

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

DRAFT

UNEDITED
UNREVISED
REDRAFT
1.13.22
Double underlining
denotes changes from
prior draft

LLS NO. 22-0075.02 Sarah Lozano x3858

HOUSE BILL

HOUSE SPONSORSHIP

Cutter,

SENATE SPONSORSHIP

Priola and Gonzales,

BILL TOPIC: "Producer Responsibility For Recycling Program"

DEADLINES: Finalize by: JAN 13, 2022 File by: JAN 18, 2022

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF THE PRODUCER RESPONSIBILITY FOR
102 RECYCLING PROGRAM TO IMPLEMENT A STATEWIDE RECYCLING
103 SYSTEM TO REDUCE WASTE.

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 March 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 program that provides recycling services to covered entities in the state, which are defined as residences, businesses,

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

educational institutions, government buildings, and public places (program). The program is funded by annual dues (producer responsibility dues) paid by producers of covered materials, which are defined as packaging materials, paper products, and single-use food serviceware that are sold or distributed in the state.

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

- On or before May 1, 2023, hire an independent third party approved by the executive director to conduct an assessment of recycling needs in the state (needs assessment);
- On or before November 30, 2023, report the results of the needs assessment to the advisory board and the executive director; and
- On or before June 1, 2024, 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 the recycling needs of the state set forth in the needs assessment;
- Establish a funding mechanism that covers the costs of the program and the department through producer responsibility dues;
- Set standard rates to reimburse the 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 service providers performing services under the program must collect to be eligible for reimbursement under the program; and
- Set minimum recycling rates, recovery rates, and post-consumer content rates that the state will meet by January 1, 2030 and January 1, 2035.

As part of the program, the organization must:

- Provide statewide recycling services to covered entities for all covered materials on the minimum recyclable list through public and private recycling service providers;
- Develop and implement a statewide education and outreach program on the recycling and reuse of covered materials;
- 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 of covered materials 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

1 PUBLIC HEALTH BY SAVING ENERGY, CONSERVING NATURAL RESOURCES,
2 AND REDUCING GREENHOUSE GAS EMISSIONS;

3 (b) AS OF JANUARY 1, 2022, COLORADO ONLY RECYCLES FIFTEEN
4 PERCENT OF ITS WASTE, WHICH IS LESS THAN HALF OF THE NATIONAL
5 AVERAGE; *<{What date is the data current through? I think because*
6 *this language is going in statute, the bill needs to say what time period*
7 *the data is from.}>*

8 (c) COLORADO IS NOT ON TRACK TO MEET THE STATEWIDE
9 RECYCLING AND WASTE DIVERSION GOALS ADOPTED BY THE POLLUTION
10 PREVENTION ADVISORY BOARD ASSISTANCE COMMITTEE IN 2016 AND SET
11 FORTH IN THE INTEGRATED SOLID WASTE AND MATERIALS MANAGEMENT
12 PLAN;

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

17 (e) IT IS THE OBLIGATION OF PRODUCERS TO SHARE IN THE
18 RESPONSIBILITY TO REDUCE THOSE NEGATIVE IMPACTS BY PROMOTING THE
19 REDUCTION, REUSE, RECOVERY, AND RECYCLING OF THEIR PRODUCTS AND
20 PACKAGING; AND

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

22 (I) ESTABLISH A CENTRALIZED SYSTEM FOR MANAGING RECYCLING
23 IN THE STATE THAT IS FUNDED BY ANNUAL DUES PAID BY THE PRODUCERS
24 OF RECYCLABLE MATERIALS;

25 (II) ESTABLISH A CLEAR AND UNIFORM STATEWIDE LIST OF
26 RECYCLABLE MATERIALS;

27 (III) PROVIDE SUBSTANTIAL SAVINGS TO LOCAL GOVERNMENTS

1 FOR THE COSTS OF PROVIDING RECYCLING SERVICES TO THEIR
2 COMMUNITIES;

3 (IV) INCREASE THE USE OF RECYCLABLE MATERIALS IN NEW
4 PRODUCTS AND PACKAGING;

5 (V) ENCOURAGE THE PRODUCERS OF RECYCLABLE MATERIALS TO
6 DESIGN AND MANAGE THOSE MATERIALS TO PREVENT AND MINIMIZE THEIR
7 NEGATIVE ENVIRONMENTAL, SOCIAL, ECONOMIC, AND HEALTH IMPACTS;

8 (VI) BE MANAGED BY AN INDEPENDENT NONPROFIT ORGANIZATION
9 WITH OVERSIGHT BY AN ADVISORY BOARD OF RECYCLING EXPERTS AND
10 THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

11 (VII) INVEST IN END-MARKET DEVELOPMENT AND INNOVATIONS
12 THAT ATTRACT NEW BUSINESSES TO COLORADO AND CREATE A MORE
13 RESILIENT DOMESTIC SUPPLY CHAIN; AND

14 (VIII) LEVERAGE EXISTING RECYCLING SYSTEMS AND
15 INFRASTRUCTURE BY WORKING WITH BOTH PUBLIC AND PRIVATE SERVICE
16 PROVIDERS.

17 (2) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT IT IS IN
18 THE PUBLIC INTEREST OF COLORADO TO REQUIRE PRODUCERS OF
19 RECYCLABLE MATERIALS SOLD OR DISTRIBUTED IN COLORADO TO FINANCE
20 A PRODUCER RESPONSIBILITY PROGRAM THAT PROVIDES STATEWIDE
21 RECYCLING SERVICES.

22 **25-17-603. Definitions - rules.** AS USED IN THIS PART 6, UNLESS
23 THE CONTEXT OTHERWISE REQUIRES:

24 (1) "ADVISORY BOARD" MEANS THE PRODUCER RESPONSIBILITY
25 FOR RECYCLING ADVISORY BOARD CREATED IN SECTION 25-17-604 (1).

26 (2) "ALTERNATIVE COLLECTION PROGRAM" MEANS A PROGRAM
27 PROVIDING RECYCLING SERVICES FOR SOME OR ALL COVERED MATERIALS

1 THAT IS OPERATED BY A PRODUCER OR GROUP OF PRODUCERS AND FOR
2 WHICH A PLAN PROPOSAL IS SUBMITTED TO THE EXECUTIVE DIRECTOR AND
3 ADVISORY BOARD AND APPROVED BY THE EXECUTIVE DIRECTOR IN
4 ACCORDANCE WITH SECTION 25-17-608 (2).

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

9 (4) "COLLECTION" MEANS THE GATHERING OF SOURCE SEPARATED
10 COVERED MATERIALS, INCLUDING THE PRELIMINARY SORTING AND
11 STORAGE OF WASTE, FOR THE PURPOSES OF TRANSPORTATION TO A
12 MATERIALS RECOVERY FACILITY.

13 (5) "CONVENIENCE STANDARDS" MEAN THE STANDARDS FOR THE
14 PROGRAM SET FORTH IN SECTION 25-17-606 (3).

15 (6) "COVERED ENTITY" MEANS:
16 (a) ALL SINGLE OR MULTI-FAMILY RESIDENCES IN THE STATE; AND
17 (b) NONRESIDENTIAL LOCATIONS, INCLUDING BUSINESSES,
18 EDUCATIONAL INSTITUTIONS, STATE AND LOCAL GOVERNMENT BUILDINGS,
19 AND PUBLIC PLACES, USING COVERED MATERIALS THAT ARE PROCESSED BY
20 A MATERIALS RECOVERY FACILITY.

21 (7) (a) "COVERED MATERIALS" _____ INCLUDES:
22 (I) PACKAGING MATERIAL;
23 (II) PAPER PRODUCTS; AND
24 (III) SINGLE-USE FOOD SERVICEWARE.

