



# COLORADO

Solid & Hazardous  
Waste Commission

Department of Public Health & Environment

## NOTICE OF PROPOSED RULEMAKING HEARING BEFORE THE COLORADO SOLID AND HAZARDOUS WASTE COMMISSION

### SUBJECT:

For consideration of the amendments to 6 CCR 1007-2, Part 1, for the addition of Section 18 - Producer Responsibility, along with the accompanying Statement of Basis and Purpose, the following will be considered:

### **Amendment of 6 CCR 1007-2, Part 1 - Regulations Pertaining to Solid Waste Sites and Facilities - Amendment of Section 1.8 Regulations (Producer Responsibility Authorization and Dollar Limit Exemption), and Addition of Section 18 - Producer Responsibility Regulations**

These modifications are made pursuant to the authority granted to the Solid and Hazardous Waste Commission in Section 25-17-701 C.R.S. et. seq., which authorizes the Commission to establish rules for the administration, operation, and enforcement of the producer responsibility program.

The purpose of these proposed revisions to 6 CCR 1007-2, Part 1, Section 18 (the Regulations) is to set rules for the extended producer responsibility program. These proposed revisions to the regulations were developed in response to House Bill (HB) 22-1355, passed by the legislature in 2022. The Section 18 regulations codify the producer responsibility regulations as authorized under the Act. The primary subsections of the rules address the regulatory requirements through the following categories: 1) general provisions including program specific definitions, 2) producer requirements, 3) the producer responsibility organization (PRO) requirements, 3) covered materials under the program, 4) covered entities, 5) individual program plan requirements, 6) additional producer responsibility organization requirements, 7) education and outreach requirements, 8) reimbursement requirements, and 9) inspection, enforcement and penalties. Each section clarifies and expands on the program requirements and administrative criteria established under the Act. Section 1.8.2 is also updated to adjust the consumer price index to establish the dollar limitation threshold to exempt small businesses from the producer requirements under Section 18.

Any information that is incorporated by reference in these proposed rules is available for review at the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division and any state publications depository library.

Pursuant to Section 24-4-103(3), C.R.S., a notice of proposed rulemaking was submitted to the Secretary of State on April 15, 2024. Copies of the proposed rulemaking will be provided to all persons on the Solid and Hazardous Waste Commission's mailing list on or before the



date of publication of the notice of proposed rulemaking in the Colorado Register on April 25, 2024.

The proposed rulemaking materials may also be accessed at <https://cdphe.colorado.gov/shwc-rulemaking-hearings>.

WRITTEN TESTIMONY

Any alternative proposals for rules or written comments relating to the proposed amendment of the regulation will be considered. The Solid and Hazardous Waste Commission will accept written testimony and materials regarding the proposed alternatives. **The commission strongly encourages interested parties to submit written testimony or materials to the Solid and Hazardous Waste Commission Office, via email to [cdphe.hwcrequests@state.co.us](mailto:cdphe.hwcrequests@state.co.us) by Wednesday, May 8, 2024, at 11:59 p.m. Written materials submitted in advance will be distributed to the commission members prior to the day of the hearing. Submittal of written testimony and materials on the day of the hearing will be accepted, but is strongly discouraged.**

HEARING SCHEDULE:

DATE: Tuesday, May 21, 2024  
TIME: 9:00 a.m.  
PLACE: This meeting will be held online only at:

<https://us02web.zoom.us/meeting/register/tZlud-CrrzkeE9N6iMyAtTFgK7dti4M0h04y#/registration>

Oral testimony at the hearing regarding the proposed amendments may be limited.



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Jojo La, Interim Administrator



1 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

2 Solid and Hazardous Waste Commission/Hazardous Materials and  
3 Waste Management Division

4 6 CCR 1007-2

5 PART 1 - REGULATIONS PERTAINING TO SOLID WASTE SITES AND FACILITIES

6  
7  
8 Amendment of Section 1.8 Producer Responsibility Authorization and Dollar Limit  
9 Exemption, and Addition of Section 18. Producer Responsibility Regulations

10  
11  
12  
13 1) The Table of Contents of the Solid Waste Regulations is being amended by revising  
14 Section 18 to read as follows:

15  
16  
17 PART 1 - REGULATIONS PERTAINING TO SOLID WASTE SITES AND FACILITIES

18  
19  
20 TABLE OF CONTENTS

21  
22 PART B  
23 REQUIREMENTS AND INFORMATION CONCERNING  
24 ALL SOLID WASTE DISPOSAL SITES AND FACILITIES  
25 IN THE STATE OF COLORADO

26  
27 \*\*\*\*\*

28  
29 SECTION 18 PRODUCER RESPONSIBILITY REGULATIONS~~(RESERVED)~~

- 30
- 31 18.1 GENERAL PROVISIONS
- 32 18.2 PRODUCERS
- 33 18.3 COVERED MATERIALS - MINIMUM RECYCLABLE LIST
- 34 18.4 COVERED ENTITIES
- 35 18.5 PRODUCER RESPONSIBILITY ORGANIZATION (PRO)
- 36 18.6 INDIVIDUAL PROGRAM PLAN (IPP) REQUIREMENTS
- 37 18.7 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION (PRO)
- 38 18.8 EDUCATION AND OUTREACH PROGRAM
- 39 18.9 PRODUCER ECO-MODULATION (RESERVED)
- 40 18.10 PRO REIMBURSEMENT TO CDPHE
- 41 18.11 INSPECTION - ENFORCEMENT – PENALTIES

42  
43  
44 \*\*\*\*\*

46 **2) Section 1.8 (Producer Responsibility Authorization and Dollar Limit Exemption) is**  
47 **being amended by revising paragraph 1.8.2 to read as follows:**

48  
49 **SECTION 1.8 PRODUCER RESPONSIBILITY AUTHORIZATION AND DOLLAR LIMIT EXEMPTION**  
50

51 **1.8.1 Authorization** The Commission is authorized pursuant to Section 25-17-713 (2) C.R.S. to adjust  
52 by rule the dollar limitation set forth in Section 25-17-713(1)(a) C.R.S., based on the percentage change in  
53 the United States Department of Labor’s Bureau of Labor Statistics Consumer Price Index (CPI) for  
54 Denver-Aurora-Lakewood for all items and all urban consumers, or its successor index. This Index is  
55 available January of each year at [https://www.bls.gov/regions/mountain-plains/news-](https://www.bls.gov/regions/mountain-plains/news-release/consumerpriceindex_denver.htm)  
56 [release/consumerpriceindex\\_denver.htm](https://www.bls.gov/regions/mountain-plains/news-release/consumerpriceindex_denver.htm).  
57

58 **1.8.2 Producer Exemption Dollar Limit** As of July 1, ~~2023~~2024, a producer is exempt from the  
59 requirements of Sections 25-17-701 - 25-17-716, C.R.S. of the Act, and Section 18 of the Solid Waste  
60 Regulations if the producer is a person with less than five million, ~~three hundred twenty five hundred six~~  
61 thousand, two hundred dollars (\$~~5,320,000~~5,506,200) in realized gross total revenue, not including on-  
62 premises alcohol sales, during the prior calendar year.

63

64 **3) Section 18 (Producer Responsibility Regulations) is being added to read as**  
65 **follows:**

66  
67 **SECTION 18 – PRODUCER RESPONSIBILITY ~~REGULATIONS~~(RESERVED)**

68  
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96

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137 **SECTION 18 PRODUCER RESPONSIBILITY REGULATIONS**

138  
139 **18.1 GENERAL PROVISIONS**

140  
141 **18.1.1 Purpose & Authority**

142  
143 (A) Purpose

144  
145 The overall purpose of these rules is to implement the Producer Responsibility Program for  
146 Statewide Recycling Act as found in sections 25-17-701 through 25-17-716, Colorado Revised  
147 Statutes, (C.R.S.).

148  
149 (B) Authority

150  
151 The Solid and Hazardous Waste Commission is authorized pursuant to sections 703, 705, 710, and  
152 713 of the Act to establish rules for the administration, operation, and enforcement of the Program.

153  
154 **18.1.2 Scope and Applicability**

155  
156 This Section 18 applies to all persons, unless otherwise exempted, who are designated as producers  
157 of covered materials including packaging materials and paper products as defined in section 703 of  
158 the Act.

159  
160 **18.1.3 Referenced Materials, Computation of Dates**

161  
162 (A) Referenced materials

163  
164 This Section 18 incorporates by reference codes, standards, guidelines, or rules produced by other  
165 state and federal agencies or nationally recognized organizations when repeating the text verbatim  
166 would be unduly burdensome. All incorporated references are to the version valid on the date of  
167 adoption of the pertinent section of these regulations and do not include later amendments or  
168 editions of the incorporated material. Copies of the referenced material may be reviewed during  
169 normal business hours at the Colorado Department of Public Health and Environment. Information  
170 on accessing the referenced documents may be obtained by contacting the:

171  
172 Colorado Department of Public Health and Environment  
173 Program Manager, Solid Waste Section  
174 Hazardous Materials and Waste Management Division  
175 4300 Cherry Creek Drive South  
176 Denver, Colorado 80246-1530  
177 Phone: (303) 692-3300

178  
179 (B) Computation of dates

180  
181 If any of the deadlines noted below fall on a Saturday, Sunday or holiday, the computation of time  
182 pursuant to § 2-4-108, C.R.S. will be used.

183  
184 **18.1.4 Confidentiality - Proprietary Information - Records Requests**

185  
186 (A) Confidential Business Information

187  
188 The department, the advisory board, the Producer Responsibility Organizations (PRO), additional  
189 PROs, and any other person administering a plan approved by the department must:

- 190  
191 (1) Keep confidential any properly identified proprietary information provided by a producer; and

- 192 (2) Exclude from release to the public or any unauthorized entity any properly identified  
193 proprietary information provided by a producer in the plan proposal, the amended plan  
194 proposal, the final plan, any other plan approved by the department pursuant to the Producer  
195 Responsibility Program for Statewide Recycling (Program) or any amendment to the final  
196 plan or other plan approved by the department pursuant to the Program.  
197

198 The department may share information properly identified as confidential or proprietary with the PRO  
199 or additional PRO if the party that submitted it agrees to disclosure or the department provides notice  
200 to the party that submitted the information and the party does not dispute the disclosure.  
201

202 (B) Burden to demonstrate information is proprietary  
203

204 The person submitting the information has the burden to identify and demonstrate the submitted  
205 information is proprietary or confidential at the time of submission. The person submitting the  
206 information must describe with particularity which information it considers proprietary or confidential  
207 and why. If part of a document is proprietary or confidential and part is not, the producer must submit  
208 two copies of the document, one unredacted and marked confidential and one redacted. The  
209 department need only protect or withhold information clearly and properly identified at the time of  
210 submission.  
211

212 (C) Recycling data  
213

214 Facilities may request confidential business information protection on the amount and destination of  
215 materials recovered for recycling data submitted to the department as permitted by section 30-20-  
216 122(2), C.R.S.  
217

218 (D) Records requests to the department  
219

- 220 (1) A request for records held by the department under this Section must be made in writing to  
221 the following contact:  
222

223 Public Records Officer  
224 Hazardous Materials and Waste Management Division  
225 Colorado Department of Public Health and Environment  
226 4300 Cherry Creek Drive South  
227 Denver, Colorado 80246-1530  
228

- 229 (2) The records request must reasonably describe the records sought in a way that will permit  
230 their identification.  
231

- 232 (3) The department will process the request in accordance with the Colorado Open Records Act  
233 (CORA), sections 24-72-201 et seq., C.R.S.  
234

- 235 (4) As stated by CORA, the department is not required to create new records in response to a  
236 records request. Additionally, all existing records are subject to routine destruction according to  
237 standard record retention policies and schedules.  
238

239 **18.1.5 Recordkeeping, Production of Records, and Audits**  
240

241 (A) Duty to preserve and maintain records  
242

243 Producers, the PRO, any additional PRO, and any person administering a plan approved by the  
244 department under the Program must preserve all books and records in accordance with state and  
245 federal laws. In particular, producers, the PRO, any additional PRO, and any person administering a  
246 plan approved by the department under the Program must maintain all documents and records

247 necessary for the department to determine compliance with the Program for a period of 5 years.  
248 Such records must be open to inspection by the department at any time as permitted under Section  
249 18.11.1.  
250

251 (B) Duty to produce records  
252

253 If requested by the department, producers, the PRO, any additional PRO, and any person  
254 administering a plan approved by the department must submit documents and records to the  
255 department within ten business days or the timeline specified by the department, whichever is later.  
256 In particular, producers, the PRO, any additional PRO, and any person administering a plan  
257 approved by the department must submit documents and records related to the calculation and  
258 payment of producer responsibility dues, recycling rates, collection rates, post consumer-recycled-  
259 content rates, and any other materials necessary for the department to determine compliance with  
260 the Program to the the department within ten business days or the timeline specified by the  
261 department, whichever is later.  
262

263 (C) Duty to provide data  
264

265 If the PRO, any additional PRO, and any person administering a plan approved by the department  
266 ceases to exist or ceases to administer the program, they must transfer all producer data to another  
267 PRO designated by the department under section 705(1)(b) of the Act to administer the program or if  
268 no other PRO exists, then they must transfer the data to the department to be managed by the  
269 department until transferred to another designated PRO.  
270

271 (D) Annual financial audit  
272

273 The PRO, any additional PRO, and any person administering a plan approved by the department  
274 must cause an annual financial audit of the program or any other plan approved by the department to  
275 be conducted by an independent third-party auditor.  
276

277 The audit must include a detailed list of the Program's or plan's costs and revenues from the  
278 producer responsibility dues.  
279

280 A copy of the annual audit must be included in the annual program plan submitted to the advisory  
281 board before March 31 of the second year of the program's implementation, and by March 31 each  
282 year thereafter.  
283

284 (E) Material tracking audits  
285

286 If requested by the department, producers, the PRO, any additional PRO, and any person  
287 administering a plan approved by the department must conduct audits of records pertaining to  
288 covered material tracking. Audits may include random bale tracking to verify chain of custody of  
289 materials. Audits must demonstrate and certify that the end markets meet the standards of  
290 "responsible" as defined by the Act.  
291

292 Results of an audit must be included in the annual report. Producers, the PRO, any additional PRO,  
293 and any person administering a plan approved by the department must indicate what information is  
294 requested to be deemed confidential.



