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Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

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LLS NO. 22-0075.02 Sarah Lozano x3858

HOUSE BILL

HOUSE SPONSORSHIP

Cutter,

SENATE SPONSORSHIP

Priola and Gonzales,

BILL TOPIC: "Producer Responsibility In Recycling Program"

DEADLINES: File by: 2/11/2022

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 select a nonprofit organization (organization) to implement and manage a statewide program that provides recycling services to covered entities in the state, which are defined as residences, businesses, educational institutions, government buildings, and public

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

places (program). 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, paper products, and single-use food serviceware 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 representative of a variety of geographic areas in the state.

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

- On or before September 1, 2023, cause to be conducted 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 interested parties, submit a plan proposal for the program (plan proposal) to the advisory board and executive director.

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 that covers the organization's costs in implementing the program and the costs of the department in overseeing the program through producer responsibility dues;
- Establish an objective formula to reimburse 100% of the net costs of public and private recycling service providers performing services under the program;
- Provide a list of covered materials (minimum recyclable list) that private and public recycling service providers performing services under the program must collect to be eligible for reimbursement under the program; and
- Set minimum rates that the state will meet by January 1, 2030, and January 1, 2035, and describe how the state can meet increased rates after 2035.

As part of the program, the organization must:

- Utilize and expand on existing recycling services provided by public and private recycling service providers, 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

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- 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 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 an alternative program that has been approved by the executive director.

The bill establishes the producer responsibility program for statewide recycling administration fund (fund). On or before June 30, 2026, and on June 30 each year thereafter, the department will notify the organization of its costs in overseeing the program, and the organization will transmit a portion of the producer responsibility dues to the fund for the purposes of reimbursing the department for its costs.

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 and 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

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

10 (c) COLORADO IS NOT ON TRACK TO MEET THE STATEWIDE
11 RECYCLING AND WASTE DIVERSION GOALS THAT THE POLLUTION
12 PREVENTION ADVISORY BOARD ASSISTANCE COMMITTEE, CREATED IN
13 SECTION 25-16.5-105.5 (2), ADOPTED IN 2016 AND SET FORTH IN AN
14 INTEGRATED SOLID WASTE AND MATERIALS MANAGEMENT PLAN;

15 (d) THERE CAN BE NEGATIVE ENVIRONMENTAL, SOCIAL,
16 ECONOMIC, AND HEALTH IMPACTS IN THE PRODUCTION, CONSUMPTION,
17 AND END-OF-USE MANAGEMENT OF CONSUMER PRODUCTS AND PACKAGING
18 ACROSS THEIR LIFE CYCLES;

19 (e) ALL PARTIES HAVE THE OBLIGATION TO SHARE IN THE
20 RESPONSIBILITY TO REDUCE NEGATIVE IMPACTS OF END-OF-USE
21 MANAGEMENT FOR COVERED MATERIALS BY BUILDING A SYSTEM
22 DESIGNED TO MINIMIZE WASTE AND TO INCREASE REUSE AND RECYCLING
23 OF PRODUCTS AND PACKAGING; AND

24 (f) A PRODUCER RESPONSIBILITY PROGRAM IN COLORADO WOULD:

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

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1 (II) ESTABLISH A CLEAR AND UNIFORM STATEWIDE LIST OF
2 READILY RECYCLABLE MATERIALS;

3 (III) PROVIDE A SUSTAINABLE FUNDING MECHANISM FOR
4 RECYCLING SERVICES AND RECYCLING INFRASTRUCTURE ACROSS ALL
5 AREAS OF COLORADO;

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

8 (V) ENCOURAGE PRODUCERS TO DESIGN AND MANAGE COVERED
9 MATERIALS TO PREVENT OR MINIMIZE THEIR NEGATIVE ENVIRONMENTAL,
10 SOCIAL, ECONOMIC, AND HEALTH IMPACTS;

11 (VI) BE MANAGED BY AN INDEPENDENT NONPROFIT ORGANIZATION
12 THAT CONSULTS WITH AN ADVISORY BOARD OF RECYCLING EXPERTS AND
13 OVERSEEN BY THE DEPARTMENT;

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

17 (VIII) LEVERAGE EXISTING RECYCLING SYSTEMS AND
18 INFRASTRUCTURE BY WORKING WITH BOTH PUBLIC AND PRIVATE SERVICE
19 PROVIDERS.

20 (2) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT IT IS IN
21 THE PUBLIC INTEREST OF COLORADO TO REQUIRE PRODUCERS TO FINANCE
22 A PRODUCER RESPONSIBILITY PROGRAM THAT PROVIDES STATEWIDE
23 RECYCLING SERVICES FOR COVERED MATERIALS.

24 **25-17-603. Definitions - rules.** AS USED IN THIS PART 6, UNLESS
25 THE CONTEXT OTHERWISE REQUIRES:

26 (1) "ADVISORY BOARD" MEANS THE PRODUCER RESPONSIBILITY
27 PROGRAM FOR STATEWIDE RECYCLING ADVISORY BOARD CREATED IN

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1 SECTION 25-17-604 (1).

2 (2) "ALTERNATIVE COLLECTION PROGRAM" MEANS A PROGRAM
3 PROVIDING RECYCLING SERVICES FOR SOME OR ALL COVERED MATERIALS
4 THAT IS OPERATED BY A PRODUCER OR GROUP OF PRODUCERS AND FOR
5 WHICH A PLAN PROPOSAL IS SUBMITTED TO THE EXECUTIVE DIRECTOR AND
6 ADVISORY BOARD AND APPROVED BY THE EXECUTIVE DIRECTOR IN
7 ACCORDANCE WITH SECTION 25-17-608 (2).

8 (3) "AMENDED PLAN PROPOSAL" MEANS AN AMENDED PLAN
9 PROPOSAL FOR THE IMPLEMENTATION OF THE PROGRAM SUBMITTED TO
10 THE ADVISORY BOARD BY THE ORGANIZATION AFTER THE ADVISORY
11 BOARD'S INITIAL REVIEW OF THE PLAN PROPOSAL IN ACCORDANCE WITH
12 SECTION 25-17-605 (5).

13 (4) "COLLECTION" MEANS THE GATHERING AND TRANSPORTATION
14 OF COVERED MATERIALS FROM COVERED ENTITIES FOR THE PURPOSE OF
15 RECYCLING.

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

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

24 (7) "CONSUMER" MEANS ANY PERSON WHO PURCHASES OR
25 RECEIVES COVERED MATERIALS IN THE STATE AND IS A COVERED ENTITY.

26 (8) "CONVENIENCE STANDARDS" MEANS THE STANDARDS FOR THE
27 PROGRAM AS DESCRIBED IN SECTION 25-17-606 (3).

28 (9) "COVERED ENTITY" MEANS THE FOLLOWING LOCATIONS IN THE

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1 STATE FROM WHICH COVERED MATERIALS THAT ARE PROCESSED BY A
2 MATERIALS RECOVERY FACILITY ARE COLLECTED:

3 (a) ALL SINGLE-FAMILY OR MULTIFAMILY RESIDENCES IN THE
4 STATE; AND

5 (b) NONRESIDENTIAL LOCATIONS, INCLUDING BUSINESSES,
6 EDUCATIONAL INSTITUTIONS, STATE AND LOCAL GOVERNMENT BUILDINGS,
7 AND PUBLIC PLACES.

8 (10) (a) "COVERED MATERIALS" INCLUDES:

9 (I) PACKAGING MATERIAL;

10 (II) PAPER PRODUCTS; AND

11 (III) SINGLE-USE FOOD SERVICEWARE.

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

13 (I) MATERIALS INTENDED TO BE USED FOR THE LONG-TERM
14 STORAGE OR PROTECTION OF A DURABLE PRODUCT AND THAT IS INTENDED
15 TO TRANSPORT, PROTECT, OR STORE THE PRODUCT ON AN ONGOING BASIS;

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

18 (III) BOUND BOOKS;

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

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

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

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

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

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

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

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

20 (12) "EDUCATIONAL INSTITUTIONS" MEANS:

21 (a) SCHOOLS, AS DEFINED IN SECTION 22-1-132 (2)(c);

22 (b) PRIVATE COLLEGES OR UNIVERSITIES, AS DEFINED IN SECTION
23 23-2-102 (11);

24 (c) PRIVATE NONPROFIT COLLEGES OR UNIVERSITIES, AS DEFINED
25 IN SECTION 23-2-102 (12);

26 (d) PRIVATE OCCUPATIONAL SCHOOLS, AS DEFINED IN SECTION
27 23-2-102 (13);

28 (e) SEMINARIES OR RELIGIOUS TRAINING INSTITUTIONS, AS DEFINED

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1 IN SECTION 23-2-102 (14); AND
2 (f) STATE COLLEGES OR UNIVERSITIES, AS DEFINED IN SECTION
3 23-2-102 (15).