25 (b) "COVERED MATERIALS" DOES NOT INCLUDE:
26 (I) MATERIALS USED FOR LONG-TERM STORAGE OR PROTECTION OF
27 A PRODUCT AND THAT CAN BE EXPECTED TO BE USABLE FOR THAT PURPOSE

1 FOR AT LEAST FIVE YEARS;

2 (II) MATERIALS THAT ARE UNSAFE OR UNSANITARY TO RECYCLE

3 BECAUSE OF THEIR INTENDED USE, AS DETERMINED BY THE EXECUTIVE

4 DIRECTOR BY RULE;

5 (III) BOUND BOOKS;

6 (IV) BEVERAGE CONTAINERS SUBJECT TO A RETURNABLE

7 CONTAINER DEPOSIT, IF APPLICABLE;

8 (V) MATERIALS THAT ARE REGULATED AS A DRUG, MEDICAL

9 DEVICE, OR DIETARY SUPPLEMENT BY THE FEDERAL FOOD AND DRUG

10 ADMINISTRATION UNDER THE "FEDERAL FOOD, DRUG, AND COSMETIC

11 ACT", 21 U.S.C. SEC. 301 ET SEQ., AS AMENDED, OR ANY FEDERAL

12 REGULATION PROMULGATED UNDER THE ACT, OR ANY EQUIPMENT AND

13 MATERIALS USED TO MANUFACTURE SUCH PRODUCTS;

14 (VI) ANIMAL BIOLOGICS, INCLUDING VACCINES, BACTERINS,

15 ANTISERA, DIAGNOSTIC KITS, AND OTHER PRODUCTS OF BIOLOGICAL

16 ORIGIN AND ANY OTHER MATERIALS THAT ARE REGULATED UNDER THE

17 "VIRUS-SERUM-TOXIN ACT", 21 U.S.C. SEC. 151 ET SEQ., AS AMENDED;

18 (VII) TOXIC OR HAZARDOUS MATERIALS THAT ARE REGULATED

19 UNDER THE "FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT",

20 7 U.S.C. SEC. 136, ET SEQ., AS AMENDED; AND

21 (VIII) ARCHITECTURAL PAINT COVERED UNDER A PAINT

22 STEWARDSHIP PROGRAM IN ACCORDANCE WITH PART 4 OF THIS ARTICLE

23 17.

24 (8) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH

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

26 (9) "EDUCATIONAL INSTITUTIONS" INCLUDE:

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

1 (14) "FUND" MEANS THE PRODUCER RESPONSIBILITY FOR
2 RECYCLING PROGRAM ADMINISTRATION FUND CREATED IN SECTION
3 25-17-610.

4 (15) "INDUSTRIAL RECYCLING" MEANS THE PROCESS OF
5 COLLECTING, AGGREGATING, SIZE-REDUCING, AND OTHER OPERATIONS
6 THAT TURN PRE-CONSUMER MATERIALS, INCLUDING OFF-SPECIFICATION
7 PRODUCTS, DAMAGED PRODUCTS, AND ITEMS OR BY-PRODUCTS
8 GENERATED BY THE MANUFACTURE OF A PRODUCT BEFORE THE PRODUCT
9 REACHES AN END USER, INTO FEEDSTOCK FOR USE IN THE MANUFACTURE
10 OF NEW PRODUCTS.

11 (16) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY
12 COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

13 (17) "MATERIALS RECOVERY FACILITY" MEANS A FACILITY FOR
14 PROCESSING SOURCE-SEPARATED COVERED MATERIALS BEFORE THEY ARE
15 CONVEYED TO END-MARKET BUSINESSES, AS DEFINED IN SECTION
16 25-16.5-112 (4)(a).

17 (18) "MECHANICAL RECYCLING" MEANS A FORM OF RECYCLING
18 THAT DOES NOT CHANGE THE BASIC MOLECULAR STRUCTURE OF THE
19 MATERIAL BEING RECYCLED.

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

22 (20) "NEEDS ASSESSMENT" MEANS THE ASSESSMENT OF THE
23 STATE'S RECYCLING NEEDS CONDUCTED PURSUANT TO SECTION 25-17-605
24 (3).

25 (21) "NONPROFIT ORGANIZATION" MEANS A TAX-EXEMPT
26 CHARITABLE OR SOCIAL WELFARE ORGANIZATION OPERATING UNDER 26
27 U.S.C. 501(c)(3) OR 501(c)(4) OF THE FEDERAL "INTERNAL REVENUE

1 CODE OF 1986", AS AMENDED.

2 (22) (a) "PACKAGING MATERIAL" MEANS ANY MATERIAL,
3 REGARDLESS OF RECYCLABILITY, THAT IS INTENDED FOR SINGLE OR
4 SHORT-TERM USE AND IS USED FOR THE CONTAINMENT, PROTECTION,
5 HANDLING, DELIVERY, OR PRESENTATION OF PRODUCTS AT THE POINT OF
6 SALE.

7 (b) "PACKAGING MATERIAL" INCLUDES PAPER, PLASTIC, GLASS,
8 METAL, CARTONS, SECONDARY OR TERTIARY PACKAGING MATERIALS
9 , FLEXIBLE FOAM, RIGID PACKAGING, OR OTHER MATERIALS USED
10 FOR TRANSPORTATION OR DISTRIBUTION DIRECTLY TO A CONSUMER.

11 (23) "PAPER PRODUCTS" INCLUDE:

- 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 (24) "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 (5).

23 (25) "POSTCONSUMER-RECYCLED-CONTENT RATE" MEANS THE
24 VOLUME OF POSTCONSUMER RECYCLED MATERIALS USED IN THE
25 PRODUCTION OF COVERED MATERIALS IN A CALENDAR YEAR DIVIDED BY
26 THE VOLUME OF COVERED MATERIALS USED FOR PRODUCTS SOLD, OFFERED
27 FOR SALE, OR DISTRIBUTED BY PRODUCERS WITHIN OR INTO THE STATE IN

1 THE SAME CALENDAR YEAR, EXPRESSED AS A PERCENTAGE.

2 (26) (a) "POSTCONSUMER RECYCLED MATERIAL" MEANS ONLY
3 THOSE PRODUCTS THAT HAVE SERVED THEIR INTENDED END USE AS
4 CONSUMER ITEMS AND THAT HAVE BEEN SEPARATED OR DIVERTED FROM
5 THE WASTE STREAM FOR THE PURPOSES OF COLLECTION AND RECYCLING
6 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 (27) "PRODUCER" MEANS A PERSON THAT:

11 (a) USES A COVERED MATERIAL UNDER THE PERSON'S OWN NAME
12 OR BRAND AND THAT SELLS, OFFERS FOR SALE, OR DISTRIBUTES IN THE
13 STATE A PRODUCT THAT USES THE COVERED MATERIAL;

14 (b) IMPORTS A PRODUCT THAT USES A COVERED MATERIAL AS THE
15 OWNER OR LICENSEE OF A TRADEMARK OR BRAND UNDER WHICH THE
16 PRODUCT IS SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN THE STATE; OR

17 (c) SELLS, OFFERS FOR SALE, OR DISTRIBUTES A PRODUCT THAT
18 USES A COVERED MATERIAL IN THE STATE.

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

23 (29) "PRODUCER RESPONSIBILITY FOR RECYCLING PROGRAM" OR
24 "PROGRAM" MEANS THE PRODUCER RESPONSIBILITY FOR RECYCLING
25 PROGRAM CREATED IN ACCORDANCE WITH SECTION 25-17-605.

26 (30) "PRODUCER RESPONSIBILITY ORGANIZATION" OR
27 "ORGANIZATION" MEANS THE NONPROFIT ORGANIZATION SELECTED TO

1 IMPLEMENT THE PROGRAM PURSUANT TO SECTION 25-17-605 (1).

2 (31) "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 (32) (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, FORESTS, OR OTHER STATE-OWNED OR LOCAL
14 GOVERNMENT-OWNED LAND OPEN FOR RECREATION OR OTHER PUBLIC
15 USES, AND TRANSPORTATION FACILITIES, INCLUDING BUS AND TRAIN
16 STATIONS, AIRPORTS, AND FERRY TERMINALS.

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

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

21 (34) (a) "RECOVERY" OR "RECOVERED" MEANS THE DIVERSION OF
22 COVERED MATERIALS THAT MIGHT HAVE OTHERWISE BEEN DISPOSED OF AS
23 WASTE.

24 (b) "RECOVERY" OR "RECOVERED" DOES NOT INCLUDE COVERED
25 MATERIALS THAT HAVE BEEN PROCESSED AT A MATERIALS RECOVERY
26 FACILITY.

27 (35) "RECOVERY RATE" MEANS THE VOLUME OF COVERED

1 MATERIALS RECOVERED BY THE PROGRAM OVER A CALENDAR YEAR
2 DIVIDED BY THE VOLUME OF COVERED MATERIALS USED FOR PRODUCTS
3 SOLD, OFFERED FOR SALE, OR DISTRIBUTED BY PRODUCERS WITHIN OR INTO
4 THE STATE IN THE SAME CALENDAR YEAR, EXPRESSED AS A PERCENTAGE.

5 (36) (a) "RECYCLING" MEANS REPROCESSING, BY MEANS OF A
6 MANUFACTURING PROCESS, OF A USED MATERIAL INTO A PRODUCT OR A
7 SECONDARY RAW MATERIAL.

