THE  
23 ORGANIZATION OF THE REJECTION AND THE REASONS FOR THE REJECTION,  
24 WHICH REASONS MUST BE BASED ON THE FAILURE OF THE PLAN PROPOSAL  
25 OR AMENDED PLAN PROPOSAL TO COMPLY WITH THE REQUIREMENTS  
26 SPECIFIED IN SUBSECTION (4) OF THIS SECTION. THE ORGANIZATION MUST  
27 SUBMIT A NEW PLAN PROPOSAL TO THE ADVISORY BOARD WITHIN SIXTY

1 DAYS AFTER RECEIVING THE EXECUTIVE DIRECTOR'S REJECTION. THE NEW  
2 PLAN PROPOSAL MUST BE REVIEWED BY THE ADVISORY BOARD AND THE  
3 NEW PLAN PROPOSAL OR NEW AMENDED PLAN PROPOSAL MUST BE  
4 REVIEWED AND APPROVED OR REJECTED BY THE EXECUTIVE DIRECTOR IN  
5 ACCORDANCE WITH SUBSECTION (5)(a) OF THIS SECTION AND THIS  
6 SUBSECTION (5)(b).

7 (c) (I) IF THE EXECUTIVE DIRECTOR APPROVES THE PLAN PROPOSAL  
8 OR AMENDED PLAN PROPOSAL PURSUANT TO SUBSECTION (5)(b)(I) OF THIS  
9 SECTION, THE EXECUTIVE DIRECTOR SHALL DESIGNATE THE PLAN  
10 PROPOSAL OR AMENDED PLAN PROPOSAL AS THE FINAL PLAN AND SHALL  
11 PUBLISH THE FINAL PLAN ON THE DEPARTMENT'S WEBSITE.

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

14 (6) (a) THE ORGANIZATION MAY SUBMIT PROPOSED AMENDMENTS  
15 TO THE FINAL PLAN ANNUALLY TO THE ADVISORY BOARD FOR INCLUSION  
16 IN THE ANNUAL REPORT UNDER SECTION 25-17-609 (2)(c). AT LEAST  
17 THIRTY DAYS PRIOR TO SUBMITTING THE ANNUAL REPORT PURSUANT TO  
18 SECTION 25-17-609 (2)(a), THE ORGANIZATION SHALL CONSULT WITH THE  
19 ADVISORY BOARD ON ANY PROPOSED AMENDMENTS TO THE FINAL PLAN.  
20 THE ADVISORY BOARD SHALL SUBMIT ANY PROPOSED AMENDMENTS TO  
21 THE EXECUTIVE DIRECTOR. THE EXECUTIVE DIRECTOR SHALL APPROVE OR  
22 REJECT THE PROPOSED AMENDMENTS BASED ON THE PLAN PROPOSAL  
23 REQUIREMENTS SPECIFIED IN SUBSECTION (4) OF THIS SECTION.

24 (b) THE ORGANIZATION SHALL CONTINUE TO OPERATE THE  
25 PROGRAM IN ACCORDANCE WITH THE FINAL PLAN PENDING THE APPROVAL  
26 OR REJECTION OF A PROPOSED AMENDMENT BY THE EXECUTIVE DIRECTOR.  
27 THE EXECUTIVE DIRECTOR'S REJECTION OF A PROPOSED AMENDMENT

1 PURSUANT TO THIS SUBSECTION (6) DOES NOT RELIEVE THE ORGANIZATION  
2 OF ITS RESPONSIBILITY TO CONTINUE TO OPERATE THE PROGRAM IN  
3 ACCORDANCE WITH THE FINAL PLAN.

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

9 (8) (a) ON JANUARY 1, 2025, AND EACH JANUARY 1 THEREAFTER,  
10 AS AN ALTERNATIVE TO PARTICIPATING IN THE PROGRAM, A PRODUCER  
11 MAY SUBMIT TO THE ADVISORY BOARD AN INDIVIDUAL PROGRAM PLAN  
12 PROPOSAL. A PRODUCER MUST NOTIFY THE DEPARTMENT OF ITS INTENT TO  
13 SUBMIT AN INDIVIDUAL PROGRAM PLAN PROPOSAL BY JANUARY 1, 2024.

14 THE INDIVIDUAL PROGRAM PLAN PROPOSAL MUST:

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

17 (II) DESCRIBE HOW THE PRODUCER PARTICIPATING IN THE  
18 INDIVIDUAL PROGRAM PLAN PROPOSAL WILL CONTRIBUTE TO THE COSTS  
19 OF THE DEPARTMENT IN OVERSEEING THE PROGRAM;

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

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

25 (b) THE ADVISORY BOARD SHALL REVIEW AND MAKE  
26 RECOMMENDATIONS ON, AND THE EXECUTIVE DIRECTOR SHALL APPROVE  
27 OR REJECT, ANY INDIVIDUAL PROGRAM PLAN PROPOSALS IN ACCORDANCE

1 WITH THE PROCEDURES SET FORTH IN SUBSECTION (5) OF THIS SECTION.  
2 AFTER THE EXECUTIVE DIRECTOR APPROVES THE INDIVIDUAL PROGRAM  
3 PLAN PROPOSAL, THE EXECUTIVE DIRECTOR SHALL DESIGNATE THE  
4 INDIVIDUAL PROGRAM PLAN PROPOSAL AS THE PLAN THAT THE PRODUCER  
5 IS AUTHORIZED TO IMPLEMENT AND ADMINISTER AS AN ALTERNATIVE TO  
6 PARTICIPATING IN THE PROGRAM.