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

7 (a) RECORD KEEPING;
8 (b) TRACKING AND DOCUMENTING THE DISPOSAL OF COVERED
9 MATERIALS WITHIN AND INTO THE STATE; AND

10 (c) ENVIRONMENTAL LIABILITY COVERAGE FOR PROFESSIONAL
11 SERVICES AND CONTRACTOR OPERATIONS.

12 (14) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
13 THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

14 (15) "FINAL PLAN" MEANS THE PLAN PROPOSAL OR AMENDED PLAN
15 PROPOSAL _____ THAT HAS BEEN APPROVED _____ BY THE EXECUTIVE
16 DIRECTOR PURSUANT TO SECTION 25-17-605 (5).

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

21 (17) "FUND" MEANS THE PRODUCER RESPONSIBILITY PROGRAM FOR
22 STATEWIDE RECYCLING ADMINISTRATION FUND CREATED IN SECTION
23 25-17-610.

24 (18) "INDUSTRIAL RECYCLING" MEANS THE PROCESSES OF
25 COLLECTING, AGGREGATING, AND SIZE-REDUCING AND OTHER OPERATIONS
26 THAT TURN PRECONSUMER MATERIALS, INCLUDING PRODUCTS THAT DO
27 NOT MEET QUALITY SPECIFICATIONS, DAMAGED PRODUCTS, AND ITEMS OR
28 BY-PRODUCTS GENERATED BY THE MANUFACTURE OF A PRODUCT BEFORE

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1 THE PRODUCT REACHES AN END USER, INTO FEEDSTOCK FOR USE IN THE
2 MANUFACTURE OF NEW PRODUCTS.

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

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

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

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

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

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

21 (25) "ORGANIC PROCESSING FACILITY" MEANS .

22 (26) (a) "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, DELIVERY, OR PRESENTATION OF PRODUCTS TO THE CONSUMER
26 AT THE POINT OF SALE, INCLUDING THROUGH AN INTERNET TRANSACTION.

27 (b) "PACKAGING MATERIAL" INCLUDES PAPER, PLASTIC, GLASS,
28 METAL, CARTONS, FLEXIBLE FOAM, RIGID PACKAGING, OR OTHER

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1 MATERIALS OR COMBINATION OF THESE MATERIALS.

2 (c) "PACKAGING MATERIAL" DOES NOT INCLUDE:

3 (I) PACKAGING MATERIALS USED SOLELY IN TRANSPORTATION OR
4 DISTRIBUTION TO NON-CONSUMERS;

5 (II) PACKAGING MATERIALS USED SOLELY IN
6 BUSINESS-TO-BUSINESS TRANSACTIONS; AND

7 (III) PACKAGING MATERIALS THAT ARE NOT SOLD OR DISTRIBUTED
8 TO COVERED ENTITIES.

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

12 (a) FLYERS;

13 (b) BROCHURES;

14 (c) BOOKLETS;

15 (d) CATALOGS;

16 (e) TELEPHONE DIRECTORIES;

17 (f) NEWSPAPERS;

18 (g) MAGAZINES; AND

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

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

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

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1 A PERCENTAGE.

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

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

10 (31) "PROCESSING AND TRANSPORTATION SERVICES" MEANS THE
11 COSTS OF HANDLING CONTAMINATION AND DISPOSAL OF NON-RECYCLABLE
12 COVERED MATERIALS AND TO TRANSPORT NON-RECYCLABLE COVERED
13 MATERIALS TO END MARKETS.

14 (32) (a) "PRODUCER" MEANS A PERSON THAT:

15 (I) USES A COVERED MATERIAL UNDER THE PERSON'S OWN NAME
16 OR BRAND AND THAT SELLS, OFFERS FOR SALE, OR DISTRIBUTES IN THE
17 STATE A PRODUCT THAT USES THE COVERED MATERIAL;

18 (II) IF SUBSECTION (29)(a) OF THIS SECTION DOES NOT APPLY,
19 IMPORTS A PRODUCT THAT USES A COVERED MATERIAL AS THE OWNER OR
20 LICENSEE OF A TRADEMARK OR BRAND UNDER WHICH THE PRODUCT IS
21 SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN THE STATE; OR

22 (III) IF SUBSECTIONS (29)(a) AND (29)(b) OF THIS SECTION DO NOT
23 APPLY, SELLS, OFFERS FOR SALE, OR DISTRIBUTES A PRODUCT THAT USES
24 A COVERED MATERIAL IN THE STATE.

25 (b) "PRODUCER" MEANS, FOR THE PURPOSES OF PRODUCERS OF
26 SINGLE-USE FOOD SERVICEWARE, THE PERSON THAT FIRST SELLS OR
27 DISTRIBUTES THE SINGLE-USE FOOD SERVICEWARE IN THE STATE.

28 (c) "PRODUCER" MEANS, FOR THE PURPOSES OF PRODUCTS THAT

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1 ARE SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN THE STATE THROUGH AN
2 INTERNET TRANSACTION:

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

5 (II) THE PRODUCER OF THE PACKAGING MATERIAL USED TO
6 PROTECT OR CONTAIN A PRODUCT DURING TRANSPORT TO A CONSUMER IN
7 THE STATE.

8 (d) PRODUCER MEANS, FOR THE PURPOSES OF A PAPER PRODUCT
9 THAT IS A MAGAZINE, NEWSPAPER, CATALOG, TELEPHONE DIRECTORY, OR
10 SIMILAR PUBLICATION, THE PUBLISHER OF THE PAPER PRODUCT.

11 (33) "PRODUCER RESPONSIBILITY DUES" MEANS THE AMOUNTS
12 ESTABLISHED IN SECTION 25-17-605 (4)(f)(II) THAT A PRODUCER
13 PARTICIPATING IN THE PROGRAM PAYS ANNUALLY INTO THE PROGRAM
14 PURSUANT TO SECTION 25-17-609 (1).

15 (34) "PRODUCER RESPONSIBILITY ORGANIZATION" OR
16 "ORGANIZATION" MEANS THE NONPROFIT ORGANIZATION SELECTED TO
17 IMPLEMENT THE PROGRAM PURSUANT TO SECTION 25-17-605 (1).

18 (35) "PRODUCER RESPONSIBILITY PROGRAM FOR STATEWIDE
19 RECYCLING" OR "PROGRAM" MEANS THE PRODUCER RESPONSIBILITY
20 PROGRAM FOR STATEWIDE RECYCLING CREATED IN ACCORDANCE WITH
21 SECTION 25-17-605.

22 (36) "PROPRIETARY INFORMATION" MEANS INFORMATION THAT, IF
23 MADE PUBLIC:

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

26 (b) WOULD REASONABLY HINDER THE ENTITY'S COMPETITIVE
27 ADVANTAGE IN THE MARKET.

28 (37) (a) "PUBLIC PLACE" MEANS AN INDOOR OR OUTDOOR

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1 LOCATION IN THE STATE THAT IS OPEN TO AND GENERALLY USED BY THE
2 PUBLIC.

3 (b) "PUBLIC PLACE" INCLUDES STREETS; SIDEWALKS; PLAZAS;
4 TOWN SQUARES; STATE-OWNED OR LOCAL-GOVERNMENT-OWNED PARKS,
5 BEACHES, AND FORESTS; OTHER STATE-OWNED OR
6 LOCAL-GOVERNMENT-OWNED LAND OPEN FOR RECREATION OR OTHER
7 PUBLIC USES; AND TRANSPORTATION FACILITIES, INCLUDING BUS AND
8 TRAIN STATIONS, AND AIRPORTS_____.

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

11 (38) "READILY RECYCLABLE MATERIAL" MEANS A COVERED
12 MATERIAL THAT IS INCLUDED ON THE MINIMUM RECYCLABLE LIST.

13 _____

14 (39) (a) "RECYCLING" MEANS THE REPROCESSING, BY MEANS OF A
15 MANUFACTURING PROCESS, OF A USED MATERIAL INTO A PRODUCT OR A
16 SECONDARY RAW MATERIAL.

17 (b) "RECYCLING" DOES NOT INCLUDE:

18 (I) ENERGY RECOVERY OR ENERGY GENERATION BY MEANS OF
19 COMBUSTION;

20 (II) USE AS A FUEL;

21 (III) USE AS ALTERNATIVE DAILY COVER AS DEFINED IN SECTION
22 30-20-1402 (1); OR

23 (IV) LANDFILL DISPOSAL OF DISCARDED COVERED MATERIALS. _____
24 _____

25 _____

26 (40) (a) "RECYCLING RATE" MEANS THE WEIGHT OF COVERED
27 MATERIALS THAT ARE RECYCLED UNDER THE PROGRAM IN A CALENDAR
28 YEAR DIVIDED BY THE WEIGHT OF COVERED MATERIALS USED FOR

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1 PRODUCTS SOLD, OFFERED FOR SALE, OR DISTRIBUTED BY PRODUCERS
2 WITHIN OR INTO THE STATE IN THE SAME CALENDAR YEAR, EXPRESSED AS
3 A PERCENTAGE.