295 **18.1.6 Definitions of Terms Used in this Section**

296 The following definitions apply throughout Section 18.

297  
298  
299 **“Additional materials list” (“AML”)** means covered materials not on the Minimum Recyclables List  
300 that may be collected in different geographic areas through curbside services, drop-off centers, or  
301 other means.

302  
303 **“Additional producer responsibility organization”** means a nonprofit organization designated by  
304 the department as an additional producer responsibility organization pursuant to section 708(2)(b) of  
305 the Act.

306  
307 **“Advisory board”** means the producer responsibility program for statewide recycling advisory board  
308 created in section 704(1) of the Act.

309  
310 **“Agricultural employer”** has the same meaning as section 8-3-104(1), C.R.S., and means a person  
311 that:

- 312 (a) regularly engages the services of one or more employees or contracts with any person who  
313 recruits, solicits, hires, employs, furnishes, or transports employees; and
- 314 (b) is engaged in any service or activity included in section 203(f) of the federal “Fair Labor  
315 Standards Act of 1938”, 29 U.S.C. §§ 201 et seq., as amended, or engaged in “agricultural  
316 labor” as defined in section 3121(g) of the federal “Internal Revenue Code of 1986”, as  
317 amended.

318  
319 **“Alternative collection program”** means a program for the management of packaging material that  
320 is operated by an individual producer that has been approved by the department in accordance with  
321 section 705 of the Act.

322  
323 **“Amended plan proposal”** means an amended plan proposal for the implementation of the  
324 program submitted to the advisory board after the advisory board’s initial review of the plan proposal  
325 in accordance with section 705(5) of the Act.

326  
327 **“Brand”** means any mark, word, name, symbol, design, device or graphical element, or a  
328 combination thereof, including a registered or unregistered trademark, that identifies a product and  
329 distinguishes the product from other products.

330  
331 **“Cellulosic” or “Cellulosic fibers”** means fibers derived from plant matter including, but not limited  
332 to, seed fibers, bast fibers, and leaf fibers.

333  
334 **“Collection”** means the gathering and transportation of covered materials from covered entities for  
335 the purpose of recycling.

336  
337 **“Collection rate”** means the weight of covered materials that are collected under the program in a  
338 calendar year divided by the weight of covered materials used for products sold or distributed by  
339 producers within or into the state in the same calendar year, expressed as a percentage.

340  
341 **“Commercial enterprise”** means a corporation, partnership, limited liability company, association,  
342 public corporation, or any other legal or commercial entity whose primary business is selling or  
343 distributing products to consumers.

344  
345 **“Commission”** means the Solid and Hazardous Waste Commission created under section 25-15-  
346 302(1)(a), C.R.S.

347  
348 **“Compost”** means the material or product that is developed under controlled conditions and that  
349 results from biological degradation processes by which organic wastes decompose.

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**“Compost facility”** means a site where compost is produced and includes only those compost facilities that readily accept and process packaging material collected from consumers.

**“Compostable”** means a covered material associated with organic waste streams that is capable of undergoing aerobic biological decomposition in a controlled composting system as demonstrated by meeting ASTM D6400, ASTM D6868, or ASTM D8410 or any successor standards.

**“Confidential or proprietary information”** means information that, if made public: (a) would divulge competitive business information or trade secrets of the entity that developed the information; or (b) would reasonably hinder the entity’s competitive advantage in the market. The term “trade secret” as used in this definition has the same meaning here as it does in section 7-74-102(4), C.R.S.

**“Consumer”** means any person who purchases or receives covered materials in the state and is located at a covered entity.

**“Contamination”** means discarded materials delivered to a recycling, compost or other processing facility in an amount or concentration that negatively impacts the value of the material being collected or negatively impacts a processor’s ability to sort that material.

**“Convenience standards”** means convenient and equitable access to recycling for all readily recyclable materials at no charge to the covered entity in a manner as convenient as the collection of solid waste.

**“Coordination plan”** means a coordination plan submitted by an additional PRO approved by the department pursuant to section 708 of the Act

**“Covered entity”** means the following locations in the state from which covered materials are collected:  
(a) all single-family or multi-family residences in the state; and  
(b) non-residential locations identified in the final plan, including public places; small businesses; schools, as defined in section 22-1-132(2)(c), C.R.S; hospitality locations; and state and local government buildings.

**“Covered materials”** includes:  
(a) packaging material, except as specified in section 703(13)(b) of the Act, and  
(b) paper products, except as specified in section 703(13)(b) of the Act.

**“Department”** means the Department of Public Health and Environment created in Section 24-1-119, C.R.S.

**“Durable product”** means a product that will remain usable for its original intended purpose for at least five years.

**“Eco-modulation bonus schedule”** RESERVED

**“Environmentally sound management practices”** means policies that ensure compliance with all applicable environmental laws, including laws addressing:  
(a) record keeping;  
(b) tracking and documenting the disposition of covered materials collected from covered entities; and  
(c) environmental liability coverage for professional services and contractor operations.

**“Executive director”** means the executive director of the department or the executive director’s designee.

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**“Final plan”** means the plan proposal or amended plan proposal that has been designated as the final plan by the department pursuant to section 705(5)(c)(I) of the Act or the final plan as amended by the coordination plan pursuant to section 708(2)(c) of the Act.

**“Front Range”** means the counties of Adams, Arapahoe, Boulder, Douglas, Elbert, El Paso, Jefferson, Larimer, Pueblo, Teller, and Weld and the Cities and Counties of Broomfield and Denver.

**“Hospitality locations”** means visitor accommodations such as hotels and motels, campgrounds, event venues, stadiums, food and drink establishments that predominantly generate the same kinds of covered materials that residential covered entities do.

**“Inbound contamination rate”** means the percentage of covered material collected and sent to a MRF, compost facility or other processor of covered materials that is not recyclable either due to improper recycling behavior or covered materials that are not recyclable.

**“Individual program plan”** or **“IPP”** means a plan developed by a producer who chooses to assume responsibility to comply with the Act individually. To have a valid plan, a producer must submit an IPP to, and receive approval from, the advisory board and department pursuant to section 705(8) of the Act.

**“Local government”** means a home rule or statutory county, municipality, or city and county.

**“Materials recovery facility”** (**“MRF”**) means a facility for processing covered materials that are collected for recycling before they are conveyed to end-market businesses. For the purposes of this definition, “end-market business” means a business, or a portion of a business, that processes recyclable materials into new products or reuses recyclable materials in new products sold or otherwise furnished to end users.”

**“Mechanical recycling”** means a form of recycling that does not change the basic molecular structure of the material being recycled.

**“Minimum recyclable list”** (**“MRL”**) means the uniform, statewide list of covered materials based on whether the covered material is readily recyclable, including the availability of recycling services, recycling collection and processing infrastructure, and recycling end markets for covered materials, as determined by the needs assessment and as updated by the PRO in compliance with the Act.

**“Multifamily residences”** means a building or buildings that are occupied or are arranged, designed, and intended to be occupied, by two or more families, and contain more than one dwelling unit, but does not include hotels, motels, or boarding houses, or single family residences with two or more dwelling units.

**“Multiple uses”** in regard to packaging designed for reuse or refill, means that the material is used five or more times.

**“Needs assessment”** means the assessment of the state’s recycling needs conducted pursuant to section 705(3).

**“Nonprofit organization”** means a tax-exempt charitable or social welfare organization operating under 26 U.S.C. § 501(c)(3) or 501(c)(4) of the federal “Internal Revenue Code of 1986”, as amended.

**“Nonresidential locations”** means locations identified in the final plan including public places, small businesses, schools as defined in Section 22-1-132(2)(c), C.R.S., hospitality locations, and state and local government buildings.

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**“Packaging material”** means any material, regardless of recyclability, that is intended for single or short-term use and is used for the containment, protection, handling, or delivery of products to the consumer at the point of sale, including through an internet transaction.

Packaging material includes products supplied to or purchased by consumers for the express purpose of facilitating food or beverage consumption and that are:

- (a) ordinarily disposed of after a single or short-term use; and
- (b) not designed for reuse or refill.

Packaging material includes paper, plastic, glass, metal, cartons, flexible foam, rigid packaging, or other materials or combination of these materials.

Packaging material does not include:

- (a) packaging materials used solely in transportation or distribution to non-consumers,
- (b) packaging materials used solely in business-to-business transactions where a covered material is not intended to be distributed to the end consumer,
- (c) packaging materials that are not sold or distributed to covered entities, or
- (d) packaging materials that are used for products sold or distributed outside the state.

**“Paper”** means material of any type of cellulosic fiber source including but not limited to wood, wheat, rice, cotton, bananas, eucalyptus, bamboo, hemp, and sugar cane (bagasse) fiber sources.

**“Paper products”** means paper and other cellulosic fibers, whether or not they are used as a medium for text or images, including:

- (a) flyers;
- (b) brochures;
- (c) booklets;
- (d) catalogs;
- (e) telephone directories;
- (f) newspapers;
- (g) magazines; and
- (h) paper used for writing or any other purpose.

Paper products does not include newspapers used for a print publication that primarily include content derived from primary sources related to news and current events.

**“Person”** means any individual, public or private corporation, partnership, association, firm, trust or estate, franchisee or franchisor; or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

**“Plan”** means a plan approved by the department pursuant to the Program.

**“Plan proposal”** means the plan proposal for the implementation of the program submitted to the advisory board in accordance with section 705 of the Act..

**“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. Plastic includes, without limitation, polyethylene terephthalate (PET), high density polyethylene (HDPE), polyvinyl chloride (PVC), low density polyethylene (LDPE), polypropylene (PP), polystyrene (PS), polylactic acid (PLA), and aliphatic biopolyesters, such as polyhydroxyalkanoate (PHA) and polyhydroxy butyrate (PHB).

