

**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

HOUSE SPONSORSHIP

Cutter, Bennett, Duran, Froelich, Hooton, Kipp, McCormick, Sirota, Titone, Woodrow, Amabile, Bacon, Benavidez, Boesenecker, Caraveo, Jodeh, Kennedy, Lindsay, Lontine, Michaelson Jenet, Valdez A.

SENATE SPONSORSHIP

Priola and Gonzales,

House Committees

Energy & Environment
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

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

Bill Summary

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

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

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

HOUSE
3rd Reading Unamended
May 2, 2022

HOUSE
Amended 2nd Reading
April 29, 2022

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

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

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

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

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

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

As part of the program, the organization must:

- 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**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (IV) BOUND BOOKS;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (B) NOT DESIGNED FOR REUSE OR REFILL.

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

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

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

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

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

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

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

22 (a) FLYERS;

23 (b) BROCHURES;

24 (c) BOOKLETS;

25 (d) CATALOGS;

26 (e) TELEPHONE DIRECTORIES;

27 (f) NEWSPAPERS;

1 (g) MAGAZINES; AND

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

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

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

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

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

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

23 (30) "PRODUCER" MEANS:

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

1 MANUFACTURES THE PRODUCT;

2 (II) IF THE PRODUCT IS MANUFACTURED BY A PERSON OTHER THAN
3 THE BRAND OWNER, THE PERSON THAT IS THE LICENSEE OF A BRAND OR
4 TRADEMARK UNDER WHICH A PACKAGED ITEM IS SOLD OR DISTRIBUTED IN
5 THE STATE, WHETHER OR NOT THE TRADEMARK IS REGISTERED IN THE
6 STATE; OR

7 (III) IF THERE IS NO PERSON DESCRIBED IN SUBSECTION (30)(a)(I)
8 OR (30)(a)(II) OF THIS SECTION WITHIN THE UNITED STATES, THE PERSON
9 THAT IMPORTS THE PRODUCT USING COVERED MATERIALS INTO THE
10 UNITED STATES FOR USE IN A COMMERCIAL ENTERPRISE THAT SELLS OR
11 DISTRIBUTES THE ITEM IN THE STATE;

12 (b) FOR THE PURPOSES OF PRODUCTS THAT ARE SOLD OR
13 DISTRIBUTED IN THE STATE THROUGH AN INTERNET TRANSACTION:

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

16 (II) FOR THE PURPOSES OF PACKAGING MATERIAL USED TO SHIP A
17 PRODUCT TO A CONSUMER, THE PERSON THAT PACKAGES OR SHIPS THE
18 PRODUCT TO THE CONSUMER;

19 (c) FOR THE PURPOSES OF A PAPER PRODUCT THAT IS A MAGAZINE,
20 NEWSPAPER, CATALOG, TELEPHONE DIRECTORY, OR SIMILAR PUBLICATION,
21 THE PUBLISHER OF THE PAPER PRODUCT;

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

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

26 (II) IF THE PAPER PRODUCT IS MANUFACTURED BY A PERSON OTHER
27 THAN THE BRAND OWNER, THE PERSON THAT IS THE OWNER OR LICENSEE

1 OF THE BRAND OR TRADEMARK UNDER WHICH THE PAPER PRODUCT IS USED
2 IN A COMMERCIAL ENTERPRISE, SOLD, OR DISTRIBUTED IN OR INTO THE
3 STATE, WHETHER OR NOT THE TRADEMARK IS REGISTERED IN THE STATE;
4 OR

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

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

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

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

18 (34) "PROPRIETARY INFORMATION" MEANS INFORMATION THAT, IF
19 MADE PUBLIC:

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

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

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

27 (b) "PUBLIC PLACE" INCLUDES STREETS; SIDEWALKS; PLAZAS;

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

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

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

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

13 (b) "RECYCLING" DOES NOT INCLUDE:

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

16 (II) USE AS A FUEL;

17 (III) USE AS ALTERNATIVE DAILY COVER AS DEFINED IN SECTION
18 30-20-1402 (1); OR

19 (IV) LANDFILL DISPOSAL OF DISCARDED COVERED MATERIALS.

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

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

1 AT A MATERIALS RECOVERY FACILITY OR SIMILAR ESTABLISHMENT THAT
2 SELLS DIRECTLY TO RECLAIMERS OR END MARKETS.

3 (39) (a) "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 (b) "RECYCLING SERVICES" INCLUDES CURBSIDE SERVICES AND
8 DROP-OFF CENTERS.

9
10 (40) "RECYCLING SERVICES COSTS" MEANS THE COSTS OF
11 RECYCLING PROGRAMS TO PROVIDE RECYCLING SERVICES, INCLUDING
12 APPLICABLE COSTS RELATED TO:

- 13 (a) THE ADMINISTRATION OF RECYCLING PROGRAMS;
- 14 (b) CAPITAL IMPROVEMENTS TO RECYCLING PROGRAMS;
- 15 (c) THE COLLECTION, TRANSPORTATION, SORTING, AND
16 PROCESSING OF COVERED MATERIALS;
- 17 (d) PUBLIC EDUCATION ABOUT RECYCLING PROGRAMS; AND
- 18 (e) DISPOSAL OF NONRECYCLABLE COLLECTED COVERED
19 MATERIALS.

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

- 23 (a) BENEFITS THE ENVIRONMENT; AND
- 24 (b) MINIMIZES RISKS TO PUBLIC HEALTH AND WORKER HEALTH
25 AND SAFETY.

26 (42) "RETAILER" MEANS A PERSON THAT SELLS TO CONSUMERS
27 WITHIN OR INTO THE STATE, INCLUDING SALES MADE THROUGH AN

1 INTERNET TRANSACTION, PRODUCTS FOR WHICH COVERED MATERIALS ARE
2 USED.

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

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

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

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

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

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

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

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

26 (B) ONE MEMBER REPRESENTING A COUNTY; AND

27 (C) ONE MEMBER REPRESENTING A LOCAL GOVERNMENT NOT

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

1 AND

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

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

7 (II) IN APPOINTING MEMBERS, THE EXECUTIVE DIRECTOR SHALL
8 ENSURE TO THE EXTENT POSSIBLE THE GEOGRAPHIC DIVERSITY OF THE
9 ADVISORY BOARD'S MEMBERSHIP, INCLUDING REGIONS OUTSIDE OF THE
10 FRONT RANGE.

