

Model Pollution Prevention and Producer Responsibility Act



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Table of Contents

Section 1. Definitions	2
Section 2. Producer Responsibility Advisory Board	9
Section 3. Needs Assessment	10
Section 4. Producer Registration	12
Section 5. Producer Responsibility Programs	14
Section 6. Beverage Container Deposit Return System	19
Section 7. Performance Standards	21
Section 8. Single-Use Plastic Packaging Source Reduction Requirements	23
Section 9. Reporting Requirements.....	24
Section 10. Coordination Plan	26
Section 11. Third-Party Certification	26
Section 12. Alternative Collection Programs	26
Section 13. Recyclable Covered Materials List and Approved Recycling Processes	27
Section 14. Compostable Covered Materials List	28
Section 15. Plastic Pollution Mitigation Fund.....	29
Section 16. Reducing Toxics in Covered Materials	29
Section 17. Annual Report to the Legislature	31
Section 18. Enforcement.....	32
Section 19. Rulemaking Authorized	32

Section 1. Definitions

(a) In this Act:

- (1) **Advisory Board.** “Advisory Board” means the Producer Responsibility Advisory Board established under Section 2 of this Act.
- (2) **Applicable refund value.** “Applicable refund value” means the value established under Section 6 of this Act.
- (3) **Beverage.** “Beverage” means a drinkable liquid intended for human oral consumption. “Beverage” does not include:
 - (A) A drug regulated under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301 et seq.;
 - (B) 100% fluid milk;
 - (C) Infant formula; or
 - (D) A meal replacement liquid.
- (4) **Beverage container.** “Beverage container” means a prepackaged container that:
 - (A) Is designed to hold a beverage;
 - (B) Is made of any material, including glass, plastic, metal, paper, or a combination thereof; and
 - (C) Has a volume which is not less than 50 milliliters, nor greater than 3 liters.
- (5) **Brand.** “Brand” means a name, symbol, word, or mark that identifies a product and attributes the product and its components, including packaging, to the brand owner.
- (6) **Brand owner.** “Brand owner” means a person or entity that owns or licenses a brand or that otherwise has rights to market a product under the brand, whether or not the brand's trademark is registered.
- (7) **Compostable.** “Compostable” means that the covered materials meet the requirements of Section 14 of this Act and meet, and are labeled to reflect they meet the criteria according to [existing statute or the Federal Trade Commission's Guides for Use of Environmental Marketing Claims at 16 C.F.R. Section 260.7 (Compostable Claims)]¹ and either:
 - (A) Meet, and are labeled to reflect that they meet:
 - (i) The American Society for Testing and Materials Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities (D6400) or its successor; and
 - (ii) The American Society for Testing and Materials Standard Specification for Labeling of End Items that Incorporate Plastics and Polymers as Coatings or Additives with Paper and Other Substrates Designed to be Aerobically Composted in Municipal or Industrial Facilities (D6868) or its successor; or
 - (B) Are comprised of only:
 - (i) Wood without any coatings or additives; or
 - (ii) Paper without any coatings or additives.
- (8) **Composting.** “Composting” “compost” or “composted” means the controlled aerobic, biological decomposition of biodegradable materials or organic waste to yield a humus-like product.
- (9) **Composting rate.** “Composting rate” means the amount of covered material by type that is composted, divided by the total amount of that covered material type sold, offered for sale, or

¹ Items marked in [] require state-specific updates.

distributed in the state.

- (10) **Composting facility.** “Composting facility” means a facility that receives and composts materials into a humus-like product.
- (11) **Convenience standards.** “Convenience standards” means:
- (A) That collection, recycling, and composting services for packaging or paper products provided under a producer responsibility plan are:
 - (i) At a minimum, as convenient as trash collection; and
 - (ii) Not a reduced level of convenience or service quality that was provided to the covered entity before the producer responsibility plan was implemented; or
 - (B) That beverage container redemption modalities meet or exceed the convenience standards described in Section 6(e)(2).
- (12) **Covered entity.** “Covered entity” means the following locations in the state:
- (A) Single-family and multifamily residences; and
 - (B) Nonresidential locations identified in the needs assessment under Section 3, including public places, small businesses, food service locations, schools, hospitality locations, and state and local government buildings.
- (13) **Covered material.** “Covered material” means packaging, paper products, and beverage containers sold, offered for sale, or distributed in the state. “Covered material” does not include:
- (A) Materials intended to be used for the long-term storage or protection of a durable product that is intended to transport, protect, or store the durable product on an ongoing basis, and that can be expected to be usable for that purpose for a period of at least five years; or
 - (B) Materials used to package pesticide products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136 et seq. that are in direct contact with the regulated product.
- (14) **Department.** “Department” means [the state agency that has oversight over solid waste and recycling policy].
- (15) **End of life services.** “End of life services” means:
- (A) Reuse, collection, recycling, and composting services for packaging and paper products; and
 - (B) Reuse, collection, recycling, and redemption services for beverage containers.
- (16) **End of life service costs.** “End of life service costs” means the costs to conduct end of life services, including the cost of:
- (A) Administration of relevant end of life service programs;
 - (B) Collecting and processing covered materials, removing and handling contaminants from covered materials at processing facilities including but not limited to redemption facilities, composting facilities, and material recovery facilities, and preparing materials for responsible end markets;
 - (C) Transporting covered materials to processing facilities, including but not limited to redemption facilities, composting facilities, and material recovery facilities;
 - (D) Transporting contaminants for management or disposal;
 - (E) Capital improvements to processing facilities, including but not limited to redemption facilities, composting facilities, and material recovery facilities; and
 - (F) Education and outreach materials and activities.
- (17) **Environmental justice area.** “Environmental justice area” means a Tribal area or census tract that, based on the most recent data published by the United States Census Bureau, meets one or more

of the following criteria:

- (A) 40% or more of the area's total population is nonwhite;
- (B) 35% or more of households in the area have an income that is at or below 200% of the federal poverty level;
- (C) 40% or more of the population over the age of five has limited English proficiency; or
- (D) The area is located in Indian Country, as defined in 18 U.S.C. Section 1151.²

- (18) **Household.** “Household” means occupants of a single detached dwelling unit or occupants of a single dwelling unit in a multifamily housing development located in the state.
- (19) **Living wage.** “Living wage” means the minimum income necessary to allow a person working 40 hours per week to afford food, housing, transportation, childcare, taxes, and other basic needs as estimated by the state.
- (20) **Material recovery facility.** “Material recovery facility” means a facility that receives, separates, and sells or otherwise distributes postconsumer materials for recycling to responsible end markets.
- (21) **Multifamily dwelling.** “Multifamily dwelling” means a structure that contains more than one separate residential dwelling units and that is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.
- (22) **Packaging.** “Packaging” means:
- (A) A material used as:
 - (i) Primary packaging intended to provide an individual serving or unit of product;
 - (ii) Secondary packaging intended to sell in bulk or display the product; or
 - (iii) Tertiary packaging intended to protect the product during transport.
 - (B) Packaging includes material that is:
 - (i) Used to protect, contain, transport, or serve an item;
 - (ii) Sold or supplied to consumers expressly for the purpose of protecting, containing, transporting, or serving items;
 - (iii) Attached to an item or its container for the purpose of marketing or communicating information about the item;
 - (iv) Supplied at the point of sale to facilitate the delivery of the item; or
 - (v) Supplied to or purchased by consumers expressly for the purpose of facilitating food or beverage consumption that is ordinarily discarded by consumers after a single-use or short-term use, whether or not it could be reused.
- (23) **Paper product.** “Paper product” means paper sold, offered for sale, or distributed including, but not limited to, flyers, brochures, booklets, catalogs, magazines, copy paper, printing paper, unsolicited mail, and all other paper materials except for:
- (A) Bound books;
 - (B) Conservation grade and archival grade paper;
 - (C) Paper designed for use in building construction; and
 - (D) Paper products that, by any common and foreseeable use, could reasonably be anticipated to become unsafe or unsanitary to handle.
- (24) **Plastic.** “Plastic” means a synthetic or semisynthetic material chemically synthesized by the polymerization of organic substances that can be shaped into various rigid and flexible forms and

² This definition should be updated through consultation with environmental justice organizations and community members in the state.

includes coatings and adhesives. “Plastic” does not include natural rubber or naturally occurring polymers such as proteins or starches. “Plastic” includes, and is not limited to:

- (A) Polyethylene terephthalate (PET);
- (B) High-density polyethylene (HDPE);
- (C) Polyvinyl chloride (PVC);
- (D) Low-density polyethylene (LDPE);
- (E) Polypropylene (PP);
- (F) Polycarbonate (PC);
- (G) Polystyrene (PS);
- (H) Polylactic acid (PLA); and
- (I) Aliphatic biopolyesters, such as polyhydroxyalkanoate (PHA) and polyhydroxybutyrate (PHB).

(25) **Postconsumer material.** “Postconsumer material” means material generated by households or by commercial and institutional facilities in their role as end users of the product which has been used for its intended purpose and discarded. This includes returns of material from the distribution chain.

(26) **Postconsumer recycled content.** “Postconsumer recycled content” means the proportion of a covered material composed of postconsumer material, expressed as a percentage of the total weight of the covered material. Postconsumer recycled content shall be third-party certified when third-party certification is available for the material type and approved by the Department under Section 11 of this Act.

(27) **Processing.** “Processing” means to sort, segregate, break or flake, and clean covered material to prepare it to meet the specification for sale to a responsible end market.