Plastic does not include natural rubber or naturally occurring polymers such as proteins or

515 starches. Packaging that is primarily made from another material other than plastic shall not be  
516 considered plastic packaging.  
517

518 **“Postconsumer recycled material”** means only those covered materials that have served their  
519 intended end use as consumer items and that have been separated or diverted from the waste  
520 stream for the purposes of collection and recycling as a secondary material feedstock. Postconsumer  
521 recycled material includes returns of material from the distribution chain. Postconsumer recycled  
522 material does not include waste generated during or after the completion of a manufacturing process.  
523

524 **“Producer”** means:

525 (a)

- 526 (I) if the product is sold or distributed in the state using packaging materials under the  
527 manufacturer’s own brand or is sold or distributed in the state using packaging materials  
528 that lack identification of a brand, the person that manufactures the product;  
529 (II) if the product is manufactured by a person other than the brand owner, the person that is  
530 the licensee of a brand or trademark under which a packaged item is sold or distributed  
531 in the state, whether or not the trademark is registered in the state; or  
532 (III) if there is no person described in section 703(30)(a)(I) or (30)(a)(II), within the United  
533 States, the person that imports the product using covered materials into the United  
534 States for use in a commercial enterprise that sells or distributes the item in the state;  
535

536 (b) for the purposes of products that are sold or distributed in the state through an internet  
537 transaction:

- 538 (I) the producer of the packaging material used to directly protect or contain the product;  
539 and  
540 (II) for the purposes of packaging material used to ship a product to a consumer, the person  
541 that packages or ships the product to the consumer;  
542

543 (c) for the purposes of a paper product that is a magazine, newspaper, catalog, telephone  
544 directory, or similar publication, the publisher of the paper product;  
545

546 (d) for the purposes of paper products not described in section 703(30)(c):

- 547 (I) the person that manufactures the paper product under the manufacturer’s own brand; or  
548 (II) if the paper product is manufactured by a person other than the brand owner, the  
549 person that is the owner or licensee of the brand or trademark under which the paper  
550 product is used in a commercial enterprise, sold, or distributed in or into the state,  
551 whether or not the trademark is registered in the state; or  
552

553 (e) for any other covered material, the person that first distributes the covered material in or into  
554 the state.  
555

556 **“Producer Responsibility Act”** or **“Act”** means the “Producer Responsibility Program for  
557 Statewide Recycling Act,” as codified at Title 25, Article 17, Part 7.  
558

559 **“Producer responsibility dues”** means the amounts established in section 705(4)(i)(II) of the Act  
560 that a producer participating in the program pays annually into the program pursuant to section  
561 709(1) of the Act.  
562

563 **“Producer Responsibility Organization”** or **“Organization”** or **“PRO”** means the nonprofit  
564 organization designated to implement the program pursuant to section 705(1)(b)(II) of the Act.  
565

566 **“Producer Responsibility Program for Statewide Recycling”** or **“Program”** means the  
567 regulatory program created in accordance with the Act.  
568

569 **“Product”** means an economic good that is distributed, marketed or sold to a consumer. Product

570 includes material sold in bulk for use at a later time in containing, protecting, delivering, or presenting  
571 items.  
572  
573 **“Public place”** means an indoor or outdoor location where trash services are offered in the state  
574 that is open to and generally used by the public. “Public Place” includes streets; sidewalks; plazas;  
575 town squares; state-owned or local-government-owned parks, beaches, and forests; other state-  
576 owned or local-government-owned land open for recreation or other public uses; and transportation  
577 facilities, including bus and train stations and airports.  
578  
579 “Public place” does not include industrial, commercial, or privately-owned property.  
580  
581 **“Readily recyclable material”** means a covered material that is included on the minimum  
582 recyclable list.  
583  
584 **“Recycling”** means the reprocessing, by means of a manufacturing process, of a used material into  
585 a product or a secondary raw material. “Recycling” does not include:  
586 (a) energy recovery or energy generation by means of combustion;  
587 (b) use as a fuel;  
588 (c) use as alternative daily cover as defined in Section 30-20-1402(1), C.R.S.; or  
589 (d) landfill disposal of discarded covered materials.  
590  
591 **“Recycling rate”** means the weight of covered materials that are recycled under the program in a  
592 calendar year divided by the weight of covered materials used for products sold or distributed by  
593 producers within or into the state in the same calendar year, expressed as a percentage. “Recycling  
594 rate” is measured at the point where collected covered materials have been prepared for sale or  
595 delivery to material reclaimers or end markets after processing at a materials recovery facility or  
596 similar establishment that sells directly to reclaimers or end markets.  
597  
598 **“Recycling services”** means services provided for the recycling of covered materials, including the  
599 collection, transportation, and processing of covered materials from the consumer to the end market.  
600 “Recycling services” includes curbside services and drop-off centers.  
601  
602 **“Recycling services costs”** means the costs of recycling programs to provide recycling services,  
603 including applicable costs related to:  
604 (a) the administration of recycling programs;  
605 (b) capital improvements to recycling programs;  
606 (c) the collection, transportation, sorting, and processing of covered materials;  
607 (d) public education about recycling programs; and  
608 (e) disposal of nonrecyclable collected covered materials.  
609  
610 **“Residential”** means all single-family or multifamily residences in the state.  
611  
612 **“Responsible end market”** means a materials market in which the recycling of materials or the  
613 disposal of contaminants is conducted in a way that:  
614 (a) benefits the environment, including compliance with all applicable state and federal  
615 environmental laws and regulations; and  
616 (b) minimizes risks to public health and worker health and safety.  
617  
618 **“Retail food establishment”** has the same meaning as the definition in Section 25-4-1602(14),  
619 C.R.S., of the Food Protection Act. Specifically, “retail food establishment” means “a retail operation  
620 that stores, prepares, or packages food for human consumption or serves or otherwise provides food  
621 for human consumption to consumers directly or indirectly through a delivery service, whether such  
622 food is consumed on or off the premises or whether there is a charge for such food[.]” § 25-4-  
623 1602(14), C.R.S.  
624

625 “Retailer” means a person that sells to consumers within or into the state, including sales made  
626 through an internet transaction, products for which covered materials are used.  
627

628 “Reuse” or “Refill” means the return into the marketplace of a covered material that:  
629 (a) has already been used in the same manner as originally intended without a change in the  
630 covered material’s purpose; and  
631 (b) was intended to be used for its original purpose at least five times. A covered material is  
632 used five times when it is used once for its original purpose and four additional times  
633 following this.  
634

635 For purposes of this definition, 1) returnable reusable packaging: is packaging designed to be  
636 recirculated multiple times for the same or similar purpose in its original format in a system for  
637 reuse, that is owned by producers or a third party and is returned to producers or a third party  
638 after each use; and 2) refillable packaging: is packaging designed to be refilled by consumers  
639 multiple times for the same or similar purpose in its original format, and that is sold or provided to  
640 consumers once for the duration of its usable life, and where the producer has made the same or  
641 similar product available for consumers to refill five multiple times without the need for additional  
642 packaging.  
643

644 “Service packaging” means material that is added at the point of sale by retail, food service, or  
645 other service entities to facilitate the delivery or consumption of products, which includes but is not  
646 limited to all bags, boxes, cups, plates, containers and other items for the direct or indirect  
647 containment of products.  
648

649 Examples of service packaging include but are not limited to:  
650 1) Single-use carry-out bags provided at checkout;  
651 2) Bags filled at in-store with items such as produce, bulk goods, and baked goods;  
652 3) Food wraps, single-use trays, bags and associated items provided by bakeries, delis, or  
653 used for meat or fish;  
654 4) Flow boxes & wraps / trays provided for containing multiple plants purchased at a nursery;  
655 5) Single-use plates/containers/cups and associated items provided to residential consumer  
656 to facilitate delivery of food/beverages;  
657 6) Take-out and home delivery food service packaging such as but not limited to pizza  
658 boxes.  
659

660 “Service provider” means a public or private entity, other than the producer responsibility  
661 organization, that provides recycling services in the state.  
662

663 “Single-use” means conventionally disposed of after a single use or not sufficiently durable or  
664 washable to be, or not designed to be, reusable or refillable.  
665

666 “Small business” means an individual business at a physical business location that has less than  
667 the total annual gross sales as adjusted annually by the Consumer Price Index as specified in  
668 Section 1.8.2.  
669

670 “State or local government buildings” means structures occupied by any person which are either  
671 owned by a local government or the state, or utilized by a local government or the state through  
672 leases of one year of duration or longer.  
673

674 “Supplemental collection” means a collection system, other than the primary curbside collection  
675 system, for covered materials that are not readily recyclable.  
676

677 “Unfilled food and beverage packaging material” Means a product that is not used as packaging  
678 when supplied to or purchased by consumers individually or in bulk but are then used by consumers  
679 at a later point for the express purpose of facilitating food or beverage consumption.

680  
681 “Unsafe” or “Unsanitary” means likely to cause disease or otherwise endanger health.  
682

683 “Use in a commercial enterprise” or “Used in a commercial enterprise” means, with respect to  
684 a physical good, directly associated with commercial activity, regardless of whether any brand or  
685 trademark (as defined in this section) is present on the physical good itself.  
686

## 687 688 **18.2 PRODUCERS**

### 689 690 **18.2.1 Scope and Applicability**

691  
692 Section 18.2 obligates producers, who are not otherwise exempt, to join, pay membership fees, and  
693 provide information to the PRO or any additional PRO. Compliance with this Section 18 does not  
694 relieve any producer from their obligations to comply with any other applicable federal, state or local  
695 statutes, regulations, requirements or ordinances.  
696

### 697 698 **18.2.2 Order of Obligation**

699 The following producers are subject to the Program in order of who is first obligated, if the product is  
700 sold or distributed in Colorado (except for paragraph E):  
701

#### 702 (A) Producers of Products Using Packaging Materials and Producers of Unfilled Food and Beverage 703 Packaging Material 704

- 705 (1) The brand owner of the product directing or performing the manufacturing of the packaging  
706 material used for the product;
- 707 (2) If (1) does not apply, then the brand or trademark licensee of the product directing the  
708 manufacturing of the packaging material used for the product;
- 709 (3) If there is no identified brand on the packaging materials and neither (1) nor (2) applies, then  
710 the manufacturer of the product using covered materials; or
- 711 (4) If (1) through (3) do not apply, then the importer into the United States of the product using  
712 covered materials.  
713

#### 714 (B) Producers of Packaging Materials Used in Internet Transactions 715

716 Internet transactions involve two obligated producers, both who are equally obligated:  
717

- 718 (1) Producers of packaging material used to protect or contain the product (follow determination  
719 in (A)); and
- 720 (2) Producers of packaging material used to ship the product to the consumer (follow  
721 determination in (A)).  
722

#### 723 (C) Producers of Paper Products 724

725 (1) Publications. The obligated producer for paper products such as publications (magazines,  
726 newspapers, catalogs, telephone directories, or similar publications) is the publisher. However,  
727 print publications which primarily include content derived from primary sources related to news  
728 and current events are not covered materials.  
729

730 (2) For other paper products that are not publications the obligated producer is determined in the  
731 following hierarchy:  
732

- 733 (a) Brand owner manufacturing or directing the manufacturing of the product;
- 734 (b) Brand or trademark licensee manufacturing or directing the manufacturing of the product;



- 735 (c) If neither (a) nor (b) applies, then the manufacturer of the product; or  
736 (d) If (a) through (c) do not apply, then the importer of the product.  
737

738 (3) There shall be only one obligated producer for a particular paper product.  
739

740 (D) Producers of Service Packaging  
741

- 742 (1) The brand owner directing or performing the manufacturing of the service packaging;  
743 (2) The brand or trademark licensee directing or performing the manufacturing of the service  
744 packaging;  
745 (3) Where the producer in (1) or (2) is a business operated wholly or in part as a franchise, the  
746 producer is the franchisor, if that franchisor has franchisees that operate in Colorado  
747 (4) If there is no identified brand on the packaging materials and neither (1), (2) nor (3) applies,  
748 then the manufacturer of the service packaging;  
749 (5) If (1) through (4) does not apply, then the importer of the service packaging into the United  
750 States.  
751 (6) If (5) does not apply then the distributor who first distributes the service packaging within or  
752 into the state.  
753

754 (E) Producers of Any Other Covered Materials  
755

756 For any other producers of covered materials not obligated in (A) through (D), the producer is the  
757 person that first distributes the material in or into the state.  
758

759 If a product has two or more items that are associated with different brands and are marketed in a  
760 single package, the producer is the brand who is contracting the manufacturing of the product using  
761 packaging materials following the order of obligation in (A).  
762

763 Where the producer is a business operated wholly or in part as a franchise, the producer is the  
764 franchisor, if that franchisor has franchisees that operate in Colorado.  
765

766 **18.2.3 Producer Exemptions**  
767

768 The following categories of producers are exempt from the Program under section 713 of the Act:  
769

- 770 (A) Entities that meet the small business dollar limitation criteria established under Section 1.8.2  
771 of the Solid Waste Regulations (6 CCR 1007-2, Part 1);  
772 (B) A person that has used less than one ton of covered materials for products sold or  
773 distributed within or into the state during the prior calendar year;  
774 (C) The state or a local government;  
775 (D) A nonprofit organization;  
776 (E) An agricultural employer, as defined in section 8-3-104 (1), C.R.S., regardless of where the  
777 agricultural employer is located, with less than five million dollars in realized gross total  
778 revenue in the state from consumer sales of agricultural products sold under the brand name  
779 of the farmer, egg producer, grower, or individual grower cooperative;  
780 (F) An individual business operating a retail food establishment that is located at a physical  
781 business location and that is licensed under section 25-4-1607(1)(a), C.R.S., or sections 32-  
782 106.5(1) to 32-106.5(5) (2024) of the Denver Code of Ordinances.  
783 (1) This includes a retail food establishment preparing or serving food in individual portions  
784 for immediate on- or off-premises consumption and assessed an annual fee based on  
785 the schedule in section 25-4-1607(1)(a), C.R.S.  
786 (2) Where the producer is a business operated wholly or in part as a franchise, the  
787 franchisees that is an individual business at a physical business location in the state.  
788 (G) A builder, a construction company, or construction contractors.  
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**18.2.4 Producer Requirements**

(A) Registration

(1) Unless a producer has notified the department of an intent to submit an IPP, a producer or its designated agent must register with the PRO by October 1, 2024 by submitting the producer's name, email, phone, and primary contact in writing to the PRO.