4 (b) "RECYCLING RATE" IS MEASURED AT THE POINT WHERE
5 COVERED MATERIALS HAVE BEEN PROCESSED AND ARE READY FOR SALE
6 OR DELIVERY TO MATERIAL RECLAIMERS OR END MARKETS AFTER
7 PROCESSING AT A MATERIALS RECOVERY FACILITY OR SIMILAR
8 ESTABLISHMENT.

9 (41) (a) (I) "RECYCLING SERVICES" MEANS SERVICES PROVIDED
10 FOR THE RECYCLING OF COVERED MATERIALS, INCLUDING THE
11 COLLECTION, TRANSPORTATION, AND PROCESSING OF COVERED MATERIALS
12 FROM THE CONSUMER TO THE END MARKET.

13 (II) "RECYCLING SERVICES" INCLUDES CURBSIDE SERVICES AND
14 DROP-OFF CENTERS.

15 (b) "RECYCLING SERVICES" DOES NOT INCLUDE SCRAP METAL
16 RECYCLING OR INDUSTRIAL RECYCLING SERVICES.

17 (42) "RESPONSIBLE END MARKET" MEANS A MATERIALS MARKET
18 IN WHICH THE RECYCLING OR COLLECTION OF MATERIALS OR THE DISPOSAL
19 OF CONTAMINANTS IS CONDUCTED IN A WAY THAT:

20 (a) BENEFITS THE ENVIRONMENT; AND

21 (b) MINIMIZES RISKS TO PUBLIC HEALTH AND WORKER HEALTH
22 AND SAFETY.

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

27 (44) "REUSE" OR "REFILL" MEANS THE RETURN INTO THE
28 MARKETPLACE OF A COVERED MATERIAL THAT:

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

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

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

9 (46) "SINGLE-USE FOOD SERVICEWARE" MEANS A PRODUCT SUCH
10 AS A STRAW, CUTLERY, OR PLATE THAT IS SUPPLIED BY A RETAIL FOOD
11 ESTABLISHMENT, AS DEFINED IN SECTION 25-4-1602 (14), OR THIRD PARTY
12 FOOD DELIVERY SERVICE, AS DEFINED IN SECTION 30-11-129 (1)(c), WITH
13 A FOOD OR BEVERAGE PRODUCT THAT FACILITATES THE CONSUMPTION OF
14 THAT FOOD OR BEVERAGE PRODUCT AND THAT IS ORDINARILY DISPOSED
15 OF AFTER A SINGLE USE, WHETHER OR NOT IT COULD BE REUSED.

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

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

25 (I) THREE VOTING MEMBERS REPRESENTING LOCAL GOVERNMENTS
26 IN THE STATE, INCLUDING:

27 (A) ONE MEMBER REPRESENTING A MUNICIPALITY;

28 (B) ONE MEMBER REPRESENTING A COUNTY; AND

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

3 (II) ONE VOTING MEMBER REPRESENTING A MATERIALS RECOVERY
4 FACILITY;

5 (III) ONE VOTING MEMBER REPRESENTING A HAULER OF
6 RECYCLABLE MATERIALS, WHETHER REPRESENTING THE PUBLIC OR
7 PRIVATE SECTOR;

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

10 (V) ONE VOTING MEMBER REPRESENTING A PACKAGING MATERIAL
11 SUPPLIER THAT IS NOT A PRODUCER;

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

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

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

19 (IX) ONE VOTING MEMBER REPRESENTING A COMPOSTING FACILITY
20 OPERATOR;

21 (X) ONE VOTING MEMBER WHO HAS EXPERIENCE IN
22 ENVIRONMENTAL JUSTICE AND REPRESENTING UNDERSERVED
23 COMMUNITIES;

24 (XI) ONE VOTING MEMBER WITH RELEVANT KNOWLEDGE OF
25 RECYCLING PROGRAMS ACROSS GEOGRAPHIC AREAS OF THE STATE;

26 (XII) ONE NONVOTING MEMBER REPRESENTING THE DEPARTMENT;
27 AND

28 (XIII) ONE NONVOTING MEMBER REPRESENTING THE PRODUCER

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1 RESPONSIBILITY ORGANIZATION.

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

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

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

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

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

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

6 (7) THE ADVISORY BOARD SHALL:

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

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

11 (c) REVIEW THE PLAN PROPOSAL SUBMITTED UNDER SECTION
12 25-17-605 (4);

13 (d) RECOMMEND _____ AMENDMENTS TO THE PLAN PROPOSAL,
14 AMENDED PLAN PROPOSAL, AND THE FINAL PLAN TO THE EXECUTIVE
15 DIRECTOR;

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

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

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

24 **25-17-605. Producer responsibility program for statewide**
25 **recycling - needs assessment - plan proposal - rules.** (1) ON OR BEFORE
26 JUNE 1, 2023, THE EXECUTIVE DIRECTOR SHALL SELECT A PRODUCER
27 RESPONSIBILITY ORGANIZATION TO IMPLEMENT AND ADMINISTER THE
28 PRODUCER RESPONSIBILITY PROGRAM FOR STATEWIDE RECYCLING. THE

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1 ORGANIZATION SELECTED BY THE EXECUTIVE DIRECTOR MUST HAVE A
2 GOVERNING BOARD WITH VOTING MEMBERS THAT REPRESENT A DIVERSE
3 RANGE OF PRODUCERS AND REPRESENT PRODUCERS OF DIFFERENT TYPES
4 OF COVERED MATERIALS. THE GOVERNING BOARD OF THE ORGANIZATION
5 MAY INCLUDE NON-VOTING MEMBERS THAT REPRESENTS A DIVERSITY OF
6 MATERIAL TRADE ASSOCIATIONS.

7 (2) THE PRODUCER RESPONSIBILITY ORGANIZATION SHALL:
8 (a) FACILITATE A NEEDS ASSESSMENT IN CONSULTATION WITH THE
9 ADVISORY BOARD;

10 (b) CONSULT WITH THE ADVISORY BOARD IN THE DEVELOPMENT
11 OF THE PLAN PROPOSAL PRIOR TO ITS SUBMISSION;

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

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

17 (3) (a) ON OR BEFORE SEPTEMBER 1, 2023, THE ORGANIZATION
18 SHALL HIRE AN INDEPENDENT THIRD PARTY APPROVED BY THE EXECUTIVE
19 DIRECTOR TO CONDUCT AN ASSESSMENT OF THE STATE'S RECYCLING
20 NEEDS. PRIOR TO THE COMMENCEMENT OF THE NEEDS ASSESSMENT, THE
21 ORGANIZATION SHALL CONSULT WITH THE ADVISORY BOARD ON THE
22 SCOPE OF THE NEEDS ASSESSMENT AND PROVIDE ANY NECESSARY
23 RECOMMENDATIONS TO THE THIRD-PARTY CONSULTANT CONDUCTING THE
24 NEEDS ASSESSMENT. THE NEEDS ASSESSMENT SHALL BE INCLUSIVE OF AND
25 ADDRESS THE NEEDS OF THE FOUR GEOGRAPHIC REGIONS OF THE STATE, AS
26 SHOWN IN FIGURE 1-1 IN THE DEPARTMENT'S "COLORADO INTEGRATED
27 SOLID WASTE & MATERIALS MANAGEMENT PLAN", DATED JUNE 2016. AT
28 A MINIMUM, THE NEEDS ASSESSMENT MUST IDENTIFY:

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1 (I) THE LEVELS OF RECYCLING SERVICES PROVIDED IN THE STATE
2 AND IN SURROUNDING REGIONS;

3 (II) THE LEVELS OF CONTAMINATION AT MATERIAL RECOVERY
4 FACILITIES AND ORGANIC PROCESSING FACILITIES THROUGHOUT THE STATE
5 AND THE IMPACTS OF CONTAMINATION ON THOSE FACILITIES;

6 (III) ANY ADDITIONAL RECYCLING SERVICES AND
7 INFRASTRUCTURE NEEDED FOR THE PROGRAM TO MEET OR EXCEED THE
8 CONVENIENCE STANDARDS AND THE PROJECTED SCENARIOS FOR
9 INCREASING THE RECYCLING RATE AND COLLECTION RATE OF COVERED
10 MATERIALS, AS IDENTIFIED PURSUANT TO SUBSECTION (3)(a)(IX) OF THIS
11 SECTION;

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

16 (V) THE MARKET CONDITIONS AND OPPORTUNITIES FOR THE USE
17 OF RECYCLED COVERED MATERIALS IN THE STATE AND IN DIFFERENT
18 GEOGRAPHIC AREAS;

19 (VI) OPPORTUNITIES FOR THE USE OF INNOVATIVE NEW
20 TECHNOLOGIES FOR THE RECYCLING AND REUSE OF COVERED MATERIALS;

21 (VII) THE AVAILABILITY AND SCOPE OF ANY REUSE OR REFILL
22 SYSTEMS IN THE STATE AFFECTING THE USE OF COVERED MATERIALS;

23 (VIII) EDUCATION NEEDS IN THE STATE WITH RESPECT TO
24 INCREASING THE RECYCLING AND REUSE OF COVERED MATERIALS; AND

25 (IX) AT LEAST THREE PROJECTED SCENARIOS FOR INCREASING THE
26 RECYCLING RATE AND COLLECTION RATE OF COVERED MATERIALS IN THE
27 STATE, INCLUDING RECYCLING RATES AND COLLECTION RATES THAT THE
28 STATE COULD MEET BY JANUARY 1, 2030, AND JANUARY 1, 2035.