7 (c) THE PRODUCER IMPLEMENTING A PLAN DESCRIBED IN  
8 SUBSECTION (8)(b) OF THIS SECTION SHALL SUBMIT ANY AMENDMENTS TO  
9 THE PLAN TO THE ADVISORY BOARD IN ACCORDANCE WITH SUBSECTION (6)  
10 OF THIS SECTION. THE ADVISORY BOARD SHALL REVIEW AND MAKE  
11 RECOMMENDATIONS ON, AND THE EXECUTIVE DIRECTOR SHALL APPROVE  
12 OR REJECT, ANY AMENDMENTS TO THE PLAN IN ACCORDANCE WITH  
13 SUBSECTION (6) OF THIS SECTION.

14 **25-17-606. Minimum recyclable list - convenience standards.**

15 (1)(a) THE ORGANIZATION SHALL DEVELOP A MINIMUM RECYCLABLE LIST  
16 BASED ON THE AVAILABILITY OF RECYCLING SERVICES, RECYCLING  
17 COLLECTION AND PROCESSING INFRASTRUCTURE, AND RECYCLING END  
18 MARKETS FOR COVERED MATERIALS, AS DETERMINED BY THE NEEDS  
19 ASSESSMENT.

20 (b) THE ORGANIZATION SHALL UPDATE THE MINIMUM RECYCLABLE  
21 LIST, AND SUBMIT ANY UPDATES FOR INCLUSION IN THE ANNUAL REPORT  
22 PURSUANT TO SECTION 25-17-609 (2)(a), IN RESPONSE TO RECYCLING  
23 COLLECTION AND PROCESSING IMPROVEMENTS AND CHANGES IN  
24 RECYCLING END MARKETS. THE ADVISORY BOARD SHALL CONSULT WITH  
25 THE ORGANIZATION ON ANY UPDATES TO THE MINIMUM RECYCLABLE LIST  
26 IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SECTION 25-17-605  
27 (6).

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

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

12           (c) SERVICE PROVIDERS ARE ELIGIBLE FOR REIMBURSEMENT FROM  
13 THE ORGANIZATION FOR THE COLLECTION OF COVERED MATERIALS THAT  
14 ARE NOT INCLUDED IN THE MINIMUM RECYCLABLE LIST FOR THE REGIONS  
15 WHERE THE ORGANIZATION HAS ESTABLISHED A REASONABLE COST FOR  
16 THE SUPPLEMENTAL COLLECTION OF COVERED MATERIALS THAT ARE NOT  
17 READILY RECYCLABLE AND A RESPONSIBLE END MARKET HAS BEEN  
18 ESTABLISHED. THE SERVICES DESCRIBED IN THIS SUBSECTION (2)(c) ARE  
19 NOT SUBJECT TO THE CONVENIENCE STANDARDS.

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 INBOUND CONTAMINATION FROM COVERED MATERIALS  
19 AT 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 producer**  
5 **responsibility organization - coordination plan - rules -**  
6 **confidentiality - compliance with local government codes - audit.**

7 (1) EFFECTIVE JULY 1, 2025, A PRODUCER SHALL NOT SELL, OFFER FOR  
8 SALE, OR DISTRIBUTE ANY PRODUCTS THAT USE COVERED MATERIALS IN  
9 THE STATE UNLESS THE PRODUCER IS PARTICIPATING IN THE PROGRAM OR,  
10 ON OR AFTER JANUARY 1, 2029, EXCEPT AS SET FORTH IN THE FINAL PLAN  
11 OR ANY OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT  
12 TO THIS PART 6. A PRODUCER MUST REPORT THE DATA NECESSARY TO  
13 MEET ITS PLAN OBLIGATIONS AND MAY USE PRORATED NATIONAL DATA IF  
14 STATE-SPECIFIC DATA IS NOT AVAILABLE OR FEASIBLE TO GENERATE.

15 (2) (a) ON JANUARY 1, 2029, AND EVERY JANUARY 1 THEREAFTER,  
16 A NONPROFIT ORGANIZATION MAY REQUEST THAT THE EXECUTIVE  
17 DIRECTOR DESIGNATE THE NONPROFIT ORGANIZATION AS AN ADDITIONAL  
18 PRODUCER RESPONSIBILITY ORGANIZATION.