(2) A producer that begins to sell or distribute any products that use covered materials in the state after October 1, 2024, must, within two months, register with the PRO, and/or any additional PRO after January 2, 2029, by submitting the producer's name, email, phone, and primary contact in writing to the PRO or additional PRO, respectively.

(B) Participation in PRO

(1) Effective July 1, 2025, a producer must not sell or distribute any products that use covered materials in the state unless the producer is participating in the Program.

(2) Notwithstanding (1), a producer that begins to sell or distribute any products that use covered materials in the state after July 1, 2024, shall be authorized to sell or distribute such products in the state after July 1, 2025, if the producer is participating in the program and complies with the registration requirements of Section 18.2.5(A).

(C) Producer Fees

No later than January 1, 2026, and annually thereafter by a date determined by the PRO, a producer must pay producer responsibility dues to the PRO based on the funding mechanism described in the Plan Proposal pursuant to section 705(4)(i) of the Act.

**18.2.5 Recordkeeping, Reporting, and Production of Records**

(A) Producers operating as part of the PRO must comply with all of the recordkeeping, production, and audit requirements in Section 18.1.5.

(B) Consistent with Section 18.1, if requested, a producer must report the data necessary to meet its plan obligations to the PRO and the department and may use prorated national data if state-specific data is not available or feasible to generate.

(C) Consistent with Section 18.1, a producer must make all documents and records related to the calculation and payment of producer responsibility dues, recycling rates, collection rates, postconsumer-recycled-content rates, and any other materials necessary for the department to determine compliance with section 708(7) of the Act available for inspection by the department. In connection with enforcing a violation by a producer pursuant to section 710 of the Act, the department may request in writing that the producer provide any such documents or records to the department.

Producers must submit documents and records to the PRO if they believe they are exempt for covered material.

**18.2.6 Restriction on fees**

A person shall not charge any kind of point-of-sale or point-of-collection fee to consumers to recoup its costs in meeting the obligations of or complying with the Act.

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**18.3 COVERED MATERIALS - MINIMUM RECYCLABLE LIST**

This Section 18.3 applies to all covered material categories of packaging and paper products. Compliance with this Section 18 does not relieve any producer from his/her obligation to comply with any other applicable federal, state or local statutes, regulations, requirements or ordinances.

The categories described below are not intended to be all-inclusive, but rather are set forth to assist producers such as manufacturers, brand or trademark owners or licensees, distributors, importers, shippers, and packagers in determining the appropriate category of a covered material. The department recognizes that case-by-case determinations may be necessary concerning selection of an appropriate category for a particular covered material. Accordingly, the department may require that analytical and/or process information be supplied by the producer to assist in making such determinations.

Producers must submit documents and records to the PRO if they believe they are exempt for covered material.

**18.3.1 Covered Materials Categories**

Covered materials include the following material-specific categories:

(A) Packaging Materials, including:

- (1) Food packaging;
- (2) Beverage packaging; and
- (3) General consumer product packaging including:
  - (a) Sales packaging or primary packaging intended to provide the user or consumer the individual serving or unit of the product and most closely containing the product, food, or beverage.
  - (b) Grouped packaging or secondary packaging intended to bundle, sell in bulk, brand, or display the product.
  - (c) Packaging components and ancillary elements integrated into packaging, including ancillary elements directly hung onto or attached to a product and that perform a packaging function.

(B) Paper Products, including:

- (1) Publications; and
- (2) Non-bound paper products.

(C) Compostable Packaging Material:

Producers of compostable packaging material are subject to the requirements in sections 25-17-803 and 25-17-804 C.R.S.

**18.3.2 Exempt Materials**

(A) Statutorily-Exempt Materials:

The following materials are exempt from the definition of a covered material as specified by section 703(13)(b) of the Act:

- (1) packaging materials intended to be used for the long-term storage or protection of a durable product and that are intended to transport, protect, or store the product for at least five years;

- 898 (2) paper products that, through their use, could become unsafe or unsanitary to handle;  
899  
900 (3) printed paper used to distribute financial statements, billing statements, medical documents,  
901 or other vital documents required to be provided in paper form by applicable consumer protection  
902 laws or other state or federal laws;  
903  
904 (4) bound books;  
905  
906 (5) beverage containers subject to a returnable container deposit, if applicable;  
907  
908 (6) packaging material used exclusively in industrial or manufacturing processes;  
909  
910 (7) packaging material used to contain a product that is regulated as a drug, medical device, or  
911 dietary supplement by the Federal Food and Drug Administration under the “Federal Food, Drug,  
912 and Cosmetic Act”, 21 U.S.C. §§ 301 et seq., as amended, or any federal regulation  
913 promulgated under the Federal Food, Drug, and Cosmetic Act, or any equipment and materials  
914 used to manufacture such products;  
915  
916 (8) packaging material used to contain a product that is regulated as animal biologics, including  
917 vaccines, bacterins, antisera, diagnostic kits, and other products of biological origin under the  
918 federal “Virus-Serum-Toxin Act”, 21 U.S.C. Sec. 151 et seq., as amended;  
919  
920 (9) packaging material used to contain a product that is regulated under the “Federal Insecticide,  
921 Fungicide, and Rodenticide Act”, 7 U.S.C. §§ 136 et seq., as amended;  
922  
923 (10) packaging material used to contain architectural paint covered under a paint stewardship  
924 program in accordance with Part 4 of Title 25, Article 17;  
925  
926 (11) packaging material used to contain a product that is required under state law to be sold in  
927 packaging material that meets the standards set forth in the “Poison Prevention Packaging Act of  
928 1970”, 15 U.S.C. §§ 1471 et seq., as amended;  
929  
930 (12) packaging material used to contain a portable electronic device, as defined in Section 10-4-  
931 1501, C.R.S., that has been repaired and reconditioned to be sold as a refurbished products;  
932  
933 (13) paper products used for a print publication that primarily includes content derived from  
934 primary sources related to news and current events;  
935  
936 (14) packaging material used to contain a product that is regulated as infant formula, as defined  
937 in 21 U.S.C. §§ 321(z), as a medical food, as defined in 21 U.S.C. §§ 360ee(b)(3), or as fortified  
938 nutritional supplements used for individuals who require supplemental or sole source nutrition to  
939 meet nutritional needs due to special dietary needs directly related to cancer, chronic kidney  
940 disease, diabetes, malnutrition, or failure to thrive, as those terms are defined by the World  
941 Health Organization’s “International Classification of Diseases” (tenth revision), as amended or  
942 revised, or any other medical conditions as determined by the Commission by rule.  
943

944 (B) Commission-Exempted Materials

945  
946 The Commission may exempt any other material that, based on an analysis by the PRO of the  
947 operational and financial impacts of the proposed changes and after consultation with the advisory  
948 board, it determines by rule to not be a covered material.  
949

950 (C) Food or Beverage Packaging Materials Intended for Reuse or Refill

951  
952 Pursuant to section 703(25)(a)(II)(B) of the Act, packaging materials for products supplied to or

953 purchased by consumers for the express purpose of facilitating food or beverage consumption, that  
954 are designed for reuse or refill, are not covered materials.

955  
956 **18.3.3 Recyclable Material Categories**  
957

958 The following recyclable material categories shall be used for purposes of updating the Minimum  
959 Recyclable List (MRL) and Additional Materials List (AML), and to establish recycling and collection  
960 rate targets for the program:

961  
962 The recyclable material categories include:

- 963 (A) Paper
- 964 (B) Rigid Plastic
- 965 (C) Flexible Plastic
- 966 (D) Metal
- 967 (E) Glass
- 968 (F) Compostable Packaging
- 969 (G) Other

970  
971  
972 **18.3.4 Minimum Recyclable List, Additional Material List**  
973

974 (A) Proposed List of Covered Materials

975  
976 Pursuant to section 705 of the Act, the PRO must propose a list of covered materials for inclusion in  
977 the minimum recyclable list (MRL). Covered materials which are included on the final MRL are then  
978 considered “readily recyclable materials.”

979  
980 (B) Assessment Criteria

981  
982 The PRO must develop the MRL based on, at minimum, the availability of:  
983 (1) Recycling services;  
984 (2) Recycling collection and processing infrastructure; and  
985 (3) Recycling end markets for covered materials.

986  
987 When developing the MRL, the PRO may consider other factors, such as industry guidelines, or  
988 worker safety, upon consultation with the advisory board and as approved by the department.

989  
990 (C) Additional Materials Collected Through Other Means

991  
992 (1) At the same time the PRO develops the proposed list of covered materials, the PRO must  
993 develop an additional materials list (AML) of covered materials that may be collected in different  
994 geographic areas through curbside services, drop-off centers, or other means.

995  
996 (2) The PRO must update the AML and submit any updates for inclusion in the annual report  
997 pursuant to section 709(2)(a) of the Act in response to recycling collection and processing  
998 improvements and changes in recycling end markets.

999  
1000 (3) The advisory board must consult with the PRO on any updates to the AMRL in accordance  
1001 with the procedures set forth in section 705(6) of the Act.

1002  
1003 The PRO may evaluate the materials on the AML using the same criteria as on the MRL.

1004  
1005 (D) Updates to Minimum Recyclable List

1006  
1007 (1) The PRO must update the MRL and submit any updates for inclusion in the annual report

1008 pursuant to section 709(2)(a) of the Act in response to recycling collection and processing  
1009 improvements and changes in recycling end markets.

1010  
1011 (2) The advisory board must consult with the PRO on any updates to the MRL in accordance  
1012 with the procedures set forth in section 705(6) of the Act.

1013  
1014 (E) PRO Requirements

1015  
1016 (1) The PRO is required to provide convenient and equitable access to recycling services for all  
1017 readily recyclable materials on the MRL, at no charge, to covered entities, with the goal of  
1018 achieving the recycling rate, collection rate, and postconsumer-recycled-content rate targets  
1019 pursuant to section 706(3) of the Act.

1020  
1021 (2) The PRO must reimburse service providers for the recycling services costs to provide  
1022 recycling services for all readily recyclable materials and covered materials that the PRO  
1023 approves, pursuant to section 706(2) of the Act.

1024  
1025  
1026 **18.4 COVERED ENTITIES**

1027  
1028 This Section 18.4 applies to all covered entities in the Program. Participation in this Section 18 is not  
1029 obligated by any covered entity.

1030  
1031 The categories described below are not intended to be all-inclusive, but rather are set  
1032 forth to assist in determining the appropriate category of a covered entity. The department  
1033 recognizes that case-by-case determinations may be necessary concerning selection of an  
1034 appropriate category for a particular covered entity. Accordingly, the department may require that  
1035 additional information be supplied by the covered entity to assist in making such determinations.

1036  
1037 **18.4.1 Categories of Covered Entities, Opt-ins**

1038  
1039 (A) Residential

1040  
1041 Residential covered entities include all single-family or multifamily residences in the state.

1042  
1043 (B) Non-residential

1044  
1045 (1) Nonresidential covered entities include locations identified in the final plan, including:

- 1046  
1047 (a) Small businesses  
1048 (b) Hospitality locations  
1049 (c) Public places  
1050 (d) Schools  
1051 (e) State and local government buildings.

1052  
1053 (2) Pursuant to section 705(4)(z) of the Act, the PRO must describe a process and timeline in the  
1054 Plan Proposal, beginning no later than 2028, to expand recycling services to applicable  
1055 nonresidential covered entities, as identified in the needs assessment in section 705(3)(a)(V) of  
1056 the Act.

1057  
1058 (C) Tribal Nations

1059  
1060 Pursuant to Section 2-2-803, C.R.S., tribal nations with jurisdiction in Colorado may opt into the  
1061 Program as covered entities, if legal and appropriate given the nature and funding source of the  
1062 Program.

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Tribal entities wishing to opt into the Program should submit a request in writing to the department and the PRO.