(28) **Producer.** “Producer” means the following person or entity responsible for compliance with the requirements of this Act for covered materials sold, offered for sale, or distributed in the state:

- (A) For items sold, offered for sale, or distributed in packaging or beverage containers at a physical retail location in the state:
 - (i) If the item is sold, offered for sale, or distributed in packaging or beverage containers under the manufacturer's own brand or is sold, offered for sale, or distributed in packaging or beverage containers that lack identification of a brand, the producer is the person or entity that manufactures the packaged item or beverage container;
 - (ii) If there is no person or entity described in clause (i), the producer is the person or entity that is licensed to sell, offer for sale, or distribute to consumers in the state an item in packaging or a beverage container under the brand or trademark used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state;
 - (iii) If there is no person or entity described in clauses (i) or (ii), the producer of the packaging or beverage container is the brand owner of the item; or
 - (iv) If there is no person or entity described in clauses (i), (ii), or (iii) located in the United States, the producer is the person or entity that imports the item into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the item in the state.
- (B) For items sold, offered for sale, or distributed in packaging or beverage containers in the state via remote sale or distribution:
 - (i) If the packaging or beverage container is used to directly protect or to indirectly contain the item, the producer is the person or entity identified in subparagraph (A);
 - (ii) If the packaging or beverage container is used to ship the item or a group of items to a consumer, the producer is the person or entity that packages and ships the product or group of products; and

- (C) For all other packaging or beverage containers, the producer of the packaging is the person or entity that first distributes the item in the state;
- (D) For paper products that are magazines, catalogs, telephone directories, or similar publications, the producer is the publisher; and
- (E) For paper products not described in subparagraph (D), the producer is:
 - (i) The person or entity that manufactures the paper product under the manufacturer's own brand;
 - (ii) If there is no person or entity described in clause (i), the producer is the person or entity that is the owner or licensee of a brand or trademark under which the paper product is used in a commercial enterprise, sold, offered for sale, or distributed in the state, whether or not the trademark is registered in the state; or
 - (iii) If there is no person or entity described in clauses (i) or (ii), the producer is the brand owner of the paper product;
 - (iv) If there is no person or entity described in clauses (i), (ii), or (iii) located in the United States, the producer is the person or entity that imports the paper product into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the item in the state.
- (F) If the producer defined in subparagraphs (A)–(E) of this section is a business operated wholly or in part as a franchise, the producer is the franchisor, if that franchisor has franchisees that have a commercial presence within the state.
- (G) Producer does not include a person or entity that:
 - (i) Annually sells, offers for sale, distributes, or imports into the state less than one ton of covered products; and
 - (ii) Has a global gross revenue of less than \$2,000,000 for the person or entity's most recent fiscal year.

(29) **Producer Responsibility Organization.** “Producer Responsibility Organization” or “PRO” means a nonprofit organization that qualifies for a tax exemption under Section 501(c)(3) of the Federal Internal Revenue Code of 1986 and is designated by a producer or group of producers to carry out the activities required of producers by this Act. A PRO may form to carry out the responsibilities of one or both of the following types of PROs:

- (A) **Beverage Producer Responsibility Organization.** “Beverage Producer Responsibility Organization” or “Beverage PRO” means a PRO that is designated by a beverage producer or group of beverage producers to carry out the activities required of beverage producers by this Act.
- (B) **Packaging Producer Responsibility Organization.** “Packaging Producer Responsibility Organization” or “Packaging PRO” means a PRO that is designated by a packaging or paper producer or group of packaging or paper producers to carry out the activities required of packaging and paper producers by this Act. A single Packaging PRO can include both packaging and paper producers.

(30) **Producer responsibility plan.** “Producer responsibility plan” means a document describing the activities of a PRO to carry out the responsibilities of the PRO and producers under this Act.

(31) **Program year.** “Program year” means January 1 through December 31 of a calendar year.

(32) **Public service provider.** “Public service provider” means a political subdivision that provides or that contracts or otherwise arranges with another party to provide end of life services for covered materials within its jurisdiction.

(33) **Recyclable.** “Recyclable” means that the covered materials meet the requirements of Section 13

of this Act and can be sorted by entities that process recyclable materials generated in the state and have a consistently available responsible end market so that entities processing recycled feedstock are willing to purchase or otherwise arrange to accept that type of materials for use in the development of a new product.

- (34) **Recycling.** “Recycling” or “Recycle” means the act of collecting and processing materials and returning them to, or maintaining them within, the economic mainstream in the form of recovered material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.
- (A) To be considered recycling, the process shall meet all of the following, as determined by the Department:
- (i) Reconstitutes the covered materials in the same nature or composition, and results in postconsumer recycled content material for new packaging or product applications, as certified by a third party approved by the Department;
 - (ii) Does not result in the combustion, fuel production, or other forms of energy recovery of covered materials;
 - (iii) Displaces the use of virgin materials;
 - (iv) Complies with all established federal and state laws and regulations governing greenhouse gas emissions and air and water quality standards; and
 - (v) Sends covered materials to a responsible end market.
- (B) Recycling does not include:
- (i) Combustion;
 - (ii) Fuel production;
 - (iii) Other forms of energy recovery; or
 - (iv) Disposal or disposition within the footprint of a landfill.
- (35) **Recycling rate.** “Recycling rate” means the amount of covered materials recycled using approved processes determined to be recycling by the Department pursuant to Section 13 of this Act, by covered material type, in a plan year divided by the total amount of that covered material type sold, offered for sale, or distributed in the state by weight.
- (36) **Redemption facility.** “Redemption facility” means a specific area where individuals may bring covered materials to place into material-specific receptacles for the purpose of reuse, recycling, or composting.
- (37) **Redemption rate.** “Redemption rate” means the amount of beverage containers accepted at redemption facilities in a plan year divided by the total amount of beverage containers sold, offered for sale, or distributed in the state.
- (38) **Refillable.** “Refillable” means covered materials designed to be refilled by consumers multiple times for the same or similar purpose in their original format, and that are sold, offered for sale, or distributed to consumers once for the duration of their usable life.
- (39) **Reimbursement rates.** “Reimbursement rates” means payments that are made to service providers by a Packaging PRO for end of life services provided under a producer responsibility plan and that are:
- (A) Based on a formula approved by the Department; and
 - (B) Calculated on a per unit basis, such as per ton, per item, per household, or another unit of measurement.
- (40) **Responsible end market.** “Responsible end market” means a materials market that:

- (A) Recycles, composts, or otherwise recovers materials and disposes of contaminants in a manner that minimizes environmental harm and risks to public health and worker health and safety;
 - (B) Complies with all applicable international treaties and federal, state, and local laws and regulations, including but not limited to all requisite licensing and permit requirements and laws and regulations governing greenhouse gas emissions, air and water quality standards, trade regulation, and human rights and labor standards; and
 - (C) Does not disproportionately burden environmental justice areas and low-income communities with negative human health and environmental impacts of pollution or other environmental hazards resulting from the operation of the end market.
- (41) **Retailer.** “Retailer” means any established person, corporation, partnership, business, facility, vendor, organization, or other entity that sells or provides merchandise, goods, or materials directly to a customer.
- (42) **Reusable.** “Reusable” means covered materials designed to be recirculated multiple times for the same or similar purpose in their original format in a system for reuse, that are owned by producers or a third party, and are returned to producers or a third party after each use.
- (43) **Reuse.** “Reuse” means the return of reusable covered materials to the marketplace and the continued use of the reusable covered materials for their original intended purpose.
- (44) **Reuse rate.** “Reuse rate” means the amount of reusable covered materials returned to producers or a third party after use, divided by the total amount of covered materials sold, offered for sale, or distributed into the state, measured per item.
- (45) **Service provider.** “Service provider” means an entity that provides end of life services under a producer responsibility plan and includes public service providers.
- (46) **Single-use.** “Single-use” means conventionally disposed of after a single use, including through recycling or composting, or not sufficiently durable or washable to be, or not intended to be, reusable or refillable.
- (47) **Source reduction.** “Source reduction” means the reduction in the amount of covered material created by a producer relative to an established baseline.
- (A) Methods of source reduction include, but are not limited to:
 - (i) Shifting to reusable or refillable covered materials;
 - (ii) Eliminating unnecessary covered materials;
 - (iii) Right-sizing, optimizing, or bulking of covered materials; or
 - (iv) Concentrating the product to reduce covered material use.
 - (B) “Source reduction” does not include either of the following:
 - (i) Replacing a recyclable or compostable covered material with a nonrecyclable or noncompostable covered material or a covered material that is less likely to be recycled or composted; or
 - (ii) Switching from virgin covered material to postconsumer recycled content.
- (48) **Toxic substance.** “Toxic substance” means a substance that is identified as an additive of high concern under Section 16 of this Act.