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1 (b) THE ORGANIZATION SHALL CONSULT WITH THE ADVISORY
2 BOARD THROUGHOUT THE NEEDS ASSESSMENT PROCESS.

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

9 (d) ON OR BEFORE [REDACTED], BASED ON THE FINDINGS OF THE NEEDS
10 ASSESSMENT, THE ADVISORY BOARD SHALL RECOMMEND TO THE
11 ORGANIZATION THE MINIMUM COLLECTION RATES, RECYCLING RATES, AND
12 POST-CONSUMER RECYCLED CONTENT RATES THAT THE ORGANIZATION
13 SHALL USE IN DEVELOPING THE PLAN PROPOSAL.

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

1 ASSESSMENT UNDER THIS SUBSECTION (3)(d).

2 (4) ON OR BEFORE FEBRUARY 1, 2025, THE ORGANIZATION SHALL

3 SUBMIT A PLAN PROPOSAL FOR THE PROGRAM TO THE ADVISORY BOARD.

4 IN DEVELOPING THE PLAN PROPOSAL, THE ORGANIZATION SHALL SOLICIT

5 AND CONSIDER INPUT FROM THE ADVISORY BOARD AND FROM INTERESTED

6 PARTIES. THE PLAN PROPOSAL MUST COVER A PERIOD OF FIVE YEARS, AND

7 AN UPDATED PLAN PROPOSAL MUST BE SUBMITTED TO THE ADVISORY

8 BOARD ON OR BEFORE FEBRUARY 1 EVERY FIVE YEARS THEREAFTER. TO

9 BE APPROVED, A PLAN PROPOSAL MUST:

10 (a) PROVIDE CONTACT INFORMATION FOR THE ORGANIZATION AND

11 A REPRESENTATIVE OF THE ORGANIZATION;

12 (b) DESCRIBE HOW THE PLAN PROPOSAL WILL ADDRESS AND

13 IMPLEMENT THE FINDINGS OF THE NEEDS ASSESSMENT;

14 (c) DESCRIBE THE MANNER IN WHICH THE ORGANIZATION

15 SOLICITED AND CONSIDERED INPUT FROM INTERESTED PERSONS AND THE

16 ADVISORY BOARD IN DEVELOPING THE PLAN PROPOSAL. THE

17 ORGANIZATION MUST PROVIDE A SUMMARY OF ANY COMMENTS ABOUT

18 THE PLAN PROPOSAL FROM THE ADVISORY BOARD AND THE PUBLIC AND

19 IDENTIFY ANY SIGNIFICANT CHANGES MADE TO THE PLAN PROPOSAL BASED

20 ON THE COMMENTS.

21 (d) DESCRIBE HOW THE ORGANIZATION WILL TRACK COMPLIANCE

22 AMONG PRODUCERS AND WILL IMPLEMENT STRATEGIES INTENDED TO

23 BRING PRODUCERS INTO COMPLIANCE;

24 (e) INCLUDE A COMPREHENSIVE LIST OF THE COVERED MATERIALS

25 INCLUDED IN THE PROGRAM IN ACCORDANCE WITH THIS PART 6;

26 (f) ESTABLISH RECYCLING PRACTICES THAT:

27 (I) MEET OR EXCEED THE CONVENIENCE STANDARDS;

28 (II) USE OPEN, COMPETITIVE, AND FAIR PROCUREMENT PRACTICES

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

5 (III) ENSURE THAT ANY COVERED MATERIALS PROCESSED BY A
6 METHOD OTHER THAN MECHANICAL RECYCLING ARE TRANSFERRED TO A
7 RESPONSIBLE END MARKET; AND

8 (IV) USE ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES
9 THAT PRIORITIZE END USES FOR COVERED MATERIALS THAT MAXIMIZE
10 BENEFITS TO THE ENVIRONMENT AND MINIMIZE RISKS TO PUBLIC HEALTH
11 AND SAFETY;

12 (g) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH
13 NEWSPAPER PUBLISHERS TO ACCEPT PRINT OR ONLINE ADVERTISING IN
14 LIEU OF ALL OR A PORTION OF THE MEMBERSHIP DUES FOR NEWSPAPERS
15 CIRCULATED WITHIN THE STATE;

16 (h) ESTABLISH A FUNDING MECHANISM:
17 (I) THAT DOES NOT EXCEED THE DIRECT AND INDIRECT COSTS OF
18 IMPLEMENTING THE PROGRAM, INCLUDING THE COSTS OF:

19 (A) PROVIDING RECYCLING SERVICES UNDER THE PROGRAM
20 THROUGH CONTRACTS WITH AND REIMBURSEMENT OF SERVICE PROVIDERS;

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

23 (C) CONDUCTING THE NEEDS ASSESSMENT;

24 (D) DEVELOPING AND UPDATING THE FINAL PLAN;

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

27 (F) REIMBURSING THE DEPARTMENT PURSUANT TO SECTION
28 25-17-610 FOR ITS COSTS IN ADMINISTERING AND IMPLEMENTING THIS

1 PART 6, INCLUDING THE COSTS OF THE ADVISORY BOARD; AND
2 (G) REIMBURSING THE DEPARTMENT AND THE DEPARTMENT OF
3 LAW PURSUANT TO SECTION 25-17-610 FOR THE COSTS OF ENFORCING THIS
4 PART 6 PURSUANT TO SECTION 25-17-611;

5 (II) THAT IS FUNDED THROUGH PRODUCER RESPONSIBILITY DUES.
6 THE PRODUCER RESPONSIBILITY DUES PAID BY A PRODUCER MUST BE
7 BASED ON THE WEIGHT OF THE COVERED MATERIALS THAT ARE USED FOR
8 PRODUCTS SOLD, OFFERED FOR SALE, OR DISTRIBUTED BY THE PRODUCER
9 IN THE STATE. THE PRODUCER RESPONSIBILITY DUES FOR EACH COVERED
10 MATERIAL MUST VARY BASED ON THE MARKET VALUE OF THE COVERED
11 MATERIAL USED AND HOW COSTLY IT IS TO COLLECT, TRANSPORT,
12 PROCESS, OR RECYCLE THE COVERED MATERIAL.

13 (III) THAT REQUIRES:

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

17 (B) THE ORGANIZATION TO MAINTAIN A FINANCIAL RESERVE
18 SUFFICIENT TO OPERATE THE PROGRAM IN A FISCALLY PRUDENT AND
19 RESPONSIBLE MANNER;

20 (IV) THAT INCENTIVIZES:

21 (A) REDUCTIONS IN THE AMOUNT OF PACKAGING MATERIALS USED
22 FOR PRODUCTS;

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

25 (C) HIGH LEVELS OF POSTCONSUMER RECYCLED MATERIAL USE IN
26 A MANNER THAT DOES NOT DISRUPT THE RECYCLING OF OTHER
27 MATERIALS;

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

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1 AND

2 (E) HIGH REUSE AND REFILL RATES OF COVERED MATERIALS;

3 (V) THAT DISINCENTIVIZES:

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

6 (B) DESIGNS AND PRACTICES THAT DISRUPT THE RECYCLING OF
7 OTHER MATERIALS; AND

8 (C) PRODUCERS FROM USING COVERED MATERIALS THAT ARE NOT
9 ON THE MINIMUM RECYCLABLE LIST;