8 (b) "RECYCLING" DOES NOT INCLUDE:

9 (I) ENERGY RECOVERY OR ENERGY GENERATION BY MEANS OF
10 COMBUSTION;

11 (II) USE AS A FUEL;

12 (III) USE AS ALTERNATIVE DAILY COVER;

13 (IV) LANDFILL DISPOSAL OF DISCARDED COVERED MATERIALS; OR

14 (V) ANY OTHER PROCESS THAT HAS BEEN DETERMINED BY THE
15 EXECUTIVE DIRECTOR BY RULE TO NOT QUALIFY AS RECYCLING FOR THE
16 PURPOSES OF THIS PART 6.

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

23 (38) (a) (I) "RECYCLING SERVICES" MEANS SERVICES PROVIDED
24 FOR THE RECYCLING OF COVERED MATERIALS, INCLUDING THE
25 COLLECTION, TRANSPORTATION, AND PROCESSING OF COVERED
26 MATERIALS.

27 (II) "RECYCLING SERVICES" INCLUDES CURBSIDE SERVICES AND

1 DROP-OFF CENTERS_____.

2 (b) "RECYCLING SERVICES" DOES NOT INCLUDE SCRAP METAL
3 RECYCLING OR INDUSTRIAL RECYCLING SERVICES.

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

7 (a) BENEFITS THE ENVIRONMENT; AND

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

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

14 (41) "REUSE" OR "REFILL" MEANS THE RETURN INTO THE
15 MARKETPLACE OF A PRODUCT THAT HAS ALREADY BEEN USED IN THE SAME
16 MANNER AS ORIGINALLY INTENDED WITHOUT A CHANGE IN THE PRODUCT'S
17 PURPOSE.

18 (42) "SERVICE PROVIDER" MEANS A PUBLIC OR PRIVATE ENTITY,
19 OTHER THAN THE PRODUCER RESPONSIBILITY ORGANIZATION, THAT
20 PROVIDES RECYCLING SERVICES IN THE STATE.

21 (43) "SINGLE-USE FOOD SERVICEWARE" MEANS A SINGLE-USE ITEM
22 THAT A RETAIL FOOD ESTABLISHMENT, AS DEFINED IN SECTION 25-4-1602
23 (14), OR THIRD-PARTY FOOD DELIVERY SERVICE, AS DEFINED IN SECTION
24 30-11-129 (1)(c), PROVIDES A CUSTOMER TO ASSIST THE CUSTOMER IN
25 CONSUMING FOOD OR A BEVERAGE THAT THE RETAIL FOOD
26 ESTABLISHMENT OR THIRD-PARTY FOOD DELIVERY SERVICE PROVIDED THE
27 CUSTOMER.

1 **25-17-604. Producer responsibility for recycling advisory**
2 **board.** (1) THE PRODUCER RESPONSIBILITY FOR RECYCLING ADVISORY
3 BOARD IS HEREBY CREATED IN THE DEPARTMENT.

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

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

9 (A) ONE MEMBER REPRESENTING A COUNTY; AND

10 (B) ONE MEMBER REPRESENTING A LOCAL GOVERNMENT NOT
11 LOCATED IN THE FRONT RANGE;

12 _____

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

15 (III) ONE VOTING MEMBER REPRESENTING A PRIVATE OR PUBLIC
16 SECTOR RECYCLING SERVICES PROVIDER;

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

19 (V) ONE VOTING MEMBER REPRESENTING A PACKAGING SUPPLIER
20 THAT IS NOT A PRODUCER;

21 (VI) ONE VOTING MEMBER REPRESENTING A BUSINESS THAT IS
22 HEADQUARTERED IN THE STATE;

23 (VII) ONE VOTING MEMBER REPRESENTING A RETAILER'S
24 ASSOCIATION OR A RETAILER THAT IS NOT A PRODUCER;

25 (VIII) ONE VOTING MEMBER THAT REPRESENTS AN OPERATOR
26 PERFORMING RECYCLING, COMPOSTING, OR WASTE REDUCTION SERVICES
27 IN THE STATE;

1 (IV) ONE VOTING MEMBER WITH RELEVANT KNOWLEDGE OF
2 WASTE REDUCTION AND RECYCLING PROGRAMS IN VARIOUS COMMUNITIES
3 IN THE STATE;

4 (IV) ONE NONVOTING MEMBER REPRESENTING THE DEPARTMENT;
5 AND

6 (X) ONE NONVOTING MEMBER REPRESENTING THE PRODUCER
7 RESPONSIBILITY ORGANIZATION.

8 (b) THE MEMBERS OF THE ADVISORY BOARD MUST:

9 (I) HAVE RELEVANT KNOWLEDGE AND EXPERTISE IN RECYCLING
10 PROGRAMS OR THE IMPACTS OF COVERED MATERIALS ON THE STATE AND
11 THE ENVIRONMENT; AND

12 (II) BE REPRESENTATIVE OF A WIDE VARIETY OF GEOGRAPHIC
13 AREAS IN THE STATE.

14 (3) ALL APPOINTMENTS TO THE ADVISORY BOARD SHALL BE MADE
15 NO LATER THAN NOVEMBER 30, 2022. THE APPOINTMENTS SHALL BE MADE
16 FOR STAGGERING INITIAL TERMS OF TWO OR THREE YEARS AND
17 SUBSEQUENT TERMS OF THREE YEARS. THE EXECUTIVE DIRECTOR SHALL
18 FILL ANY VACANCY BY APPOINTMENT FOR THE REMAINDER OF THE
19 UNEXPIRED TERM.

20 (4) THE ADVISORY BOARD SHALL CONVENE ITS FIRST MEETING
21 NO LATER THAN JANUARY 31, 2023. AT THE FIRST MEETING, THE
22 VOTING MEMBERS SHALL SELECT A CHAIR AND VICE-CHAIR FROM AMONG
23 THE VOTING MEMBERS FOR A TERM NOT TO EXCEED TWO YEARS, AS
24 DETERMINED BY THE ADVISORY BOARD. THE ADVISORY BOARD SHALL
25 CONDUCT ANNUAL MEETINGS AND MAY CONDUCT MEETINGS MORE
26 FREQUENTLY UPON THE REQUEST OF THE CHAIR OR OF AT LEAST SIX OF THE
27 VOTING MEMBERS OF THE ADVISORY BOARD. THE ORGANIZATION MAY

1 PROVIDE TECHNICAL AND STAFF ASSISTANCE TO THE ADVISORY BOARD.
2 (5) ADVISORY BOARD MEMBERS ARE ENTITLED TO BE REIMBURSED
3 AT A RATE CONSISTENT WITH OTHER BOARDS AND COMMISSIONS CREATED
4 WITHIN THE DEPARTMENT FOR NECESSARY TRAVEL AND OTHER
5 REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR
6 OFFICIAL DUTIES.
7 (6) THE ADVISORY BOARD SHALL:
8 (a) ADVISE THE ORGANIZATION ON THE NEEDS ASSESSMENT IN
9 ACCORDANCE WITH SECTION 25-17-605 (3)(b);
10 (b) REVIEW THE NEEDS ASSESSMENT REPORTED TO THE ADVISORY
11 BOARD PURSUANT TO SECTION 25-17-605 (3)(c);
12 (c) REVIEW THE PLAN PROPOSAL SUBMITTED UNDER SECTION
13 25-17-605 (4);
14 (d) RECOMMEND ANY NECESSARY AMENDMENTS TO THE PLAN
15 PROPOSAL OR THE FINAL PLAN TO THE EXECUTIVE DIRECTOR;
16 (e) REVIEW THE ANNUAL REPORT SUBMITTED BY THE
17 ORGANIZATION UNDER SECTION 25-17-609 (2)(a); AND
18 _____
19 (f) CONSULT WITH THE ORGANIZATION ON THE DEVELOPMENT AND
20 UPDATING OF THE MINIMUM RECYCLABLE LIST.
21 (7) IN CONSULTATION WITH THE ORGANIZATION, THE ADVISORY
22 BOARD MAY RECOMMEND AMENDMENTS TO THE FINAL PLAN TO THE _____
23 EXECUTIVE DIRECTOR IN CONJUNCTION WITH THE SUBMISSION OF THE
24 ANNUAL REPORT PURSUANT TO SECTION 25-17-609 (2)(c).
25 **25-17-605. Producer responsibility for recycling program -**
26 **needs assessment - plan proposal - rules.** (1) ON OR BEFORE MARCH 1,
27 2023, THE EXECUTIVE DIRECTOR SHALL SELECT A PRODUCER

1 RESPONSIBILITY ORGANIZATION TO IMPLEMENT AND ADMINISTER THE
2 PRODUCER RESPONSIBILITY FOR RECYCLING PROGRAM STATEWIDE. THE
3 ORGANIZATION SELECTED BY THE EXECUTIVE DIRECTOR MUST HAVE A
4 GOVERNING BOARD THAT REPRESENTS A DIVERSE RANGE OF PRODUCERS.