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

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

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

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

10 (7) THE ADVISORY BOARD SHALL:

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

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

15 (c) REVIEW THE PLAN PROPOSAL SUBMITTED UNDER SECTION
16 25-17-605 (4);

17 (d) CONSULT WITH THE ORGANIZATION ON AMENDMENTS TO THE
18 PLAN PROPOSAL AND THE AMENDED PLAN PROPOSAL TO THE
19 ORGANIZATION;

20 (e) RECOMMEND THAT THE EXECUTIVE DIRECTOR APPROVE OR
21 REJECT THE PLAN PROPOSAL OR AMENDED PLAN PROPOSAL;

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

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

26 (8) IN CONSULTATION WITH THE ORGANIZATION, THE ADVISORY
27 BOARD MAY RECOMMEND AMENDMENTS TO THE FINAL PLAN TO THE

1 EXECUTIVE DIRECTOR FOR INCLUSION IN THE ANNUAL REPORT UNDER
2 SECTION 25-17-609 (2)(c).

3 **25-17-605. Producer responsibility program for statewide**
4 **recycling - needs assessment - plan proposal - rules.** (1) (a) ON OR
5 BEFORE JUNE 1, 2023, PRODUCERS OR THEIR DESIGNATED AGENTS SHALL
6 ESTABLISH A NONPROFIT ORGANIZATION TO FULFILL THE REQUIREMENTS
7 OF THIS PART 6 AND SHALL PROVIDE NOTIFICATION TO THE DEPARTMENT
8 THAT INCLUDES:

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

12 (II) A LIST OF PARTICIPATING PRODUCERS; AND

13 (III) A DESCRIPTION OF THE FUNDING MECHANISM THAT THE
14 NONPROFIT ORGANIZATION WILL USE TO CONDUCT THE NEEDS
15 ASSESSMENT.

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

18 (I) ACKNOWLEDGE RECEIPT OF THE NOTIFICATION; AND

19 (II) DESIGNATE THE NONPROFIT ORGANIZATION AS THE PRODUCER
20 RESPONSIBILITY ORGANIZATION TO IMPLEMENT AND ADMINISTER THE
21 PRODUCER RESPONSIBILITY PROGRAM FOR STATEWIDE RECYCLING.

22 (c) THE ORGANIZATION DESIGNATED BY THE EXECUTIVE DIRECTOR
23 PURSUANT TO SUBSECTION (1)(b)(II) OF THIS SECTION MUST HAVE A
24 GOVERNING BOARD WITH VOTING MEMBERS THAT REPRESENT A DIVERSE
25 RANGE OF PRODUCERS BY SIZE AND TYPE AND REPRESENT PRODUCERS OF
26 DIFFERENT TYPES OF COVERED MATERIALS. THE MEMBERS OF THE
27 GOVERNING BOARD SHALL NOT HAVE MORE THAN ONE MEMBER PER

1 CORPORATE ENTITY. THE GOVERNING BOARD OF THE ORGANIZATION
2 SHALL INCLUDE NONVOTING MEMBERS THAT REPRESENT TRADE
3 ASSOCIATIONS FOR TYPES OF COVERED MATERIALS.

4 (2) THE PRODUCER RESPONSIBILITY ORGANIZATION SHALL:

5 (a) FACILITATE A NEEDS ASSESSMENT IN CONSULTATION WITH THE
6 ADVISORY BOARD;

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

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

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

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

26 (I) THE SERVICE AVAILABILITY, CAPACITY, PERFORMANCE, AND
27 GAPS IN RECYCLING SERVICES PROVIDED TO RESIDENTIAL COVERED

1 ENTITIES THROUGHOUT THE STATE AND THE PRICES PAID FOR RECYCLING
2 SERVICES;

3 (II) THE DOCUMENTED RECYCLING SERVICES COSTS INCURRED BY
4 PUBLIC AND PRIVATE SERVICE PROVIDERS TO PROVIDE RECYCLING
5 SERVICES FOR RESIDENTIAL COVERED ENTITIES;

6 (III) DEMOGRAPHIC FACTORS AND OTHER VARIABLES TO BE
7 CONSIDERED IN THE DEVELOPMENT OF REIMBURSEMENT RATES FOR
8 SERVICE PROVIDERS IN ACCORDANCE WITH SUBSECTION (4)(j) OF THIS
9 SECTION;

10 (IV) THE LEVELS OF CONTAMINATION AT MATERIALS RECOVERY
11 FACILITIES AND COMPOST FACILITIES THROUGHOUT THE STATE AND THE
12 IMPACTS OF CONTAMINATION ON THOSE FACILITIES;

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

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

27 (VII) AN EVALUATION OF THE OPPORTUNITIES AND COSTS OF

1 VARIOUS SERVICE METHODS TO INCREASE RECYCLING RATES OVERALL FOR
2 SPECIFIC COVERED MATERIAL TYPES;

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

7 (IX) THE MARKET CONDITIONS AND OPPORTUNITIES FOR THE USE
8 OF RECYCLED COVERED MATERIALS IN THE STATE AND IN DIFFERENT
9 GEOGRAPHIC AREAS OF THE STATE, INCLUDING THE TRANSPORTATION
10 GAPS AND OPPORTUNITIES AFFECTING ACCESS TO MARKETS;

11 (X) OPPORTUNITIES FOR THE USE OF INNOVATIVE NEW
12 TECHNOLOGIES, INCLUDING ARTIFICIAL INTELLIGENCE TECHNOLOGIES, FOR
13 THE RECYCLING AND REUSE OF COVERED MATERIALS;

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

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

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

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

26 (b) THE ORGANIZATION SHALL CONSULT WITH THE ADVISORY
27 BOARD THROUGHOUT THE NEEDS ASSESSMENT PROCESS AND IN

1 DETERMINING WHICH PROJECTED SCENARIO IDENTIFIED PURSUANT TO
2 SUBSECTION (3)(a)(XIII) OF THIS SECTION TO IMPLEMENT IN ITS PLAN
3 PROPOSAL.