10 (VI) THAT, AT THE REQUEST OF A PRODUCER OR PRODUCERS OF A
11 COVERED MATERIAL, MAY INCLUDE A SPECIAL ASSESSMENT PAID BY THE
12 PRODUCERS OF THAT COVERED MATERIAL TO COVER SYSTEM
13 IMPROVEMENTS THAT IMPROVE THE COLLECTION AND RECYCLING OF THAT
14 COVERED MATERIAL;

15 (i) INCLUDE REIMBURSEMENT RATES FOR ONE HUNDRED PERCENT
16 OF THE NET COSTS OF THE RECYCLING SERVICES PROVIDED BY SERVICE
17 PROVIDERS UNDER THE PROGRAM AND PROCESSING AND TRANSPORTATION
18 SERVICES CONDUCTED BY ORGANIC PROCESSING FACILITIES. THE
19 REIMBURSEMENT RATES MUST:

20 (I) BE CALCULATED USING OBJECTIVE COST FORMULAS;

21 (II) TO THE EXTENT POSSIBLE, BE BASED ON DOCUMENTED DIRECT
22 COSTS INCURRED BY THE SERVICE PROVIDER OR ORGANIC PROCESSING
23 FACILITY; AND

24 (III) TAKE INTO ACCOUNT THE DIFFERENT FACTORS AND
25 DEMOGRAPHIC CONDITIONS THAT EXIST IN DIFFERENT **GEOGRAPHIC AREAS**
26 OF THE STATE AND THE COSTS ASSOCIATED WITH PROVIDING RECYCLING
27 SERVICES AND PROCESSING AND TRANSPORTATION SERVICES TO THOSE
28 **GEOGRAPHIC AREAS;**

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1 _____
2 (j) INCLUDE A PROPOSED BUDGET AND A DESCRIPTION OF THE
3 PROCESS USED TO DETERMINE PRODUCER RESPONSIBILITY DUES AND
4 REIMBURSEMENT RATES FOR SERVICE PROVIDERS AND ORGANIC
5 PROCESSING FACILITIES;

6 (k) DESCRIBE A PLAN THAT OUTLINES, IN THE CASE OF THE
7 ORGANIZATION CEASING TO EXIST OR OTHERWISE ADMINISTER THE
8 PROGRAM, HOW ANY PRODUCER RESPONSIBILITY DUES THAT HAVE NOT
9 BEEN USED TO IMPLEMENT THE PROGRAM WILL BE TRANSFERRED TO
10 ANOTHER ORGANIZATION SELECTED BY THE EXECUTIVE DIRECTOR UNDER
11 SECTION 25-17-605 (1) TO ADMINISTER THE PROGRAM;

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

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

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

23 (n) DESCRIBE HOW THE ORGANIZATION WILL VERIFY MINIMUM
24 POSTCONSUMER-RECYCLED-CONTENT RATES;

25 (o) DESCRIBE HOW THE ORGANIZATION WILL PROVIDE PRODUCERS
26 WITH THE OPPORTUNITY TO ELECT TO HAVE THE ORGANIZATION PURCHASE
27 POSTCONSUMER-RECYCLED MATERIALS FOR A PRODUCER FROM
28 PROCESSORS AT MARKET PRICES IF THE PRODUCER IS INTERESTED IN

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1 OBTAINING RECYCLED FEEDSTOCK TO ACHIEVE MINIMUM
2 POSTCONSUMER-RECYCLED-CONTENT RATES;

3 (p) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH SERVICE
4 PROVIDERS TO:

5 (I) UTILIZE AND EXPAND ON EXISTING RECYCLING SERVICES AND
6 INFRASTRUCTURE AND THE EDUCATION AND OUTREACH PROGRAM
7 DESCRIBED IN SECTION 25-17-607;

8 (II) REDUCE CONTAMINATION OF COVERED MATERIALS DELIVERED
9 TO MATERIALS RECOVERY FACILITIES AND ORGANICS PROCESSING
10 FACILITIES BY REQUIRING EACH MATERIALS RECOVERY FACILITY AND
11 ORGANICS PROCESSING FACILITY PARTICIPATING IN THE PROGRAM TO
12 REPORT ANNUALLY TO THE ORGANIZATION ON CONTAMINATION LEVELS AT
13 EACH _____ FACILITY;

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

15 (IV) PROPOSE PERFORMANCE STANDARDS TO MEASURE AND
16 REPORT ON THE USE OF REUSABLE AND REFILLABLE COVERED MATERIALS;

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

20 (VI) INVEST IN MARKET DEVELOPMENT FOR COVERED MATERIALS;

21 (g) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH
22 PRODUCERS TO REDUCE THE PACKAGING OF PRODUCTS USING COVERED
23 MATERIALS THROUGH PRODUCT DESIGN CHANGES, THE DEVELOPMENT OR
24 EXPANSION OF SYSTEMS FOR REUSABLE PACKAGING, AND PRODUCT
25 INNOVATION;

26 (r) DESCRIBE HOW THE PROGRAM WILL PRIORITIZE THE USE OF END
27 MARKETS THAT RETURN POST-CONSUMER RECYCLED MATERIALS INTO
28 THEIR ORIGINAL PRODUCT TYPE;

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1 (s) DESCRIBE HOW THE ORGANIZATION WILL EVALUATE AND
2 MONITOR THE USE OF RESPONSIBLE END MARKETS THROUGH METHODS
3 SUCH AS PROCESSOR CONTRACTS OR FINANCIAL INCENTIVES;

4 (t) DESCRIBE HOW THE ORGANIZATION WILL IMPLEMENT THE
5 EDUCATION AND OUTREACH PROGRAM SET FORTH IN SECTION 25-17-607;
6 AND

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

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

25 (b) (I) WITHIN SIXTY DAYS AFTER RECEIVING THE PLAN PROPOSAL
26 OR AMENDED PLAN PROPOSAL, THE EXECUTIVE DIRECTOR SHALL:

27 (A) APPROVE THE PLAN PROPOSAL OR AMENDED PLAN PROPOSAL
28 _____; OR

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1 _____
2 _____
3 (B) REJECT THE PLAN PROPOSAL OR AMENDED PLAN PROPOSAL.
4 (II) IF THE EXECUTIVE DIRECTOR REJECTS THE PLAN PROPOSAL OR
5 AMENDED PLAN PROPOSAL, THE EXECUTIVE DIRECTOR SHALL NOTIFY THE
6 ORGANIZATION OF THE REJECTION AND THE REASONS FOR THE REJECTION,
7 WHICH REASONS MUST BE BASED ON THE FAILURE OF THE PLAN PROPOSAL
8 OR AMENDED PLAN PROPOSAL TO COMPLY WITH THE REQUIREMENTS
9 SPECIFIED IN SUBSECTION (4) OF THIS SECTION. THE ORGANIZATION MUST
10 SUBMIT A NEW PLAN PROPOSAL TO THE ADVISORY BOARD WITHIN SIXTY
11 DAYS AFTER RECEIVING THE EXECUTIVE DIRECTOR'S REJECTION. THE NEW
12 PLAN PROPOSAL MUST BE REVIEWED BY THE ADVISORY BOARD AND THE
13 NEW PLAN PROPOSAL OR NEW AMENDED PLAN PROPOSAL MUST BE
14 REVIEWED AND APPROVED OR REJECTED BY THE EXECUTIVE DIRECTOR IN
15 ACCORDANCE WITH SUBSECTION (5)(a) OF THIS SECTION AND THIS
16 SUBSECTION (5)(b).
17 (c) (I) IF THE EXECUTIVE DIRECTOR APPROVES THE PLAN PROPOSAL
18 OR AMENDED PLAN PROPOSAL PURSUANT TO SUBSECTION (5)(b)(I) OF THIS
19 SECTION, THE EXECUTIVE DIRECTOR SHALL DESIGNATE THE PLAN
20 PROPOSAL OR AMENDED PLAN PROPOSAL AS THE FINAL PLAN AND SHALL
21 PUBLISH THE FINAL PLAN ON THE DEPARTMENT'S WEBSITE.
22 (II) THE ORGANIZATION SHALL BEGIN IMPLEMENTING THE FINAL
23 PLAN WITHIN SIX MONTHS AFTER IT IS APPROVED.
24 _____
25 (6) THE ORGANIZATION MAY SUBMIT PROPOSED AMENDMENTS TO
26 THE FINAL PLAN ANNUALLY TO THE ADVISORY BOARD FOR INCLUSION IN
27 THE ANNUAL REPORT PURSUANT TO SECTION 25-17-609 (2)(c). THE
28 ADVISORY BOARD SHALL REVIEW THE PROPOSED AMENDMENTS AND MAY

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1 RECOMMEND THOSE PROPOSED AMENDMENTS _____ TO THE EXECUTIVE
2 DIRECTOR IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SECTION
3 25-17-605 (5)(a). THE EXECUTIVE DIRECTOR SHALL APPROVE _____ OR
4 REJECT THE PROPOSED AMENDMENTS BASED ON THE PLAN PROPOSAL
5 REQUIREMENTS SPECIFIED IN SUBSECTION (4) OF THIS SECTION.