5 (2) THE PRODUCER RESPONSIBILITY ORGANIZATION SHALL:

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

8 (b) SUBMIT A PLAN PROPOSAL IN ACCORDANCE WITH SUBSECTION
9 (4) OF THIS SECTION THAT COVERS A PERIOD OF FIVE YEARS;

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

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

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

24 (I) THE LEVELS OF RECYCLING SERVICES PROVIDED IN THE STATE
25 BY GEOGRAPHIC AREA, INCLUDING ANY REUSE OR REFILL SYSTEMS
26 UTILIZED, AND ANY ASSOCIATED COSTS;

27 (II) ANY ADDITIONAL RECYCLING SERVICES AND INFRASTRUCTURE

1 NEEDED FOR THE PROGRAM TO MEET OR EXCEED THE CONVENIENCE
2 STANDARDS_____;

3 (III) A PROPOSED LIST OF COVERED MATERIALS FOR INCLUSION IN
4 A MINIMUM RECYCLABLE LIST;

5 (IV) THE MARKET CONDITIONS AND OPPORTUNITIES FOR THE USE
6 OF RECYCLED COVERED MATERIALS IN THE STATE BY GEOGRAPHIC AREA;

7 (V) OPPORTUNITIES FOR THE USE OF INNOVATIVE NEW
8 TECHNOLOGIES FOR THE RECYCLING AND REUSE OF COVERED MATERIALS;

9 (VI) EDUCATION NEEDS IN THE STATE WITH RESPECT TO THE
10 RECYCLING AND REUSE OF COVERED MATERIALS; AND

11 (VII) AT LEAST THREE PROJECTED SCENARIOS FOR INCREASING
12 THE RECYCLING RATE AND RECOVERY RATE OF COVERED MATERIALS IN
13 THE STATE, INCLUDING RECYCLING RATES AND RECOVERY RATES OF FIFTY
14 PERCENT, SIXTY-FIVE PERCENT, AND SEVENTY-FIVE PERCENT BY JANUARY
15 1, 2030 AND JANUARY 1, 2035.

16 (b) THE ORGANIZATION SHALL CONSULT WITH THE ADVISORY
17 BOARD THROUGHOUT THE NEEDS ASSESSMENT PROCESS.

18 (c) ON OR BEFORE NOVEMBER 30, 2023, THE ORGANIZATION SHALL
19 REPORT THE RESULTS OF THE NEEDS ASSESSMENT TO THE ADVISORY
20 BOARD AND THE EXECUTIVE DIRECTOR. THE EXECUTIVE DIRECTOR SHALL
21 POST THE RESULTS OF THE NEEDS ASSESSMENT ON THE DEPARTMENT'S
22 WEBSITE AND PROVIDE PUBLIC NOTICE AND AN OPPORTUNITY TO COMMENT
23 ON THE RESULTS OF THE NEEDS ASSESSMENT.

24 (d) ON OR BEFORE MAY 1, 2028, AND EVERY FIVE YEARS
25 THEREAFTER, THE ORGANIZATION SHALL HIRE AN INDEPENDENT THIRD
26 PARTY APPROVED BY THE EXECUTIVE DIRECTOR TO CONDUCT AN UPDATED
27 ASSESSMENT OF THE STATE'S RECYCLING NEEDS TO REEVALUATE THE

1 PROGRAM AND IDENTIFY ANY RECYCLING SERVICE NEEDS IN THE STATE
2 THAT ARE NOT BEING MET BY THE PROGRAM. THE ORGANIZATION SHALL
3 REPORT THE RESULTS OF THE NEEDS ASSESSMENT TO THE EXECUTIVE
4 DIRECTOR IN ACCORDANCE WITH SUBSECTION (3)(c) OF THIS SECTION. THE
5 ORGANIZATION SHALL USE THE FINDINGS OF THE UPDATED NEEDS
6 ASSESSMENT TO CREATE AN UPDATED PLAN PROPOSAL AND SUBMIT THE
7 UPDATED PLAN PROPOSAL TO THE ADVISORY BOARD IN ACCORDANCE WITH
8 SUBSECTION (4)(a) OF THIS SECTION. IN CONSULTATION WITH THE
9 ADVISORY BOARD AND THE ORGANIZATION, THE EXECUTIVE DIRECTOR
10 MAY WAIVE THE REQUIREMENT TO CONDUCT AN UPDATED NEEDS
11 ASSESSMENT UNDER THIS SUBSECTION (3)(d).

12 (4) ON OR BEFORE JUNE 1, 2024, THE ORGANIZATION SHALL
13 SUBMIT A PLAN PROPOSAL FOR THE PROGRAM TO THE ADVISORY BOARD.
14 IN DEVELOPING THE PLAN PROPOSAL, THE ORGANIZATION SHALL SOLICIT
15 AND CONSIDER INPUT FROM THE ADVISORY BOARD AND FROM INTERESTED
16 PARTIES. THE PLAN PROPOSAL MUST COVER A PERIOD OF FIVE YEARS AND
17 AN UPDATED PLAN PROPOSAL MUST BE SUBMITTED TO THE ADVISORY
18 BOARD EVERY FIVE YEARS THEREAFTER. _____ TO BE APPROVED, A PLAN
19 PROPOSAL MUST:

20 (a) PROVIDE CONTACT INFORMATION FOR THE ORGANIZATION AND
21 A REPRESENTATIVE OF THE ORGANIZATION;

22 (b) DESCRIBE HOW THE PLAN PROPOSAL IS ADDRESSING AND
23 IMPLEMENTING THE FINDINGS OF THE NEEDS ASSESSMENT;

24 (c) DESCRIBE THE MANNER IN WHICH THE ORGANIZATION
25 SOLICITED AND CONSIDERED INPUT FROM INTERESTED PERSONS AND THE
26 ADVISORY BOARD IN DEVELOPING THE PLAN PROPOSAL. THE
27 ORGANIZATION MUST PROVIDE A SUMMARY OF ANY COMMENTS ABOUT

1 THE PLAN PROPOSAL FROM THE ADVISORY BOARD AND THE PUBLIC AND
2 IDENTIFY ANY SIGNIFICANT CHANGES MADE TO THE PLAN PROPOSAL BASED
3 ON THE COMMENTS;

4 (d) INCLUDE A COMPREHENSIVE LIST OF THE COVERED MATERIALS
5 INCLUDED IN THE PROGRAM IN ACCORDANCE WITH THIS PART 6_____;

6 (e) ESTABLISH RECYCLING PRACTICES THAT:

7 (I) MEET OR EXCEED THE CONVENIENCE STANDARDS_____;

8 (II) USE OPEN, COMPETITIVE, AND FAIR PROCUREMENT PRACTICES
9 WHEN ENTERING INTO CONTRACTS WITH SERVICE PROVIDERS, AND, WHEN
10 ENTERING INTO CONTRACTS WITH PRIVATE SERVICE PROVIDERS, ADOPT A
11 PREFERENCE FOR SERVICE PROVIDERS WITH STRONG LABOR STANDARDS
12 AND WORKER SAFETY PRACTICES;

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

16 (IV) USE ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES
17 THAT PRIORITIZE END USES FOR COVERED MATERIALS THAT MAXIMIZE
18 BENEFITS TO THE ENVIRONMENT AND MINIMIZE RISKS TO PUBLIC HEALTH
19 AND SAFETY;

20 (f) ESTABLISH A FUNDING MECHANISM:

21 (I) THAT DOES NOT EXCEED THE DIRECT AND INDIRECT COSTS OF
22 IMPLEMENTING THE PROGRAM, INCLUDING THE COSTS OF:

23 (A) PROVIDING RECYCLING SERVICES UNDER THE PROGRAM AND
24 OTHER OPERATIONAL COSTS, INCLUDING THE COSTS OF REIMBURSING
25 SERVICE PROVIDERS;