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

- 24 (I) INCREASE RECYCLING RATES;
- 25 (II) EXPAND RECYCLING SERVICES TO COVERED ENTITIES THAT ARE  
26 NOT COVERED UNDER THE FINAL PLAN; OR
- 27 (III) PROVIDE RECYCLING SERVICES FOR A SPECIFIC TYPE OF

1 COVERED MATERIAL.

2 (c) IF THE EXECUTIVE DIRECTOR DESIGNATES AN ADDITIONAL  
3 PRODUCER RESPONSIBILITY ORGANIZATION PURSUANT TO SUBSECTION  
4 (2)(b) OF THIS SECTION, THE ADDITIONAL PRODUCER RESPONSIBILITY  
5 ORGANIZATION SHALL SUBMIT A COORDINATION PLAN TO THE EXECUTIVE  
6 DIRECTOR FOR APPROVAL IN ACCORDANCE WITH THE RULES  
7 PROMULGATED PURSUANT TO THIS SECTION (2)(c). WITHIN ONE HUNDRED  
8 TWENTY DAYS AFTER THE DESIGNATION OF THE FIRST ADDITIONAL  
9 PRODUCER RESPONSIBILITY ORGANIZATION, THE EXECUTIVE DIRECTOR  
10 SHALL PROMULGATE BY RULE STANDARDS AND REQUIREMENTS FOR A  
11 COORDINATION PLAN AND FOR COORDINATION BETWEEN THE  
12 ORGANIZATION AND ANY ADDITIONAL PRODUCER RESPONSIBILITY  
13 ORGANIZATIONS DESIGNATED BY THE EXECUTIVE DIRECTOR. A  
14 COORDINATION PLAN APPROVED OR ORDERED BY THE EXECUTIVE  
15 DIRECTOR SHALL BE IMPLEMENTED BY THE ORGANIZATION AND ANY  
16 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATIONS DESIGNATED BY  
17 THE EXECUTIVE DIRECTOR. IF THE COORDINATION PLAN CONFLICTS WITH  
18 THE FINAL PLAN OR ANY OTHER PLAN APPROVED BY THE EXECUTIVE  
19 DIRECTOR PURSUANT TO THIS PART 6, THE PROVISIONS OF THE  
20 COORDINATION PLAN PREVAIL. A COORDINATION PLAN APPROVED OR  
21 ORDERED BY THE EXECUTIVE DIRECTOR IS VALID UNTIL REVOKED OR UNTIL  
22 A NEW COORDINATION PLAN IS APPROVED OR ORDERED BY THE EXECUTIVE  
23 DIRECTOR.

24 (3) THE EXECUTIVE DIRECTOR, THE ADVISORY BOARD, THE  
25 ORGANIZATION, AN ADDITIONAL PRODUCER RESPONSIBILITY  
26 ORGANIZATION, AND ANY OTHER PERSON ADMINISTERING A PLAN  
27 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6:

1 (a) MUST KEEP CONFIDENTIAL ANY PROPRIETARY INFORMATION  
2 PROVIDED BY A PRODUCER; AND

3 (b) SHALL NOT INCLUDE ANY PROPRIETARY INFORMATION  
4 PROVIDED BY A PRODUCER IN THE PLAN PROPOSAL, THE AMENDED PLAN  
5 PROPOSAL, THE FINAL PLAN, ANY OTHER PLAN APPROVED BY THE  
6 EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6, OR ANY AMENDMENT TO  
7 THE FINAL PLAN OR OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR  
8 PURSUANT TO THIS PART 6.

9 (4) (a) THE PROGRAM AND ANY OTHER PLAN APPROVED BY THE  
10 EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 MUST COMPLY WITH ANY  
11 FIRE, SOLID WASTE, OR OTHER RELEVANT ORDINANCES OR RESOLUTIONS  
12 ADOPTED BY A LOCAL GOVERNMENT AND WITH APPLICABLE STATE AND  
13 FEDERAL LAWS, INCLUDING THE EXEMPTIONS SET FORTH IN SECTION  
14 30-20-102 (5).

15 (b) NOTWITHSTANDING ANY LAW TO THE CONTRARY, A LOCAL  
16 GOVERNMENT IS NOT REQUIRED TO PROVIDE RECYCLING SERVICES UNDER  
17 THE PROGRAM OR ANY OTHER PLAN APPROVED BY THE EXECUTIVE  
18 DIRECTOR PURSUANT TO THIS PART 6. TO THE EXTENT THAT A LOCAL  
19 GOVERNMENT ELECTS TO PROVIDE RECYCLING SERVICES UNDER THE  
20 PROGRAM OR ANY OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR  
21 PURSUANT TO THIS PART 6, THE ORGANIZATION, ADDITIONAL PRODUCER  
22 RESPONSIBILITY ORGANIZATION, OR OTHER PERSON RESPONSIBLE FOR  
23 ADMINISTERING A PLAN APPROVED BY THE EXECUTIVE DIRECTOR UNDER  
24 THIS PART 6 SHALL REIMBURSE THE LOCAL GOVERNMENT FOR THOSE  
25 RECYCLING SERVICES IN ACCORDANCE WITH SECTION 25-17-606 (2) AND  
26 THE FINAL PLAN OR ANY OTHER PLAN APPROVED BY THE EXECUTIVE  
27 DIRECTOR PURSUANT TO THIS PART 6.