4 (c) ON OR BEFORE APRIL 1, 2024, THE ORGANIZATION SHALL
5 REPORT THE RESULTS OF THE NEEDS ASSESSMENT TO THE ADVISORY
6 BOARD AND THE EXECUTIVE DIRECTOR. THE EXECUTIVE DIRECTOR SHALL
7 POST THE RESULTS OF THE NEEDS ASSESSMENT ON THE DEPARTMENT'S
8 WEBSITE AND PROVIDE PUBLIC NOTICE AND AN OPPORTUNITY TO COMMENT
9 ON THE RESULTS OF THE NEEDS ASSESSMENT.

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

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

1 SUBSECTION (3)(c) OF THIS SECTION. THE ORGANIZATION SHALL USE THE
2 FINDINGS OF THE UPDATED NEEDS ASSESSMENT TO CREATE AN UPDATED
3 PLAN PROPOSAL AND SUBMIT THE UPDATED PLAN PROPOSAL TO THE
4 ADVISORY BOARD IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION.
5 IN CONSULTATION WITH THE ADVISORY BOARD AND THE ORGANIZATION,
6 THE EXECUTIVE DIRECTOR MAY WAIVE THE REQUIREMENT TO CONDUCT AN
7 UPDATED NEEDS ASSESSMENT UNDER THIS SUBSECTION (3)(e).

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

23 (a) PROVIDE CONTACT INFORMATION FOR THE ORGANIZATION AND
24 A REPRESENTATIVE OF THE ORGANIZATION;

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

27 (c) DESCRIBE THE MANNER IN WHICH THE ORGANIZATION

1 SOLICITED AND CONSIDERED INPUT FROM STAKEHOLDERS AND THE
2 ADVISORY BOARD IN DEVELOPING THE PLAN PROPOSAL. THE
3 ORGANIZATION MUST PROVIDE A SUMMARY OF ANY COMMENTS ABOUT
4 THE PLAN PROPOSAL FROM THE ADVISORY BOARD AND ADDITIONAL
5 STAKEHOLDERS AND IDENTIFY CHANGES MADE TO THE PLAN PROPOSAL
6 BASED ON THE COMMENTS.

7 (d) DESCRIBE HOW THE ORGANIZATION WILL NOTIFY AFFECTED
8 PRODUCERS OF THEIR OBLIGATIONS UNDER THIS PART 6;

9 (e) DESCRIBE HOW THE ORGANIZATION WILL TRACK COMPLIANCE
10 AMONG PRODUCERS AND WILL COLLABORATE WITH THE EXECUTIVE
11 DIRECTOR TO BRING PRODUCERS INTO COMPLIANCE;

12 (f) INCLUDE A COMPREHENSIVE LIST OF THE COVERED MATERIALS
13 INCLUDED IN THE PROGRAM IN ACCORDANCE WITH THIS PART 6;

14 (g) ESTABLISH RECYCLING PRACTICES THAT:

15 (I) MEET OR EXCEED THE CONVENIENCE STANDARDS;

16 (II) USE OPEN, COMPETITIVE, AND FAIR PROCUREMENT PRACTICES
17 WHEN ENTERING INTO CONTRACTS WITH SERVICE PROVIDERS, AND, WHEN
18 ENTERING INTO CONTRACTS WITH PRIVATE SERVICE PROVIDERS, ADOPT A
19 PREFERENCE FOR SERVICE PROVIDERS WITH STRONG LABOR STANDARDS
20 AND WORKER SAFETY PRACTICES;

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

23 (IV) USE ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES;

24 (h) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH
25 NEWSPAPER PUBLISHERS AND MAGAZINE AND PERIODICAL PUBLISHERS TO
26 ACCEPT PRINT OR ONLINE ADVERTISING IN LIEU OF ALL OR A PORTION OF
27 THE PRODUCER RESPONSIBILITY DUES FOR NEWSPAPERS, MAGAZINES, AND

1 PERIODICALS CIRCULATED WITHIN THE STATE;

2 (i) ESTABLISH A FUNDING MECHANISM THAT:

3 (I) DOES NOT EXCEED THE DIRECT AND INDIRECT COSTS OF

4 IMPLEMENTING THE PROGRAM, INCLUDING THE COSTS OF:

5 (A) PROVIDING RECYCLING SERVICES UNDER THE PROGRAM

6 THROUGH CONTRACTS WITH SERVICE PROVIDERS OR REIMBURSEMENT OF

7 RECYCLING SERVICES COSTS UNDER THE REIMBURSEMENT RATES

8 PROPOSED PURSUANT TO SUBSECTION (4)(j) OF THIS SECTION;

9 (B) MEETING THE REPORTING REQUIREMENTS SET FORTH IN

10 SECTION 25-17-609 (2);

11 (C) CONDUCTING THE NEEDS ASSESSMENT;

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

13 (E) IMPLEMENTING THE EDUCATION AND OUTREACH PROGRAM SET

14 FORTH IN SECTION 25-17-607;

15 (F) REIMBURSING THE DEPARTMENT PURSUANT TO SECTION

16 25-17-616 FOR ITS COSTS IN ADMINISTERING AND IMPLEMENTING THIS

17 PART 6, INCLUDING THE COSTS OF THE ADVISORY BOARD; AND

18 (G) REIMBURSING THE DEPARTMENT PURSUANT TO SECTION

19 25-17-616 FOR THE COSTS OF ENFORCING THIS PART 6 PURSUANT TO

20 SECTION 25-17-610;

21 (II) IS FUNDED THROUGH PRODUCER RESPONSIBILITY DUES. THE

22 ■ PRODUCER RESPONSIBILITY DUES MUST VARY BY THE TYPE OF

23 COVERED MATERIAL, WHETHER OR NOT THE MATERIAL IS READILY

24 RECYCLABLE, AND BE BASED ON THE NET RECYCLING SERVICES COSTS FOR

25 EACH COVERED MATERIAL IN THE STATE.

26 (III) REQUIRES:

27 (A) ANY SURPLUS MONEY GENERATED BY THE PROGRAM TO BE

1 PLACED BACK INTO THE PROGRAM FOR PROGRAM IMPROVEMENTS OR A
2 REDUCTION IN PRODUCER RESPONSIBILITY DUES; AND

3 (B) THE ORGANIZATION TO MAINTAIN A FINANCIAL RESERVE
4 SUFFICIENT TO OPERATE THE PROGRAM IN A FISCALLY PRUDENT AND
5 RESPONSIBLE MANNER;