Section 2. Producer Responsibility Advisory Board

- (a) The Department is directed to establish within 120 days of the effective date of this Act the Producer Responsibility Advisory Board to review all programs conducted by PROs under this Act and to advise the Department and the PROs regarding producer responsibility plans and operations of and improvements to programs.
- (b) (1) The Advisory Board shall consist of members appointed by the Department for a term of four years, as follows:
- (A) Three representatives of political subdivisions that represent rural, suburban, and urban areas of the state;
 - (B) Two representatives of community-based organizations representing the interests of groups in environmental justice areas or [the state's environmental justice council];
 - (C) One member representing material recovery facilities that process covered materials;
 - (D) One member representing recycling service providers focused on recycling collection or a statewide association representing such recycling service providers;
 - (E) One member representing a composting facility that receives source-separated compostable covered materials for composting or a statewide trade association that represents such facilities;
 - (F) One member representing a nonprofit environmental organization;
 - (G) One member with expertise in deposit return systems;
 - (H) One member with expertise in reuse systems;
 - (I) One member representing retailers or a retail association in the state;
 - (J) Representatives of approved PROs and the Department as non-voting members.
- (2) On making appointments under paragraph (1), the Department may not appoint voting members who are state legislators, registered lobbyists, or members of a PRO and must endeavor to appoint members from all regions of the state.
- (3) The Advisory Board must convene its initial meeting within 6 months of the effective date of this Act at which time a chair and vice-chair must be elected by majority vote for terms not to exceed two years.
- (4) The Advisory Board must meet at least four times a year and may meet more frequently at the request of the chair or a majority of members.
- (5) All Advisory Board meetings must be open to the public.
- (6) The Advisory Board must make decisions by majority vote.
- (7) The Advisory Board may establish subcommittees.
- (8) The Department must provide staff support to the Advisory Board and may contract with a third-party facilitator to assist in administering the activities of the Advisory Board. The PROs will reimburse the Department for direct and related costs.
- (9) Advisory Board members are compensated as provided in [existing state law governing Advisory Boards] with reimbursement from the PROs.
- (10) The Department must assist the Advisory Board in developing policies and procedures governing the disclosure of actual or perceived conflicts of interest that Advisory Board members may have as a result of their employment or the financial holdings of themselves or of their family members. Each Advisory Board member is responsible for reviewing and complying with the conflict-of-

interest policies and procedures. An Advisory Board member must disclose any instance of actual or perceived conflicts of interest at each meeting of the Advisory Board at which votes, recommendations, or other decisions are made by the Advisory Board.

- (c) (1) The Advisory Board must:
 - (A) Consult with the Department regarding the scoping of the needs assessment under Section 3 and provide written comments on the final needs assessment within 60 days of receipt of the assessment;
 - (B) Review and provide written comments to the PROs and the Department on all new, updated, and revised producer responsibility plans; proposed producer responsibility plan amendments; annual reports; and coordination plans within 60 days of receipt of such documents and before the documents are submitted by the PRO to the Department; and
 - (C) Consult with the Department and review and provide written comments during any rulemaking to implement this Act.
- (2) The Advisory Board may comment on program operations or propose amendments to producer responsibility plans to the Department at any time. Comments, recommendations, and proposed amendments shall be reviewed and considered by the Department and the relevant PRO.
- (3) Comments, recommendations, and proposed amendments submitted to the Department by the Advisory Board shall be posted publicly on the Department website.
- (4) No later than June 30 of each even-numbered year, the Advisory Board shall submit to the legislative committees [with jurisdiction over the Department and/or solid waste management] a report that describes the work of the Advisory Board.

Section 3. Needs Assessment

- (a) No later than nine months after the effective date of this Act, the Department must contract with an independent third party to conduct a statewide needs assessment to be completed no later than one year after the initiation of the contract that, at a minimum:
 - (1) Inventories the infrastructure, capacity, funding level, and method and sources of financing of existing end of life services and supporting transportation and processing systems for packaging and paper products operating in the state, and evaluates strategies needed to:
 - (A) Maintain and improve operations of existing infrastructure;
 - (B) Increase waste prevention and reduction, reuse, recycling, and composting rates for packaging and paper products;
 - (C) Expand the availability and accessibility of end of life services for packaging and paper products to all residents of the state to meet or exceed convenience standards; and
 - (D) Support public and private investment to meet performance standards under Section 7, increase market demand for recycled packaging and paper products and finished compost, and increase the share of packaging and paper products that are being reused through an established reuse system;
 - (2) Identifies the viability and robustness of markets for reuse of packaging and paper products and for recycled packaging and paper products and the degree to which these markets can be considered responsible end markets;
 - (3) Identifies actions necessary to reduce the level of contamination of source-separated recyclable and compostable materials that include packaging and paper products collected for recycling and composting to reduce impacts of contamination on recycling and composting facilities;
 - (4) Assesses the availability of end of life services provided at all residential covered entities in the state;

- (5) Assesses the availability, gaps, and costs associated with providing end of life services to nonresidential covered entities, with particular attention to small businesses, and identify which types and locations of nonresidential covered entities could be provided with end of life services that would increase statewide reduction, reuse, recycling, and composting rates to meet the performance standards in Section 7 in a cost-effective manner;
 - (6) Reviews existing consumer education strategies on source reduction, reuse, recycling, and composting of packaging and paper products in the state and funding needed to implement education best practice strategies;
 - (7) Identifies factors to be considered in developing reimbursement rates to service providers for end of life services delivered under a producer responsibility plan, including:
 - (A) Population size and density, including typical route length to collect packaging and paper products from covered entities;
 - (B) Distance from covered entities to the nearest reuse facility, material recovery facility, or composting facility or to facilities for consolidation and transfer;
 - (C) Distance to responsible end markets;
 - (D) Equipment costs;
 - (E) Cost of living based on living wage in the region; and
 - (F) Other factors that may contribute to regional or jurisdictional cost differences;
 - (8) Identifies information to be considered in determining whether packaging or paper products are reusable, recyclable, or compostable, including its potential to meet quality standards necessary to be used in the marketplace;
 - (9) Compiles information on the presence of toxic substances in each packaging and paper product type and their potential impacts on consumers and the environment;
 - (10) Identifies disparities in end of life services available to covered entities located in environmental justice areas and proposes recommendations to reduce or eliminate the disparities and meet or exceed convenience standards;
 - (11) Proposes plans and metrics for how to measure source reduction, recycling, reuse, and composting;
 - (12) Establishes current rates across the state for each packaging and paper product type, as applicable for each of the following:
 - (A) Reuse;
 - (B) Recycling;
 - (C) Composting; and
 - (D) Postconsumer recycled content;
 - (13) Establishes a baseline for the source reduction performance standard as detailed in Section 8(b).
 - (14) Estimates the level of funding necessary to support end of life services for packaging and paper products to meet the performance standards in Section 7; and
 - (15) Evaluates options for third party certifications as described in Section 11 to be used by a Packaging PRO.
- (b) The first needs assessment must be completed by no later than one year and nine months after the effective date of this Act.
 - (c) The Department must ensure the needs assessment is updated every five years.
 - (d) Subsequent needs assessments must include updated information on the topics specified in subsection (a) as well as any additional information deemed necessary to meet the requirements of this Act, as determined by the Department, including but not limited to inclusion of beverage containers in future needs assessments.
 - (e) The PROs must reimburse the Department for the cost of conducting the needs assessment according

to Section 4 and costs for updated needs assessments shall be assigned to PROs using the process set under Section 4(f).

Section 4. Producer Registration

- (a) No later than one year after the effective date of this Act, no producer may sell, offer for sale, or distribute packaging or paper products in the state unless the producer is registered with a Packaging PRO that is approved pursuant to this section or has applied to independently participate in a producer responsibility plan under subsection (c)(3).
- (b) No later than one year after the effective date of this Act, no producer may sell, offer for sale, or distribute beverage containers in the state unless the producer is registered with the Beverage PRO that is approved pursuant to this section.
- (c) (1) No later than nine months after the effective date of this Act, the Department shall select a single Packaging PRO and a single Beverage PRO to implement activities under this Act. To be selected, a PRO must:
 - (A) Submit an application following a procedure established by the Department;
 - (B) Be an independent nonprofit organization that qualifies for a tax exemption under Section 501(c)(3) of the Federal Internal Revenue Code of 1986;
 - (C) Have a governing board that represents the diversity of covered materials placed on the market by those entities, and of producers in terms of size; and
 - (D) Have adequate financial responsibility and financial controls in place to ensure proper management of funds.
- (2) A single PRO may be formed to perform the duties of both a Packaging PRO and the Beverage PRO at the Department's discretion if the PRO agrees to comply with all requirements and obligations applicable to both a Packaging PRO and Beverage PRO as established in this Act.
- (3) A producer of packaging and paper products may comply with this Act individually without participating in a PRO if the producer can demonstrate to the Department, and the Department determines at its sole discretion, that the producer can demonstrate a recycling, reuse, or composting rate of 65% for three consecutive years prior to their application, and on and after that date demonstrates a recycling, reuse, or composting rate at or over 70% annually.
- (4) A producer who chooses to comply with this Act individually under paragraph (3) shall assume individual responsibility for complying with all requirements and obligations applicable to a Packaging PRO as outlined in this Act.
- (5) After the expiration of the first packaging producer responsibility plan and in consultation with the Advisory Board, the Department may approve applications from additional organizations to serve as a Packaging PRO if the Department determines that additional Packaging PROs would be beneficial in satisfying the requirements of this Act and that the applying Packaging PRO meets the requirements of this section.
- (6) If the Department approves more than one Packaging PRO under paragraph (5), producers of packaging and paper products must choose one Packaging PRO with which to register, unless they independently participate in an approved producer responsibility plan under paragraph (3).
- (d) (1) Not later than nine months after the effective date of this Act, the Department must provide written notice to the PROs of the preregistration fee to be paid by each, which shall be calculated as follows:
 - (A) For the Packaging PRO, the Department's estimate of the cost of conducting the needs

assessment required under Section 3 and the Department's cost to administer this Act during the period before the initial registration of the PRO with regards to packaging and paper products; and

(B) For the Beverage PRO, Department's cost to administer this Act during the period before the initial registration of the PRO with regards to beverage containers.

(2) Within 90 days of receipt of the notice from the Department under paragraph (1), each PRO must remit payment for those costs in full to the Department.

(e) By July 1 each year after its initial selection under subsection (c), each PRO must register with the Department by submitting the following:

- (1) Contact information for a person responsible for implementing the PRO's producer responsibility plan;
- (2) A list of all producers participating in the PRO and, for each producer, a list of all brands of the producer's covered materials sold, offered for sale, or distributed in the state;
- (3) Certification that the PRO has written agreements with each producer, which will be made available to the Department upon request, stating that the PRO is the producer's agent with respect to fulfilling the responsibilities of producers required under this Act and that the producer pledges to comply with those provisions;
- (4) A list of current board members and the executive director if different than the person responsible for implementing the producer responsibility plan; and
- (5) Payment of the annual fee required under this section.