**18.5 PRODUCER RESPONSIBILITY ORGANIZATION (PRO)**

Section 18.5 applies to Producer Responsibility Organization (PRO). Compliance with this Section 18 does not relieve the PRO from its obligation to comply with any other applicable federal, state or local statutes, regulations, requirements or ordinances.

**18.5.1 Needs Assessment**

(A) Requirements

(1) Advisory Board Coordination

As specified by section 705(3) of the Act, the PRO must consult with the advisory board throughout the needs assessment process and in determining which projected scenario to implement in its plan proposal.

(2) Deliverables

The PRO must fully address in the needs assessment all criteria required under section 705(3) of the Act. The PRO must also address any additional criteria identified by the advisory board and department.

(B) Updates

(1) On or before May 1, 2029, and on or before May 1 every five years thereafter, the PRO must hire an independent third party approved by the department to conduct an updated needs assessment of the state’s recycling needs to reevaluate the program and identify any recycling service needs in the state that are not being met by the program.

(2) In consultation with the advisory board, the PRO may modify the scope of an updated needs assessment by April 15, 2029, and on or before every April 15 every five years thereafter.

(3) The PRO must report the results of the updated needs assessment to the department in accordance with the reporting requirements set forth in section 705(3)(c), of the Act.

(4) The PRO must use the findings of the updated needs assessment to create an updated plan proposal and submit the updated plan proposal to the advisory board in accordance with section 705(4) of the Act.

(5) In consultation with the advisory board and the PRO, the department may waive the requirement to conduct an updated needs assessment under section 705(3)(e) of the Act.

**18.5.2 Plan Proposal**

(A) Advisory Board Coordination

(1) The PRO must present and review the plan proposal submitted under section 705(4) of the Act with the advisory board.

(2) The PRO must consult with the advisory board on amendments to the plan proposal and the

1118 amended plan proposal pursuant to section 705(5)(a) of the Act.

1119

1120 (3) The advisory board must recommend that the department approve or reject the plan proposal  
1121 or amended plan proposal.

1122

1123 (4) The PRO must consult with the advisory board in the development of the plan proposal prior  
1124 to its submission, including in the development of the cost formulas for reimbursements to  
1125 service providers pursuant to section 705(3)(a)(III) of the Act.

1126

1127 (5) On or before February 1, 2025, the PRO must submit a plan proposal for the program to the  
1128 advisory board.

1129

1130 (B) Requirements

1131

1132 (1) Except as set forth in section 705(4)(z) of the Act and (2) below, the plan proposal must only  
1133 address recycling services for residential covered entities.

1134

1135 (2) Pursuant to section 705(4)(z) of the Act, the PRO must describe a process and timeline,  
1136 beginning no later than 2028, to expand recycling services to applicable nonresidential covered  
1137 entities, as identified in the needs assessment.

1138

1139 (3) The plan proposal must cover a period of five years.

1140

1141 (4) An updated plan proposal must be submitted to the advisory board on or before February 1  
1142 every five years thereafter.

1143

1144 (5) Any updated plan proposal must address recycling services for both residential and any  
1145 applicable nonresidential covered entities, as identified in the needs assessment.

1146

1147 (6) In developing the plan proposal and any updated plan proposals, the PRO must solicit and  
1148 consider input from the advisory board and provide opportunity for additional stakeholder input.

1149

1150 (C) Producer Responsibility Dues

1151

Proposed Budget and Description of Due Setting

1152

1153 (1) In the proposed plan, the PRO must include a proposed budget and a description of the  
1154 process used to determine producer responsibility dues, including a de minimis level in which no  
1155 dues are charged and an optional flat rate for producers below a certain size to minimize the  
1156 administrative and reporting costs of the producers and the PRO.

1157

1158 (2) In the proposed plan, the PRO must describe a plan that outlines, if the PRO ceases to exist  
1159 or ceases to administer the program, how any producer responsibility dues that have not been  
1160 used to implement the program will be transferred to another PRO designated by the department  
1161 under section 705(1)(b) of the Act to administer the program or will be transferred to the fund to  
1162 be managed by the department until transferred to another designated PRO.

1163

1164 (D) Calendar

1165

1166 (1) On or before February 1, 2025, the PRO must submit a plan proposal for the program to the  
1167 advisory board as required in 18.5.2(A)(5).

1168

1169 (2) Within ninety days after the submission of the plan proposal to the advisory board, the  
1170 advisory board must either provide any recommended amendments to the plan proposal to the  
1171 PRO or, if the advisory board does not have any recommended amendments, forward the plan  
1172



1173 proposal to the department.

1174  
1175 (3) The PRO must provide responsive answers to the advisory board's recommendations and  
1176 submit the amended plan proposal to the advisory board within sixty days after its receipt of the  
1177 recommended amendments.

1178  
1179 (4) Within forty-five days after the submission of the amended plan proposal to the advisory  
1180 board, the advisory board must forward the amended plan proposal to the department with its  
1181 recommendation for approval or rejection, and if applicable, a written explanation of the basis for  
1182 recommending rejection of the plan proposal.

1183  
1184 (5) Within eight days after receiving the plan proposal, the department must post the plan  
1185 proposal on the department's website and provide public notice and an opportunity to comment  
1186 on the plan proposal.

1187  
1188 (6) Within one hundred twenty days after receiving the plan proposal or amended plan proposal,  
1189 the department must either approve the plan proposal or amended plan proposal or reject the  
1190 plan proposal or amended plan proposal.

1191  
1192 (E) Plan Approval

1193  
1194 (1) To be approved, the PRO's plan proposal must fully address all criteria required under  
1195 section 705(4) of the Act.

1196  
1197 (2) Pursuant to section 705(5)(a) of the Act the advisory board must review the plan proposal for  
1198 compliance with Part 7.

1199  
1200 (3) If the department approves the plan proposal or amended plan proposal, the department  
1201 must designate the plan proposal or amended plan proposal as the final plan and must publish  
1202 the final plan on the department's website.

1203  
1204 (F) Plan Rejection

1205  
1206 (1) If the department rejects the plan proposal or amended plan proposal, the department must  
1207 notify the PRO of the rejection and the reasons for the rejection. The department's reasons must  
1208 be based on the failure of the plan proposal or amended plan proposal to comply with the  
1209 requirements specified in section 705(4) of the Act.

1210  
1211 (2) The PRO must submit a new plan proposal to the advisory board within sixty days after  
1212 receiving the department's rejection. The new plan proposal must be reviewed by the advisory  
1213 board and the new plan proposal or new amended plan proposal must be reviewed and  
1214 approved or rejected by the department in accordance with sections 705(5)(a) and (5)(b) of the  
1215 Act.

1216  
1217 **18.5.3 Final Plan**

1218  
1219 (A) Implementation

1220  
1221 (1) The PRO must begin implementation of the final plan no more than six months after the  
1222 department approves the plan.

1223  
1224 (2) The PRO must implement all criteria as specified in the plan and section 705(4) of the Act.

1225  
1226 (B) Amendments

1227

1228 (1) Requirements

1229  
1230 (a) The PRO must use the findings of the updated needs assessment to create an updated  
1231 plan proposal and submit the updated plan proposal to the advisory board in accordance  
1232 with section 705(4) of the Act.

1233  
1234 (b) A PRO is not required to amend its final plan for a routine, annual update of base  
1235 producer due rate amounts to align with the most recent sales information received from  
1236 member producers.

1237  
1238 (c) A PRO may request provisional approval of a plan amendment if it needs to change the  
1239 dues structure rapidly due to financial urgency. If such a request is made, the department will  
1240 notify the PRO within 30 days of its response. If provisional approval is granted, the PRO  
1241 may implement the fee schedule on a provisional basis while the process for final approval,  
1242 pursuant to section 709, is ongoing. If the plan amendment is ultimately not approved, the  
1243 PRO must correct its member accounts to reverse the provisional change.

1244  
1245 (C) Department Requested Amendments

1246  
1247 (1) At least sixty days prior to the deadline to submit the annual report, the department may  
1248 request that the PRO submit an amendment to the final plan to address a specific concern or  
1249 aspect of the plan. At least thirty days prior to submitting the annual report pursuant to section  
1250 709(2)(a) of the Act, the PRO must consult with the advisory board on any proposed  
1251 amendments to the final plan. The advisory board must submit any proposed amendments to the  
1252 department. The department must approve or reject the proposed amendments based on the  
1253 plan proposal requirements specified in section 705(4) of the Act.

1254  
1255 (2) The PRO must continue to operate the program in accordance with the final plan pending the  
1256 approval or rejection of a proposed amendment by the department. The department's rejection of  
1257 a proposed amendment does not relieve the PRO of its responsibility to continue to operate the  
1258 program in accordance with the final plan.

1259  
1260 (3) The advisory board must also review any proposed amendments to the final plan and any  
1261 updates to the minimum recyclable list and forward the amendments and updates to the  
1262 department with its recommendation for approval or rejection and reasons supporting its  
1263 recommendation.

1264  
1265 **18.5.4 PRO Funding Mechanism**

1266  
1267 (A) Funding Mechanism Requirements

1268  
1269 (1) The PRO must establish a funding mechanism that does not exceed the direct and indirect  
1270 costs of implementing the program. The funding mechanism must be funded through producer  
1271 responsibility dues. The funding mechanism must require:

1272  
1273 (a) Surplus Money Clause  
1274 Any surplus money generated by the program must be placed back into the program for  
1275 program improvements or a reduction in producer responsibility dues during the next fiscal  
1276 year, and may not be used for financial reserves.

1277  
1278 (b) Financial Reserve  
1279 A financial reserve sufficient to operate the program in a fiscally prudent and responsible  
1280 manner must be maintained, with a minimum of three months' operating costs and a  
1281 maximum of six months' operating costs.

1282

1283 (c) Department Waiver  
1284 The department may waive the requirements in (b) if the PRO requests a waiver and  
1285 demonstrates the waiver would be fiscally prudent. The department may consult with the  
1286 advisory board on the waiver request as needed.

1287  
1288 (B) Eco-Modulation Factors  
1289

1290 (1) The funding mechanism must include eco-modulation factors that lower producer  
1291 responsibility dues to incentivize:

- 1292  
1293 (a) Reductions in the amount of packaging materials used for products;  
1294 (b) Innovations and practices to enhance the recyclability or commodity value of covered  
1295 materials;  
1296 (c) High levels of postconsumer recycled material use;  
1297 (d) Designs for the reuse and refill of covered materials; and  
1298 (e) High recycling and refill rates of covered materials.  
1299

1300 (2) The funding mechanism must also include eco-modulation factors that increase producer  
1301 responsibility dues to discourage:

- 1302  
1303 (a) Designs and practices that increase the costs of recycling, reusing, or composting  
1304 covered materials;  
1305 (b) Designs and practices that disrupt the recycling of other materials; and  
1306 (c) Producers from using covered materials that are not on the minimum recyclable list.  
1307

1308 (3) The producer responsibility dues of producers must be reduced or increased in accordance  
1309 with the eco-modulation bonus schedule developed by the department.  
1310

1311 (C) Special Assessment for Improvement of Collection and Recycling  
1312

1313 A producer or group of producers of a covered material may request a special assessment paid  
1314 by the producers of that covered material to cover system improvements that improve the  
1315 collection and recycling of that covered material or facilitate the addition of the covered material  
1316 to the list of readily recyclable materials.  
1317

1318 (D) Annual Updates to Producer Responsibility Dues Schedule  
1319

1320 The PRO must update the producer responsibility dues schedule annually. These updates must  
1321 reflect changes in program costs and relevant plan revisions. When setting and revising the annual  
1322 producer responsibility dues schedule, the PRO must solicit and incorporate input from all producers.  
1323

1324 **18.5.5 Annual Report**  
1325

1326 The PRO must submit an annual report describing the progress of the Program to the advisory board  
1327 before March 31 of the second year of the program's implementation, and by March 31 each year  
1328 thereafter. The PRO's annual report must comply with all of the requirements of section 709 of the  
1329 Act.  
1330

1331 The advisory board must review the report and forward it to the department with any  
1332 recommendations and reasoning supporting the recommendations.  
1333

1334 **18.5.6 Recordkeeping - Annual Financial Audit**  
1335

1336 The PRO must comply with all of the recordkeeping, production, and audit requirements in Section  
1337 18.1.5.

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**18.5.7 Requirement to Comply with Additional PRO Coordination Plan**

The PRO must consult with the additional PRO while the additional PRO is developing a coordination plan.

The PRO must comply with any additional PRO coordination plan approved by the department.