1           (5) THE ORGANIZATION, ANY ADDITIONAL PRODUCER  
2 RESPONSIBILITY ORGANIZATION, AND ANY PERSON ADMINISTERING A PLAN  
3 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 SHALL  
4 CAUSE TO BE CONDUCTED AN ANNUAL FINANCIAL AUDIT OF THE PROGRAM  
5 OR ANY OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT  
6 TO THIS PART 6 BY AN INDEPENDENT THIRD-PARTY AUDITOR. THE AUDIT  
7 MUST INCLUDE A DETAILED LIST OF THE PROGRAM'S OR PLAN'S COSTS AND  
8 REVENUES FROM THE PRODUCER RESPONSIBILITY DUES.

9           **25-17-609. Producer responsibility dues - inspection of records**  
10 **- annual reporting.** (1) (a) EXCEPT AS SET FORTH IN A PLAN APPROVED  
11 BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 ON OR AFTER  
12 JANUARY 1, 2029, BY A DATE DETERMINED BY THE ORGANIZATION THAT  
13 IS NO LATER THAN JANUARY 1, 2026, AND ANNUALLY THEREAFTER BY A  
14 DATE DETERMINED BY THE ORGANIZATION, A PRODUCER SHALL PAY  
15 PRODUCER RESPONSIBILITY DUES TO THE ORGANIZATION BASED ON THE  
16 FUNDING MECHANISM DESCRIBED IN THE PLAN PROPOSAL PURSUANT TO  
17 SECTION 25-17-605 (4)(h).

18           (b) A PRODUCER SHALL MAKE ALL DOCUMENTS AND RECORDS  
19 RELATED TO THE CALCULATION AND PAYMENT OF PRODUCER  
20 RESPONSIBILITY DUES AVAILABLE FOR INSPECTION BY THE EXECUTIVE  
21 DIRECTOR. IN CONNECTION WITH ENFORCING A VIOLATION BY A PRODUCER  
22 PURSUANT TO SECTION 25-17-610, THE EXECUTIVE DIRECTOR MAY  
23 REQUEST IN WRITING THAT THE PRODUCER PROVIDE ANY SUCH  
24 DOCUMENTS OR RECORDS TO THE EXECUTIVE DIRECTOR.

25           (2) (a) BEFORE MARCH 31 OF THE SECOND YEAR OF THE  
26 PROGRAM'S IMPLEMENTATION, AND BY MARCH 31 EACH YEAR  
27 THEREAFTER THEREAFTER, THE ORGANIZATION SHALL SUBMIT A REPORT

1 TO THE ADVISORY BOARD DESCRIBING THE PROGRESS OF THE PROGRAM.  
2 THE ADVISORY BOARD SHALL REVIEW THE REPORT AND FORWARD THE  
3 REPORT TO THE EXECUTIVE DIRECTOR. THE ADVISORY BOARD SHALL ALSO  
4 REVIEW ANY PROPOSED AMENDMENTS TO THE FINAL PLAN AND ANY  
5 UPDATES TO THE MINIMUM RECYCLABLE LIST AND FORWARD THE  
6 AMENDMENTS AND UPDATES TO THE EXECUTIVE DIRECTOR WITH ITS  
7 RECOMMENDATION FOR APPROVAL OR REJECTION. THE EXECUTIVE  
8 DIRECTOR SHALL POST THE REPORT ON THE DEPARTMENT'S WEBSITE. THE  
9 PROGRAM REPORT MUST INCLUDE THE FOLLOWING INFORMATION FROM  
10 THE PRECEDING CALENDAR YEAR:

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

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

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

18 (IV) THE TOTAL WEIGHT OF THE COVERED MATERIALS THAT  
19 PRODUCERS USED FOR PRODUCTS THAT ARE SOLD, OFFERED FOR SALE, OR  
20 DISTRIBUTED IN THE STATE;

21 (V) THE TOTAL AMOUNT OF PRODUCER RESPONSIBILITY DUES  
22 COLLECTED UNDER THE PROGRAM, INCLUDING AN ANNUAL SCHEDULE OF  
23 PRODUCER RESPONSIBILITY DUES ASSESSED BY WEIGHT FOR EACH TYPE OF  
24 COVERED MATERIAL;

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

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

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

5 (C) THE METHOD USED TO HANDLE THE COLLECTED COVERED  
6 MATERIAL; AND

7 (D) GEOGRAPHIC AREA;

