

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

SENATE SPONSORSHIP

Priola and Gonzales,

House Committees

Energy & Environment
Appropriations

Senate Committees

A BILL FOR AN ACT

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

Bill Summary

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

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

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

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

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

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

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

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

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

As part of the program, the organization must:

- Utilize and expand on providers' existing recycling services

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

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

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

The advisory board has the following duties:

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

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

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

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

4 PART 6

5 PRODUCER RESPONSIBILITY PROGRAM

6 FOR STATEWIDE RECYCLING

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

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

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

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

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

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

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

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

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

1 OF PRODUCTS AND PACKAGING; AND

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

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

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

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

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

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

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

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


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

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

1 RECYCLING SERVICES FOR COVERED MATERIALS.

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

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

8 
9 (2) "ADVISORY BOARD" MEANS THE PRODUCER RESPONSIBILITY
10 PROGRAM FOR STATEWIDE RECYCLING ADVISORY BOARD CREATED IN
11 SECTION 25-17-604 (1).

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

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

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

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

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

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

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

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

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

27 (I) PACKAGING MATERIAL, EXCEPT AS SPECIFIED IN SUBSECTION

1 (13)(b) OF THIS SECTION; AND

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

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

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

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

11 (III) BOUND BOOKS;

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

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

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

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

26 (VIII) PACKAGING MATERIAL USED TO CONTAIN A PRODUCT THAT
27 IS REGULATED AS ANIMAL BIOLOGICS, INCLUDING VACCINES, BACTERINS,

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

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

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

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

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

18 (XIII) PAPER PRODUCTS USED FOR LOCAL NEWSPAPERS. AS USED
19 IN THIS SUBSECTION (13)(b)(XIII), "LOCAL NEWSPAPER" MEANS A
20 PUBLICATION THAT:

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

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

25 (C) EMPLOYS AT LEAST ONE JOURNALIST WHO RESIDES IN THE
26 STATE AND WHO REGULARLY GATHERS, COLLECTS, PHOTOGRAPHS,
27 RECORDS, WRITES, OR REPORTS NEWS AND INFORMATION THAT CONCERNS

1 LOCAL EVENTS OR OTHER MATTERS OF LOCAL INTEREST;

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

3 (E) IS COVERED BY MEDIA LIABILITY INSURANCE;

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

5 (G) IS NEITHER A DISQUALIFIED ORGANIZATION NOR AN

6 ORGANIZATION THAT HAS RECEIVED MORE THAN FIFTY PERCENT OF ITS

7 GROSS REVENUE IN THE PREVIOUS TAX YEAR FROM DISQUALIFIED

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

9 "DISQUALIFIED ORGANIZATION" MEANS ANY ORGANIZATION THAT IS

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

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

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

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

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

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

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

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

18 OWNED OR CONTROLLED BY ONE OR MORE ORGANIZATIONS DESCRIBED

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

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

21 THE ORGANIZATION OF THE OPERATIONAL AND FINANCIAL IMPACTS OF THE

22 PROPOSED CHANGES AND AFTER CONSULTATION WITH THE ADVISORY

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

24 MATERIAL.

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

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

27 (15) "ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES"


1 MEANS POLICIES THAT ENSURE COMPLIANCE WITH ALL APPLICABLE
2 ENVIRONMENTAL LAWS, INCLUDING LAWS ADDRESSING:

- 3 (a) RECORD KEEPING;
- 4 (b) TRACKING AND DOCUMENTING THE DISPOSITION OF COVERED
5 MATERIALS COLLECTED FROM COVERED ENTITIES; AND
- 6 (c) ENVIRONMENTAL LIABILITY COVERAGE FOR PROFESSIONAL
7 SERVICES AND CONTRACTOR OPERATIONS.

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

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

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

17 
18 (19) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY
19 COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

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

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

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

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

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

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

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

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

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

19 (B) NOT DESIGNED FOR REUSE OR REFILL.