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

1 (C) CONDUCTING THE NEEDS ASSESSMENT;
2 (D) DEVELOPING AND UPDATING THE FINAL PLAN;
3 (E) IMPLEMENTING THE EDUCATION AND OUTREACH PROGRAM SET
4 FORTH IN SECTION 25-17-607; AND
5 (F) REIMBURSING THE DEPARTMENT PURSUANT TO SECTION
6 25-17-610 FOR ITS COSTS IN ADMINISTERING AND IMPLEMENTING THIS
7 PART 6, INCLUDING THE COSTS OF THE ADVISORY BOARD;
8 (II) THAT IS FUNDED THROUGH PRODUCER RESPONSIBILITY DUES
9 PAID ANNUALLY BY PRODUCERS PURSUANT TO SECTION 25-17-609 (1).
10 THE PRODUCER RESPONSIBILITY DUES PAID BY A PRODUCER MUST BE
11 BASED ON THE AMOUNT OF COVERED MATERIALS THAT ARE SOLD, OFFERED
12 FOR SALE, OR DISTRIBUTED BY THE PRODUCER IN THE STATE. THE
13 PRODUCER RESPONSIBILITY DUES FOR EACH COVERED MATERIAL MAY
14 VARY BASED ON THE MARKET VALUE OF THE COVERED MATERIAL USED
15 AND HOW COSTLY IT IS TO COLLECT, TRANSPORT, PROCESS, OR RECYCLE
16 THE COVERED MATERIAL;
17 (III) THAT REQUIRES _____:
18 (A) THAT ANY SURPLUS MONEY GENERATED BY THE PROGRAM BE
19 PLACED BACK INTO THE PROGRAM FOR PROGRAM IMPROVEMENTS OR A
20 REDUCTION IN PRODUCER RESPONSIBILITY DUES; AND
21 (B) THE ORGANIZATION TO MAINTAIN A FINANCIAL RESERVE
22 SUFFICIENT TO OPERATE THE PROGRAM IN A FISCALLY PRUDENT AND
23 RESPONSIBLE MANNER.
24 (IV) THAT INCENTIVIZES:
25 (A) REDUCTIONS IN THE AMOUNT OF PACKAGING MATERIALS USED
26 FOR PRODUCTS;
27 (B) INNOVATIONS AND PRACTICES TO ENHANCE THE

1 RECYCLABILITY OF COVERED MATERIALS;

2 (C) HIGH LEVELS OF POSTCONSUMER RECYCLED MATERIAL USE IN

3 A MANNER THAT DOES NOT DISRUPT THE RECYCLING OF OTHER

4 MATERIALS;

5 (D) DESIGN FOR THE REUSE AND REFILL OF COVERED MATERIALS;

6 AND

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

8 (V) THAT DISINCENTIVIZES:

9 (A) DESIGNS AND PRACTICES THAT INCREASE THE COSTS OF

10 RECYCLING, REUSING, OR COMPOSTING COVERED MATERIALS;

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

12 OTHER MATERIALS; AND

13 (C) PRODUCERS FROM USING COVERED MATERIALS THAT ARE NOT

14 ON THE MINIMUM RECYCLABLE LIST;

15 (g) (I) INCLUDE REIMBURSEMENT RATES FOR ONE HUNDRED

16 PERCENT OF THE NET COSTS OF THE RECYCLING SERVICES PROVIDED BY

17 SERVICE PROVIDERS UNDER THE PROGRAM. THE REIMBURSEMENT RATES

18 MUST:

19 (A) BE CALCULATED USING OBJECTIVE COST FORMULAS;

20 (B) TO THE EXTENT POSSIBLE, BE BASED ON DOCUMENTED DIRECT

21 COSTS INCURRED BY THE SERVICE PROVIDER; AND

22 (C) TAKE INTO ACCOUNT THE DIFFERENT FACTORS AND

23 DEMOGRAPHIC CONDITIONS THAT EXIST IN DIFFERENT GEOGRAPHIC AREAS

24 OF THE STATE AND THE COSTS ASSOCIATED WITH PROVIDING RECYCLING

25 SERVICES TO THOSE GEOGRAPHIC AREAS;

26 (II) INCLUDE COST FORMULAS AND REIMBURSEMENT RATES THAT

27 VARY BETWEEN SERVICE PROVIDERS AND THAT ARE BASED ON:

- 1 (A) REGIONAL COSTS;
- 2 (B) POPULATION DENSITY RATES;
- 3 (C) TYPE OF RECYCLING SERVICE USED;
- 4 (D) NUMBER AND TYPES OF COVERED ENTITIES SERVED; AND
- 5 (E) ANY ADDITIONAL COST FACTORS IDENTIFIED IN THE NEEDS
- 6 ASSESSMENT;
- 7 (h) INCLUDE A PROPOSED BUDGET AND A DESCRIPTION OF THE
- 8 PROCESS USED TO DETERMINE PRODUCER RESPONSIBILITY DUES AND
- 9 REIMBURSEMENT RATES FOR SERVICE PROVIDERS;
- 10 (i) ESTABLISH A MINIMUM RECYCLABLE LIST IN ACCORDANCE WITH
- 11 SECTION 25-17-606 (1)(a);
- 12 (j) (I) SET THE MINIMUM RECOVERY RATES, MINIMUM RECYCLING
- 13 RATES, AND MINIMUM POSTCONSUMER-RECYCLED-CONTENT RATES THAT
- 14 THE STATE WILL MEET BY JANUARY 1, 2030 AND JANUARY 1, 2035;
- 15 (II) DESCRIBE HOW THE ORGANIZATION PLANS TO CONTINUE TO
- 16 INCREASE THE STATE'S MINIMUM RECOVERY RATES, MINIMUM RECYCLING
- 17 RATES, AND MINIMUM POSTCONSUMER-RECYCLED-CONTENT RATES AFTER
- 18 JANUARY 1, 2030 AND JANUARY 1, 2035; AND
- 19 (III) DESCRIBE HOW THE ORGANIZATION WILL VERIFY MINIMUM
- 20 POSTCONSUMER-RECYCLED-CONTENT RATES.
- 21 (k) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH SERVICE
- 22 PROVIDERS TO:
- 23 (I) UTILIZE AND EXPAND ON EXISTING RECYCLING SERVICES AND
- 24 INFRASTRUCTURE;
- 25 (II) REDUCE CONTAMINATION OF COVERED MATERIALS DELIVERED
- 26 TO MATERIALS RECOVERY FACILITIES BY REQUIRING EACH MATERIALS
- 27 RECOVERY FACILITY PARTICIPATING IN THE PROGRAM TO REPORT

1 ANNUALLY TO THE ORGANIZATION ON CONTAMINATION LEVELS AT EACH
2 MATERIALS RECOVERY FACILITY;

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

4 (IV) MITIGATE THE IMPACTS OF COVERED MATERIALS ON OTHER
5 MATERIALS AND EQUIPMENT AT SORTING AND PROCESSING FACILITIES;

6 AND

7 (V) INVEST IN MARKET DEVELOPMENT FOR COVERED MATERIALS;

8 (l) DESCRIBE HOW THE ORGANIZATION WILL WORK WITH
9 PRODUCERS TO REDUCE THE PACKAGING OF PRODUCTS USING COVERED
10 MATERIALS THROUGH PRODUCT DESIGN CHANGES, THE DEVELOPMENT OR
11 EXPANSION OF SYSTEMS FOR REUSABLE PACKAGING, AND PRODUCT
12 INNOVATION;

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

15 AND

16 (n) INCLUDE ANY ADDITIONAL INFORMATION REQUIRED BY THE
17 DEPARTMENT.

18 (5) (a) THE ADVISORY BOARD SHALL REVIEW THE PLAN PROPOSAL
19 FOR COMPLIANCE WITH THIS PART 6. THE ADVISORY BOARD SHALL
20 CONSULT WITH THE ORGANIZATION THROUGHOUT ITS REVIEW OF THE PLAN
21 PROPOSAL. WITHIN SIXTY DAYS AFTER THE SUBMISSION OF THE PLAN
22 PROPOSAL TO THE ADVISORY BOARD, THE ADVISORY BOARD SHALL
23 PROVIDE ANY RECOMMENDED AMENDMENTS TO THE PLAN PROPOSAL TO
24 THE ORGANIZATION. THE ORGANIZATION SHALL PROVIDE RESPONSIVE
25 ANSWERS TO THE ADVISORY BOARD'S RECOMMENDATIONS AND SUBMIT
26 THE AMENDED PLAN PROPOSAL TO THE ADVISORY BOARD WITHIN SIXTY
27 DAYS OF ITS RECEIPT OF THE RECOMMENDED CHANGES. WITHIN THIRTY

1 DAYS AFTER THE SUBMISSION OF THE AMENDED PLAN PROPOSAL TO THE
2 ADVISORY BOARD, THE ADVISORY BOARD SHALL FORWARD THE AMENDED
3 PLAN PROPOSAL TO THE EXECUTIVE DIRECTOR WITH ITS RECOMMENDATION
4 FOR APPROVAL, REJECTION, OR APPROVAL WITH ADDITIONAL
5 AMENDMENTS.