If the coordination plan conflicts with the final plan or any other plan approved by the department pursuant to the Act, the provisions of the coordination plan prevail.

A coordination plan approved or ordered by the department is valid until revoked or until a new coordination plan is approved or ordered by the department.

**18.6 INDIVIDUAL PROGRAM PLAN (IPP) REQUIREMENTS**

Section 18.6 applies to producers who are operating under a department-approved Individual Program Plan (IPP). Compliance with this Section 18 does not relieve the producer from their obligation to comply with any other applicable federal, state or local statutes, regulations, requirements or ordinances.

**18.6.1 Calendar**

(A) Notification

A producer must notify the department in writing of its intent to submit an IPP proposal by January 1, 2024, and by each January 1 thereafter. The notification must include the producer's name, email, phone, a primary contact, and an initial explanation as to why the producer believes they qualify for an IPP.

(B) Plan Submittal

On January 1, 2025, and each January 1 thereafter, as an alternative to participating in the program, a producer may submit to the advisory board in writing an IPP proposal.

**18.6.2 Alternative Collection Program**

Requirements

The IPP must comply with the requirements of section 705(4) of the Act as applicable and must describe in detail:

(A) how the producer participating in the individual program plan proposal will contribute to the costs of the department in overseeing the program;

(B) how the producer will reimburse service providers that provide recycling services for the covered materials covered by the individual program plan proposal; and

(C) any alternative collection programs run by the producer and its recycling rates.

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### **18.6.3 Plan Approval**

Advisory board consultation, department approval

The advisory board must review and make recommendations on, and the department must approve or reject, any IPP proposals in accordance with the procedures set forth in section 705(5) of the Act.

### **18.6.4 Plan Implementation**

After the department approves the IPP proposal, the department must designate the IPP proposal as the plan that the producer is authorized to implement and administer as an alternative to participating in the program.

### **18.6.5 Plan Amendments**

The producer implementing an approved individual program plan must submit any amendments to the plan to the advisory board in accordance with section 705(6) of the Act. The advisory board must review and make recommendations on, and the department must approve or reject, any amendments to the plan in accordance with 705(6) of the Act.

### **18.6.6 Recordkeeping - Financial Audit**

Producers operating under an IPP must comply with all requirements in Section 18.1.5.

### **18.6.7 Reporting**

Producers operating under an IPP must comply with the reporting requirements of Section 18.2.6 of these rules.

## **18.7 ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION (PRO)**

Section 18.7 applies to any additional Producer Responsibility Organization (PRO). Compliance with this Section 18 does not relieve the additional PRO from their obligation to comply with any other applicable federal, state or local statutes, regulations, requirements or ordinances.

### **18.7.1 Right to Designate Additional PRO**

The department may designate a nonprofit organization as an additional producer responsibility organization if the department, in coordination with the advisory board, determines that the designation of the additional producer responsibility organization is necessary to increase recycling rates, expand recycling services to covered entities that are not covered under the final plan, or provide recycling services for a specific type of covered material.

### **18.7.2 Calendar**

On January 1, 2029, and every January 1 thereafter, a nonprofit organization may request that the department designate a nonprofit organization as an additional PRO.

### **18.7.3 Requirement to Develop Coordination Plan**

The additional PRO must consult with the PRO when developing a coordination plan.

The additional PRO must submit a coordination plan to the department for approval in accordance with the rules promulgated by the department and section 708 of the Act.

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The additional PRO must comply with any coordination plan approved by the department. If the coordination plan conflicts with the final plan or any other plan approved by the department pursuant to the Act, the provisions of the coordination plan prevail. A coordination plan approved or ordered by the department is valid until revoked or until a new coordination plan is approved or ordered by the department.

#### **18.7.4 Program Implementation**

A coordination plan approved or ordered by the department must be immediately implemented by the PRO and any additional producer responsibility organizations designated by the department.

If the coordination plan conflicts with the final plan or any other plan approved by the department, the provisions of the coordination plan shall prevail.

A coordination plan approved or ordered by the department is valid until revoked or until a new coordination plan is approved or ordered by the department.

#### **18.7.5 Annual Report**

Producers operating as an additional producer responsibility organization must comply with all requirements in Section 18.5.5.

#### **18.7.6 Recordkeeping - Financial Audit**

Producers operating as an additional producer responsibility organization must comply with all requirements in Section 18.1.5.

### **18.8 EDUCATION AND OUTREACH PROGRAM**

#### **18.8.1 Requirements**

The PRO must develop and implement a statewide education and outreach program that is designed to increase the recycling and reuse of covered materials pursuant to section 707 of the Act.

The PRO's education and outreach program must provide clear and concise recycling instructions that are consistent statewide and accessible for all demographic groups, coordinate with existing recycling education materials and services provided throughout the state, and be designed to help the state achieve the minimum collection rate and minimum recycling rate targets established in the final plan under section 705(4)(p) of the Act and reduce levels and impacts of inbound contamination from covered materials at materials recovery facilities and compost facilities.

#### **18.8.2 Methodology**

The PRO must develop an education and outreach program proposed methodology for evaluating and reporting on the effectiveness of the education and outreach program.

#### **18.8.3 Coordination with advisory board**

The PRO must consult with the advisory board and other entities providing recycling education in the state on the development and distribution of education outreach services and materials.

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**18.9 PRODUCER ECO-MODULATION (RESERVED)**

**18.10 PRO REIMBURSEMENT TO CDPHE**

By August 1, 2026, the PRO must reimburse the department for all costs incurred with administering, implementing and enforcing the program since the effective date of the Act, up to June 30, 2026.

By August 1, 2027 and each year after, the PRO must reimburse the department for all costs incurred with administering, implementing and enforcing the program for the prior year.

Annual costs reimbursed by the PRO will be prorated by the department to reflect contributions from producers participating in IPPs.

**18.11 INSPECTION - ENFORCEMENT - PENALTIES**

**18.11.1 Inspection**

(A) Department right to inspect, request records

The department may inspect any documents and records of producers, the PRO, any additional PRO, or a person administering a plan approved under the Act in order to determine compliance with this Section 18 and the Act. The department may also request in writing that the producer provide any relevant documents to it. The producer must make these records available for inspection at any time. Notice is not required before such inspections. Inspections will take place during normal working hours.

(B) Actions for failure to allow inspection or produce records

The department may enforce against a producer, the PRO, any additional PRO, or a person administering a plan approved under the Act pursuant to section 710 of the Act should the producer fail to allow inspection of records or fail to provide records within ten business days or by the timeline specified by the department, whichever is later.

Should the producer, PRO, additional PRO, or person administering a plan approved under the Act refuse entry for inspection of records or fail to provide records as specified above, the department may seek a search warrant in the judicial district where the site or facility is located, when it is demonstrated to the court that inspection of such records is required to verify compliance with the Act.

**18.11.2 Compliance Advisories, Compliance Conferences**

(A) Compliance Advisories

Whenever the department reasonably believes a producer, the PRO, any additional PRO, or a person administering a plan approved under the Act is violating or has been in violation of the Act, regulations developed under the Act, plans submitted pursuant to the Act, or orders issued pursuant to the Act, the department may issue a compliance advisory. The compliance advisory must include the factual basis for the violation(s).

Issuance of a compliance advisory constitutes notice to the person of the violation(s) but does not constitute a final agency action subject to appeal. The department must serve the compliance advisory on the person alleged to be in violation either through email, mail at the person's last known address, or personal service.

1550  
1551 The department may issue a compliance advisory in addition to, or as an alternative to, the  
1552 issuance of a penalty order.

1553  
1554 (B) Compliance Conferences

1555  
1556 An alleged violator in receipt of a compliance advisory may request the department hold a  
1557 compliance conference via telephone, video call, or in person within 20 days after receipt of a  
1558 compliance advisory or compliance order. The main purpose of this conference is for the alleged  
1559 violator to present additional materials addressing the department's compliance concerns and  
1560 add relevant information into the administrative record.

1561  
1562 **18.11.3 Penalty Orders - Amounts - Request for Hearing - Stay**

1563  
1564 (A) Penalty Order

1565  
1566 Whenever the department finds that a producer, the PRO, any additional PRO, or a person  
1567 administering a plan approved under the Act is violating the Act, regulations developed under the  
1568 Act, plans submitted pursuant to the Act, or orders issued pursuant to the Act, the department  
1569 may issue an administrative penalty order. The department must serve the penalty order to the  
1570 person found in violation through certified mail, return receipt requested or personal service. The  
1571 order is effective on the date specified in it.

1572  
1573 (B) Penalty Amount

1574  
1575 The department must assess penalties as follows:

1576  
1577 (1) For a first violation, an initial penalty of five thousand dollars for the first day of each  
1578 violation and one thousand five hundred dollars per day for each day the violation continues;

1579  
1580 (2) For a second violation committed within twelve months after a prior violation, an initial  
1581 penalty of ten thousand dollars for the first day of each violation and three thousand dollars  
1582 per day for each day the violation continues; and

1583  
1584 (3) For a third or subsequent violation committed within twelve months after two or more  
1585 prior violations, an initial penalty of twenty thousand dollars for the first day of each violation  
1586 and six thousand dollars per day for each day the violation continues.

1587  
1588 (C) Request for Hearing on Penalty Orders

1589  
1590 The producer, PRO, any additional PRO, or a person administering a plan approved under the  
1591 Act, may request the Commission hold a hearing on the penalty order. Such request must be  
1592 made in writing and submitted to the department by certified mail, return receipt requested or  
1593 personal service within 35 calendar days after the effective date of the penalty order. The  
1594 hearing request must also include the name and contact information of the entity contesting the  
1595 order, a detailed statement of the basis for its disagreement with the penalty assessed, an  
1596 estimate of the time needed for hearing, and a copy of the penalty order contested.

1597  
1598 (D) Stay

1599  
1600 If the violator files a request for hearing, the requirement to pay a penalty is stayed pending a  
1601 final decision by the Commission after a hearing on the merits.



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**18.11.4 Injunctive Relief - Judicial review**

(A) Injunctive Relief

At any time the department finds that a producer, PRO, any additional PRO, or any person administering a plan approved under the Act is in violation, it may commence a civil action for injunctive relief in the district court of the judicial district in which the violation occurs. The department may file a civil action for injunctive relief in addition to, or as an alternative to, the issuance of a penalty or compliance order.

(B) Judicial review

Judicial review of any final agency action under this Section is available as permitted by § 24-4-106, C.R.S.



1 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

2 **Solid and Hazardous Waste Commission**

3 **Hazardous Materials and Waste Management Division**

4 **6 CCR 1007-2 Part 1**

5 **STATEMENT OF BASIS AND PURPOSE**  
6 **AND SPECIFIC STATUTORY AUTHORITY FOR**

7 **Revisions to Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2, Part 1) –**  
8 **Amendment of Section 1.8 (Producer Responsibility Authorization and Dollar Limit Exemption)**  
9 **and Amendment of Section 18 (Producer Responsibility Regulations)**

10 **Basis and Purpose**

11 I. Statutory Authority

12 These regulations are promulgated pursuant to the authority granted to the Solid and Hazardous Waste  
13 Commission (“Commission”) in Sections 25-17-713 and 25-17-705, Colorado Revised Statutes (C.R.S.).  
14 These regulations implement House Bill 22-1355 passed by the Legislature in 2022 and codified at 25-17-  
15 701 to 716, C.R.S.

16 Part 7 article 17 of title 25 C.R.S. includes the following authorizations:

17 § 25-17-713(2), C.R.S. The Commission is authorized per Section 25-17-713(2) to adjust by rule  
18 the dollar limitation set forth in Subsection (1)(a) of this section on July 1, 2023, and on  
19 July 1 of each year thereafter, based on the percentage change in the United States  
20 Department of Labor’s Bureau of Labor Statistics Consumer Price Index for Denver-  
21 Aurora-Lakewood for all items and all urban consumers, or its successor index.

22 § 25-17-705(7), C.R.S. The executive director shall enforce this part 7 in accordance with section  
23 25-17-710 and the commission shall promulgate rules in accordance with article 4 of title 24 as  
24 may be necessary for the administration of this part 7 and the enforcement of this part 7 pursuant  
25 to section 25-17-710.

26 II. The Producer Responsibility Program for Statewide Recycling

27 The Producer Responsibility Program for Statewide Recycling Act (the “Act”), § 25-17-701, *et seq.*,  
28 C.R.S., requires the Department of Public Health and Environment (the “department”) to oversee the  
29 implementation and operations of a producer responsibility program that requires producers to finance  
30 and provide statewide recycling services to covered entities for covered materials.