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

8 (A) REDUCTIONS IN THE AMOUNT OF PACKAGING MATERIALS USED
9 FOR PRODUCTS;

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

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

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

14 AND

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

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

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

20 (B) DESIGNS AND PRACTICES THAT DISRUPT THE RECYCLING OF
21 OTHER MATERIALS; AND

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

24 (VI) AT THE REQUEST OF A PRODUCER OR PRODUCERS OF A
25 COVERED MATERIAL, MAY INCLUDE A SPECIAL ASSESSMENT PAID BY THE
26 PRODUCERS OF THAT COVERED MATERIAL TO COVER SYSTEM
27 IMPROVEMENTS THAT IMPROVE THE COLLECTION AND RECYCLING OF THAT

1 COVERED MATERIAL OR FACILITATE THE ADDITION OF THE COVERED
2 MATERIAL TO THE LIST OF READILY RECYCLABLE MATERIALS;

3 (j) INCLUDE REIMBURSEMENT RATES FOR ONE HUNDRED PERCENT
4 OF THE NET RECYCLING SERVICES COSTS OF THE RECYCLING SERVICES
5 PROVIDED BY SERVICE PROVIDERS UNDER THE PROGRAM CONSISTENT WITH
6 THE REQUIREMENTS OF SECTION 25-17-606. THE REIMBURSEMENT RATES
7 MUST:

8 (I) BE CALCULATED USING AN OBJECTIVE COST FORMULA OR
9 FORMULAS;

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

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

15 (IV) TAKE INTO ACCOUNT:

16 (A) REGIONAL RECYCLING SERVICES COSTS;

17 (B) POPULATION DENSITY;

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

19 (D) THE COLLECTION METHOD USED;

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

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

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

25 (k) DESCRIBE THE PROCESS TO EVALUATE AND REVISE THE
26 OBJECTIVE COST FORMULAS AS NECESSARY AND USING DOCUMENTED
27 COSTS. IF THE PLAN PROPOSAL INCLUDES MORE THAN ONE OBJECTIVE COST

1 FORMULA FOR RECYCLING SERVICES, THE PLAN PROPOSAL MUST DESCRIBE
2 THE CONDITIONS UNDER WHICH EACH FORMULA WILL BE APPLIED.

3 (l) INCLUDE A SCHEDULE OF REIMBURSEMENT RATES FOR SERVICE
4 PROVIDERS THAT ELECT TO PARTICIPATE IN THE PROGRAM AND BE
5 REIMBURSED BY THE ORGANIZATION FOR PROVIDING RECYCLING SERVICES
6 FOR THE PROGRAM AND DESCRIBE A PROCESS FOR UPDATING THE
7 SCHEDULE PERIODICALLY AND AS NECESSARY;

8 (m) INCLUDE A PROPOSED BUDGET AND A DESCRIPTION OF THE
9 PROCESS USED TO DETERMINE PRODUCER RESPONSIBILITY DUES,
10 INCLUDING A DE MINIMIS LEVEL IN WHICH NO DUES ARE CHARGED AND AN
11 OPTIONAL FLAT RATE FOR PRODUCERS BELOW A CERTAIN SIZE TO MINIMIZE
12 THE ADMINISTRATIVE AND REPORTING COSTS OF THE PRODUCERS AND THE
13 ORGANIZATION;

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

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

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

27 (q) DESCRIBE HOW THE ORGANIZATION PLANS TO CONTINUE TO

1 INCREASE THE STATE'S MINIMUM COLLECTION RATES, MINIMUM
2 RECYCLING RATES, AND MINIMUM POSTCONSUMER-RECYCLED-CONTENT
3 RATES AFTER JANUARY 1, 2030, AND JANUARY 1, 2035;

4 (r) DESCRIBE HOW THE ORGANIZATION WILL VERIFY MINIMUM
5 POSTCONSUMER-RECYCLED-CONTENT RATES AND HOW
6 POSTCONSUMER-RECYCLED-CONTENT RATES WILL BE CALCULATED USING
7 WEIGHT AND OTHER METRICS, AND DESCRIBE ANY WAIVERS FROM
8 MINIMUM POSTCONSUMER-RECYCLED-CONTENT RATES GRANTED TO A
9 TYPE OR SUBCATEGORY OF COVERED MATERIALS AND THE CRITERIA FOR
10 EVALUATING SUCH WAIVERS, INCLUDING FOOD SAFETY REQUIREMENTS,
11 TECHNOLOGICAL FEASIBILITY, OR INADEQUATE SUPPLY, AND HOW OFTEN
12 THE WAIVERS WILL BE REVIEWED;

13 (s) DESCRIBE HOW THE ORGANIZATION WILL PROVIDE PRODUCERS
14 WITH THE OPPORTUNITY TO PURCHASE POSTCONSUMER-RECYCLED
15 MATERIALS FROM PROCESSORS AT MARKET PRICES IF THE PRODUCER IS
16 INTERESTED IN OBTAINING RECYCLED FEEDSTOCK TO ACHIEVE MINIMUM
17 POSTCONSUMER-RECYCLED-CONTENT RATES;

18 (t) DESCRIBE HOW THE ORGANIZATION WILL REDUCE OR OFFSET
19 THE PRODUCER RESPONSIBILITY DUES FOR ANY PRODUCER OR GROUP OF
20 PRODUCERS THAT FUND OR OPERATE A COLLECTION PROGRAM THAT:

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

23 (II) HAS RECYCLING RATES THAT MEET OR EXCEED THE MINIMUM
24 RECYCLING RATE TARGET SET FORTH IN THE PLAN PROPOSAL PURSUANT TO
25 SUBSECTION (4)(p) OF THIS SECTION;

26 (u) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH SERVICE
27 PROVIDERS TO:

1 (I) UTILIZE AND EXPAND ON EXISTING RECYCLING SERVICES AND
2 INFRASTRUCTURE AND EXISTING EDUCATION AND OUTREACH PROGRAMS;

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

5 (A) REQUIRING EACH MATERIALS RECOVERY FACILITY AND
6 COMPOST FACILITY PARTICIPATING IN THE PROGRAM TO REPORT
7 ANNUALLY TO THE ORGANIZATION ON CONTAMINATION LEVELS AT EACH
8 FACILITY; AND