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

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

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

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

1 NOT INTENDED TO BE DISTRIBUTED TO THE END CONSUMER;

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

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

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

9 (a) FLYERS;

10 (b) BROCHURES;

11 (c) BOOKLETS;

12 (d) CATALOGS;

13 (e) TELEPHONE DIRECTORIES;

14 (f) NEWSPAPERS;

15 (g) MAGAZINES; AND

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

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

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

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

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

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

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

10 (30) "PRODUCER" MEANS:

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

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

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

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

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

1 PRODUCT TO A CONSUMER, THE PERSON THAT PACKAGES OR SHIPS THE
2 PRODUCT TO THE CONSUMER;

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

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

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

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

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

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

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

25 (33) "PRODUCER RESPONSIBILITY PROGRAM FOR STATEWIDE
26 RECYCLING" OR "PROGRAM" MEANS THE PRODUCER RESPONSIBILITY
27 PROGRAM FOR STATEWIDE RECYCLING CREATED IN ACCORDANCE WITH

1 SECTION 25-17-605.

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

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

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

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

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

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

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

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

24 (b) "RECYCLING" DOES NOT INCLUDE:

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

27 (II) USE AS A FUEL;

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

3 (IV) LANDFILL DISPOSAL OF DISCARDED COVERED MATERIALS.

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

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

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

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

21

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

25 (a) THE ADMINISTRATION OF RECYCLING PROGRAMS;

26 (b) CAPITAL IMPROVEMENTS TO RECYCLING PROGRAMS;

27 (c) THE COLLECTION, TRANSPORTATION, SORTING, AND

1 PROCESSING OF COVERED MATERIALS;

2 (d) PUBLIC EDUCATION ABOUT RECYCLING PROGRAMS; AND

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

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

8 (a) BENEFITS THE ENVIRONMENT; AND

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

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

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

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

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

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

25 **25-17-604. Producer responsibility program for statewide**
26 **recycling advisory board - creation - membership.** (1) THE PRODUCER
27 RESPONSIBILITY PROGRAM FOR STATEWIDE RECYCLING ADVISORY BOARD

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

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

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

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

11 (B) ONE MEMBER REPRESENTING A COUNTY; AND

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

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

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

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

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

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

27 (VII) ONE VOTING MEMBER REPRESENTING A TRADE ASSOCIATION,

1 CHAMBER OF COMMERCE, OR OTHER BUSINESS ADVOCACY ORGANIZATION
2 REPRESENTING BUSINESSES THAT ARE HEADQUARTERED IN THE STATE;

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

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

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

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

12 (XII) ONE NONVOTING MEMBER REPRESENTING THE DEPARTMENT;

13 AND

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

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

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

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

1 DIRECTOR SHALL FILL ANY VACANCY BY APPOINTMENT FOR THE
2 REMAINDER OF THE UNEXPIRED TERM.

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

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

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

21 (7) THE ADVISORY BOARD SHALL:

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

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

26 (c) REVIEW THE PLAN PROPOSAL SUBMITTED UNDER SECTION
27 25-17-605 (4);

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

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

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

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

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

14 **25-17-605. Producer responsibility program for statewide**
15 **recycling - needs assessment - plan proposal - rules.** (1) (a) ON OR
16 BEFORE JUNE 1, 2023, PRODUCERS OR THEIR DESIGNATED AGENTS SHALL
17 ESTABLISH A NONPROFIT ORGANIZATION TO FULFILL THE REQUIREMENTS
18 OF THIS PART 6 AND SHALL PROVIDE NOTIFICATION TO THE DEPARTMENT
19 THAT INCLUDES:

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

23 (II) A LIST OF PARTICIPATING PRODUCERS; AND

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

27 (b) UPON RECEIPT OF THE NOTIFICATION GIVEN PURSUANT TO

1 SUBSECTION (1)(a) OF THIS SECTION, THE EXECUTIVE DIRECTOR SHALL:

2 (I) ACKNOWLEDGE RECEIPT OF THE NOTIFICATION; AND

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

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

13 (2) THE PRODUCER RESPONSIBILITY ORGANIZATION SHALL:

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

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

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

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

25 (3) (a) ON OR BEFORE SEPTEMBER 1, 2023, THE ORGANIZATION
26 SHALL HIRE AN INDEPENDENT THIRD PARTY APPROVED BY THE EXECUTIVE
27 DIRECTOR TO CONDUCT AN ASSESSMENT OF THE STATE'S RECYCLING