6 (b) (I) WITHIN SIXTY DAYS AFTER RECEIVING THE AMENDED PLAN
7 PROPOSAL, THE EXECUTIVE DIRECTOR SHALL:

8 (A) APPROVE THE AMENDED PLAN PROPOSAL AS SUBMITTED BY
9 THE ORGANIZATION TO THE ADVISORY BOARD;

10 (B) APPROVE THE AMENDED PLAN PROPOSAL WITH ANY
11 ADDITIONAL AMENDMENTS RECOMMENDED BY THE ADVISORY BOARD;

12 (C) IN CONSULTATION WITH THE ORGANIZATION AND THE
13 ADVISORY BOARD, MAKE ADDITIONAL AMENDMENTS NOT RECOMMENDED
14 BY THE ADVISORY BOARD TO THE AMENDED PLAN PROPOSAL AND APPROVE
15 THE AMENDED PLAN PROPOSAL WITH THE ADDITIONAL AMENDMENTS; OR

16 (D) REJECT THE AMENDED PLAN PROPOSAL.

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

1 (c) (I) IF THE EXECUTIVE DIRECTOR APPROVES THE PLAN PROPOSAL
2 PURSUANT TO SUBSECTION (5)(b)(I) OF THIS SECTION, THE EXECUTIVE
3 DIRECTOR SHALL DESIGNATE THE PLAN PROPOSAL AS THE FINAL PLAN AND
4 SHALL 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 (III) THE EXECUTIVE DIRECTOR MAY RESCIND APPROVAL OF THE
8 FINAL PLAN AT ANY TIME BY PROVIDING THE ORGANIZATION AND THE
9 ADVISORY BOARD WITH A STATEMENT OF THE REASONS FOR RESCINDING
10 APPROVAL OF THE FINAL PLAN.

11 (6) THE ORGANIZATION MAY SUBMIT PROPOSED AMENDMENTS TO
12 THE FINAL PLAN ANNUALLY TO THE ADVISORY BOARD IN CONJUNCTION
13 WITH THE SUBMISSION OF THE ANNUAL REPORT PURSUANT TO SECTION
14 25-17-609 (2)(c). THE ADVISORY BOARD SHALL REVIEW THE PROPOSED
15 AMENDMENTS AND MAY RECOMMEND THOSE PROPOSED AMENDMENTS OR
16 ANY PROPOSED AMENDMENTS OF ITS OWN TO THE EXECUTIVE DIRECTOR IN
17 ACCORDANCE WITH SECTION 25-17-604 (7). THE EXECUTIVE DIRECTOR
18 SHALL APPROVE, MODIFY, OR REJECT THE PROPOSED AMENDMENTS BASED
19 ON THE PLAN PROPOSAL REQUIREMENTS SPECIFIED IN SUBSECTION (4) OF
20 THIS SECTION _____.

21 _____

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

26 **25-17-606. Minimum recyclable list - convenience standards.**

27 (1)(a) THE ORGANIZATION SHALL DEVELOP A MINIMUM RECYCLABLE LIST

1 OF COVERED MATERIALS BASED ON THE AVAILABILITY OF RECYCLING
2 SERVICES, RECYCLING COLLECTION AND PROCESSING INFRASTRUCTURE,
3 AND RECYCLING MARKETS FOR COVERED MATERIALS IN THE STATE, AS
4 DETERMINED BY THE NEEDS ASSESSMENT. _____

5 (b) THE ORGANIZATION SHALL UPDATE THE MINIMUM RECYCLABLE
6 LIST, AND SUBMIT ANY UPDATES IN CONJUNCTION WITH THE SUBMISSION
7 OF THE ANNUAL REPORT PURSUANT TO SECTION 25-17-609 (2)(c), IN
8 RESPONSE TO RECYCLING COLLECTION AND PROCESSING IMPROVEMENTS
9 AND CHANGES IN RECYCLING END MARKETS. THE ADVISORY BOARD SHALL
10 REVIEW AND MAKE AMENDMENTS TO, AND THE EXECUTIVE DIRECTOR
11 SHALL APPROVE, MODIFY, OR REJECT, ANY UPDATES TO THE MINIMUM
12 RECYCLABLE LIST IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN
13 SECTION 25-17-605 (6).

14 (2) (a) TO BE ELIGIBLE FOR REIMBURSEMENT FOR RECYCLING
15 SERVICES PROVIDED UNDER THE PROGRAM, ALL SERVICE PROVIDERS MUST
16 PROVIDE RECYCLING SERVICES FOR ALL READILY RECYCLABLE MATERIALS
17 INCLUDED ON A MINIMUM RECYCLABLE LIST. _____

18 (b) THE EXECUTIVE DIRECTOR MAY GRANT A SERVICE PROVIDER
19 AN EXCEPTION TO THE REQUIREMENTS OF SUBSECTION (2)(a) OF THIS
20 SECTION IF THE SERVICE PROVIDER DEMONSTRATES TO THE REASONABLE
21 SATISFACTION OF THE EXECUTIVE DIRECTOR THAT IT IS NOT ABLE TO
22 PROVIDE RECYCLING SERVICES FOR A READILY RECYCLABLE MATERIAL.

23 (3) (a) THE ORGANIZATION SHALL PROVIDE COVERED ENTITIES
24 WITH WIDESPREAD, CONVENIENT, AND EQUITABLE ACCESS TO RECYCLING
25 SERVICES FOR ALL READILY RECYCLABLE MATERIALS, AT NO ADDITIONAL
26 COST TO THE COVERED ENTITY, WITH THE GOAL OF ACHIEVING _____ THE
27 R E C Y C L I N G R A T E , R E C O V E R Y R A T E , A N D

1 POSTCONSUMER-RECYCLED-CONTENT RATE ESTABLISHED IN THE FINAL
2 PLAN UNDER SECTION 25-17-605 (4)(j)(I).

3 (b) TO THE EXTENT POSSIBLE, RECYCLING SERVICES FOR READILY
4 RECYCLABLE MATERIALS MUST BE PROVIDED IN A MANNER THAT IS AS
5 CONVENIENT AS THE COLLECTION OF SOLID WASTE IN THE COVERED
6 ENTITY'S GEOGRAPHIC AREA.

7 _____

8 (c) IN PROVIDING RECYCLING SERVICES TO MULTI-FAMILY
9 DWELLINGS WITH ON-SITE CENTRALIZED WASTE SITES, THE ORGANIZATION
10 MUST OFFER THE OWNER OF THE MULTI-FAMILY DWELLING EQUIVALENT
11 ON-SITE RECYCLING SERVICES FOR READILY RECYCLABLE MATERIALS.

12 (d) TO THE EXTENT POSSIBLE, ANY COVERED ENTITIES IN THE
13 STATE THAT ARE RECEIVING RECYCLING SERVICES ON AUGUST 1, 2022,
14 MUST CONTINUE TO RECEIVE EQUIVALENT RECYCLING SERVICES THROUGH
15 THE PROGRAM OR A LOCAL GOVERNMENT SERVICE.

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

19 **25-17-607. Education and outreach program.** (1) THE
20 ORGANIZATION SHALL DEVELOP AND IMPLEMENT A STATEWIDE
21 EDUCATION AND OUTREACH PROGRAM THAT IS FREE OF CHARGE AND
22 PROVIDES PROGRAMMING AND MATERIALS ON THE RECYCLING AND REUSE
23 OF COVERED MATERIALS , INCLUDING PROGRAMMING AND MATERIALS ON:

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

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

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

1 RECYCLING SERVICES FOR COVERED MATERIALS.

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

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

7 (b) DEVELOP METHODS TO TARGET:

8 (I) SERVICE PROVIDERS;

9 (II) CONSUMERS;

10 (III) RETAILERS;

11 (IV) PRODUCERS; AND

12 (V) UNDERSERVED POPULATIONS OF THE STATE, AS DETERMINED
13 BY THE EXECUTIVE DIRECTOR.

14 (c) UTILIZE ELECTRONIC, PRINT, AND SOCIAL MEDIA PLATFORMS TO
15 DISTRIBUTE AND MARKET THE PROGRAMMING AND MATERIALS; AND

16 (d) BE DESIGNED TO HELP THE STATE ACHIEVE THE MINIMUM
17 RECOVERY RATES, MINIMUM RECYCLING RATES, AND MINIMUM
18 POSTCONSUMER-RECYCLED-CONTENT RATES ESTABLISHED IN THE FINAL
19 PLAN UNDER SECTION 25-17-605 (4)(j)(I).