6 (7) THE EXECUTIVE DIRECTOR SHALL ENFORCE THIS PART 6 IN
7 ACCORDANCE WITH SECTION 25-17-611 AND PROMULGATE RULES IN
8 ACCORDANCE WITH ARTICLE 4 OF TITLE 24 AS MAY BE NECESSARY FOR THE
9 ADMINISTRATION OF THIS PART 6 AND THE ENFORCEMENT OF THIS PART 6
10 PURSUANT TO SECTION 25-17-611.

11 **25-17-606. Minimum recyclable list - convenience standards.**

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

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

25 (2) (a) (I) TO BE ELIGIBLE FOR REIMBURSEMENT FOR RECYCLING
26 SERVICES PROVIDED UNDER THE PROGRAM, ALL SERVICE PROVIDERS MUST
27 PROVIDE RECYCLING SERVICES FOR ALL READILY RECYCLABLE MATERIALS _
28 _____.

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1 (II) THE EXECUTIVE DIRECTOR MAY GRANT A SERVICE PROVIDER
2 AN EXCEPTION TO THE REQUIREMENTS OF SUBSECTION (2)(a) OF THIS
3 SECTION IF THE SERVICE PROVIDER DEMONSTRATES TO THE REASONABLE
4 SATISFACTION OF THE EXECUTIVE DIRECTOR THAT IT IS NOT ABLE TO
5 PROVIDE RECYCLING SERVICES FOR A READILY RECYCLABLE MATERIAL.

6 **(b) (I) TO BE ELIGIBLE FOR REIMBURSEMENT FOR PROCESSING AND**
7 **TRANSPORTATION SERVICES PROVIDED UNDER THE PROGRAM, ALL**
8 **ORGANIC PROCESSING FACILITIES MUST PROVIDE PROCESSING AND**
9 **TRANSPORTATION SERVICES FOR ALL READILY RECYCLABLE MATERIALS.**

10 (II) THE EXECUTIVE DIRECTOR MAY GRANT AN ORGANIC
11 PROCESSING FACILITY AN EXCEPTION TO THE REQUIREMENTS OF
12 SUBSECTION (2)(b) OF THIS SECTION IF THE ORGANIC PROCESSING FACILITY
13 DEMONSTRATES TO THE SATISFACTION OF THE EXECUTIVE DIRECTOR THAT
14 IT IS NOT ABLE TO PROVIDE PROCESSING AND TRANSPORTATION SERVICES
15 FOR ALL READILY RECYCLABLE MATERIALS.

16 (III) THE ORGANIZATION MAY REIMBURSE AN ORGANIC
17 PROCESSING FACILITY FOR PROCESSING AND TRANSPORTATION SERVICES
18 IF THE FACILITY DEMONSTRATES THAT THE COVERED MATERIALS WERE
19 PROCESSED AND TRANSPORTED AT A REASONABLE COST AND AT A
20 RESPONSIBLE END MARKET.

21 (3) (a) THE ORGANIZATION SHALL CONTRACT WITH SERVICE
22 PROVIDERS TO PROVIDE COVERED ENTITIES WITH CONVENIENT AND
23 EQUITABLE ACCESS TO RECYCLING SERVICES FOR ALL READILY
24 RECYCLABLE MATERIALS, AT NO CHARGE TO THE COVERED ENTITY, WITH
25 THE GOAL OF ACHIEVING THE RECYCLING RATE, COLLECTION RATE, AND
26 POSTCONSUMER-RECYCLED-CONTENT RATE ESTABLISHED IN THE FINAL
27 PLAN UNDER SECTION 25-17-605 (4)(1).

28 (b) TO THE EXTENT REASONABLE, RECYCLING SERVICES FOR

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1 READILY RECYCLABLE MATERIALS MUST BE PROVIDED IN A MANNER THAT
2 IS AS CONVENIENT AS THE COLLECTION OF SOLID WASTE IN THE COVERED
3 ENTITY'S **GEOGRAPHIC AREA**.

4 _____

5 (c) TO THE EXTENT REASONABLE, ANY COVERED ENTITIES IN THE
6 STATE THAT ARE RECEIVING RECYCLING SERVICES ON AUGUST 1, 2022,
7 MUST CONTINUE TO RECEIVE EQUIVALENT RECYCLING SERVICES THROUGH
8 THE PROGRAM OR A SERVICE PROVIDER AS OF AUGUST 1, 2022.

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

12 **25-17-607. Education and outreach program.** (1) THE
13 ORGANIZATION SHALL DEVELOP AND IMPLEMENT A STATEWIDE
14 EDUCATION AND OUTREACH PROGRAM THAT IS DESIGNED TO INCREASE
15 THE RECYCLING AND REUSE OF COVERED MATERIALS AND INCLUDES
16 EDUCATION AND OUTREACH ON:

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

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

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

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

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

27 _____

28 _____

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1 **(b) UTILIZE AND EXPAND ON EXISTING RECYCLING EDUCATION**
2 **MATERIALS AND SERVICES PROVIDED THROUGHOUT THE STATE; AND**

3 **(c) BE DESIGNED TO HELP THE STATE ACHIEVE THE MINIMUM**
4 **COLLECTION RATES AND MINIMUM RECYCLING RATES _____ ESTABLISHED**
5 **IN THE FINAL PLAN UNDER SECTION 25-17-605 (4)(I) AND REDUCE**
6 **CONTAMINATION LEVELS AND IMPACTS AT MATERIAL RECOVERY**
7 **FACILITIES AND ORGANIC PROCESSING FACILITIES FROM COVERED**
8 **MATERIALS.**

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

16 **(4) THE ORGANIZATION SHALL DEVELOP A PROPOSED**
17 **METHODOLOGY FOR EVALUATING AND REPORTING THE EFFECTIVENESS OF**
18 **THE EDUCATION AND OUTREACH PROGRAM ____.** **NOTWITHSTANDING ANY**
19 **LAW TO THE CONTRARY, THIS SECTION DOES NOT PROHIBIT SERVICE**
20 **PROVIDERS OR OTHER ENTITIES FROM DEVELOPING, DISTRIBUTING, OR**
21 **ENGAGING IN EDUCATION AND OUTREACH EFFORTS RELATED TO**
22 **RECYCLING AND COMPOSTING.**

23 **25-17-608. Producer requirements - participate in program or**
24 **develop alternative collection program - confidentiality - compliance**
25 **with local government codes - audit. (1) EFFECTIVE JULY 1, 2025, A**
26 **PRODUCER SHALL NOT SELL, OFFER FOR SALE, OR DISTRIBUTE ANY**
27 **PRODUCTS THAT USE COVERED MATERIALS IN THE STATE UNLESS THE**
28 **PRODUCER IS PARTICIPATING IN THE PROGRAM OR AN ALTERNATIVE**

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1 COLLECTION PROGRAM AS APPROVED BY THE EXECUTIVE DIRECTOR.

2 (2) (a) A PRODUCER OR GROUP OF PRODUCERS MAY DEVELOP AND

3 OPERATE AN ALTERNATIVE COLLECTION PROGRAM TO PROVIDE RECYCLING

4 SERVICES FOR ALL OR SOME TYPES OF COVERED MATERIALS. A PRODUCER

5 THAT PARTICIPATES IN AN ALTERNATIVE COLLECTION PROGRAM APPROVED

6 BY THE EXECUTIVE DIRECTOR MAY WHOLLY OR PARTIALLY OFFSET THE

7 PRODUCER'S PAYMENT OBLIGATIONS UNDER THE PROGRAM WITH RESPECT

8 TO THE TYPES OF COVERED MATERIALS INCLUDED IN THE ALTERNATIVE

9 COLLECTION PROGRAM.

10 (b) A PRODUCER OR GROUP OF PRODUCERS SEEKING TO IMPLEMENT

11 AN ALTERNATIVE COLLECTION PROGRAM SHALL SUBMIT AN ALTERNATIVE

12 COLLECTION PROGRAM PLAN PROPOSAL THAT COMPLIES WITH THE

13 REQUIREMENTS OF SECTION 25-17-605 (4). THE ADVISORY BOARD SHALL

14 REVIEW AND MAKE RECOMMENDATIONS ON, AND THE EXECUTIVE

15 DIRECTOR SHALL APPROVE _____ OR REJECT, ANY ALTERNATIVE

16 COLLECTION PROGRAM PLAN PROPOSALS OR AMENDMENTS IN

17 ACCORDANCE WITH THE PROCEDURES SET FORTH IN SECTIONS 25-17-605

18 (5) AND 25-17-605 (6).