9 (B) PROVIDING FUNDING OR OTHER ASSISTANCE TO COMPOST
10 FACILITIES TO REDUCE THE COSTS OF MANAGING OR INCREASE THE
11 EFFECTIVENESS OF EFFORTS TO MANAGE CONTAMINATION AND TO
12 PROCESS AND RECOVER COMPOSTABLE PACKAGING MATERIALS;

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

14 (IV) PROPOSE AN APPROACH TO MEASURE AND REPORT ON THE USE
15 OF REUSABLE AND REFILLABLE COVERED MATERIALS AND ESTABLISH
16 GOALS AND STRATEGIES FOR INCREASING THE USE OF REUSABLE AND
17 REFILLABLE COVERED MATERIALS;

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

20 (VI) INVEST IN MARKET DEVELOPMENT FOR COVERED MATERIALS
21 IN THE STATE; AND

22 (VII) INCREASE THE RECYCLING OF COLLECTED COVERED
23 MATERIALS;

24 (v) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH AND
25 INCENTIVIZE PRODUCERS TO REDUCE THE PACKAGING OF PRODUCTS USING
26 COVERED MATERIALS THROUGH PRODUCT DESIGN CHANGES, THE
27 DEVELOPMENT OR EXPANSION OF SYSTEMS FOR REUSABLE PACKAGING,

1 AND PRODUCT INNOVATION;

2 (w) DESCRIBE HOW THE PROGRAM WILL PRIORITIZE THE USE OF
3 END MARKETS THAT RETURN POSTCONSUMER RECYCLED MATERIALS TO
4 THEIR ORIGINAL PRODUCT TYPE;

5 (x) DESCRIBE HOW THE ORGANIZATION WILL EVALUATE AND
6 MONITOR THE USE OF RESPONSIBLE END MARKETS THROUGH METHODS
7 SUCH AS PROCESSOR CONTRACTS OR FINANCIAL INCENTIVES;

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

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

14 (aa) INCLUDE ANY ADDITIONAL INFORMATION REQUIRED BY THE
15 DEPARTMENT.

16 (5) (a) THE ADVISORY BOARD SHALL REVIEW THE PLAN PROPOSAL
17 FOR COMPLIANCE WITH THIS PART 6. THE ADVISORY BOARD SHALL
18 CONSULT WITH THE ORGANIZATION THROUGHOUT ITS REVIEW OF THE PLAN
19 PROPOSAL. WITHIN NINETY DAYS AFTER THE SUBMISSION OF THE PLAN
20 PROPOSAL TO THE ADVISORY BOARD, THE ADVISORY BOARD SHALL EITHER
21 PROVIDE ANY RECOMMENDED AMENDMENTS TO THE PLAN PROPOSAL TO
22 THE ORGANIZATION OR, IF THE ADVISORY BOARD DOES NOT HAVE ANY
23 RECOMMENDED AMENDMENTS, FORWARD THE PLAN PROPOSAL TO THE
24 EXECUTIVE DIRECTOR. THE ORGANIZATION SHALL PROVIDE RESPONSIVE
25 ANSWERS TO THE ADVISORY BOARD'S RECOMMENDATIONS AND SUBMIT
26 THE AMENDED PLAN PROPOSAL TO THE ADVISORY BOARD WITHIN SIXTY
27 DAYS AFTER ITS RECEIPT OF THE RECOMMENDED AMENDMENTS. WITHIN

1 FORTY-FIVE DAYS AFTER THE SUBMISSION OF THE AMENDED PLAN
2 PROPOSAL TO THE ADVISORY BOARD, THE ADVISORY BOARD SHALL
3 FORWARD THE AMENDED PLAN PROPOSAL TO THE EXECUTIVE DIRECTOR
4 WITH ITS RECOMMENDATION FOR APPROVAL OR REJECTION AND, IF
5 APPLICABLE, A WRITTEN EXPLANATION OF THE BASIS FOR RECOMMENDING
6 REJECTION OF THE PLAN PROPOSAL.

7 (b) (I) WITHIN ONE HUNDRED TWENTY DAYS AFTER RECEIVING THE
8 PLAN PROPOSAL OR AMENDED PLAN PROPOSAL, THE EXECUTIVE DIRECTOR
9 SHALL:

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

11 OR

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

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

26 (c) (I) IF THE EXECUTIVE DIRECTOR APPROVES THE PLAN PROPOSAL
27 OR AMENDED PLAN PROPOSAL PURSUANT TO SUBSECTION (5)(b)(I) OF THIS

1 SECTION, THE EXECUTIVE DIRECTOR SHALL DESIGNATE THE PLAN
2 PROPOSAL OR AMENDED PLAN PROPOSAL AS THE FINAL PLAN AND SHALL
3 PUBLISH THE FINAL PLAN ON THE DEPARTMENT'S WEBSITE.

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

6 (6) (a) THE ORGANIZATION MAY SUBMIT PROPOSED AMENDMENTS
7 TO THE FINAL PLAN ANNUALLY TO THE ADVISORY BOARD FOR INCLUSION
8 IN THE ANNUAL REPORT UNDER SECTION 25-17-609 (2)(c). AT LEAST
9 SIXTY DAYS PRIOR TO THE DEADLINE TO SUBMIT THE ANNUAL REPORT, THE
10 DEPARTMENT MAY REQUEST THAT THE ORGANIZATION SUBMIT AN
11 AMENDMENT TO THE ANNUAL PLAN TO ADDRESS A SPECIFIC CONCERN OR
12 ASPECT OF THE PLAN. AT LEAST THIRTY DAYS PRIOR TO SUBMITTING
13 THE ANNUAL REPORT PURSUANT TO SECTION 25-17-609 (2)(a), THE
14 ORGANIZATION SHALL CONSULT WITH THE ADVISORY BOARD ON ANY
15 PROPOSED AMENDMENTS TO THE FINAL PLAN. THE ADVISORY BOARD
16 SHALL SUBMIT ANY PROPOSED AMENDMENTS TO THE EXECUTIVE
17 DIRECTOR. THE EXECUTIVE DIRECTOR SHALL APPROVE OR REJECT THE
18 PROPOSED AMENDMENTS BASED ON THE PLAN PROPOSAL REQUIREMENTS
19 SPECIFIED IN SUBSECTION (4) OF THIS SECTION.