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

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

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

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

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

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

1 AND RECYCLING RATES IN A COST-EFFECTIVE MANNER;

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

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

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

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

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

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

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

27 (XIII) AT LEAST THREE PROJECTED SCENARIOS FOR INCREASING

1 THE RECYCLING RATE AND COLLECTION RATE OF COVERED MATERIALS IN
2 THE STATE, INCLUDING RECYCLING RATES AND COLLECTION RATES THAT
3 THE STATE COULD MEET BY JANUARY 1, 2030, AND JANUARY 1, 2035, AND
4 THE OPERATING AND CAPITAL COSTS NEEDED TO REACH EACH PROJECTED
5 SCENARIO; AND

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

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

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

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

25 (e) ON OR BEFORE MAY 1, 2029, AND ON OR BEFORE MAY 1 EVERY
26 FIVE YEARS THEREAFTER, THE ORGANIZATION SHALL HIRE AN
27 INDEPENDENT THIRD PARTY APPROVED BY THE EXECUTIVE DIRECTOR TO

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

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

1 UPDATED PLAN PROPOSALS, THE ORGANIZATION SHALL SOLICIT AND
2 CONSIDER INPUT FROM THE ADVISORY BOARD AND PROVIDE OPPORTUNITY
3 FOR ADDITIONAL STAKEHOLDER INPUT. TO BE APPROVED, A PLAN
4 PROPOSAL MUST:

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

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

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

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

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

21 (f) ESTABLISH RECYCLING PRACTICES THAT:

22 (I) MEET OR EXCEED THE CONVENIENCE STANDARDS;

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

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

3 (IV) USE ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES;

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

9 (h) ESTABLISH A FUNDING MECHANISM THAT:

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

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

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

18 (C) CONDUCTING THE NEEDS ASSESSMENT;

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

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

22 (II) IS FUNDED THROUGH PRODUCER RESPONSIBILITY DUES. THE
23 PRODUCER RESPONSIBILITY DUES MUST VARY BY THE TYPE OF
24 COVERED MATERIAL, WHETHER OR NOT THE MATERIAL IS READILY
25 RECYCLABLE, AND BE BASED ON THE NET RECYCLING SERVICES COSTS FOR
26 EACH COVERED MATERIAL IN THE STATE.

27 (III) REQUIRES:

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

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

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

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

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

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

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

15 AND

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

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

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

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

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

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

1 IMPROVEMENTS THAT IMPROVE THE COLLECTION AND RECYCLING OF THAT
2 COVERED MATERIAL OR FACILITATE THE ADDITION OF THE COVERED
3 MATERIAL TO THE LIST OF READILY RECYCLABLE MATERIALS;

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

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

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

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

16 (IV) TAKE INTO ACCOUNT:

17 (A) REGIONAL RECYCLING SERVICES COSTS;

18 (B) POPULATION DENSITY;

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

20 (D) THE COLLECTION METHOD USED;

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

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

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

26 (j) DESCRIBE THE PROCESS TO EVALUATE AND REVISE THE
27 OBJECTIVE COST FORMULAS AS NECESSARY. IF THE PLAN PROPOSAL

1 INCLUDES MORE THAN ONE OBJECTIVE COST FORMULA FOR RECYCLING
2 SERVICES, THE PLAN PROPOSAL MUST DESCRIBE THE CONDITIONS UNDER
3 WHICH EACH FORMULA WILL BE APPLIED.

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

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

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

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

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

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

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

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

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

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

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

27 (t) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH SERVICE

1 PROVIDERS TO:

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

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

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

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

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

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

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

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

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

25 (u) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH AND
26 INCENTIVIZE PRODUCERS TO REDUCE THE PACKAGING OF PRODUCTS USING
27 COVERED MATERIALS THROUGH PRODUCT DESIGN CHANGES, THE

1 DEVELOPMENT OR EXPANSION OF SYSTEMS FOR REUSABLE PACKAGING,
2 AND PRODUCT INNOVATION;

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

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

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

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

15 (z) INCLUDE ANY ADDITIONAL INFORMATION REQUIRED BY THE
16 DEPARTMENT.

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

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

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

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

12 OR

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

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

27 (c) (I) IF THE EXECUTIVE DIRECTOR APPROVES THE PLAN PROPOSAL

1 OR AMENDED PLAN PROPOSAL PURSUANT TO SUBSECTION (5)(b)(I) OF THIS
2 SECTION, THE EXECUTIVE DIRECTOR SHALL DESIGNATE THE PLAN
3 PROPOSAL OR AMENDED PLAN PROPOSAL AS THE FINAL PLAN AND SHALL
4 PUBLISH THE FINAL PLAN ON THE DEPARTMENT'S WEBSITE.