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

13 (VIII) THE RATE SCHEDULES FOR REIMBURSEMENT TO SERVICE  
14 PROVIDERS, ANY PROPOSED ADJUSTMENTS TO THE RATE SCHEDULES, AND  
15 A SUMMARY OF ANY DISPUTES ARISING BETWEEN THE ORGANIZATION AND  
16 SERVICE PROVIDERS CONCERNING RATES AND HOW THE DISPUTES WERE  
17 ADDRESSED;

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

20 (A) SAMPLES OF ANY MATERIALS DISTRIBUTED; AND

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

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

26 (XI) A DESCRIPTION OF THE ORGANIZATION'S EFFORTS TO ENSURE  
27 THAT COVERED MATERIALS HAVE BEEN RESPONSIBLY MANAGED AND



1 DELIVERED TO RESPONSIBLE END MARKETS UNDER THE PROGRAM;

2 (XII) A LIST OF THE RECYCLING END MARKETS OF ANY COVERED  
3 MATERIALS, AND, IF THE COVERED MATERIALS ARE PROCESSED THROUGH  
4 A METHOD OTHER THAN MECHANICAL RECYCLING, THE LIST MUST  
5 INCLUDE:

6 (A) A DESCRIPTION OF HOW THE METHOD WILL AFFECT THE  
7 ABILITY TO RECYCLE THE COVERED MATERIAL INTO FEEDSTOCK FOR THE  
8 MANUFACTURE OF NEW PRODUCTS;

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

12 (C) A DESCRIPTION OF ANY APPLICABLE STATE AND FEDERAL AIR,  
13 WATER, AND WASTE PERMITTING COMPLIANCE REQUIREMENTS FOR THE  
14 METHOD; AND

15 (D) AN ANALYSIS OF THE ENVIRONMENTAL IMPACTS OF THE  
16 METHOD COMPARED TO THE ENVIRONMENTAL IMPACTS OF INCINERATION  
17 OF SOLID WASTE IN LANDFILLS;

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

20 (XIV) A DESCRIPTION OF THE STATUS OF RESERVE FUNDS, AN  
21 ASSESSMENT OF THE ADEQUACY OF THOSE FUNDS TO COVER PROGRAM  
22 COSTS, AND A DESCRIPTION OF HOW ANY PROGRAM SHORTFALLS WILL BE  
23 ADDRESSED;

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

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

1 (XVII) A DESCRIPTION OF THE IMPACT OF THE EXEMPTION  
2 DESCRIBED IN SECTION 25-17-613 (3) ON THE AMOUNT OF PRODUCER  
3 RESPONSIBILITY DUES BEING COLLECTED BY THE ORGANIZATION; AND

4 (XVIII) A DESCRIPTION OF THE ADVISORY BOARD'S FEEDBACK ON  
5 ANY AMENDMENTS TO THE FINAL PLAN PURSUANT TO SECTION 25-17-605  
6 (6)(a).

7 (b) BEFORE MARCH 31 OF THE SECOND YEAR OF ANY PLAN  
8 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 THAT  
9 IS NOT THE FINAL PLAN, AND BY MARCH 31 EACH YEAR THEREAFTER, AN  
10 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION OR OTHER PERSON  
11 RESPONSIBLE FOR ADMINISTERING A PLAN APPROVED BY THE EXECUTIVE  
12 DIRECTOR PURSUANT TO THIS PART 6 SHALL SUBMIT A REPORT TO THE  
13 ADVISORY BOARD DESCRIBING THE PROGRESS OF THE [REDACTED] PLAN. THE  
14 REPORT MUST INCLUDE THE INFORMATION DESCRIBED IN SUBSECTION  
15 (2)(a) OF THIS SECTION, AS APPLICABLE, FROM THE PRECEDING CALENDAR  
16 YEAR. THE ADVISORY BOARD SHALL REVIEW THE REPORT AND FORWARD  
17 THE REPORT TO THE EXECUTIVE DIRECTOR. THE ADVISORY BOARD SHALL  
18 ALSO REVIEW ANY PROPOSED AMENDMENTS TO THE PLAN AND FORWARD  
19 THE AMENDMENTS TO THE EXECUTIVE DIRECTOR WITH ITS  
20 RECOMMENDATION FOR APPROVAL OR REJECTION. THE EXECUTIVE  
21 DIRECTOR SHALL POST THE REPORT ON THE DEPARTMENT'S WEBSITE.