20 (b) THE ORGANIZATION SHALL CONTINUE TO OPERATE THE
21 PROGRAM IN ACCORDANCE WITH THE FINAL PLAN PENDING THE APPROVAL
22 OR REJECTION OF A PROPOSED AMENDMENT BY THE EXECUTIVE DIRECTOR.
23 THE EXECUTIVE DIRECTOR'S REJECTION OF A PROPOSED AMENDMENT
24 PURSUANT TO THIS SUBSECTION (6) DOES NOT RELIEVE THE ORGANIZATION
25 OF ITS RESPONSIBILITY TO CONTINUE TO OPERATE THE PROGRAM IN
26 ACCORDANCE WITH THE FINAL PLAN.

27 (7) THE EXECUTIVE DIRECTOR SHALL ENFORCE THIS PART 6 IN

1 ACCORDANCE WITH SECTION 25-17-610 AND THE COMMISSION SHALL
2 PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24 AS MAY
3 BE NECESSARY FOR THE ADMINISTRATION OF THIS PART 6 AND THE
4 ENFORCEMENT OF THIS PART 6 PURSUANT TO SECTION 25-17-610.
5 NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE ORGANIZATION
6 MAY NOT MAKE ANY DETERMINATION AS TO A PERSON'S COMPLIANCE WITH
7 THIS PART 6.

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

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)(p).

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

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

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

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

24 **25-17-607. Education and outreach program.** (1) THE
25 ORGANIZATION SHALL DEVELOP AND IMPLEMENT A STATEWIDE
26 EDUCATION AND OUTREACH PROGRAM THAT IS DESIGNED TO INCREASE
27 THE RECYCLING AND REUSE OF COVERED MATERIALS AND INCLUDES

1 EDUCATION AND OUTREACH ON:

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

3 (b) THE LOCATION AND AVAILABILITY OF RECYCLING SERVICES

4 UNDER THE PROGRAM; AND

5 (c) HOW TO PREVENT LITTERING IN THE PROCESS OF PROVIDING

6 RECYCLING SERVICES FOR COVERED MATERIALS.

7 (2) THE EDUCATION AND OUTREACH PROGRAM MUST, AT A

8 MINIMUM:

9 (a) PROVIDE CLEAR AND CONCISE RECYCLING INSTRUCTIONS THAT

10 ARE CONSISTENT STATEWIDE AND ACCESSIBLE FOR ALL DEMOGRAPHIC

11 GROUPS;

12 (b) COORDINATE WITH EXISTING RECYCLING EDUCATION

13 MATERIALS AND SERVICES PROVIDED THROUGHOUT THE STATE; AND

14 (c) BE DESIGNED TO HELP THE STATE ACHIEVE THE MINIMUM

15 COLLECTION RATE AND MINIMUM RECYCLING RATE TARGETS ESTABLISHED

16 IN THE FINAL PLAN UNDER SECTION 25-17-605 (4)(p) AND REDUCE LEVELS

17 AND IMPACTS OF INBOUND CONTAMINATION FROM COVERED MATERIALS

18 AT MATERIALS RECOVERY FACILITIES AND COMPOST FACILITIES.

19 (3) THE ORGANIZATION SHALL CONSULT WITH THE ADVISORY

20 BOARD AND OTHER ENTITIES PROVIDING RECYCLING EDUCATION IN THE

21 STATE ON THE DEVELOPMENT AND DISTRIBUTION OF EDUCATION

22 OUTREACH SERVICES AND MATERIALS. THE ORGANIZATION MAY

23 CONTRACT WITH SERVICE PROVIDERS, LOCAL GOVERNMENTS, AND

24 NONPROFIT ORGANIZATIONS TO CONDUCT RECYCLING EDUCATION AND

25 OUTREACH SERVICES UNDER THE EDUCATION AND OUTREACH PROGRAM

26 DEVELOPED UNDER SUBSECTION (1) OF THIS SECTION.

27 (4) THE ORGANIZATION SHALL DEVELOP A PROPOSED

1 METHODOLOGY FOR EVALUATING AND REPORTING ON THE EFFECTIVENESS
2 OF THE EDUCATION AND OUTREACH PROGRAM.

3 **25-17-608. Producer requirements - additional producer**
4 **responsibility organization - coordination plan - rules -**
5 **confidentiality - compliance with local government codes - audit.**

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

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

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

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

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

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

27 (a) MUST KEEP CONFIDENTIAL ANY PROPRIETARY INFORMATION

1 PROVIDED BY A PRODUCER; AND

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

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

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

27 (c) A LOCAL GOVERNMENT THAT RECEIVES REIMBURSEMENT

1 FUNDS FROM THE ORGANIZATION SHALL USE SUCH FUNDS FOR THE LOCAL
2 GOVERNMENT'S RECYCLING PROGRAM.

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

11 (6) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE
12 ORGANIZATION AND ANY ADDITIONAL PRODUCER RESPONSIBILITY
13 ORGANIZATION SHALL NOT BE CONSIDERED A STATE-SPONSORED OR
14 STATE-OWNED ENTITY AND SHALL NOT BE CONSIDERED AN ENTERPRISE, AS
15 DEFINED IN SECTION 20 (2)(d) OF ARTICLE X OF THE STATE CONSTITUTION.
16 EMPLOYEES OF THE ORGANIZATION AND ANY ADDITIONAL PRODUCER
17 RESPONSIBILITY ORGANIZATION SHALL NOT BE CONSIDERED EMPLOYEES
18 OF THE STATE.

19 **25-17-609. Producer responsibility dues - inspection of records**
20 **- annual reporting.** (1) (a) EXCEPT AS SET FORTH IN A PLAN APPROVED
21 BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 ON OR AFTER
22 JANUARY 1, 2029, BY A DATE DETERMINED BY THE ORGANIZATION THAT
23 IS NO LATER THAN JANUARY 1, 2026, AND ANNUALLY THEREAFTER BY A
24 DATE DETERMINED BY THE ORGANIZATION, A PRODUCER SHALL PAY
25 PRODUCER RESPONSIBILITY DUES TO THE ORGANIZATION BASED ON THE
26 FUNDING MECHANISM DESCRIBED IN THE PLAN PROPOSAL PURSUANT TO
27 SECTION 25-17-605 (4)(i).