(f) (1) By March 31 each year, the Department must notify each PRO in writing of the amount of the fee for the following year to be paid with their annual registration under subsection (e), which may not exceed the Department's estimate of the costs required to:

- (A) Administer, implement, and enforce this Act, including staff costs;
- (B) Rulemaking to implement this Act, if applicable;
- (C) Provide reimbursement for staffing for the Advisory Board; and
- (D) Conduct a needs assessment under Section 3.

(2) In setting the annual fee for each PRO, the Department must develop and implement a process to allocate costs to each PRO proportional to the costs associated with that PRO, including costs for future needs assessments.

(3) The Department must develop and implement a process to reconcile the fees paid by a PRO under this section with the actual costs incurred by the Department, by means of credits or refunds to or additional payments required of a PRO, as applicable.

(g) (1) A PRO is responsible for compliance with this section, including the preparation and implementation of a producer responsibility plan, the achievement of performance standards specified in Section 7, and the preparation and submission to the Department of annual reports.

(2) At least 90 days before the following are submitted to the Department, a PRO must submit to the Advisory Board for review and comment:

- (A) All new, updated, and revised producer responsibility plans and proposed amendments; and
- (B) All annual reports.

(3) A PRO must respond in writing to written comments made by the Advisory Board on all new, updated, and revised producer responsibility plans, proposed amendments, and annual reports and must justify why any recommendations made in the Advisory Board's comments were not incorporated into the applicable document.

- (4) A PRO must maintain a website that uses best practices for accessibility that contains:
 - (A) Information regarding a process that members of the public can use to contact the PRO with questions;
 - (B) The draft and approved producer responsibility plan and any draft and approved amendments;
 - (C) The lists of recyclable and compostable covered materials developed by the Department under Sections 13 and 14;
 - (D) The most recent and all past needs assessments, as applicable;
 - (E) Annual reports filed by the PRO;
 - (F) The coordination plan developed under Section 10;
 - (G) A link to administrative rules implementing this section;
 - (H) Comments of the Advisory Board on the producer responsibility plan, proposed amendments, and annual plan documents and the responses of the PRO to those comments.
- (5) In addition to the requirements in paragraph (4), a website maintained by a Packaging PRO shall contain a directory of all service providers operating under the producer responsibility plan, grouped by location or political subdivision, and how to request service.
- (6) In addition to the requirements in paragraph (4), the website maintained by the Beverage PRO shall contain a list and map of all redemption facilities and what redemption modalities are available at each location.
- (7) A PRO must notify the Department within 30 days if a change is made to the contact information for a person responsible for implementing the producer responsibility plan, or a change to the board members.

Section 5. Producer Responsibility Programs

- (a) (1) Each PRO must submit a producer responsibility plan to the Department describing the proposed operation of programs to fulfill the requirements of this Act.
- (2) For the Packaging PRO selected under Section 4(c)(1), the producer responsibility plan must be submitted to the Department no later than 30 months after the effective date of this Act and every 5 years thereafter.
- (3) For additional approved Packaging PROs, producer responsibility plans must be submitted following a process and timeline to be determined by the Department, including review by the Advisory Board under Sections 2(c)(1)(B) and 4(g)(2)–(3).
- (4) For the Beverage PRO selected under Section 4(c)(1), the producer responsibility plan must be submitted to the Department no later than 18 months after the effective date of this Act and every 5 years thereafter.
- (5) A producer responsibility plan must describe activities to be undertaken during the next five program years and must, at a minimum:
 - (A) Describe how the PRO and participating producers will meet the performance standards described in Section 7;
 - (B) Expand end of life services for covered materials for covered entities, including how they will meet or exceed convenience standards;
 - (C) Summarize consultations held with the Advisory Board and other stakeholders to provide input on the producer responsibility plan, a list of recommendations that were incorporated into the producer responsibility plan as a result, and a list of rejected recommendations that includes the reasons for rejection;

- (D) Describe how the program uses and interacts with existing end of life services and service providers;
 - (E) Describe expanded and improved operations specifically designed to ensure that the performance targets under subparagraph (G) and performance standards under Section 7 are met;
 - (F) Describe the viability of available responsible end markets and what improvements are needed to markets to improve program performance and ensure that performance targets and standards are met;
 - (G) Propose annual performance targets for each covered material type that will ensure compliance with the performance standards set forth in Section 7 and describe how the PRO will measure progress against those performance targets;
 - (H) Include a proposed budget for each of the next five program years;
 - (I) Include proposed producer fees in a fee schedule by material category and describe the process used to calculate producer fees, including how the fees reflect the requirements of this Act;
 - (J) Certify that the PRO will treat data submitted by service providers as nonpublic data;
 - (K) Describe activities the PRO will conduct to ensure recyclers and composters of covered materials send covered materials to responsible end markets;
 - (L) Describe proposed campaigns to educate consumers about how to manage covered materials in an environmentally sound manner and how to access end of life services for covered materials, and describe how these campaigns will work with consumer education provided by non-profit organizations, local governments, service providers, and other organizations;
 - (M) Describe how the PRO will assist producers in improving product labels as a means of informing consumers about environmentally sound management of covered materials, including how to access end of life services;
 - (N) Describe how the PRO will assist producers in product redesign, source reduction, compliance with Section 16 of this Act, and other necessary actions that support overall performance targets and standards; and
 - (O) Include a plan for adopting third-party certifications approved pursuant to Section 11 of this Act as applicable.
- (6) In addition to the requirements of paragraph (5), a producer responsibility plan submitted by a Packaging PRO must, at a minimum:
- (A) Include a source reduction plan as required in Section 8(d);
 - (B) Describe how the PRO will prioritize the use of existing service providers pursuant to subsection (d) of this section;
 - (C) Include a reimbursement formula and a schedule of reimbursement rates for service providers that elect to participate in the program and a description of how the formula and schedule were developed;
 - (D) Include a list of packaging and paper products designated for collection and the method of collection to be used for each;
 - (E) Describe how reimbursements will be distributed;
 - (F) Propose a dispute resolution process for disputes regarding reimbursements;
 - (G) Include terms and conditions for service agreements with service providers and templates of the service agreements; and
 - (H) Describe how the PRO will work with service providers to increase postconsumer recycled content in trash, recycling, and composting carts utilized by PRO-funded programs.
- (7) In addition to the requirements of paragraph (5), a producer responsibility plan submitted by a Beverage PRO must, at a minimum:

- (A) Include a plan for beverage container redemption and processing mechanisms that provide equitable access that meets or exceeds the convenience standards in Section 6(e)(2) across the state;
 - (B) Describe how the Beverage PRO will operate redemption facilities or enter into agreements with redemption facility operators to meet or exceed the convenience standards in Section 6(e)(2);
 - (C) Describe how the Beverage PRO will make payments to material recovery facilities or a Packaging PRO, as applicable, for beverage containers processed in material recovery facilities pursuant to Sections 6(g)(4) and 10(a)(2); and
 - (D) Include a methodology to determine the average amount of redeemable beverage containers per ton of material recycled to be used in calculating the payments in (C), which may include requirements for standardized measurement of beverage containers that enter material recover facilities.
- (8) The Department must review a producer responsibility plan and approve, modify, or reject it within 60 days of receipt, providing reasons for modification or rejection in writing to the PRO. A PRO must submit a revised producer responsibility plan, if necessary, within 60 days of receiving the Department's decision. The Department must review a revised producer responsibility plan within 45 days of receipt. The Department may require submission of additional revised producer responsibility plans until a revised producer responsibility plan is approved.
- (9) A PRO may file a proposed amendment to the producer responsibility plan with the Department at any time. The Department, with recommendations from the Advisory Board, may approve, modify, or reject the proposed amendment. A PRO may not change operations under an approved producer responsibility plan without the Department's written approval.
- (10) The Department may require amending a producer responsibility plan if the Advisory Board petitions the Department to request an amendment and the Department determines that an amendment is necessary to ensure that a PRO maintains progress to meet performance targets under Section 5(a)(5)(G) and performance standards under Section 7 and the goals for the producer responsibility plan. A PRO must address any comments and feedback and must list rejected recommendations and the reasons for rejection during the amendment approval process.
- (11) Within 30 calendar days after approval of a producer responsibility plan or amendments by the Department, a PRO shall implement the approved producer responsibility plan and post the plan on the PRO's website.
- (b) (1) A PRO must collect fees from producers sufficient to fulfill the responsibilities under this Act including:
- (A) The annual fee required under Section 4;
 - (B) Fees from producers of plastic covered materials as required to fund the Plastic Pollution Mitigation Fund pursuant to Section 15;
 - (C) Costs to implement the producer responsibility plan; and
 - (D) Establishment and maintenance of a financial reserve that is sufficient to operate the program in a fiscally prudent and responsible manner.
- (2) Fees for producers shall be structured considering the following:
- (A) For all PROs:
 - (i) Base fees that are based on the total amount of covered material by material type each producer sells, offers for sale, or distributes in the state in the prior program year calculated on a per unit basis, such as per ton, per item, or another unit of measurement and the cost for end of life services for those covered materials;