20 _____

21 (3) THE ORGANIZATION SHALL CONSULT WITH THE EXECUTIVE
22 DIRECTOR AND THE ADVISORY BOARD ON THE DEVELOPMENT AND
23 DISTRIBUTION OF PROGRAMMING AND MATERIALS AND MAY COORDINATE
24 WITH LOCAL GOVERNMENTS, NONPROFIT ORGANIZATIONS, AND SERVICE
25 PROVIDERS ON PROVIDING OUTREACH TO COMMUNITIES THROUGHOUT THE
26 STATE.

27 (4) THE ORGANIZATION SHALL DEVELOP A METHODOLOGY FOR

1 EVALUATING AND REPORTING THE EFFECTIVENESS OF THE EDUCATION AND
2 OUTREACH PROGRAM THAT ALLOWS THE EXECUTIVE DIRECTOR TO
3 MEASURE THE EDUCATION AND OUTREACH PROGRAM'S OVERALL
4 EFFECTIVENESS.

5 **25-17-608. Producer requirements - participate in program or**
6 **develop alternative collection program - review of covered materials**
7 **_____ - confidentiality - compliance with local government codes -**

8 **audit.** (1) EFFECTIVE JULY 1, 2025, A PRODUCER SHALL NOT SELL, OFFER
9 FOR SALE, OR DISTRIBUTE ANY PRODUCTS THAT USE COVERED MATERIALS
10 IN THE STATE UNLESS THE PRODUCER IS PARTICIPATING IN THE PROGRAM
11 OR AN ALTERNATIVE COLLECTION PROGRAM.

12 _____

13 (2) (a) A PRODUCER OR GROUP OF PRODUCERS MAY DEVELOP AND
14 OPERATE AN ALTERNATIVE COLLECTION PROGRAM TO PROVIDE RECYCLING
15 SERVICES FOR ALL OR SOME TYPES OF COVERED MATERIALS. A PRODUCER
16 THAT PARTICIPATES IN AN ALTERNATIVE COLLECTION PROGRAM APPROVED
17 BY THE EXECUTIVE DIRECTOR MAY WHOLLY OR PARTIALLY OFFSET THE
18 PRODUCER'S PAYMENT OBLIGATIONS UNDER THE PROGRAM WITH RESPECT
19 TO THE TYPES OF COVERED MATERIALS INCLUDED IN THE ALTERNATIVE
20 COLLECTION PROGRAM.

21 (b) A PRODUCER OR GROUP OF PRODUCERS SEEKING TO IMPLEMENT
22 AN ALTERNATIVE COLLECTION PROGRAM SHALL SUBMIT AN ALTERNATIVE
23 COLLECTION PROGRAM PLAN PROPOSAL THAT COMPLIES WITH THE
24 REQUIREMENTS OF SECTION 25-17-605 (4). THE ADVISORY BOARD SHALL
25 REVIEW AND MAKE RECOMMENDATIONS ON, AND THE EXECUTIVE
26 DIRECTOR SHALL APPROVE, MODIFY, OR REJECT, ANY ALTERNATIVE
27 COLLECTION PROGRAM PLAN PROPOSALS OR AMENDMENTS IN

1 ACCORDANCE WITH THE PROCEDURES SET FORTH IN SECTION 25-17-605
2 (6).
3 =====

4 (4) THE DEPARTMENT, THE ORGANIZATION, AND A PRODUCER OR
5 GROUP OF PRODUCERS REVIEWING OR IMPLEMENTING AN ALTERNATIVE
6 COLLECTION PROGRAM:

7 (a) MUST KEEP CONFIDENTIAL ANY PROPRIETARY INFORMATION
8 PROVIDED BY A PRODUCER; AND

9 (b) SHALL NOT INCLUDE ANY PROPRIETARY INFORMATION
10 PROVIDED BY A PRODUCER IN THE PLAN PROPOSAL, THE AMENDED PLAN
11 PROPOSAL, THE FINAL PLAN, OR ANY AMENDMENT TO THE FINAL PLAN.

12 (5) (a) THE PROGRAM AND ANY ALTERNATIVE COLLECTION
13 PROGRAM MUST COMPLY WITH ANY FIRE, SOLID WASTE, OR OTHER
14 RELEVANT ORDINANCES OR RESOLUTIONS ADOPTED BY A LOCAL
15 GOVERNMENT AND WITH APPLICABLE STATE AND FEDERAL LAWS,
16 INCLUDING THE EXEMPTIONS SET FORTH IN SECTION 30-20-102 (5).

17 (b) NOTWITHSTANDING ANY LAW TO THE CONTRARY, A LOCAL
18 GOVERNMENT IS NOT REQUIRED TO PROVIDE RECYCLING SERVICES FOR THE
19 PROGRAM OR AN ALTERNATIVE COLLECTION PROGRAM. TO THE EXTENT
20 THAT A LOCAL GOVERNMENT ELECTS TO PROVIDE RECYCLING SERVICES
21 UNDER THE PROGRAM, THE ORGANIZATION SHALL REIMBURSE THE LOCAL
22 GOVERNMENT FOR THOSE RECYCLING SERVICES IN ACCORDANCE WITH
23 SECTION 25-17-606 (2) AND THE FINAL PLAN. <{This was put in the bill
24 to make it clear that local governments will be compensated for services
25 that they provide under the program, even if they are already providing
26 those services.}>

27 (6) THE ORGANIZATION SHALL CAUSE TO BE CONDUCTED AN

1 ANNUAL AUDIT OF THE PROGRAM. THE AUDIT MUST INCLUDE A DETAILED
2 LIST OF THE PROGRAM'S COSTS AND REVENUES FROM THE PRODUCER
3 RESPONSIBILITY DUES.

4 **25-17-609. Producer responsibility dues - annual reporting.**

5 (1) BY A DATE DETERMINED BY THE ORGANIZATION THAT IS NO LATER
6 THAN JULY 1, 2025, AND ANNUALLY THEREAFTER BY A DATE DETERMINED
7 BY THE ORGANIZATION, A PRODUCER SHALL PAY PRODUCER
8 RESPONSIBILITY DUES TO THE ORGANIZATION BASED ON THE AMOUNT OF
9 COVERED MATERIALS THAT ARE SOLD, OFFERED FOR SALE, OR
10 DISTRIBUTED IN THE STATE BY THE PRODUCER.

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

24 (I) THE TOTAL VOLUME OF COVERED MATERIALS THAT ARE SOLD,
25 OFFERED FOR SALE, OR DISTRIBUTED IN THE STATE BY PRODUCERS;

26 (II) THE TOTAL AMOUNT OF PRODUCER RESPONSIBILITY DUES
27 COLLECTED UNDER THE PROGRAM, WITH THE DATA BROKEN DOWN BY THE

1 PRODUCER RESPONSIBILITY DUES AMOUNT PAID BY EACH PRODUCER FOR
2 EACH TYPE OF COVERED MATERIAL;

3 (III) THE TOTAL VOLUME OF EACH TYPE OF COVERED MATERIAL
4 RECOVERED OR RECYCLED UNDER THE PROGRAM, WITH THE DATA BROKEN
5 DOWN BY:

6 (A) TYPE OF COVERED MATERIAL COLLECTED;

7 (B) MEANS OF COLLECTION, WHETHER BY CURBSIDE SERVICE OR
8 DROP-OFF CENTER_____;

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

11 (D) GEOGRAPHIC AREA;

12 (IV) THE TOTAL AMOUNT, BY WEIGHT OR VOLUME, OF
13 POSTCONSUMER RECYCLED MATERIALS USED IN THE PRODUCTION OF
14 COVERED MATERIALS;

15 (V) THE RECYCLING RATE, RECOVERY RATE, AND MINIMUM
16 POSTCONSUMER-RECYCLED-CONTENT RATE FOR EACH TYPE OF COVERED
17 MATERIAL SET FORTH IN THE FINAL PLAN PURSUANT TO SECTION 25-17-605
18 (4)(j) AND A DESCRIPTION OF THE ORGANIZATION'S PROCESS IN ACHIEVING
19 THOSE RATES;

20 (VI) A SUMMARY OF THE EDUCATION AND OUTREACH EFFORTS
21 IMPLEMENTED IN ACCORDANCE WITH SECTION 25-17-607, INCLUDING:

22 (A) SAMPLES OF ANY MATERIALS DISTRIBUTED; AND

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

25 THE RESULTS MUST INCLUDE THE PERCENTAGE OF CONSUMERS,
26 PRODUCERS, AND RETAILERS MADE AWARE OF THE WAYS TO RECYCLE AND
27 REUSE RECYCLED MATERIALS.