19 (3) THE EXECUTIVE DIRECTOR, ADVISORY BOARD, ORGANIZATION,

20 AND A PRODUCER OR GROUP OF PRODUCERS REVIEWING OR IMPLEMENTING

21 AN ALTERNATIVE COLLECTION PROGRAM:

22 (a) MUST KEEP CONFIDENTIAL ANY PROPRIETARY INFORMATION

23 PROVIDED BY A PRODUCER; AND

24 (b) SHALL NOT INCLUDE ANY PROPRIETARY INFORMATION

25 PROVIDED BY A PRODUCER IN THE PLAN PROPOSAL, THE AMENDED PLAN

26 PROPOSAL, THE FINAL PLAN, OR ANY AMENDMENT TO THE FINAL PLAN.

27 (4) (a) THE PROGRAM AND ANY ALTERNATIVE COLLECTION

28 PROGRAM MUST COMPLY WITH ANY FIRE, SOLID WASTE, OR OTHER

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1 RELEVANT ORDINANCES OR RESOLUTIONS ADOPTED BY A LOCAL
2 GOVERNMENT AND WITH APPLICABLE STATE AND FEDERAL LAWS,
3 INCLUDING THE EXEMPTIONS SET FORTH IN SECTION 30-20-102 (5).

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

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

20 **25-17-609. Producer responsibility dues - inspection of records**
21 **- annual reporting.** (1) (a) BY A DATE DETERMINED BY THE
22 ORGANIZATION THAT IS NO LATER THAN JANUARY 1, 2025, AND ANNUALLY
23 THEREAFTER BY A DATE DETERMINED BY THE ORGANIZATION, UNLESS THE
24 PRODUCER IS PARTICIPATING IN AN ALTERNATIVE COLLECTION PROGRAM,
25 A PRODUCER SHALL PAY PRODUCER RESPONSIBILITY DUES TO THE
26 ORGANIZATION BASED ON THE FUNDING MECHANISM DESCRIBED IN THE
27 PLAN PROPOSAL PURSUANT TO SECTION 25-17-605 (4)(h).

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

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1 RELATED TO THE CALCULATION OF PRODUCER RESPONSIBILITY DUES
2 AVAILABLE FOR INSPECTION BY THE EXECUTIVE DIRECTOR. IN
3 CONNECTION WITH ENFORCING A VIOLATION BY A PRODUCER OR GROUP OF
4 PRODUCERS PURSUANT TO SECTION 25-17-611, THE EXECUTIVE DIRECTOR
5 MAY REQUEST IN WRITING THAT THE PRODUCER PROVIDE ANY SUCH
6 DOCUMENTS OR RECORDS TO THE EXECUTIVE DIRECTOR.

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

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

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

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

27 (IV) THE TOTAL WEIGHT OF THE COVERED MATERIALS THAT
28 PRODUCERS USED FOR PRODUCTS THAT ARE SOLD, OFFERED FOR SALE, OR

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1 DISTRIBUTED IN THE STATE;

2 (V) THE TOTAL AMOUNT OF PRODUCER RESPONSIBILITY DUES
3 COLLECTED UNDER THE PROGRAM, INCLUDING AN ANNUAL SCHEDULE OF
4 PRODUCER RESPONSIBILITY DUES BROKEN DOWN BY EACH TYPE OF
5 COVERED MATERIAL;

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

9 (A) MEANS OF COLLECTION, WHETHER BY CURBSIDE SERVICE OR
10 DROP-OFF CENTER;

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

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

15 (D) **GEOGRAPHIC AREA;**

16 (VII) THE TOTAL WEIGHT OF POSTCONSUMER RECYCLED
17 MATERIALS USED IN THE PRODUCTION OF COVERED MATERIALS;

18 (VIII) THE RECYCLING RATE, COLLECTION RATE, AND MINIMUM
19 POSTCONSUMER-RECYCLED-CONTENT RATE _____ SET FORTH IN THE FINAL
20 PLAN PURSUANT TO SECTION 25-17-605 (4)(l) AND A DESCRIPTION OF THE
21 ORGANIZATION'S PROCESS IN ACHIEVING THOSE RATES;

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

24 (A) SAMPLES OF ANY MATERIALS DISTRIBUTED; AND

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

27 (X) A LIST OF THE NAMES, LOCATIONS, AND HOURS OF OPERATION
28 FOR CURBSIDE SERVICES AND DROP-OFF CENTERS ACCEPTING OR

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1 COLLECTING COVERED MATERIALS UNDER THE PROGRAM;

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

5 (XII) A LIST OF THE END MARKETS OF ANY COVERED MATERIALS
6 PROCESSED THROUGH A METHOD OTHER THAN MECHANICAL RECYCLING,
7 INCLUDING:

8 (A) A DESCRIPTION OF HOW THE METHOD WILL AFFECT THE
9 ABILITY OF THE COVERED MATERIAL TO BE RECYCLED INTO FEEDSTOCK
10 FOR THE MANUFACTURE OF NEW PRODUCTS;

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

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

17 (D) AN ANALYSIS OF THE ENVIRONMENTAL IMPACTS OF THE
18 METHOD COMPARED TO THE ENVIRONMENTAL IMPACTS OF INCINERATION
19 OF LANDFILL DISPOSAL AS SOLID WASTE;

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

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

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

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

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1 (b) BEFORE MARCH 31 OF THE SECOND YEAR OF AN ALTERNATIVE
2 COLLECTION PROGRAM'S IMPLEMENTATION, AND ANNUALLY ON MARCH
3 31 THEREAFTER, THE PRODUCER OR GROUP OF PRODUCERS IMPLEMENTING
4 THE ALTERNATIVE COLLECTION PROGRAM SHALL SUBMIT A REPORT TO THE
5 ADVISORY BOARD DESCRIBING THE PROGRESS OF THE ALTERNATIVE
6 COLLECTION PROGRAM. THE REPORT MUST INCLUDE THE INFORMATION
7 DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION, AS APPLICABLE, FROM
8 THE PRECEDING CALENDAR YEAR. THE ADVISORY BOARD SHALL REVIEW
9 THE REPORT AND FORWARD THE REPORT TO THE EXECUTIVE DIRECTOR.
10 THE ADVISORY BOARD SHALL ALSO REVIEW ANY PROPOSED AMENDMENTS
11 TO THE ALTERNATIVE COLLECTION PROGRAM AND FORWARD THE
12 AMENDMENTS TO THE EXECUTIVE DIRECTOR WITH ITS RECOMMENDATION
13 FOR APPROVAL___OR REJECTION. THE EXECUTIVE DIRECTOR SHALL POST
14 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 AND ANY ALTERNATIVE COLLECTION
19 PROGRAMS. THE EXECUTIVE DIRECTOR SHALL INCLUDE THE DEPARTMENT'S
20 AND THE DEPARTMENT OF LAW'S ACTIVITIES AND EXPENSES THAT WERE
21 REIMBURSED PURSUANT TO SECTION 25-17-610 IN THE GENERAL REPORT.
22 THE EXECUTIVE DIRECTOR SHALL POST THE REPORT ON THE
23 DEPARTMENT'S WEBSITE AND SHALL ANNUALLY PRESENT THE GENERAL
24 REPORT TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE
25 SENATE AND THE ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE
26 OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, AND THE
27 GOVERNOR. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE
28 REPORTING REQUIREMENT SPECIFIED IN THIS SUBSECTION (2)(c)

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1 CONTINUES INDEFINITELY.
2 (3) IF, BASED ON THE ANNUAL REPORT SUBMITTED UNDER
3 SUBSECTION (2) OF THIS SECTION, THE PROGRAM OR ALTERNATIVE
4 COLLECTION PROGRAM IS NOT ON TRACK TO MEET THE MINIMUM
5 COLLECTION RATES, MINIMUM RECYCLING RATES, AND MINIMUM
6 POSTCONSUMER-RECYCLED-CONTENT RATES SET FORTH IN EACH
7 PROGRAM'S OR ALTERNATIVE COLLECTION PROGRAM'S RESPECTIVE PLAN,
8 THE EXECUTIVE DIRECTOR MAY REQUIRE THE ORGANIZATION, WITH
9 RESPECT TO THE PROGRAM, OR THE PRODUCER OR GROUP OF PRODUCERS,
10 WITH RESPECT TO AN ALTERNATIVE COLLECTION PROGRAM, TO AMEND ITS
11 RESPECTIVE PLAN UNDER SECTION 25-17-605 (6).