- (ii) Prioritize reuse by charging fees for covered materials that are managed through a reuse system only once;
 - (iii) Increased or decreased fees to incentivize using materials and design attributes that reduce the environmental and human health impacts of covered materials, by the following methods in order of priority:
 - (I) Eliminating the presence of toxic substances;
 - (II) Reducing the amount of packaging per individual covered material that is necessary to efficiently deliver a product without damage or spoilage and without reducing its ability to be recycled;
 - (III) Increasing the percentage of covered materials managed in a reuse system;
 - (IV) Enhancing the recyclability of covered materials; and
 - (V) Increasing the proportion of postconsumer material used to produce covered materials; and
 - (iv) Increased or decreased fees as necessary to incentivize producers to achieve the performance targets under Section 5(a)(5)(G) and performance standards under Section 7 for producers and the PRO as a whole.
- (B) In addition to the requirements in subparagraph (A) a Packaging PRO shall:
- (i) To the extent possible, establish a fee schedule that is consistent with similar fees being collected in other states with similar requirements for producers; and
 - (ii) Collect revenues to be used for and that are sufficient to pay in full reimbursements to service providers for end of life service costs incurred under a producer responsibility plan approved by the Department, including the cost of ensuring all employees working at facilities to collect, process, and aggregate packaging and paper products are paid a living wage, receive health benefits, and have strong labor and work safety practices.
- (C) In addition to the requirements in subparagraph (A), the Beverage PRO shall:
- (i) Collect revenues to be used for and that are sufficient to pay in full:
 - (I) The cost of collecting and processing each beverage container type;
 - (II) The cost of ensuring all employees working at facilities to redeem, collect, process, and aggregate beverage containers are paid a living wage, receive health benefits, and have strong labor and work safety practices;
 - (III) The set payments to material recovery facilities and redemption facilities as required by Section 6(g) and Section 10(a)(2); and
 - (IV) Any other responsibilities of the Beverage PRO under Section 6; and
 - (ii) With the revenue from the sale of redeemed beverage containers, credit each Beverage PRO member against the fee charged under this subsection based on:
 - (I) The revenue generated from the sale of each beverage container type; and
 - (II) The percentage of each beverage container type that a Beverage PRO member distributes or sells in the state.
- (3) Fees collected under this section may not be used for costs associated with:
- (A) An administrative civil penalty pursuant to this Act;
 - (B) Litigation between the PRO or a participating producer and the state;
 - (C) Lobbying by or on behalf of a PRO or any of its members; or
 - (D) Subsidizing, incentivizing or otherwise supporting incineration or other technologies that do not meet the definition of recycling pursuant to Section 1(a)(34).
- (4) Any fees collected under this section in excess of the costs identified in subsection (b)(1) must be reinvested to improve end of life services and consumer education.
- (5) No retailer of covered materials or products packaged in covered materials may charge a point-of-sale or point-of-collection fee to a consumer for services provided under a producer responsibility

plan, unless the fee is a deposit that is made in connection with a product's reuse or recycling and that will be returned to the consumer.

- (c) Each PRO, in collaboration with and after consulting with the Department, political subdivisions, and the Advisory Board, as well as service providers and retailers as relevant, must:
 - (1) Develop and disseminate easy-to-understand, culturally responsive materials designed to educate covered entities in multiple languages regarding the management of covered materials through end of life services;
 - (2) Conduct or fund others to conduct statewide and local campaigns promoting awareness of how covered entities can conveniently access end of life services for covered materials; and
 - (3) Disseminate education and outreach materials to the Department, service providers, retailers, community organizations, and political subdivisions as relevant.

- (d) (1) During the term of the initial packaging producer responsibility plan approved by the Department, a Packaging PRO must prioritize contracting with existing service providers in the state through a transparent, open and fair bidding process for end of life services for packaging and paper products at service volumes that are no less than those delivered by the service providers as of the effective date of this Act, so long as the service provider meets the requirements under paragraph (5) and is able to meet operating standards necessary for the PRO to maintain progress towards meeting performance targets under Section 5(a)(5)(G) and performance standards under Section 7.
 - (2) Paragraph (1) applies to:
 - (A) Service providers that provide end of life services for covered entities; and
 - (B) Service providers that process packaging and paper products.
 - (3) A Packaging PRO shall contract with service providers identified in paragraph (2) to conduct services identified in paragraph (2). The terms and conditions of service must be established under a service agreement between both parties and must include a reimbursement rate for services that is based on a formula described in the approved producer responsibility plan as required by this section, that:
 - (A) Incorporates relevant cost information identified by the needs assessment conducted under Section 3; and
 - (B) Reflects conditions that affect end of life service and processing costs in the jurisdiction in which the services are provided, including but not limited to:
 - (i) The number and size of covered entities by location type;
 - (ii) Population density; and
 - (iii) Collections methods employed.
 - (4) A Packaging PRO shall use open, competitive, and fair procurement practices when entering into contracts with service providers.
 - (5) Contracts under this subsection must require that service providers:
 - (A) Have strong labor standards and work safety practices, including but not limited to safety programs, health benefits, and living wages;
 - (B) Meet established operating standards, such as capture rates, residual rates, and bale quality; and
 - (C) Demonstrate that covered materials are sent to responsible end markets.
 - (6) The end of life services delivered by a Packaging PRO under a producer responsibility plan must not reduce the level of convenience or service quality that was provided to any covered entity before the producer responsibility plan was implemented.

- (7) Nothing in this section requires a local government to operate under a producer responsibility plan, nor does it restrict the authority of a local government to provide waste management services to residents or to contract with any entity to provide waste management services.
- (8) If there is not a public service provider or a public service provider elects not to operate under the packaging producer responsibility plan or organize and contract with a private service provider, it is the responsibility of the Packaging PRO to contract with a private service provider to provide end of life services to all covered entities.
- (9) A local government providing services to covered entities must provide at least a one-year advance notice to the PRO if the local government will cease to coordinate end of life services to covered entities.

Section 6. Beverage Container Deposit Return System

- (a) (1) All beverage containers that are made of 90% or more aluminum, steel, glass, HDPE, PP, or PET and are sold, offered for sale, or distributed in the state must have the applicable refund value pursuant to subsection (b) no later than two years after the effective date of this Act.
 - (2) All beverage containers that are sold, offered for sale, or distributed in the state must have the applicable refund value pursuant to subsection (b) no later than three years after the effective date of this Act.
- (b) (1) No later than two years after the effective date of this section, the applicable refund value shall be 10 cents.
 - (2) If the Beverage PRO's redemption rate does not reach 90% for three years in a row after being required to reach a 90% redemption performance standard as required under Section 7(b)(2)(D), then the applicable refund value for every beverage container sold, offered for sale, or distributed in the state shall increase to 15 cents for each beverage container, and the Beverage PRO shall conduct a study to determine whether any education or convenience factors of the plan need to be strengthened.
- (c) (1) A producer of a beverage container that is sold, offered for sale, or distributed in the state must clearly display on the top or side of the beverage container:
 - (A) The abbreviation "RV," which indicates the container has a refund value;
 - (B) The abbreviation of the state; and
 - (C) The applicable refund value.
 - (2) A producer of a beverage container that is sold, offered for sale, or distributed in the state may include a barcode or unique code verification on the beverage container to allow for automated identification.
- (d) It is unlawful to redeem a beverage container in the state that was not sold, offered for sale, or distributed to a consumer in the state.
- (e) (1) The Beverage PRO must offer, at a minimum, the following modalities of beverage container redemption in the state:
 - (A) Bag drop programs that use standard bags that allow for multiple beverage containers to be redeemed at redemption facilities; and
 - (B) Individual container redemption, including convenient options for high-volume redemption

without the use of a standard bag.

- (2) The Beverage PRO must ensure that the redemption modalities in paragraph (1) for beverage containers meet or exceed the following convenience standards:
 - (A) All consumers who pay a deposit have reasonably convenient opportunities to redeem, including access to redemption facilities that provide for cash redemption;
 - (B) Redemption options should be as convenient as beverage purchase options;
 - (C) Access should be appropriately convenient and equitable in both urban and rural areas; and
 - (D) All redemption locations, including retail locations and other redemption facilities, must collect all beverage containers with applicable refund value pursuant to subsection (f).
- (3) A retail establishment may choose to serve as a redemption facility or as the site of a collection event, or both, through mutual agreement with the Beverage PRO.
- (4) The Department shall use the following criteria to evaluate whether the requirements of paragraph (2) are met:
 - (A) The proximity of redemption locations to the volume of beverage sales in an area;
 - (B) Access in rural counties that does not require additional vehicle miles traveled;
 - (C) Access in urban areas builds on existing convenience;
 - (D) Access is provided in economically strained and underserved communities;
 - (E) The number and geographic distribution of high-volume redemption opportunities; and
 - (F) Redemption options must not disproportionately burden underserved communities or populations.
- (5) In the event that the Beverage PRO does not achieve the convenience standards in paragraph (2) as evaluated by the Department pursuant to paragraph (4), the Department must engage in rulemaking to achieve the convenience standards in paragraph (2).
- (6) If the standard bags for a bag-drop program under paragraph (1)(A) are made of plastic film, the Beverage PRO must:
 - (A) Ensure that the bags have a minimum of 50% postconsumer recycled content;
 - (B) Demonstrate, upon request of the Department, that the waste film from the bags is being recycled at responsible end markets; and
 - (C) Include instructions on the bag for how the bag should be utilized and recycled through a bag drop program.
- (f) Excluding the material recovery facility and redemption facility payments in subsection (g), the Beverage PRO or a redemption facility operator acting pursuant to an agreement with the Beverage PRO is not required to pay refunds on:
 - (1) A beverage container that:
 - (A) Visibly containing or contaminated by a substance other than water, residue of the original contents, or ordinary dust;
 - (B) Crushed or broken; or
 - (C) Damaged to the extent that the brand appearing on the container cannot be identified;
 - (2) A beverage container that the Beverage PRO or redemption facility operator has reasonable grounds to believe was bought in another state; or
 - (3) A beverage container for which the Beverage PRO or redemption facility operator has reasonable grounds to believe a refund has already been given.
- (g) (1) On a monthly basis, operators of material recovery facilities shall submit to the Beverage PRO the number of tons of beverage containers the facility processed in the previous month.