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

5 (VIII) A COPY OF AN INDEPENDENT THIRD PARTY'S REPORT
6 AUDITING THE PROGRAM PURSUANT TO SECTION 25-17-608 (6);

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

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

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

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

1 PROGRESS OF THE PROGRAM AND ANY ALTERNATIVE COLLECTION
2 PROGRAMS. THE EXECUTIVE DIRECTOR SHALL INCLUDE THE EXECUTIVE
3 DIRECTOR'S AND THE ADVISORY BOARD'S ACTIVITIES AND EXPENSES THAT
4 WERE REIMBURSED PURSUANT TO SECTION 25-17-610 IN THE GENERAL
5 REPORT. THE EXECUTIVE DIRECTOR SHALL POST THE REPORT ON THE
6 DEPARTMENT'S WEBSITE AND SHALL ANNUALLY PRESENT THE GENERAL
7 REPORT TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE
8 SENATE AND THE ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE
9 OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, AND THE
10 GOVERNOR. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE
11 REPORTING REQUIREMENT SPECIFIED IN THIS SUBSECTION (2)(c)
12 CONTINUES INDEFINITELY.

13 (3) IF, BASED ON THE ANNUAL REPORT SUBMITTED UNDER
14 SUBSECTION (2) OF THIS SECTION, THE PROGRAM OR ALTERNATIVE
15 COLLECTION PROGRAM IS NOT ON TRACK TO MEET THE MINIMUM
16 RECOVERY RATES, MINIMUM RECYCLING RATES, AND MINIMUM
17 POSTCONSUMER-RECYCLED-CONTENT RATES SET FORTH IN EACH
18 PROGRAM'S OR ALTERNATIVE COLLECTION PROGRAM'S RESPECTIVE PLAN,
19 THE EXECUTIVE DIRECTOR MAY REQUIRE THE ORGANIZATION OR GROUP OF
20 PRODUCERS, WITH RESPECT TO THE PROGRAM, OR THE PRODUCER OR
21 GROUP OF PRODUCERS, WITH RESPECT TO AN ALTERNATIVE COLLECTION
22 PROGRAM, TO AMEND ITS RESPECTIVE PLAN UNDER SECTION 25-17-605 (6).

23 <{Moved from section 25-17-608 because it fits better here.}>

24 **25-17-610. Producer responsibility for recycling program**
25 **administration fund - creation - purpose.** (1) THERE IS HEREBY
26 CREATED IN THE STATE TREASURY THE PRODUCER RESPONSIBILITY FOR
27 RECYCLING PROGRAM ADMINISTRATION FUND. THE ORGANIZATION SHALL

1 TRANSMIT A PORTION OF THE PRODUCER RESPONSIBILITY DUES TO THE
2 FUND FOR PURPOSES OF REIMBURSING THE DEPARTMENT, INCLUDING THE
3 ADVISORY BOARD, FOR THE REASONABLE COSTS INCURRED IN
4 ADMINISTERING AND IMPLEMENTING ANY PORTION OF THIS PART 6.

5 (2) BY JUNE 30, 2026, AND ON JUNE 30 OF EVERY YEAR, THE
6 DEPARTMENT SHALL NOTIFY THE ORGANIZATION OF ITS COSTS IN
7 ADMINISTERING AND IMPLEMENTING THIS PART 6 DURING THE
8 IMMEDIATELY PRECEDING YEAR. UPON RECEIPT OF THE DEPARTMENT'S
9 COST ACCOUNTING, THE ORGANIZATION SHALL TRANSMIT TO THE STATE
10 TREASURER, FOR DEPOSIT IN THE FUND, AN AMOUNT OF PRODUCER
11 RESPONSIBILITY DUES NECESSARY TO REIMBURSE THE DEPARTMENT FOR
12 ITS COSTS.

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

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

22 **25-17-611. Violations - enforcement - administrative penalty.**

23 (1) A PRODUCER OR ORGANIZATION THAT VIOLATES THIS PART 6 IS LIABLE
24 FOR AN ADMINISTRATIVE PENALTY NOT TO EXCEED:

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

1 VIOLATION CONTINUES;

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

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

12 (2) (a) IF A PRODUCER OR ORGANIZATION IS LIABLE PURSUANT TO
13 SUBSECTION (1) OF THIS SECTION, THE EXECUTIVE DIRECTOR SHALL SERVE
14 BY PERSONAL SERVICE OR BY CERTIFIED MAIL AN ORDER THAT IMPOSES AN
15 ADMINISTRATIVE PENALTY ON THE PRODUCER OR ORGANIZATION.

16 (b) THE PRODUCER OR ORGANIZATION MAY SUBMIT A WRITTEN
17 REQUEST TO THE EXECUTIVE DIRECTOR FOR A HEARING BY PERSONAL
18 SERVICE OR BY CERTIFIED MAIL WITHIN THIRTY CALENDAR DAYS AFTER
19 THE DATE OF THE ORDER IMPOSING AN ADMINISTRATIVE PENALTY. AN
20 ADMINISTRATIVE LAW JUDGE FROM THE OFFICE OF ADMINISTRATIVE
21 COURTS SHALL CONDUCT THE HEARING IN ACCORDANCE WITH SECTION
22 24-4-105.

23 (c) IF A REQUEST FOR A HEARING IS FILED, THE REQUIREMENT TO
24 PAY A PENALTY IS STAYED PENDING A FINAL DECISION BY THE
25 ADMINISTRATIVE LAW JUDGE AFTER A HEARING ON THE MERITS. THE
26 DEPARTMENT IS NOT PRECLUDED FROM IMPOSING AN ADMINISTRATIVE
27 PENALTY AGAINST THE PRODUCER OR ORGANIZATION FOR SUBSEQUENT

1 VIOLATIONS OF THIS PART 6 COMMITTED DURING THE PENDENCY OF THE
2 STAY.

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

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

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

13 **25-17-612. Limited exemption from antitrust, restraint of**
14 **trade, and unfair trade practices provisions.** IF THE PROGRAM OR AN
15 ALTERNATIVE COLLECTION PROGRAM ENGAGES IN AN ACTIVITY
16 PERFORMED SOLELY IN FURTHERANCE OF IMPLEMENTING THE PROGRAM OR
17 ALTERNATIVE COLLECTION PROGRAM AND IN COMPLIANCE WITH THIS PART
18 6, THE ACTIVITY IS NOT A VIOLATION OF THE ANTITRUST, RESTRAINT OF
19 TRADE, AND UNFAIR TRADE PRACTICES PROVISIONS OF THE "UNFAIR
20 PRACTICES ACT", ARTICLE 2 OF TITLE 6 OR THE "COLORADO ANTITRUST
21 ACT OF 1992", ARTICLE 4 OF TITLE 6.

22 **25-17-613. Eligibility for state or local incentive programs.**
23 NOTHING IN THIS PART 6 AFFECTS A PERSON'S ELIGIBILITY FOR ANY STATE
24 OR LOCAL INCENTIVE PROGRAMS FOR WHICH THE PERSON IS OTHERWISE
25 ELIGIBLE.

26 **25-17-614. Producer exemptions.** (1) A PRODUCER IS EXEMPT
27 FROM THE REQUIREMENTS OF THIS PART 6 IF THE PRODUCER IS:

1 (a) A PERSON WITH LESS THAN ONE MILLION DOLLARS IN REALIZED
2 GROSS TOTAL REVENUE DURING THE PRIOR CALENDAR YEAR;

3 (b) A PERSON THAT HAS SOLD, OFFERED FOR SALE, OR DISTRIBUTED
4 LESS THAN ONE TON OF _____ COVERED MATERIALS WITHIN OR INTO THE
5 STATE DURING THE PRIOR CALENDAR YEAR;

6 (c) A STATE OR LOCAL GOVERNMENT; OR

7 (d) A NONPROFIT ORGANIZATION.

8 **25-17-215. Restriction on retailer fees.** A RETAILER MAY NOT
9 CHARGE ANY KIND OF POINT OF SALE OR OTHER FEE TO CONSUMERS THAT
10 IS INTENDED TO RECOUP A PRODUCER'S COSTS IN COMPLYING WITH THIS
11 PART 6.

12 **SECTION 2. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly; except
15 that, if a referendum petition is filed pursuant to section 1 (3) of article V
16 of the state constitution against this act or an item, section, or part of this
17 act within such period, then the act, item, section, or part will not take
18 effect unless approved by the people at the general election to be held in
19 November 2022 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.