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

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

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

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

1 ENFORCEMENT OF THIS PART 6 PURSUANT TO SECTION 25-17-610.

2 (8) (a) ON JANUARY 1, 2025, AND EACH JANUARY 1 THEREAFTER,
3 AS AN ALTERNATIVE TO PARTICIPATING IN THE PROGRAM, A PRODUCER
4 MAY SUBMIT TO THE ADVISORY BOARD AN INDIVIDUAL PROGRAM PLAN
5 PROPOSAL. A PRODUCER MUST NOTIFY THE DEPARTMENT OF ITS INTENT TO
6 SUBMIT AN INDIVIDUAL PROGRAM PLAN PROPOSAL BY JANUARY 1, 2024.

7 THE INDIVIDUAL PROGRAM PLAN PROPOSAL MUST:

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

10 (II) DESCRIBE HOW THE PRODUCER PARTICIPATING IN THE
11 INDIVIDUAL PROGRAM PLAN PROPOSAL WILL CONTRIBUTE TO THE COSTS
12 OF THE DEPARTMENT IN OVERSEEING THE PROGRAM;

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

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

18 (b) THE ADVISORY BOARD SHALL REVIEW AND MAKE
19 RECOMMENDATIONS ON, AND THE EXECUTIVE DIRECTOR SHALL APPROVE
20 OR REJECT, ANY INDIVIDUAL PROGRAM PLAN PROPOSALS IN ACCORDANCE
21 WITH THE PROCEDURES SET FORTH IN SUBSECTION (5) OF THIS SECTION.

22 AFTER THE EXECUTIVE DIRECTOR APPROVES THE INDIVIDUAL PROGRAM
23 PLAN PROPOSAL, THE EXECUTIVE DIRECTOR SHALL DESIGNATE THE
24 INDIVIDUAL PROGRAM PLAN PROPOSAL AS THE PLAN THAT THE PRODUCER
25 IS AUTHORIZED TO IMPLEMENT AND ADMINISTER AS AN ALTERNATIVE TO
26 PARTICIPATING IN THE PROGRAM.

27 (c) THE PRODUCER IMPLEMENTING A PLAN DESCRIBED IN

1 SUBSECTION (8)(b) OF THIS SECTION SHALL SUBMIT ANY AMENDMENTS TO
2 THE PLAN TO THE ADVISORY BOARD IN ACCORDANCE WITH SUBSECTION (6)
3 OF THIS SECTION. THE ADVISORY BOARD SHALL REVIEW AND MAKE
4 RECOMMENDATIONS ON, AND THE EXECUTIVE DIRECTOR SHALL APPROVE
5 OR REJECT, ANY AMENDMENTS TO THE PLAN IN ACCORDANCE WITH
6 SUBSECTION (6) OF THIS SECTION.

7 **25-17-606. Minimum recyclable list - convenience standards.**

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

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

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

26 (b) THE EXECUTIVE DIRECTOR MAY GRANT A SERVICE PROVIDER
27 AN EXCEPTION TO THE REQUIREMENTS OF SUBSECTION (2)(a) OF THIS

1 SECTION IF THE SERVICE PROVIDER DEMONSTRATES TO THE REASONABLE
2 SATISFACTION OF THE EXECUTIVE DIRECTOR THAT IT IS NOT ABLE TO
3 PROVIDE RECYCLING SERVICES OR MEET THE CONVENIENCE STANDARDS
4 FOR A READILY RECYCLABLE MATERIAL.

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

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

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

22 (3) (a) THE ORGANIZATION SHALL CONTRACT WITH SERVICE
23 PROVIDERS TO PROVIDE COVERED ENTITIES WITH CONVENIENT AND
24 EQUITABLE ACCESS TO RECYCLING SERVICES FOR ALL READILY
25 RECYCLABLE MATERIALS, AT NO CHARGE TO THE COVERED ENTITY, WITH
26 THE GOAL OF ACHIEVING THE RECYCLING RATE, COLLECTION RATE, AND
27 POSTCONSUMER-RECYCLED-CONTENT RATE TARGETS ESTABLISHED IN THE

1 FINAL PLAN UNDER SECTION 25-17-605 (4)(o).

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

6 (c) TO THE EXTENT REASONABLE, ANY COVERED ENTITIES IN THE
7 STATE THAT ARE RECEIVING RECYCLING SERVICES ON DECEMBER 31,
8 2022, MUST CONTINUE TO RECEIVE EQUIVALENT RECYCLING SERVICES
9 THROUGH THE PROGRAM OR A SERVICE PROVIDER ON AND AFTER
10 DECEMBER 31, 2022.