- (2) On a monthly basis, operators of redemption facilities, shall submit to the Beverage PRO the number of beverage containers processed by the facility in the previous month.
 - (3) Starting after the first full month that beverage containers are sold, offered for sale, or distributed with the applicable refund value, the Beverage PRO must make a monthly payment directly to each redemption facility operator that is based on the data submitted by the redemption facility operators under paragraph (2).
 - (4) Starting after the first full month that beverage containers are sold, offered for sale, or distributed with the applicable refund value and until the coordination plan in Section 10 is approved by the Department, the Beverage PRO must make a monthly payment directly to each material recovery facility that processes beverage containers that is based on the data submitted by the redemption facility operators under paragraph (1).
 - (5) The monthly payment required in paragraph (4) to material recovery facilities must reflect a payment of at least 50% of the applicable refund value for each beverage container that the material recovery facility processes based on the methodology established in Section 5(a)(7)(D).
 - (7) The Beverage PRO may conduct two audits per calendar year on the quality and quantity of the redemption facility or material recovery facilities' material upon request by the Beverage PRO and at the Beverage PRO's expense.
- (h) The Beverage PRO must pay for:
- (1) Any beverage container redemption or processing mechanism or self-service kiosk that the Beverage PRO installs, services, and operates;
 - (2) Any facilities in the state necessary to efficiently aggregate and process the material collected at redemption locations;
 - (3) Reasonable costs incurred by redemption facility operators;
 - (4) A credit to consumers for the cost of the bags that are processed through the Beverage PRO's bag-drop program;
 - (5) The material recovery facility and redemption facility payments under this section and Section 10(a)(2); and
 - (6) Necessary investments and improvements to provide services to or enhance the redemption experience of diverse or low-income consumers redeeming beverage containers.
- (i) The Beverage PRO must use any applicable refund value that is not returned to the consumer for any of the following purposes:
- (1) Education and outreach activities to encourage redemption activity;
 - (2) Increasing the number of redemption facilities; or
 - (3) Operation of the redemption system.

Section 7. Performance Standards

- (a) (1) Each Packaging PRO shall meet the following performance standards:
- (A) Collection, recycling, and composting services for packaging and paper products for all covered entities must meet or exceed convenience standards;
 - (B) By the end of the first producer responsibility plan, or no later than 8 years after the effective date of this Act, whichever is sooner, a minimum of 65% of packaging and paper products by weight sold, offered for sale, or distributed into the state are reused, recycled, or composted, with a minimum of 10% of the number of units of packaging and paper products sold, offered for sale, or distributed being reusable packaging and paper products returned to an established reuse system;

- (C) By the end of the second producer responsibility plan, or no later than 13 years after the effective date of this Act, whichever is sooner, a minimum of 75% of packaging and paper products by weight sold, offered for sale, or distributed into the state are reused, recycled, or composted, with a minimum of 20% of the number of units of packaging and paper products sold, offered for sale, or distributed being reusable packaging and paper products returned to an established reuse system; and
 - (D) By the end of the second producer responsibility plan, or no later than 13 years after the effective date of this Act, whichever is sooner, all packaging and paper products sold, offered for sale, or distributed in the state must be reusable, recyclable, or compostable.
- (2) Each Packaging PRO shall meet the source reduction performance standards for all single-use plastic packaging sold, offered for sale, or distributed in the state pursuant to Section 8.
 - (3) Each individual producer of packaging and paper products shall meet the following minimum recycled content performance standards for all packaging and paper products and shall report compliance with the standards through the Packaging PRO by the end of the first producer responsibility plan, or no later than 8 years after the effective date of this Act, whichever is sooner:
 - (A) All glass packaging manufactured in the state and used by the producer shall contain, on average, at least 35% postconsumer recycled content;
 - (B) All kraft paper, corrugated cardboard, and boxboard sold, offered for sale, or distributed in the state by a producer shall contain, on average, at least 25% postconsumer recycled content;
 - (C) All PET packaging, except for PET thermoformed packaging, sold, offered for sale, or distributed in the state shall contain, on average, at least 45% postconsumer recycled content;
 - (D) All PET thermoformed packaging sold, offered for sale, or distributed in the state shall contain, on average, at least 30% postconsumer recycled content;
 - (E) All HDPE packaging sold, offered for sale, or distributed in the state shall contain, on average, at least 25% postconsumer recycled content; and
 - (F) All PP packaging sold, offered for sale, or distributed in the state shall contain, on average, at least 25% postconsumer recycled content.
 - (4) The Department may adjust the performance standards in paragraphs (1), (2), or (3) based on information gathered during the needs assessment or provided in producer responsibility plans and reports. Before adjusting the performance standards in paragraphs (1), (2), or (3), the Department must submit a proposal to the Advisory Board and consider the Advisory Board's recommendations. Any adjustment to the performance standards may not decrease those standards by more than 5% of the standards set in the relevant subparagraph.
- (b) (1) Beginning the first month after beverage containers are sold, offered for sale, or distributed in the state with the applicable refund value:
 - (A) The Beverage PRO must provide redemption options that meet the redemption convenience standards in Section 6(e)(2); and
 - (B) All redeemed beverage containers must be recycled or reused.
 - (2) The Beverage PRO must meet the following performance standards for redemption:
 - (A) Beginning two years after all beverage containers are sold, offered for sale, or distributed in the state with the applicable refund value, at least 70% annual redemption rate for all beverage containers;
 - (B) Beginning four years after all beverage containers are sold, offered for sale, or distributed in the state with the applicable refund value, at least 75% annual redemption rate for all beverage containers;
 - (C) Beginning six years after all beverage containers are sold, offered for sale, or distributed in the state with the applicable refund value, at least 85% annual redemption rate for all beverage

- containers; and
- (D) Beginning eight years after all beverage containers are sold, offered for sale, or distributed in the state with the applicable refund value, at least 90% annual redemption rate for all beverage containers.
- (3) The Beverage PRO shall meet the following reuse performance standards:
- (A) By the end of the first beverage producer responsibility plan, or not later than 7 years after the effective date of this Act, whichever is sooner, a minimum of 15% of beverage containers must be reusable; and
- (B) By the end of the second beverage producer responsibility plan, or not later than 12 years after the effective date of this Act, whichever is sooner, a minimum of 25% of beverage containers must be reusable.
- (4) Each individual producer of beverage containers shall meet the following minimum recycled content performance standards for all beverage containers and shall report compliance with the performance standards through the Beverage PRO by the end of the first producer responsibility plan, or no later than 7 years after the effective date of this Act:
- (A) All glass beverage containers manufactured in the state used by the producer shall contain, on average, at least 35% postconsumer recycled content;
- (B) All PET beverage containers sold, offered for sale, or distributed in the state by the producer shall contain, on average, at least 45% postconsumer recycled content;
- (C) All HDPE beverage containers sold, offered for sale, or distributed in the state by the producer shall contain, on average, at least 25% postconsumer recycled content;
- (D) All PP beverage containers sold, offered for sale, or distributed in the state by the producer shall contain, on average, at least 25% postconsumer recycled content; and
- (E) All aluminum beverage containers sold, offered for sale, or distributed in the state by the producer shall contain, on average, at least 50% postconsumer recycled content.
- (5) The Department may adjust the performance standards in paragraphs (3) or (4) or add performance standards for additional beverage container types based on information gathered during the needs assessment or provided in producer responsibility plans and reports subject to the following requirements:
- (A) For performance standards under paragraph (3):
- (i) The Department must submit a proposal to the Advisory Board and consider the Advisory Board's recommendations before making the adjustment; and
- (ii) An adjustment to the performance standards must not be less than the performance standard in subparagraph (3)(B).
- (B) For performance standards under paragraph (4):
- (i) The Department must submit a proposal to the Advisory Board and consider the Advisory Board's recommendations; and
- (ii) An adjustment to the performance standards may not decrease minimum recycled content requirements by more than 5% of the standards set in paragraph (4).

Section 8. Single-Use Plastic Packaging Source Reduction Requirements

- (a) Each Packaging PRO shall meet the following source reduction performance standards for all single-use plastic packaging sold, offered for sale, or distributed in the state:
- (1) By the end of the first producer responsibility plan, or no later than 8 years after the effective date of this Act, whichever is sooner, the weight of single-use plastic packaging sold, offered for sale, or distributed in the state shall achieve 15% source reduction; and

- (2) By the end of the second producer responsibility plan, or no later than 13 years after the effective date of this Act, whichever is sooner, the weight of single-use plastic packaging sold, offered for sale, or distributed in the state shall achieve 25% source reduction.
- (b) As part of the needs assessment under Section 3, the Department shall establish a baseline for the source reduction requirement in subsection (a) based on the amount of single-use plastic packaging that was sold, offered for sale, or distributed in the state in the calendar year following the effective date of this Act.
- (c) Participating producers of a Packaging PRO shall submit to the PRO individual source reduction plans that include:
- (1) The amount of plastic packaging the producer plans to source reduce to meet the performance standards in subsection (a) including a description of how they plan to achieve the source reduction; and
 - (2) Other information as determined necessary by the PRO to achieve the source reduction performance standard and reporting requirements.
- (d) As part of its producer responsibility plan, a Packaging PRO shall include a source reduction plan designed to meet the requirements of this section that describes, at a minimum:
- (1) How the PRO will aggregate individual producer source reduction plans under subsection (c) to achieve the performance standard in subsection (a); and
 - (2) How the PRO will ensure participating producers are making appropriate progress to achieve their planned source reduction under subsection (c).
- (e) To ensure equity in the market, a Packaging PRO shall require a new participating producer or a producer that introduces plastic packaging material that is new to the producer subsequent to the approval of the Packaging PRO's producer responsibility plan to optimize and right size the plastic packaging. The Packaging PRO shall assess a malus fee on any participating producer with new plastic packaging that is not optimized, as determined by the Packaging PRO.
- (f) Additional source reduction performance standards may be set by the Department through a rulemaking every 5 years effective after the end of the second producer responsibility plan, or no later than 13 years after the effective date of this Act, whichever is sooner. Additional source reduction performance standards must be informed by the needs assessments and recommendations from the Advisory Board.