22 (c) THE EXECUTIVE DIRECTOR SHALL ANNUALLY COMPILE THE  
23 RESULTS OF THE REPORTS RECEIVED PURSUANT TO SUBSECTIONS (2)(a)  
24 AND (2)(b) OF THIS SECTION INTO A GENERAL REPORT DESCRIBING THE  
25 PROGRESS OF THE PROGRAM [REDACTED] AND ANY OTHER PLANS APPROVED BY THE  
26 EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6. THE EXECUTIVE  
27 DIRECTOR SHALL INCLUDE THE DEPARTMENT'S ACTIVITIES AND EXPENSES

1 THAT WERE REIMBURSED PURSUANT TO SECTION 25-17-616 IN THE  
2 GENERAL REPORT. THE EXECUTIVE DIRECTOR SHALL POST THE REPORT ON  
3 THE DEPARTMENT'S WEBSITE AND SHALL ANNUALLY PRESENT THE  
4 GENERAL REPORT TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF  
5 THE SENATE AND THE ENERGY AND ENVIRONMENT COMMITTEE OF THE  
6 HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, AND THE  
7 GOVERNOR. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE  
8 REPORTING REQUIREMENT SPECIFIED IN THIS SUBSECTION (2)(c)  
9 CONTINUES INDEFINITELY.

10 (3) IF, BASED ON THE ANNUAL REPORT SUBMITTED UNDER  
11 SUBSECTION (2) OF THIS SECTION, THE PROGRAM OR ANY OTHER PLAN  
12 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 IS NOT  
13 ON TRACK TO MEET THE MINIMUM COLLECTION RATES, MINIMUM  
14 RECYCLING RATES, OR MINIMUM POSTCONSUMER-RECYCLED-CONTENT  
15 RATES SET FORTH IN THE PROGRAM OR PLAN, THE EXECUTIVE DIRECTOR  
16 MAY REQUIRE THE ORGANIZATION, WITH RESPECT TO THE PROGRAM, OR  
17 THE ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION OR OTHER  
18 PERSON RESPONSIBLE FOR ADMINISTERING THE PLAN, WITH RESPECT TO  
19 ANY OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO  
20 THIS PART 6, TO AMEND ITS RESPECTIVE PLAN UNDER SECTION 25-17-605  
21 (6).

22 **25-17-610. Violations - enforcement - administrative penalty**  
23 **- injunction.** (1) IF THE ORGANIZATION, AN ADDITIONAL PRODUCER  
24 RESPONSIBILITY ORGANIZATION, A PERSON ADMINISTERING A PLAN  
25 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6, OR A  
26 PRODUCER VIOLATES ANY PORTION OF THIS PART 6, THE ORGANIZATION,  
27 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION, PERSON

1 ADMINISTERING A PLAN APPROVED BY THE EXECUTIVE DIRECTOR  
2 PURSUANT TO THIS PART 6, OR PRODUCER IS LIABLE FOR AN  
3 ADMINISTRATIVE PENALTY NOT TO EXCEED:

4 (a) FOR A FIRST VIOLATION, AN INITIAL PENALTY OF FIVE  
5 THOUSAND DOLLARS FOR THE FIRST DAY OF EACH VIOLATION AND ONE  
6 THOUSAND FIVE HUNDRED DOLLARS PER DAY FOR EACH DAY THE  
7 VIOLATION CONTINUES;

8 (b) FOR A SECOND VIOLATION COMMITTED WITHIN TWELVE  
9 MONTHS AFTER A PRIOR VIOLATION, AN INITIAL PENALTY OF TEN  
10 THOUSAND DOLLARS FOR THE FIRST DAY OF EACH VIOLATION AND THREE  
11 THOUSAND DOLLARS PER DAY FOR EACH DAY THE VIOLATION CONTINUES;  
12 AND

13 (c) FOR A THIRD OR SUBSEQUENT VIOLATION COMMITTED WITHIN  
14 TWELVE MONTHS AFTER TWO OR MORE PRIOR VIOLATIONS, AN INITIAL  
15 PENALTY OF TWENTY THOUSAND DOLLARS FOR THE FIRST DAY OF EACH  
16 VIOLATION AND SIX THOUSAND DOLLARS PER DAY FOR EACH DAY THE  
17 VIOLATION CONTINUES.

18 (2) (a) IF THE ORGANIZATION, AN ADDITIONAL PRODUCER  
19 RESPONSIBILITY ORGANIZATION, A PERSON ADMINISTERING A PLAN  
20 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6, OR A  
21 PRODUCER VIOLATES ANY PORTION OF THIS PART 6, THE EXECUTIVE  
22 DIRECTOR SHALL SERVE BY PERSONAL SERVICE OR BY CERTIFIED MAIL AN  
23 ORDER THAT IMPOSES AN ADMINISTRATIVE PENALTY ON THE  
24 ORGANIZATION, ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION,  
25 PERSON ADMINISTERING A PLAN APPROVED BY THE EXECUTIVE DIRECTOR  
26 PURSUANT TO THIS PART 6, OR PRODUCER.