1 (b) A PRODUCER SHALL MAKE ALL DOCUMENTS AND RECORDS
2 RELATED TO THE CALCULATION AND PAYMENT OF PRODUCER
3 RESPONSIBILITY DUES, RECYCLING RATES, COLLECTION RATES,
4 POSTCONSUMER-RECYCLED-CONTENT RATES, AND ANY OTHER MATERIALS
5 NECESSARY FOR THE EXECUTIVE DIRECTOR TO DETERMINE COMPLIANCE
6 WITH THIS PART 6 AVAILABLE FOR INSPECTION BY THE EXECUTIVE
7 DIRECTOR. IN CONNECTION WITH ENFORCING A VIOLATION BY A PRODUCER
8 PURSUANT TO SECTION 25-17-610, THE EXECUTIVE DIRECTOR MAY
9 REQUEST IN WRITING THAT THE PRODUCER PROVIDE ANY SUCH
10 DOCUMENTS OR RECORDS TO THE EXECUTIVE DIRECTOR.

11 (c) THE ORGANIZATION, ANY ADDITIONAL PRODUCER
12 RESPONSIBILITY ORGANIZATION, AND ANY PERSON ADMINISTERING A PLAN
13 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 SHALL
14 MAINTAIN ALL DOCUMENTS AND RECORDS NECESSARY FOR THE EXECUTIVE
15 DIRECTOR TO DETERMINE COMPLIANCE WITH THIS PART 6 AND SUBMIT ANY
16 SUCH DOCUMENTS AND RECORDS TO THE EXECUTIVE DIRECTOR UPON A
17 REQUEST BY THE EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (1)(b)
18 OF THIS SECTION.

19 (d) BY JANUARY 1, 2026, AND EACH YEAR THEREAFTER, THE
20 EXECUTIVE DIRECTOR SHALL DEVELOP AN ECO-MODULATION BONUS
21 SCHEDULE THAT IS DESIGNED TO REDUCE THE PRODUCER RESPONSIBILITY
22 DUES OF PRODUCERS THAT MEET CERTAIN BENCHMARKS ESTABLISHED BY
23 THE EXECUTIVE DIRECTOR BY RULE. THE EXECUTIVE DIRECTOR SHALL
24 CONSULT WITH THE ORGANIZATION AND THE ADVISORY BOARD IN
25 DEVELOPING THE ECO-MODULATION BONUS SCHEDULE. THE
26 ORGANIZATION SHALL REDUCE THE PRODUCER RESPONSIBILITY DUES OF
27 PRODUCERS IN ACCORDANCE WITH THE ECO-MODULATION BONUS

1 SCHEDULE DEVELOPED BY THE EXECUTIVE DIRECTOR.

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

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

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

19 (III) A LIST OF PRODUCERS THAT ARE NOT PARTICIPATING IN THE
20 PROGRAM AND ANY PRODUCERS THAT MAY BE OUT OF COMPLIANCE WITH
21 ONE OR MORE OBLIGATIONS IMPOSED BY THIS PART 6;

22 (IV) THE TOTAL WEIGHT OF THE COVERED MATERIALS THAT
23 PRODUCERS USED FOR PRODUCTS THAT ARE SOLD OR DISTRIBUTED IN THE
24 STATE;

25 (V) THE TOTAL AMOUNT OF PRODUCER RESPONSIBILITY DUES
26 COLLECTED UNDER THE PROGRAM, INCLUDING AN ANNUAL SCHEDULE OF
27 PRODUCER RESPONSIBILITY DUES ASSESSED BY WEIGHT FOR EACH TYPE OF

1 COVERED MATERIAL AND ANY ANNUAL INCREASES OR DECREASES IN THE
2 DUES SCHEDULE AND THE REASONS FOR THESE ADJUSTMENTS;

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

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

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

10 (C) THE METHOD USED TO HANDLE THE COLLECTED COVERED
11 MATERIAL; AND

12 (D) GEOGRAPHIC AREA;

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

18 (VIII) THE RATE SCHEDULES FOR REIMBURSEMENT TO SERVICE
19 PROVIDERS, ANY PROPOSED ADJUSTMENTS TO THE RATE SCHEDULES, AND
20 A SUMMARY OF ANY DISPUTES ARISING BETWEEN THE ORGANIZATION AND
21 SERVICE PROVIDERS CONCERNING RATES AND HOW THE DISPUTES WERE
22 ADDRESSED;

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

25 (A) SAMPLES OF ANY MATERIALS DISTRIBUTED; AND

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

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

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

7 (XII) A LIST OF THE RECYCLING END MARKETS OF ANY COVERED
8 MATERIALS, AND, IF THE COVERED MATERIALS ARE PROCESSED THROUGH
9 A METHOD OTHER THAN MECHANICAL RECYCLING, THE LIST MUST
10 INCLUDE:

11 (A) A DESCRIPTION OF HOW THE METHOD WILL AFFECT THE
12 ABILITY TO RECYCLE THE COVERED MATERIAL INTO FEEDSTOCK FOR THE
13 MANUFACTURE OF NEW PRODUCTS;

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

17 (C) A DESCRIPTION OF ANY APPLICABLE STATE AND FEDERAL AIR,
18 WATER, AND WASTE PERMITTING COMPLIANCE REQUIREMENTS FOR THE
19 METHOD; AND

20 (D) AN ANALYSIS OF THE ENVIRONMENTAL IMPACTS OF THE
21 METHOD COMPARED TO THE ENVIRONMENTAL IMPACTS OF INCINERATION
22 OF SOLID WASTE IN LANDFILLS;

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

25 (XIV) A DESCRIPTION OF THE STATUS OF RESERVE FUNDS, AN
26 ASSESSMENT OF THE ADEQUACY OF THOSE FUNDS TO COVER PROGRAM
27 COSTS, AND A DESCRIPTION OF HOW ANY PROGRAM SHORTFALLS WILL BE