Section 9. Reporting Requirements

- (a) (1) No later than 4 years after the effective date of this Act, and each March thereafter, each PRO must submit a written annual report to the Department that contains at a minimum, the following information for the previous program year:
- (A) The amount of covered materials sold, offered for sale, or distributed in the state by the participating producers of that PRO, by material type;
 - (B) The amount of covered materials reused, recycled, and composted by material type;
 - (C) A description of the responsible end markets that accepted covered materials;
 - (D) The total cost to implement the producer responsibility plan and a detailed description of plan expenditures;
 - (E) A copy of a financial audit of program operations conducted by an independent third party approved by the Department;
 - (F) A list of any producers found to be out of compliance with the requirements of this Act and actions taken by the PRO to return the producer to compliance;
 - (G) A description of education and outreach activities undertaken, any evaluations conducted of

their efficacy, and plans for next program year's activities;

- (H) A description of technical assistance provided to producers regarding source reduction and covered material redesign and actions taken by producers to reduce waste and redesign covered materials to be reusable, recyclable, and compostable and comply with Section 16 of this Act;
- (I) An evaluation of the process established by the PRO to answer questions from covered entities regarding relevant end of life services;
- (J) A description of program performance problems that emerged in specific locations and efforts taken or proposed by the producer organization to address them;
- (K) Any proposed amendments to the producer responsibility plan to improve program performance or reduce costs;
- (L) A summary of consultations held with the Advisory Board and how any feedback was incorporated into the report as a result of the consultations, together with a list of rejected recommendations and the reasons for rejection; and
- (M) A description of progress made towards the performance targets in the PRO's producer responsibility plan under Section 5(a)(5)(G) and relevant performance standards under Section 7.

(2) To facilitate preparing the annual report, service providers operating under a service agreement with the PRO must, if requested, forward relevant data to the PRO. The PRO must treat any data submitted under this paragraph as nonpublic data.

(3) A PRO that fails to meet a performance target established in the producer responsibility plan under Section 5(a)(5)(G) must, within 90 days of filing an annual report under this section, file with the Department a discussion of the factors contributing to the failure and propose an amendment to the producer responsibility plan specifying changes in operations that the producer responsibility plan will make that are designed to achieve the following year's targets.

- (b) (1) Each material recovery facility, compost facility, redemption facility, or similar facility operating under an agreement with a PRO shall report annually to the Department and the PROs on the following:
- (A) Inbound and outbound contamination levels;
 - (B) Incoming and outgoing weight of covered materials;
 - (C) A list of incoming material sources, and outgoing material destinations that receive covered material by type of material and weight;
 - (D) How materials are managed; and
 - (E) Number of inbound and outbound beverage containers with the applicable refund value.

(2) Annual reports under this subsection must be published by the state and include a breakdown of covered materials and non-covered materials managed at facilities.

(c) Each public service provider, including municipalities operating or contracting with a private service provider to operate a recycling, reuse, or composting program for covered materials and service providers directly contracting with a PRO must provide the following information annually to the relevant PRO:

- (1) Number of covered entities by covered entity type served by the program and total number of covered entities in the municipality;
- (2) Covered materials collected for recycling, reuse, or composting;
- (3) Method and frequency of recycling collection, including whether collection is through carts, bins, single stream, dual stream, or some other method;
- (4) Annual amounts of covered material collected for recycling, reuse, or composting;
- (5) Facility to which covered materials are delivered; and

- (6) Assessment of convenience, as compared to waste collection, tracked year over year.

Section 10. Coordination Plan

- (a) The Packaging and Beverage PROs must establish a coordinating body and coordination plan to ensure the efficient delivery of services and coordinated efforts to meet the requirements of this Act. These coordinating efforts must:
 - (1) Ensure end of life service costs are fairly distributed, regardless of which system a consumer returns covered materials through;
 - (2) Describe a method through which the PROs will compensate each other for handling covered materials and cross-program expenses;
 - (3) Address planning and operating jointly funded infrastructure, including but not limited to alternative collection programs and reuse infrastructure;
 - (4) Coordinate education and outreach to ensure consistent and appropriate messaging; and
 - (5) Periodically evaluate covered materials managed by each PRO and whether alternative management of those covered materials would better achieve the performance standards in Section 7.
- (b) The PROs, through the coordinating body, must submit the coordination plan required under subsection (a) to the Department not later than the date on which the Packaging PRO submits its first producer responsibility plan under Section 5(a)(2) and every five years thereafter.
- (c) The PROs, through the coordinating body, must submit the coordination plan to the Advisory Board for review and comment at least 90 days before it is submitted to the Department.
- (d) The Department must review the coordination plan or any amendments and approve, modify, or reject them following the process in Section 5(a)(8)–(10).
- (e) Within 30 calendar days after approval of the coordination plan or amendments by the Department, the coordinating body and the Beverage and Packaging PROs shall implement the approved coordination plan and post the plan on each PRO's website.

Section 11. Third-Party Certification

- (a) The Department shall adopt rules to review third-party certifications and create a publicly available list of approved third-party certifications for the following:
 - (1) Post consumer recycled content;
 - (2) Responsible end markets;
 - (3) Reusable covered materials; and
 - (4) Recycling, composting, and reuse rates.
- (b) In the rules adopted under subsection (a), the Department shall include procedures for periodic review of approved third-party certifications, including for public petition for review and for removal of approval for third-party certifications.

Section 12. Alternative Collection Programs

- (a) A PRO or an individual producer may, as part of a producer responsibility plan or in a separate filing with the Department, propose alternative collection programs for covered materials that are not on the recyclable covered materials list developed under Section 13 or the compostable covered materials list developed under Section 14.

- (b) No alternative collection program may be implemented without the Department's written approval as described in this section.
- (c) The Department shall, in consultation with the Advisory Board, service providers, political subdivisions, and others, approve or reject an alternative collection program for a covered material if petitioned by a PRO, or an individual producer.
- (d) The Department must establish a process by which the PRO or an individual producer can petition for an alternative collection program to be considered.
- (e) The Department may only approve an alternative collection program if it meets, at a minimum, the following criteria:
 - (1) The alternative collection program is accessible to at least 60% of the population of the state;
 - (2) The covered material will be recycled and composted at a rate that meets or exceeds the rates set in the performance standards in Section 7; and
 - (3) Covered materials are sent to responsible end markets.
- (f) The Department must publish a ruling on the alternative collection program describing why it was approved or denied and how it measured against the criteria listed in subsection (e).
- (g) Approved alternative collection programs must be reviewed by the Department every five years to ensure the alternative collection program continues to meet the criteria listed in subsection (e). If the alternative collection program fails to meet the criteria, the Department shall remove the program from the list of approved alternative collection programs.
- (h) A producer that manages a type of covered material under an approved alternative collection program, may offset their payment obligations to a PRO.

Section 13. Recyclable Covered Materials List and Approved Recycling Processes

- (a) The Department must, in consultation with the Advisory Board, PROs, service providers, political subdivisions, and others, develop and publish a list of:
 - (1) Approved processes determined to be recycling; and
 - (2) Recyclable covered materials in the state.
- (b) In developing the list of approved processes determined to be recycling under subsection (a)(1), the Department must ensure the approved processes meet the definition of recycling in Section 1(a)(34) and shall take into consideration:
 - (1) The generation of hazardous waste;
 - (2) The generation of greenhouse gases;
 - (3) Environmental impacts;
 - (4) Environmental justice impacts; and
 - (5) Public health impacts.
- (c) The covered materials included on the list of recyclable covered materials under subsection (a)(2) must meet the definition of recyclable in Section 1(a)(33) and must meet all of the following criteria:
 - (1) The covered material type and form is regularly accepted in residential recycling programs or redemption facilities and separated for mechanical or manual recycling by recycling programs for jurisdictions that collectively encompass at least 60% of the population of the state;
 - (2) The covered material type and form is regularly sorted and aggregated into regularly traded commodity grades accepted for recycling at responsible end markets;

- (3) The covered material format falls into a relevant Institution of Scrap Recycling Industries specification;
 - (4) 75% of that covered material category, by unit is in a recyclable format;
 - (5) For plastic covered materials, the plastic covered material is designed to ensure recyclability and does not include any components, inks, adhesives, or labels that prevent the recyclability of the covered material according to the APR Design® Guide published by the Association of Plastic Recyclers or its successor;
 - (6) For non-plastic covered materials, the covered material is designed to ensure recyclability and does not include any components, inks, adhesives, or labels that prevent the recyclability of the covered material; and
 - (7) The product or packaging does not contain an additive of high concern identified in Section 16 of this Act.
- (d) No later than two years after the effective date of this Act, the Department must provide the lists required under subsection (a) to the PROs, which must forward the list to all service providers and political subdivisions as relevant. Recyclable covered materials in the state are required to be collected by service providers either directly contracted by a PRO or a public service provider receiving reimbursement from a PRO.
- (e) The Department may update the lists in subsection (a) every 2 years. PROs shall enact additions and removals from the lists across the state within one year of notification by the Department. In adding or removing covered materials to the list of recyclable covered materials in the state, the Department shall consider whether the covered material type and form will be accepted pursuant to a producer responsibility plan.