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

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

18 **25-17-607. Education and outreach program.** (1) THE
19 ORGANIZATION SHALL DEVELOP AND IMPLEMENT A STATEWIDE
20 EDUCATION AND OUTREACH PROGRAM THAT IS DESIGNED TO INCREASE
21 THE RECYCLING AND REUSE OF COVERED MATERIALS AND INCLUDES
22 EDUCATION AND OUTREACH ON:

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

24 (b) THE LOCATION AND AVAILABILITY OF RECYCLING SERVICES
25 UNDER THE PROGRAM; AND

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

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

3 (a) PROVIDE CLEAR AND CONCISE RECYCLING INSTRUCTIONS THAT
4 ARE CONSISTENT STATEWIDE AND ACCESSIBLE FOR ALL DEMOGRAPHIC
5 GROUPS;

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

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

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

21 (4) THE ORGANIZATION SHALL DEVELOP A PROPOSED
22 METHODOLOGY FOR EVALUATING AND REPORTING ON THE EFFECTIVENESS
23 OF THE EDUCATION AND OUTREACH PROGRAM.

24 **25-17-608. Producer requirements - additional producer**
25 **responsibility organization - coordination plan - rules -**
26 **confidentiality - compliance with local government codes - audit.**

27 (1) EFFECTIVE JULY 1, 2025, A PRODUCER SHALL NOT SELL, OFFER FOR

1 SALE, OR DISTRIBUTE ANY PRODUCTS THAT USE COVERED MATERIALS IN
2 THE STATE UNLESS THE PRODUCER IS PARTICIPATING IN THE PROGRAM OR,
3 ON OR AFTER JANUARY 1, 2029, EXCEPT AS SET FORTH IN THE FINAL PLAN
4 OR ANY OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT
5 TO THIS PART 6. A PRODUCER MUST REPORT THE DATA NECESSARY TO
6 MEET ITS PLAN OBLIGATIONS AND MAY USE PRORATED NATIONAL DATA IF
7 STATE-SPECIFIC DATA IS NOT AVAILABLE OR FEASIBLE TO GENERATE.

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

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

17 (I) INCREASE RECYCLING RATES;

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

20 (III) PROVIDE RECYCLING SERVICES FOR A SPECIFIC TYPE OF
21 COVERED MATERIAL.

22 (c) IF THE EXECUTIVE DIRECTOR DESIGNATES AN ADDITIONAL
23 PRODUCER RESPONSIBILITY ORGANIZATION PURSUANT TO SUBSECTION
24 (2)(b) OF THIS SECTION, THE ADDITIONAL PRODUCER RESPONSIBILITY
25 ORGANIZATION SHALL SUBMIT A COORDINATION PLAN TO THE EXECUTIVE
26 DIRECTOR FOR APPROVAL IN ACCORDANCE WITH THE RULES
27 PROMULGATED PURSUANT TO THIS SECTION (2)(c). WITHIN ONE HUNDRED

1 TWENTY DAYS AFTER THE DESIGNATION OF THE FIRST ADDITIONAL
2 PRODUCER RESPONSIBILITY ORGANIZATION, THE EXECUTIVE DIRECTOR
3 SHALL PROMULGATE BY RULE STANDARDS AND REQUIREMENTS FOR A
4 COORDINATION PLAN AND FOR COORDINATION BETWEEN THE
5 ORGANIZATION AND ANY ADDITIONAL PRODUCER RESPONSIBILITY
6 ORGANIZATIONS DESIGNATED BY THE EXECUTIVE DIRECTOR. A
7 COORDINATION PLAN APPROVED OR ORDERED BY THE EXECUTIVE
8 DIRECTOR SHALL BE IMPLEMENTED BY THE ORGANIZATION AND ANY
9 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATIONS DESIGNATED BY
10 THE EXECUTIVE DIRECTOR. IF THE COORDINATION PLAN CONFLICTS WITH
11 THE FINAL PLAN OR ANY OTHER PLAN APPROVED BY THE EXECUTIVE
12 DIRECTOR PURSUANT TO THIS PART 6, THE PROVISIONS OF THE
13 COORDINATION PLAN PREVAIL. A COORDINATION PLAN APPROVED OR
14 ORDERED BY THE EXECUTIVE DIRECTOR IS VALID UNTIL REVOKED OR UNTIL
15 A NEW COORDINATION PLAN IS APPROVED OR ORDERED BY THE EXECUTIVE
16 DIRECTOR.