27 (b) THE ORGANIZATION, ADDITIONAL PRODUCER RESPONSIBILITY

1 ORGANIZATION, PERSON ADMINISTERING A PLAN APPROVED BY THE  
2 EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6, OR PRODUCER MAY  
3 SUBMIT A WRITTEN REQUEST FOR A HEARING TO THE EXECUTIVE DIRECTOR  
4 BY PERSONAL SERVICE OR BY CERTIFIED MAIL WITHIN THIRTY-FIVE  
5 CALENDAR DAYS AFTER THE DATE OF THE ORDER IMPOSING AN  
6 ADMINISTRATIVE PENALTY. THE COMMISSION SHALL CONDUCT THE  
7 HEARING IN ACCORDANCE WITH SECTION 24-4-105.

8 (c) IF A REQUEST FOR A HEARING IS FILED, THE REQUIREMENT TO  
9 PAY A PENALTY IS STAYED PENDING A FINAL DECISION BY THE COMMISSION  
10 AFTER A HEARING ON THE MERITS. THE EXECUTIVE DIRECTOR IS NOT  
11 PRECLUDED FROM IMPOSING AN ADMINISTRATIVE PENALTY AGAINST THE  
12 ORGANIZATION, ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION,  
13 PERSON ADMINISTERING A PLAN APPROVED BY THE EXECUTIVE DIRECTOR  
14 PURSUANT TO THIS PART 6, OR PRODUCER FOR SUBSEQUENT VIOLATIONS  
15 OF THIS PART 6 COMMITTED DURING THE PENDENCY OF THE STAY.

16 (d) THE EXECUTIVE DIRECTOR BEARS THE BURDEN OF PROOF BY A  
17 PREPONDERANCE OF THE EVIDENCE IN A HEARING HELD PURSUANT TO THIS  
18 SECTION.

19 (3) THE EXECUTIVE DIRECTOR MAY ENTER INTO A SETTLEMENT  
20 AGREEMENT WITH THE ORGANIZATION, ADDITIONAL PRODUCER  
21 RESPONSIBILITY ORGANIZATION, PERSON ADMINISTERING A PLAN  
22 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6, OR  
23 PRODUCER ASSESSED AN ADMINISTRATIVE PENALTY UNDER THIS SECTION.

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

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

- 3 (a) CREATES A PRIVATE RIGHT OF ACTION; OR
- 4 (b) AUTHORIZES ENFORCEMENT OF THIS PART 6 AGAINST ANYONE  
5 OTHER THAN THE ORGANIZATION, AN ADDITIONAL PRODUCER  
6 RESPONSIBILITY ORGANIZATION, A PERSON ADMINISTERING A PLAN  
7 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6, OR A  
8 PRODUCER.

9 **25-17-611. Limited exemption from antitrust, restraint of**  
10 **trade, and unfair trade practices provisions.** IF THE PROGRAM OR ANY  
11 OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS  
12 PART 6 ENGAGES IN AN ACTIVITY PERFORMED SOLELY IN FURTHERANCE OF  
13 IMPLEMENTING THE PROGRAM OR PLAN AND IN COMPLIANCE WITH THIS  
14 PART 6, THE ACTIVITY IS NOT A VIOLATION OF THE ANTITRUST, RESTRAINT  
15 OF TRADE, AND UNFAIR TRADE PRACTICES PROVISIONS OF THE "UNFAIR  
16 PRACTICES ACT", ARTICLE 2 OF TITLE 6, OR THE "COLORADO ANTITRUST  
17 ACT OF 1992", ARTICLE 4 OF TITLE 6.

18 **25-17-612. Eligibility for state or local incentive programs.**  
19 NOTHING IN THIS PART 6 AFFECTS A PERSON'S ELIGIBILITY FOR ANY STATE  
20 OR LOCAL INCENTIVE PROGRAMS FOR WHICH THE PERSON IS OTHERWISE  
21 ELIGIBLE.

22 **25-17-613. Producer exemptions - rules.** (1) A PRODUCER IS  
23 EXEMPT FROM THE REQUIREMENTS OF THIS PART 6 IF THE PRODUCER IS:

- 24 (a) A PERSON WITH LESS THAN FIVE MILLION DOLLARS IN REALIZED  
25 GROSS TOTAL REVENUE, NOT INCLUDING ON-PREMISES ALCOHOL SALES,  
26 DURING THE PRIOR CALENDAR YEAR;
- 27 (b) A PERSON THAT HAS USED LESS THAN ONE TON OF COVERED

1 MATERIALS FOR PRODUCTS SOLD, OFFERED FOR SALE, OR DISTRIBUTED  
2 WITHIN OR INTO THE STATE DURING THE PRIOR CALENDAR YEAR;

3 (c) THE STATE OR A LOCAL GOVERNMENT;

4 (d) A NONPROFIT ORGANIZATION;

5 (e) AN INDIVIDUAL BUSINESS OPERATING A RETAIL FOOD  
6 ESTABLISHMENT THAT IS LOCATED AT A PHYSICAL BUSINESS LOCATION  
7 AND THAT IS LICENSED UNDER SECTION 25-4-1607 (1)(a) OR SECTION  
8 32-106.5 (1) TO SECTION 32-106.5 (5) OF THE DENVER CODE OF  
9 ORDINANCES; OR

10 (f) A BUILDER, A CONSTRUCTION COMPANY, OR CONSTRUCTION  
11 CONTRACTORS.