Section 14. Compostable Covered Materials List

- (a) The Department must, in consultation with the Advisory Board, the PROs, service providers, political subdivisions, and others, develop a list of compostable covered materials in the state. The covered materials included on that list must meet the definition of compostable in Section 1(a)(7) and must meet all of the following criteria:
- (1) The covered material type and form are regularly accepted in residential composting programs and collected by composting programs for jurisdictions that collectively encompass at least 60% of the population of the state; and
 - (2) The covered material does not contain an additive of high concern identified in Section 16 of this Act.
- (b) No later than two years after the effective date of this Act, the Department must provide a list of compostable covered materials to the PROs, which must forward the list to all service providers and political subdivisions as relevant. Covered materials determined to be compostable in the state are required to be collected by service providers either directly contracted by a PRO or a public service provider receiving reimbursement from a PRO.
- (c) The Department may add or remove covered materials to the compostable covered materials list every 2 years. PROs shall enact additions and removals from covered materials across the state within one year of notification by the Department. In adding or removing covered materials to the compostable covered materials list the Department shall consider whether the covered material type and form will be accepted pursuant to a producer responsibility plan.

Section 15. Plastic Pollution Mitigation Fund

- (a) The Plastic Pollution Mitigation Fund is hereby established in the State Treasury and shall consist of all surcharges, interest, penalties, and other amounts collected and paid to the State Treasury pursuant to this section, less payments of refunds and reimbursements to the State Treasury for expenses incurred in the administration and collection of the fees imposed by this Act.
- (b) The PROs must pay a combined two hundred and fifty million (\$250,000,000) dollars each year into the Plastic Pollution Mitigation Fund, in addition to other fees required pursuant to this Act. The amount owed by each PRO shall be determined based on the number and weight of plastic covered materials each PRO sells, offers for sale, or distributes in or into the state. The PROs shall determine the structure for assessing respective contributions for each producer of plastic covered materials toward the total amount owed annually.
- (c) Moneys in the Plastic Pollution Mitigation Fund shall be used:
 - (1) To monitor and reduce the historical and current environmental justice and public health impacts of plastics, including to mitigate the historical and current impact of plastics on environmental justice areas;
 - (2) To monitor and reduce the environmental impacts of plastics on terrestrial, aquatic, and marine life and public health, including to restore, recover, and protect the natural environment; and
 - (3) To prevent and mitigate the impact of microplastics in the environment.
- (d) At least 60% of the annual distribution of funds from the Plastic Pollution Mitigation Fund must be allocated to provide benefits to residents living in environmental justice areas.
- (e) Moneys from the Plastic Pollution Mitigation Fund may be used to support grants to local jurisdictions, tribes, nongovernmental organizations, and community-based organizations and shall be used to increase and enhance the activities in subsection (c) and shall not:
 - (1) Replace or reduce any other pre-existing funding for those purposes; or
 - (2) Be expended for obligations imposed by any law other than this section or to cover costs identified in a needs assessment.
- (f) After the expiration of the second packaging producer responsibility plan or no later than 13 years after the effective date of this Act, the Department may reevaluate the amount needed to fund the Plastic Pollution Mitigation Fund, taking into account whether PROs have met the performance standards in Section 7 and ongoing impacts of plastic pollution on the environment and environmental justice areas.
- (g) Each agency or department receiving funding under this section shall provide an annual report to the [relevant budget committees of the legislature] on how the funding will be used, progress towards activities in subsection (c), and relevant details and outcomes.

Section 16. Reducing Toxics in Covered Materials

- (a) In this section:
 - (1) **Additive.** “Additive” means a substance which is intentionally added to covered materials to achieve a physical or chemical effect during manufacturing or in the final material.
 - (2) **Credible scientific evidence.** “Credible scientific evidence” means the results of a study, the experimental design and conduct of which have undergone independent scientific peer review, that

are published in a peer-reviewed journal or in a publication of an authoritative federal, state, or international governmental agency, including but not limited to:

- (A) The United States Department of Health and Human Services;
- (B) The National Toxicology Program;
- (C) The United States Food and Drug Administration;
- (D) The United States Centers for Disease Control and Prevention;
- (E) The United States Environmental Protection Agency;
- (F) The World Health Organization; or
- (G) The European Union, European Chemicals Agency.

- (3) **Incidental presence.** “Incidental presence” means the presence of an additive as an unintended or undesired ingredient of a covered material at a concentration that is less than 100 parts per million by weight (0.01%), or a lower threshold as determined to be necessary to protect human health by the [Department].³
 - (4) **Intentionally added.** “Intentionally added” means the act of deliberately utilizing an additive in the formation of a covered material where its continued presence is desired in the final covered material to provide a specific characteristic, appearance, or quality. The use of an additive as a processing agent, mold release agent, or intermediate is considered intentional addition for the purposes of this Act where the additive is detected in the final covered material. “Intentionally added” does not include the use of postconsumer recycled content, where some portion of the postconsumer recycled content may contain amounts of the additive but is neither desired nor deliberate.
 - (5) **Manufacturing.** “Manufacturing” means the physical or chemical modification of a material to produce covered materials.
 - (6) **Perfluoroalkyl and polyfluoroalkyl substances; PFAS.** “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means all members of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.
 - (7) **Phthalates.** “Phthalates” means all members of the class of organic chemicals that are esters of phthalic acid and that contain two carbon chains located in the ortho position.
 - (8) **Persistent, mobile, and toxic.** “Persistent, mobile, and toxic” means substances meeting the criteria established in “REACH: Improvement of guidance and methods for the identification and assessment of PMT/vPvM substances: Final Report,” or its successor.
 - (9) **Persistent, bioaccumulative, and toxic.** “Persistent, bioaccumulative, and toxic” means substances meeting the criteria established in Section 1 of Annex XIII to the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation of the European Union (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006, as amended, or its successor.
- (b) (1) No later than 4 years after the effective date of this Act, a producer shall not sell, offer for sale or for promotional purposes, or distribute covered materials to which the following additives of high concern have been intentionally added during manufacturing or distribution in any amount greater than an incidental presence:

³ This section could be implemented by the Department as defined in Section 1(a)(14) or another relevant state agency with jurisdiction over toxic substances.

- (A) Lead;
 - (B) Cadmium;
 - (C) Mercury;
 - (D) Hexavalent chromium;
 - (E) Phthalates;
 - (F) PFAS; and
 - (G) Other additives of high concern as identified and prohibited by the Department under this section.
- (2) No material used to replace an additive regulated by this Act in a covered material may be used in a quantity or manner that creates a hazard as great as or greater than the hazard created by the additive regulated by this Act, taking into account the factors in subsection (c)(2).
- (c) (1) In accordance with the requirements of this section, the Department must periodically revise and publish a list of additives or groups of additives of high concern in covered materials.
- (2) An additive or group of additives may be included on the list of additives of high concern under this section only if:
- (A) The additive or group of additives has been identified by a governmental entity on the basis of credible scientific evidence as being:
 - (i) A carcinogen;
 - (ii) A reproductive or developmental toxicant;
 - (iii) An endocrine disruptor;
 - (iv) Persistent, bioaccumulative, and toxic; or
 - (v) Persistent, mobile, and toxic; or
 - (B) The Department determines that there is credible scientific evidence that the additive or group of additives is a reproductive or developmental toxicant, endocrine disruptor, or carcinogen in humans or the environment.
- (3) The Department in its periodic review of the list of additives of high concern published pursuant to this section shall remove from the list any additives or group of additives that no longer meets the criteria of paragraph (2) and may add to the list of additives of high concern additional additives or groups of additives that meet the criteria of paragraph (2).
- (4) The Department may consider the extent to which an additive or group of additives known to be used or present in covered materials is adequately regulated by the Federal Government or an agency of this state to reduce or prevent the same public health threats that would be the basis for addressing the additive under this section.

Section 17. Annual Report to the Legislature

- (a) No later than 5 years after the effective date of this Act and every year thereafter the Department must submit a report to the governor and to the chairs and ranking minority members of [the legislative committees with jurisdiction over the Department and/or solid waste]. The report must:
- (1) Summarize the annual reports submitted to the Department by all PROs;
 - (2) Report on progress achieved in the previous year towards performance targets under Section 5(a)(5)(G) and performance standards under Section 7;
 - (3) Report on implementation of Section 16;
 - (4) Summarize enforcement actions under Section 18; and
 - (5) Contain other information regarding the performance of the PROs in implementing this Act.

Section 18. Enforcement

- (a) The Department must enforce this Act as provided under this section. The Department or attorney general must first issue a corrective order before pursuing other enforcement actions.
- (b) The Department may issue a notice of violation to, and impose an administrative civil penalty not to exceed \$50,000 per day of violation on, any entity not in compliance with this Act or any of the regulations the Department adopts to implement this Act.
- (c) In the event that the Department determines that a PRO no longer meets the requirements of this Act or fails to implement and administer an approved producer responsibility plan in a manner that effectuates the purposes of this Act, the Department shall revoke its approval of the PRO and may approve additional PROs pursuant to Section 4.
- (d) If the Department determines that a PRO or producer has not achieved the performance standards established pursuant to Section 7, the Department shall, through a public process, adopt regulations that place requirements on the PRO or producers to achieve the performance standards specified in Section 7.

Section 19. Rulemaking Authorized

- (a) The Department may adopt rules to implement this Act.

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