31 The Act requires the department to designate a producer responsibility organization (PRO) to lead the  
32 program while the department oversees the PRO’s needs assessment, program plan and results as  
33 reported in an annual report on the program.

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III. Purpose of Amendments to Section 1.8 and Section 18 Regulations

The purpose of the amendments to Section 1.8 is to implement the statutory requirement directing the Commission to establish by rule the annual adjustment of the dollar limitation rule for producers exempt from the Producer Responsibility Program for statewide recycling. Specifically, Section 25-17-713(1)(a) establishes that a producer is exempt from the requirements of this Part 7 if the producer is a person with less than five million dollars in realized gross total revenue, not including on-premises alcohol sales, during the prior calendar year. The producer exemption for dollar limitation is adopted in Section 1.8 Producer Authorization and Dollar Limit Exemption, specifically as Section 1.8.2 Producer Exemption Dollar Limit.

The purpose of Section 18 is to implement the statutory requirement directing the Commission to establish by rule the regulatory requirements through the following categories: 1) general provisions including program specific definitions, 2) producer requirements, 3) the PRO requirements, 3) covered materials under the program, 4) covered entities, 5) individual program plan requirements, 6) additional producer responsibility organization requirements, 7) education and outreach requirements, 8) reimbursement requirements, and 9) inspection, enforcement and penalties.

The regulations proposed in Section 18 will apply to the persons regulated under the Act, specifically producers of covered materials (packaging materials and paper products) and the PRO designated by the department.

**Discussion of Regulatory Proposal**

I. Authorization

Section 25-17-713(2), C.R.S. directs the Commission to adjust by rule the dollar limitation set forth in Section 25-17-713(1)(a) C.R.S. on July 1, 2023, and on July 1 of each year thereafter, based on the percentage change in the United States Department of Labor’s Bureau of Labor Statistics Consumer Price Index for Denver-Aurora-Lakewood for all items and all urban consumers, or its successor index.

Sections 25-17-703, 705, 710, and 713 of the Act, C.R.S. direct the Commission to generally administer the program.

II. General Provisions and Dollar Limit Exemption (Section 1.8.1)

The intent of Section 1.8.1 is to highlight that the dollar limit exemption for producers shall be adjusted by the Commission by July 1 each year through an annual consumer price index (or CPI) adjustment to the dollar limit exemption of producers, and Section 1.8.2 defines that the exempted producer is a person with less than five hundred six thousand, two hundred (\$5,506,200) in realized gross total revenue, not including on-premises alcohol sales, during the prior calendar year.

III. General Provisions (Section 18.1)

The intent of Section 18.1 is to describe the general provisions. In Section 18.1 there are six subsections, starting with 18.1.1 general provisions, which is the purpose and authority, followed by Section 18.1.2 scope and applicability, 18.1.3 referenced materials and computation of dates, i.e., if a deadline falls on a

97 holiday or a weekend, 18.1.4 confidentiality - proprietary information - records requests, and  
98 recordkeeping, 18.1.5 production of records, and audits. Under this section producers are required to  
99 produce records within ten business days or the timeline specified by the department, whichever is later.  
100 Most of the language in this section is fairly standard across all solid waste regulations, although there  
101 was particular attention paid to the confidentiality of proprietary information in this proposed rulemaking  
102 due to the importance for service providers to maintain confidentiality with their financial information.  
103 Section 18.1.6 covers all proposed definitions incorporated within Section 18.

#### 104 105 IV. Producers (Section 18.2)

106  
107 The intent of Section 18.2 is to outline the statutory requirements for an obligated producer, or obligated  
108 person, who are not otherwise exempt. This includes the scope and applicability (18.2.1), which requires  
109 obligated producers to join, pay membership fees, and provide information to the PRO or any additional  
110 PRO.

111  
112 The order of obligation for producers (18.2.3) is included to provide clarity in determining who is obligated  
113 for each of the following types of producers: producer of products using packaging materials and  
114 producers of unfilled food and beverage packaging materials, producer of packaging material used in an  
115 internet transaction, producer of paper products, producer of service packaging, producer of any other  
116 covered materials, and franchisee/franchisors.

117  
118 Producer exemptions (18.2.4) describe who is not obligated to participate, and includes small businesses,  
119 small producers (less than one ton of material generated annually), state/local government, non-profits,  
120 agricultural employers with less than \$5 million in annual revenue, certain retail food establishments, and  
121 construction companies/contractors.

122  
123 Under the producer requirements (18.2.5), producers are required to register and participate in a PRO,  
124 and pay producer dues.

125  
126 The recordkeeping, reporting, and production of records (18.2.6) requirements mirror the requirements  
127 outlined in 18.1.

128  
129 The restriction on fees (18.2.7) says that a person shall not charge any kind of point-of-sale or point-of-  
130 collection fee to consumers to recoup its costs in meeting the obligations of or complying with the Act.

#### 131 132 V. Covered Materials - Minimum Recyclable List (Section 18.3)

133  
134 The intent of Section 18.3 is to describe covered materials and the minimum recyclable list which includes  
135 the covered materials categories (18.3.1), exempt materials (18.3.2), recyclable material categories  
136 (18.3.3), and the minimum recyclable list, additional material list (18.3.4).

137  
138 Covered material categories (18.3.1) are detailed first and are broken out into: packaging materials, paper  
139 products, compostable packaging material, and "other" material. Exempt materials (18.3.2) are outlined,  
140 which includes: statutorily exempt materials, commission-exempted materials, and food or beverage  
141 packaging materials intended for reuse or refill. The commission-exempted materials subsection  
142 describes that the commission may exempt other materials by rule, based on an analysis by the PRO of  
143 the operational and financial impacts of the proposed changes and after consultation with the advisory  
144 board, but at this time the department is not requesting any material-specific exemptions.

145  
146 Recyclable Material Categories (18.3.3) are then further broken out, and the purpose for these categories  
147 is to guide the updating of the minimum recyclable list and additional materials list, and to establish  
148 recycling and collection rate targets for the program. There are several sub-categories of recyclable  
149 materials not included in rule, as they are subject to change as product design changes and as markets  
150 shift, so the Department thought it best to keep the sub-categories in the PRO's program plan.

151  
152 The Minimum Recyclable List (MRL) (18.3.4) details the proposed list of covered materials from the  
153 needs assessment. This subsection also includes the assessment criteria to establish that list; additional  
154 materials collected through other means, or the additional materials list (or AML); the process to make  
155 updates to the MRL, and the PRO's requirements as it pertains to the MRL and AML, which is to provide  
156 convenient and equitable access to recycling services for these materials, at no charge, to covered  
157 entities, and to reimburse service providers for the recycling services costs to provide recycling services  
158 for these materials.

159  
160 VI. Covered Entities (Section 18.4)

161  
162 The intent of Section 18.4 is to describe who the covered entities are in the program, or who is to receive  
163 access to universal statewide recycling services at no cost. In 18.4.1, covered entities are described,  
164 which includes residential and non-residential locations identified in the final plan, as well as tribal nations  
165 who can opt into the program per SB22-104 as codified at 2-2-803, C.R.S. 18.4 applies to covered  
166 entities who are eligible to receive services under the Act. Participation in this program, as specified  
167 under Section 18.4, is not obligated by any covered entity.

168  
169 VII. Producer Responsibility Organization (Section 18.5)

170  
171 The intent of Section 18.5 is designed to help the PRO understand and comply with their statutory  
172 requirements in the Act. Section 18.5 has seven subsections, so it's one of the largest sections of this  
173 rulemaking. In 18.5.1 the needs assessment requirements are described, which includes advisory board  
174 coordination (A) and statutory deliverables, or specified areas of study. Then Section 18.5.1 describes  
175 updates to the needs assessment (B) which must be done every five years, in consultation with the  
176 advisory board, be reported to the department, and be used to update the program plan proposal. There  
177 is also a waiver option that the PRO can request from the department to not update the needs  
178 assessment.

179  
180 In 18.5.2, the plan proposal requirements are detailed, which includes: advisory board coordination (A).  
181 The PRO is required to consult with the advisory board in the development of the plan proposal prior to its  
182 submission, including in the development of the cost formulas for reimbursements to service providers,  
183 and is also required to consult with the advisory board on amendments to the plan proposal and the  
184 amended plan proposal. The PRO must submit the plan proposal to the advisory board by February 1,  
185 2025, and the advisory board must review and recommend that the department approve or reject the plan  
186 proposal or amended plan proposal.

187  
188 Section 18.5.2 then covers the plan proposal requirements (B), which is to only address recycling  
189 services for residential covered entities and to describe a process and timeline, beginning no later than  
190 2028, to expand recycling services to applicable nonresidential covered entities, as identified in the needs  
191 assessment. The plan proposal must cover a period of five years and must be updated and submitted to  
192 the advisory board on or before February 1 and every five years thereafter. Any updated plan proposal

193 must address recycling services for both residential and any applicable nonresidential covered entities, as  
194 identified in the needs assessment. The PRO must solicit and consider input from the advisory board and  
195 provide opportunity for additional stakeholder input throughout the plan proposal and updating processes.  
196

197 Then the producer responsibility dues requirements (C) in the plan proposal are covered, which includes  
198 a description of the process used to determine producer responsibility dues, including a de minimis level  
199 in which no dues are charged and an optional flat rate for producers below a certain size to minimize the  
200 administrative and reporting costs of the producers and the PRO. It also includes the requirement for the  
201 PRO to describe a plan that outlines, if the PRO ceases to exist or ceases to administer the program, how  
202 any producer responsibility dues that have not been used to implement the program will be transferred to  
203 another PRO designated by the department.  
204

205 The calendar requirements (D) allow the advisory board 90 days after the February 1, 2025 submittal  
206 deadline to either provide any recommended amendments to the plan proposal to the PRO or, if the  
207 advisory board does not have any recommended amendments, forward the plan proposal to the  
208 department, then if amendments are suggested, the PRO must provide responsive answers to the  
209 advisory board's recommendations within 60 days, then the advisory board must forward the amended  
210 plan proposal to the department with its recommendation for approval or rejection within forty-five days.  
211 Within eight days the department must post the plan proposal on the department's website and provide  
212 public notice. Within 120 days the department must either approve the plan proposal or amended plan  
213 proposal or reject the plan proposal or amended plan proposal.  
214

215 In order to be approved (E), the plan proposal must fully address all criteria required by statute, the  
216 advisory board must review the plan proposal for compliance with Part 7, and if approved by the  
217 department, the department must designate and publish the plan proposal as the final plan on the  
218 department's website.  
219

220 If the plan proposal is rejected (F) by the department because it fails to comply with the requirements  
221 specified in the Act, the department must notify the PRO of the rejection and the reasons for the rejection.  
222 The PRO must then submit a new plan proposal to the advisory board within sixty days after receiving the  
223 department's rejection, which will then be reviewed by the advisory board, may be modified and must be  
224 approved or rejected by the department.  
225

226 Section 18.5.3 delineates the final plan implementation (A) of all criteria identified in the final plan which is  
227 to begin no more than six months after the department approves the plan and amendments (B) which  
228 requires the PRO to use the findings of the updated needs assessment to create an updated plan  
229 proposal for advisory board review. There is an option for a provisional approval of a plan amendment if  
230 the PRO needs to change the dues structure rapidly due to financial urgency. Department-requested  
231 amendments (C) which allows the department, at least sixty days prior to the deadline to submit the  
232 annual report, to request that the PRO submit an amendment to the final plan to address a specific  
233 concern or aspect of the plan. If any amendments are requested, the PRO is required to operate under  
234 the existing plan until advisory board consultation and department approval have occurred.  
235

236 Section 18.5.4 describes the PRO's funding mechanism requirements (A), eco-modulation factors (B),  
237 special assessments for improving collection and recycling (C), and annual updates to producer  
238 responsibility dues schedule (D). The PRO must be funded by producer dues, and the PRO must  
239 establish a funding mechanism that does not exceed the direct and indirect costs of implementing the  
240 program. It includes a surplus money clause for any surplus money generated by the program to be

241 placed back into the program, a financial reserve with a minimum of three months' operating costs and a  
242 maximum of six months operating costs, and includes the right for the department to issue a waiver to the  
243 surplus and financial reserves if the PRO demonstrates the waiver would be fiscally prudent. The PRO's  
244 funding mechanism must include eco-modulation factors, which are incentives that decrease producer  
245 dues and maluses that increase producer dues as required by statute. A producer or group of producers  
246 of a covered material may request a special assessment paid by the producers of that covered material to  
247 cover system improvements that improve the collection and recycling of that covered material or facilitate  
248 the addition of the covered material to the list of readily recyclable materials. The PRO is required to  
249 update the producer responsibility dues schedule annually, and the updates are required to reflect  
250 changes in program costs and relevant plan revisions that have been considered by the producers.