17 (3) THE EXECUTIVE DIRECTOR, THE ADVISORY BOARD, THE
18 ORGANIZATION, AN ADDITIONAL PRODUCER RESPONSIBILITY
19 ORGANIZATION, AND ANY OTHER PERSON ADMINISTERING A PLAN
20 APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6:

21 (a) MUST KEEP CONFIDENTIAL ANY PROPRIETARY INFORMATION
22 PROVIDED BY A PRODUCER; AND

23 (b) SHALL NOT INCLUDE ANY PROPRIETARY INFORMATION
24 PROVIDED BY A PRODUCER IN THE PLAN PROPOSAL, THE AMENDED PLAN
25 PROPOSAL, THE FINAL PLAN, ANY OTHER PLAN APPROVED BY THE
26 EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6, OR ANY AMENDMENT TO
27 THE FINAL PLAN OR OTHER PLAN APPROVED BY THE EXECUTIVE DIRECTOR

1 PURSUANT TO THIS PART 6.

2 (4) (a) THE PROGRAM AND ANY OTHER PLAN APPROVED BY THE
3 EXECUTIVE DIRECTOR PURSUANT TO THIS PART 6 MUST COMPLY WITH ANY
4 FIRE, SOLID WASTE, OR OTHER RELEVANT ORDINANCES OR RESOLUTIONS
5 ADOPTED BY A LOCAL GOVERNMENT AND WITH APPLICABLE STATE AND
6 FEDERAL LAWS, INCLUDING THE EXEMPTIONS SET FORTH IN SECTION
7 30-20-102 (5).

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

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

1 REVENUES FROM THE PRODUCER RESPONSIBILITY DUES.

2 **25-17-609. Producer responsibility dues - inspection of records**

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

11 (b) A PRODUCER SHALL MAKE ALL DOCUMENTS AND RECORDS
12 RELATED TO THE CALCULATION AND PAYMENT OF PRODUCER
13 RESPONSIBILITY DUES AVAILABLE FOR INSPECTION BY THE EXECUTIVE
14 DIRECTOR. IN CONNECTION WITH ENFORCING A VIOLATION BY A PRODUCER
15 PURSUANT TO SECTION 25-17-610, THE EXECUTIVE DIRECTOR MAY
16 REQUEST IN WRITING THAT THE PRODUCER PROVIDE ANY SUCH
17 DOCUMENTS OR RECORDS TO THE EXECUTIVE DIRECTOR.

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

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

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

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

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

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

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

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

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

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

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

27 (D) GEOGRAPHIC AREA;

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

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

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

13 (A) SAMPLES OF ANY MATERIALS DISTRIBUTED; AND

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

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

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

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

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

1 MANUFACTURE OF NEW PRODUCTS;

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

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

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

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

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

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

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

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

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

27 (b) BEFORE MARCH 31 OF THE SECOND YEAR OF ANY PLAN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (c) THE STATE OR A LOCAL GOVERNMENT;

21 (d) A NONPROFIT ORGANIZATION;

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

27 (f) A BUILDER, A CONSTRUCTION COMPANY, OR CONSTRUCTION

1 CONTRACTORS.

2 (2) THE COMMISSION SHALL ADJUST BY RULE THE DOLLAR
3 LIMITATION SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION ON JULY 1,
4 2023, AND ON JULY 1 OF EACH YEAR THEREAFTER, BASED ON THE
5 PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S
6 BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR
7 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN
8 CONSUMERS, OR ITS SUCCESSOR INDEX.

9 **25-17-614. Restriction on fees.** A PERSON SHALL NOT CHARGE
10 ANY KIND OF POINT-OF-SALE OR POINT-OF-COLLECTION FEE TO
11 CONSUMERS TO RECOUP ITS COSTS IN MEETING THE OBLIGATIONS OF OR
12 COMPLYING WITH THIS PART 6.

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

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

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

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

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