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

19 **25-17-614. Restriction on fees.** A PERSON SHALL NOT CHARGE  
20 ANY KIND OF POINT-OF-SALE OR POINT-OF-COLLECTION FEE TO  
21 CONSUMERS TO RECOUP ITS COSTS IN MEETING THE OBLIGATIONS OF OR  
22 COMPLYING WITH THIS PART 6.

23 **25-17-615. Restrict use of producer responsibility dues.** THE  
24 ORGANIZATION, AN ADDITIONAL PRODUCER RESPONSIBILITY  
25 ORGANIZATION, OR A PERSON ADMINISTERING A PLAN APPROVED BY THE  
26 EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 SHALL NOT USE THE  
27 PRODUCER RESPONSIBILITY DUES COLLECTED BY THE ORGANIZATION OR

1 ANY DUES COLLECTED BY THE ADDITIONAL PRODUCER RESPONSIBILITY  
2 ORGANIZATION OR OTHER PERSON PURSUANT TO THIS PART 6 TO CARRY  
3 OUT LOBBYING ACTIVITIES, TO BRING OR DEFEND A LAWSUIT AGAINST THE  
4 STATE, TO DEFEND LITIGATION INVOLVING CLAIMS OF THE  
5 ORGANIZATION'S, ADDITIONAL PRODUCER RESPONSIBILITY  
6 ORGANIZATION'S, OR OTHER PERSON'S FAILURE TO COMPLY WITH THE  
7 REQUIREMENTS OF THIS PART 6, OR FOR PAYMENT OF ADMINISTRATIVE  
8 PENALTIES AGAINST THE ORGANIZATION, ADDITIONAL PRODUCER  
9 RESPONSIBILITY ORGANIZATION, OR OTHER PERSON ASSESSED BY THE  
10 EXECUTIVE DIRECTOR UNDER SECTION 25-17-610.

11 **25-17-616. Producer responsibility program for statewide**  
12 **recycling administration fund - creation - purpose.** (1) THERE IS  
13 HEREBY CREATED IN THE STATE TREASURY THE PRODUCER RESPONSIBILITY  
14 PROGRAM FOR STATEWIDE RECYCLING ADMINISTRATION FUND, REFERRED  
15 TO IN THIS SECTION AS THE "FUND". THE FUND CONSISTS OF ALL PRODUCER  
16 RESPONSIBILITY DUES TRANSFERRED TO THE FUND PURSUANT TO THIS  
17 SECTION AND MONEY THAT THE GENERAL ASSEMBLY TRANSFERS TO THE  
18 FUND FOR USE BY THE DEPARTMENT. THE ORGANIZATION SHALL TRANSMIT  
19 A PORTION OF THE PRODUCER RESPONSIBILITY DUES TO THE STATE  
20 TREASURER FOR DEPOSIT IN THE FUND FOR PURPOSES OF REIMBURSING:

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

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

26 (2) (a) BY JUNE 30, 2026, THE DEPARTMENT SHALL NOTIFY THE  
27 ORGANIZATION OF THE COSTS IN ADMINISTERING, IMPLEMENTING, AND



1 ENFORCING THIS PART 6 SINCE THE EFFECTIVE DATE OF THIS PART 6.

2 (b) BY JUNE 30 OF EACH YEAR AFTER JUNE 30, 2026, THE  
3 DEPARTMENT SHALL NOTIFY THE ORGANIZATION OF THE COSTS OF  
4 ADMINISTERING, IMPLEMENTING, AND ENFORCING THIS PART 6 DURING THE  
5 IMMEDIATELY PRECEDING YEAR.

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

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

13 (4) ALL UNEXPENDED AND UNENCUMBERED MONEY IN THE FUND  
14 AT THE END OF ANY STATE FISCAL YEAR REMAINS IN THE FUND AND SHALL  
15 NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER  
16 FUND. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF  
17 MONEY IN THE FUND REMAINS IN THE FUND AND DOES NOT REVERT TO THE  
18 GENERAL FUND.

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

21 **25-16.5-106.5. Recycling resources economic opportunity fund**  
22 **- creation - repeal.** (1) (a) The recycling resources economic opportunity  
23 fund, referred to in this section as the "fund", is hereby created in the state  
24 treasury. The fund consists of:

25 (I.5) MONEY CREDITED TO THE FUND PURSUANT TO SECTION  
26 25-17-610 (4);

27 **SECTION 3. Appropriation.** (1) For the 2022-23 state fiscal

1 year, \$119,130 is appropriated to the department of public health and  
2 environment. This appropriation is from the general fund. To implement  
3 this act, the department may use this appropriation as follows:

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

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

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

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