1 ADDRESSED;

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

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

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

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

1 EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6. THE EXECUTIVE
2 DIRECTOR SHALL INCLUDE THE DEPARTMENT'S ACTIVITIES AND EXPENSES
3 THAT WERE REIMBURSED PURSUANT TO SECTION 25-17-616 IN THE
4 GENERAL REPORT. ADDITIONALLY, AT LEAST EVERY THREE YEARS
5 STARTING IN 2028, THE EXECUTIVE DIRECTOR SHALL INCLUDE IN THE
6 GENERAL REPORT THE OUTCOME OF THE CONSUMER COST IMPACT REVIEW
7 CONDUCTED BY THE DEPARTMENT PURSUANT TO SUBSECTION (4) OF THIS
8 SECTION. THE EXECUTIVE DIRECTOR SHALL POST THE REPORT ON THE
9 DEPARTMENT'S WEBSITE AND SUBMIT THE REPORT TO THE GOVERNOR AND
10 SHALL ANNUALLY PRESENT THE GENERAL REPORT TO THE HEALTH AND
11 HUMAN SERVICES COMMITTEE OF THE SENATE AND THE ENERGY AND
12 ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR
13 SUCCESSOR COMMITTEES, DURING THE "STATE MEASUREMENT FOR
14 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
15 GOVERNMENT ACT" HEARINGS HELD PURSUANT TO PART 2 OF ARTICLE 7
16 OF TITLE 2. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE
17 REPORTING REQUIREMENT SPECIFIED IN THIS SUBSECTION (2)(c)
18 CONTINUES INDEFINITELY.

19 (3) IF, BASED ON THE ANNUAL REPORT SUBMITTED UNDER
20 SUBSECTION (2) OF THIS SECTION, THE PROGRAM OR ANY OTHER PLAN
21 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 IS NOT
22 ON TRACK TO MEET THE MINIMUM COLLECTION RATES, MINIMUM
23 RECYCLING RATES, OR MINIMUM POSTCONSUMER-RECYCLED-CONTENT
24 RATES SET FORTH IN THE PROGRAM OR PLAN, THE EXECUTIVE DIRECTOR
25 MAY REQUIRE THE ORGANIZATION, WITH RESPECT TO THE PROGRAM, OR
26 THE ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION OR OTHER
27 PERSON RESPONSIBLE FOR ADMINISTERING THE PLAN, WITH RESPECT TO

1 ANY OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO
2 THIS PART 6, TO AMEND ITS RESPECTIVE PLAN UNDER SECTION 25-17-605
3 (6).

4 (4) NO LESS THAN EVERY THREE YEARS, STARTING IN 2028, THE
5 DEPARTMENT SHALL CONDUCT A REVIEW OF CONSUMER COST IMPACTS
6 RESULTING FROM THE PROGRAM, INCLUDING ASSESSMENTS OF INCREASED
7 PRICES FOR COVERED MATERIALS RELATIVE TO THE PRICES FOR THOSE
8 MATERIALS IN OTHER STATES, AS WELL AS LOCAL GOVERNMENT
9 EXPENDITURES AND CONSUMER SPENDING ON RECYCLING SERVICES AND
10 TRASH COLLECTION AND DISPOSAL.

11 **25-17-610. Violations - enforcement - administrative penalty**

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

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

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

1 AND

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

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

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

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

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

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

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

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

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

25 **25-17-611. Limited exemption from antitrust, restraint of**
26 **trade, and unfair trade practices provisions.** IF THE PROGRAM OR ANY
27 OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS

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

7 **25-17-612. Eligibility for state or local incentive programs.**
8 NOTHING IN THIS PART 6 AFFECTS A PERSON'S ELIGIBILITY FOR ANY STATE
9 OR LOCAL INCENTIVE PROGRAMS FOR WHICH THE PERSON IS OTHERWISE
10 ELIGIBLE.

11 **25-17-613. Producer exemptions - rules.** (1) A PRODUCER IS
12 EXEMPT FROM THE REQUIREMENTS OF THIS PART 6 IF THE PRODUCER IS:

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

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

19 (c) THE STATE OR A LOCAL GOVERNMENT;

20 (d) A NONPROFIT ORGANIZATION;

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

27 (f) AN INDIVIDUAL BUSINESS OPERATING A RETAIL FOOD

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

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

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

14 **25-17-614. Restriction on fees.** A PERSON SHALL NOT CHARGE
15 ANY KIND OF POINT-OF-SALE OR POINT-OF-COLLECTION FEE TO
16 CONSUMERS TO RECOUP ITS COSTS IN MEETING THE OBLIGATIONS OF OR
17 COMPLYING WITH THIS PART 6.

18 **25-17-615. Producer responsibility program for statewide
19 recycling administration fund - creation - purpose.** (1) THERE IS
20 HEREBY CREATED IN THE STATE TREASURY THE PRODUCER RESPONSIBILITY
21 PROGRAM FOR STATEWIDE RECYCLING ADMINISTRATION FUND, REFERRED
22 TO IN THIS SECTION AS THE "FUND". THE FUND CONSISTS OF ALL PRODUCER
23 RESPONSIBILITY DUES TRANSFERRED TO THE FUND PURSUANT TO THIS
24 SECTION AND MONEY THAT THE GENERAL ASSEMBLY TRANSFERS TO THE
25 FUND FOR USE BY THE DEPARTMENT. THE ORGANIZATION SHALL TRANSMIT
26 A PORTION OF THE PRODUCER RESPONSIBILITY DUES TO THE STATE
27

1 TREASURER FOR DEPOSIT IN THE FUND FOR PURPOSES OF REIMBURSING:

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

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

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

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

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

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

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

27 **25-17-616. No obligation to provide recycling services.**

1 NOTWITHSTANDING ANY LAW TO THE CONTRARY, A PRIVATE SERVICE
2 PROVIDER IS NOT REQUIRED TO PROVIDE RECYCLING SERVICES UNDER THE
3 PROGRAM OR ANY OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR
4 PURSUANT TO THIS PART 6.

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

7 **25-16.5-106.5. Recycling resources economic opportunity fund**
8 **- creation - repeal.** (1) (a) The recycling resources economic opportunity
9 fund, referred to in this section as the "fund", is hereby created in the state
10 treasury. The fund consists of:

11 (I.5) MONEY CREDITED TO THE FUND PURSUANT TO SECTION
12 25-17-610 (4);

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

17 (a) \$98,627 for use by the solid waste control program for solid
18 waste control, which amount is based on an assumption that the program
19 will require an additional 0.8 FTE; and

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

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

1 **SECTION 4. Severability.** If any provision of this act or the
2 application thereof to any person or circumstance is held invalid, such
3 invalidity does not affect other provisions or applications of the act that
4 can be given effect without the invalid provision or application, and to
5 this end the provisions of this act are declared to be severable.

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