12 **25-17-610. Producer responsibility program for statewide**
13 **recycling administration fund - creation - purpose.** (1) THERE IS
14 HEREBY CREATED IN THE STATE TREASURY THE PRODUCER RESPONSIBILITY
15 PROGRAM FOR STATEWIDE RECYCLING ADMINISTRATION FUND. THE FUND
16 CONSISTS OF ALL PRODUCER RESPONSIBILITY DUES TRANSFERRED TO THE
17 FUND PURSUANT TO THIS SECTION AND MONEY THAT THE GENERAL
18 ASSEMBLY TRANSFERS TO THE FUND FOR USE BY THE DEPARTMENT AND
19 THE DEPARTMENT OF LAW. THE ORGANIZATION SHALL TRANSMIT A
20 PORTION OF THE PRODUCER RESPONSIBILITY DUES TO THE FUND FOR
21 PURPOSES OF REIMBURSING:

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

25 (b) THE DEPARTMENT FOR THE REASONABLE COSTS INCURRED IN
26 ENFORCING THIS PART 6 PURSUANT TO SECTION 25-17-611; AND

27 (c) THE DEPARTMENT OF LAW FOR THE REASONABLE COSTS
28 INCURRED IN ENFORCING THIS PART 6 PURSUANT TO SECTION 25-17-611.

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

5 (b) ON JUNE 30 OF EACH YEAR AFTER JUNE 30, 2026, THE
6 DEPARTMENT AND THE DEPARTMENT OF LAW SHALL NOTIFY THE
7 ORGANIZATION OF ITS COSTS IN ADMINISTERING, IMPLEMENTING, AND
8 ENFORCING THIS PART 6 DURING THE IMMEDIATELY PRECEDING YEAR.

9 (c) UPON RECEIPT OF THE DEPARTMENT'S AND THE DEPARTMENT
10 OF LAW'S COST ACCOUNTING, THE ORGANIZATION SHALL TRANSMIT TO THE
11 STATE TREASURER, FOR DEPOSIT IN THE FUND, AN AMOUNT OF PRODUCER
12 RESPONSIBILITY DUES NECESSARY TO REIMBURSE THE DEPARTMENT AND
13 THE DEPARTMENT OF LAW FOR ITS COSTS.

14 (3) THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE
15 MONEY FROM THE FUND TO THE DEPARTMENT AND THE DEPARTMENT OF
16 LAW FOR THE PURPOSES SET FORTH IN SUBSECTION (1) OF THIS SECTION.

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

23 **25-17-611. Violations - enforcement - administrative penalty.**

24 (1) (a) IF THE ORGANIZATION, A PRODUCER, OR A GROUP OF PRODUCERS
25 PARTICIPATING IN AN ALTERNATIVE COLLECTION PROGRAM VIOLATES ANY
26 PORTION OF THIS PART 6, THE ORGANIZATION, PRODUCER, OR GROUP OF
27 PRODUCERS IS LIABLE FOR AN ADMINISTRATIVE PENALTY NOT TO EXCEED:

28 (I) FOR A FIRST VIOLATION, AN INITIAL PENALTY OF FIVE

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1 THOUSAND DOLLARS FOR THE FIRST DAY OF EACH VIOLATION AND ONE
2 THOUSAND FIVE HUNDRED DOLLARS PER DAY FOR EACH DAY THE
3 VIOLATION CONTINUES;

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

9 (III) FOR A THIRD OR SUBSEQUENT VIOLATION COMMITTED WITHIN
10 TWELVE MONTHS AFTER A PRIOR VIOLATION, AN INITIAL PENALTY OF
11 TWENTY THOUSAND DOLLARS FOR THE FIRST DAY OF EACH VIOLATION AND
12 SIX THOUSAND DOLLARS PER DAY FOR EACH DAY THE VIOLATION
13 CONTINUES.

14 (b) PRODUCERS IN A GROUP OF PRODUCERS PARTICIPATING IN AN
15 ALTERNATIVE COLLECTION PROGRAM ARE JOINTLY AND SEVERALLY
16 LIABLE FOR ANY VIOLATION RELATED TO THE PLANNING OR
17 IMPLEMENTATION OF THE ALTERNATIVE COLLECTION PROGRAM.

18 (2) (a) IF THE ORGANIZATION, A PRODUCER, OR A GROUP OF
19 PRODUCERS VIOLATES ANY PORTION OF THIS PART 6, THE EXECUTIVE
20 DIRECTOR SHALL SERVE BY PERSONAL SERVICE OR BY CERTIFIED MAIL AN
21 ORDER THAT IMPOSES AN ADMINISTRATIVE PENALTY ON THE
22 ORGANIZATION, PRODUCER, OR GROUP OF PRODUCERS.

23 (b) THE ORGANIZATION, A PRODUCER, OR A GROUP OF PRODUCERS
24 MAY SUBMIT A WRITTEN REQUEST TO THE EXECUTIVE DIRECTOR FOR A
25 HEARING BY PERSONAL SERVICE OR BY CERTIFIED MAIL WITHIN
26 THIRTY-FIVE CALENDAR DAYS AFTER THE DATE OF THE ORDER IMPOSING
27 AN ADMINISTRATIVE PENALTY. THE COMMISSION SHALL CONDUCT THE
28 HEARING IN ACCORDANCE WITH SECTION 24-4-105.

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1 (c) IF A REQUEST FOR A HEARING IS FILED, THE REQUIREMENT TO
2 PAY A PENALTY IS STAYED PENDING A FINAL DECISION BY THE COMMISSION
3 AFTER A HEARING ON THE MERITS. THE EXECUTIVE DIRECTOR IS NOT
4 PRECLUDED FROM IMPOSING AN ADMINISTRATIVE PENALTY AGAINST THE
5 ORGANIZATION, A PRODUCER, OR A GROUP OF PRODUCERS FOR
6 SUBSEQUENT VIOLATIONS OF THIS PART 6 COMMITTED DURING THE
7 PENDENCY OF THE STAY.

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

11 (3) THE EXECUTIVE DIRECTOR MAY ENTER INTO A SETTLEMENT
12 AGREEMENT WITH THE ORGANIZATION, A PRODUCER, OR A GROUP OF
13 PRODUCERS 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 A PRODUCER, GROUP OF PRODUCERS, OR THE ORGANIZATION.

23 **25-17-612. Limited exemption from antitrust, restraint of**
24 **trade, and unfair trade practices provisions.** IF THE PROGRAM OR AN
25 ALTERNATIVE COLLECTION PROGRAM ENGAGES IN AN ACTIVITY
26 PERFORMED SOLELY IN FURTHERANCE OF IMPLEMENTING THE PROGRAM OR
27 ALTERNATIVE COLLECTION PROGRAM AND IN COMPLIANCE WITH THIS PART
28 6, THE ACTIVITY IS NOT A VIOLATION OF THE ANTITRUST, RESTRAINT OF

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

4 **25-17-613. Eligibility for state or local incentive programs.**

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

8 **25-17-614. Producer exemptions.** (1) A PRODUCER IS EXEMPT
9 FROM THE REQUIREMENTS OF THIS PART 6 IF THE PRODUCER IS:

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

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

15 (c) THE STATE OR A LOCAL GOVERNMENT; OR

16 (d) A NONPROFIT ORGANIZATION.

17 (2) THE EXECUTIVE DIRECTOR SHALL ADJUST BY RULE THE DOLLAR
18 LIMITATION SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION ON JULY 1,
19 2023, AND ON JULY 1 OF EACH YEAR THEREAFTER, BASED ON THE
20 PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S
21 BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR
22 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN
23 CONSUMERS, OR ITS SUCCESSOR INDEX.

24 **25-17-615. Restriction on _____ fees.** A PERSON MAY NOT
25 CHARGE ANY KIND OF POINT OF SALE OR POINT-OF-COLLECTION FEE TO
26 CONSUMERS _____ TO RECOUP _____ ITS COSTS IN MEETING THE
27 OBLIGATIONS OF OR COMPLYING WITH THIS PART 6.

28 **25-17-615. Restriction use of producer responsibility dues.**

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1 THE ORGANIZATION SHALL NOT USE THE PRODUCER RESPONSIBILITY DUES
2 COLLECTED BY THE ORGANIZATION PURSUANT TO THIS PART 6 TO CARRY
3 OUT LOBBYING ACTIVITIES, BRING OR DEFEND A LAWSUIT AGAINST THE
4 STATE, DEFEND LITIGATION INVOLVING CLAIMS OF THE ORGANIZATION'S
5 FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS PART 6, OR FOR
6 PAYMENTS OF ADMINISTRATIVE PENALTIES AGAINST THE ORGANIZATION
7 ASSESSED BY THE EXECUTIVE DIRECTOR UNDER SECTION 25-17-611.

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

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

14 (I.5) MONEY CREDITED TO THE FUND PURSUANT TO SECTION
15 25-17-611 (4);

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