251  
252 Section 18.5.5 covers the annual report, which requires the PRO to submit the annual report to the  
253 advisory board before March 31 of the second year of the program's implementation, and by March 31  
254 each year thereafter. The PRO's annual report must describe the progress of the program and comply  
255 with all of the requirements of section 709 of the Act.

256  
257 Section 18.5.6 describes the recordkeeping and annual financial audit, which requires the PRO to comply  
258 with all of the recordkeeping and audit requirements in Section 18.1.5.

259  
260 Section 18.5.7 describes the PRO's requirement to comply with any additional PRO coordination plan,  
261 and describes the requirement for the PRO to consult with the additional PRO while the additional PRO is  
262 developing a coordination plan. If the coordination plan conflicts with the final plan or any other plan  
263 approved by the department pursuant to the Act, the provisions of the coordination plan prevail. A  
264 coordination plan approved or ordered by the department is valid until revoked or until a new coordination  
265 plan is approved or ordered by the department.

266  
267 VIII. Individual Program Plan Requirements (Section 18.6)

268  
269 The intent of Section 18.6 is to outline the individual program plan (IPP) requirements, and includes the  
270 calendar, alternative collection programs, plan approval, plan implementation, plan amendments,  
271 recording keeping and financial audits and reporting. Section 18.6 applies to producers who are operating  
272 under a department-approved IPP. IPPs come into play when a producer requests to participate in the  
273 program outside of the PRO's program plan through an alternative collection program. The possible  
274 reason for a producer wanting to do this is if they produce a covered material but their material does not  
275 make it onto the Minimum Recyclable or Additional Materials List, but they still want to get their material  
276 recycled and back into the supply chain.

277  
278 Producers implementing an IPP are still bound to all of the same requirements as the PRO. The calendar  
279 (18.6.1) describes that a producer must (A) notify the department in writing of its intent to submit an IPP  
280 proposal by January 1, 2024, and by each January 1 thereafter; and (B), on January 1, 2025, and each  
281 January 1 thereafter, as an alternative to participating in the program, a producer may submit to the  
282 advisory board in writing an IPP proposal.

283  
284 The IPP proposal must include an alternative collection program (18.6.2) that describes: (A) how the  
285 producer participating in the individual program plan proposal will contribute to the costs of the  
286 department in overseeing the program, (B) how the producer will reimburse service providers, and (C)  
287 describe any alternative collection programs run by the producer and its recycling rates.

288



289 Section 18.6.3 states that the advisory board shall review and make recommendations on, and the  
290 department must approve or reject, any IPP proposals. 18.6.4 describes that after the department  
291 approves the IPP proposal, the department will designate the IPP proposal as the plan that the producer  
292 is authorized to implement and administer as an alternative to participating in the program.  
293

294 Any amendments (18.6.5) to the IPP must be submitted to the advisory board for review and  
295 recommendation to the department, and the department will approve or reject. 18.6.6 requires producers  
296 operating under an IPP to comply with all requirements in Section 18.1.5 and to comply with the reporting  
297 requirements (18.6.7) of Section 18.2.6.  
298

#### 299 IX. Additional Producer Responsibility Organization (Section 18.7)

300

301 The intent of Section 18.7 is to help additional PROs understand and comply with the statutory  
302 requirements. Section 18.7 pertains to any additional producer responsibility organization. Section 18.7  
303 describes the department's authority to designate an additional PRO if the department, in coordination  
304 with the advisory board, determines that the designation of the additional producer responsibility  
305 organization is necessary to increase recycling rates, expand recycling services to covered entities that  
306 are not covered under the final plan, or provide recycling services for a specific type of covered material.  
307 This section subsequently details the calendar (which begins on January 1, 2029 for a nonprofit  
308 organization to request that the department designate an additional PRO), and then describes the  
309 requirement for a coordination plan, program implementation, annual reporting and recording keeping and  
310 financial audits of any additional PRO.  
311

#### 312 X. Education and Outreach (Section 18.8)

313

314 The intent of Section 18.8 is to detail the requirements and methodology for the PRO's statewide  
315 education and outreach plan, and the requirement for the PRO to coordinate with the advisory board on  
316 the development of the plan. In 18.8.1, the PRO's education and outreach plan must be designed to  
317 increase the recycling and reuse of covered materials, provide clear and concise recycling instructions  
318 that are consistent statewide and accessible for all demographic groups, and in 18.8.2 the plan's  
319 proposed methodology must include criteria for evaluating and reporting on the effectiveness of the plan.  
320 Finally in 18.8.3 the PRO must consult with the advisory board and other entities providing recycling  
321 education in the state on the development and distribution of education outreach services and materials.  
322

#### 323 XI. Eco-Modulation (Section 18.9)

324

325 Section 18.9 is being reserved for producer eco-modulation rates which will be developed later in the  
326 program. Eco-modulation rates will be initially developed within the PRO's program plan. The  
327 Commission will develop rules pertaining to eco-modulation once the program plan is underway and prior  
328 to the date specified within the Act of January 1, 2026.  
329

#### 330 XII. PRO Reimbursement to CDPHE (Section 18.10)

331

332 The intent of Section 18.10 is to detail the PRO's requirement to reimburse the department for all of its  
333 expenses related to the program implementation, administration and enforcement of the program.  
334 Reimbursement begins by August 1, 2026 and continues every August 1 thereafter. Annual costs  
335 reimbursed by the PRO will be prorated by the department to reflect contributions from producers  
336 participating in IPPs.

337 XIII. Inspection, Enforcement, Penalties, (Section 18.11)

338

339 The intent of Section 18.11 is to explain the inspection, enforcement, and penalties, including inspections  
340 (18.11.1), compliance advisories and conferences (18.11.2), penalty orders, amounts, requests for  
341 hearings, and stays (18.11.3), and injunctive relief (18.11.4). The four subsections in 18.11 include fairly  
342 standard language regarding inspection, compliance advisories, penalty orders, and injunctive relief. The  
343 most unique piece is regarding the penalty amounts, which are detailed in statute, and include: for a first  
344 violation, an initial penalty of five thousand dollars for the first day of each violation and one thousand five  
345 hundred dollars per day for each day the violation continues; for a second violation committed within  
346 twelve months after a prior violation, an initial penalty of ten thousand dollars for the first day of each  
347 violation and three thousand dollars per day for each day the violation continues; and for a third or  
348 subsequent violation committed within twelve months after two or more prior violations, an initial penalty  
349 of twenty thousand dollars for the first day of each violation and six thousand dollars per day for each day  
350 the violation continues. These penalties are all established in statute and are simply being incorporated  
351 into rule.

352

353 **Stakeholder Involvement in the Process**

354

355 The department notified over 400 stakeholders by e-mail of the proposed revisions of these regulations.  
356 Stakeholders were given an opportunity to provide any comments during the five stakeholder meetings,  
357 as well as in writing after each meeting.

358

359 Over the course of the six stakeholder meetings, the department had 595 total participants show up  
360 virtually, including producers, industry associations, compliance and law firms, local government, service  
361 providers, consultants, NGOs and other solid waste industry representatives.

362

363 The department utilized various methods to inform industry representatives, trade associations, local  
364 government agencies, local government agency associations, and other interested parties of the  
365 proposed regulatory revisions. These methods included:

366

367 1. Posting a Stakeholder Process Notification on the department’s producer responsibility website  
368 to notify stakeholders of upcoming stakeholder meetings and related draft documents.

369

370 2. Providing industry representatives and local government representatives information regarding  
371 stakeholder meetings and providing all draft documents and discussion materials by e-mail.

372

373 3. Establishing an email notification list which included all interested stakeholders including: local  
374 governments; registered recycling facilities; manufacturers; landfills and transfer stations;  
375 household hazardous waste (“HHW”) collection centers; trade associations; business advocacy  
376 organizations; chambers of commerce; environmental and community nonprofits; compost  
377 operators; haulers of recyclable materials; producers; and other private operators and industry  
378 associations including the Recycle Colorado (“RC”), National Waste & Recycling Association  
379 (“NWRA”), Solid Waste Association of North America (“SWANA”), Colorado Municipal League  
380 (“CML”), Colorado Communities for Climate Action (“CC4CA”), and Colorado Counties, Inc.  
381 (“CCI”).

382

383 4. Notifying all known interested parties by email prior to the release of the first draft of the  
384 revisions to the regulations.

385  
386 5. Sending out stakeholder meeting email notices that included the latest draft revisions to the  
387 regulations. The emails were sent directly to local county governments and industry  
388 representatives, and also to the following organizations for distribution: CCI, CML, and Colorado  
389 SWANA (“CO SWANA”). All of these organizations report to local government constituents  
390 and industry representatives involved in matters pertaining to solid waste.

391  
392 6. Holding six stakeholder meetings on: December 20, 2023; December 21, 2023; January 10,  
393 2024, January 11, 2024 and February 13, 2024; and April 2, 2024 to receive comments from  
394 stakeholders regarding the department’s proposed primary regulations for the Producer  
395 Responsibility Program for Statewide Recycling. Key stakeholder questions and/or issues are  
396 compiled and discussed under the following section of this document. Work group meetings were  
397 held to discuss specific topics such as the definition of producer and the retail food establishment  
398 exemption. The department used teleconferencing so geographically diverse stakeholders could  
399 participate. Additionally, the department’s website was utilized to post updates to the regulation  
400 revision process, stakeholder comments, iterative versions of support and working documents,  
401 and audio recordings of general stakeholder meetings.

402  
403 During the stakeholder process, the department followed the procedures required by Executive  
404 Order Nos. 2 and 5 to notify local governments regarding the upcoming revisions to the solid waste  
405 regulations. As of the date of publishing this notice, no entities have responded to Executive Order No. 5.

#### 406 407 **Issues Encountered During Stakeholder Process**

408  
409 The department received numerous comments on the proposed rules under Section 18 during the  
410 stakeholder process. A summary of the notable stakeholder comments submitted to the department are  
411 summarized below.

412  
413 The department received two clarifying questions during the stakeholder meetings specific to  
414 confidentiality of information provided to the department, and about the federal government exemption.  
415 Those comments were from Republic Services and One World Resources.

416  
417 The department also received twenty-eight emailed comments, each covering multiple topics, or sections.  
418 Looking at each of those questions separately, a total of 103 topic-specific comments were received.  
419 Comments were received from organizations such as American Forest & Paper Association, Food  
420 Packaging Institute, AMERIPEN, American Chemistry Council, Serlin Haley, World Wildlife Fund, Circular  
421 Action Alliance, UPSTREAM, American Coatings Association, EcoCycle, and others.

422  
423 In addition to email exchanges of updated proposed draft language in response to comments, the  
424 department also set up several meetings with some stakeholders who provided feedback to better  
425 understand and talk through suggested edits.

426  
427 Forty-five of the comments pertained to definitions, and as a result, 26 definitions were further modified to  
428 provide clarity, one definition was added, and two definitions were stricken.

429  
430 Of the 58 topic-specific comments, they primarily pertained to either adding or removing contradictory or  
431 extraneous language from the draft, or making small administrative changes to the rules, and, as a result,  
432 thirty different subsections of the proposed rules were modified.

433 Notable changes based on stakeholder feedback include:

434

435 1. 18.1.3 Adding nationally recognized organizations to referenced materials.

436

437 2. 18.1.4 Clarifying the subject of who proprietary information will not be released to, and adding  
438 additional language from the hazardous waste regs describing that the department may share  
439 information with the PRO if there is no dispute from the party that submitted it.

440

441 3. 18.1.5 Adding a timeline of 10 business days to respond to requests to produce; records and  
442 the requirement for the annual audit to be included in the annual report.

443

444 4. 18.2.2 Adding clarity of obligated producer in case of franchise.

445

446 5. 18.2.3 Adding additional language to describe obligations of producers.

447

448 6. 18.2.5 Including a registration requirement with future additional PROs, and adding a  
449 registration deadline of October 1, 2024.

450

451 7. 18.3.3 Adding an introductory explanatory paragraph.

452

453 8. 18.3.4 Adding additional explanation for additional materials list updates, and including worker  
454 safety to the assessment criteria for establishing the material lists.

455

456 9. 18.5.4 Adding a department waiver for the PRO's requirement to maintain a financial reserve.

457

458 10. 18.7.3 Describing the PRO's requirement to comply with any coordination plan.

459

460 11. Drafting an order of obligation for determining who the producer is.

461

462 12. Adding additional clarity for internet transactions to describe that there are two obligated  
463 producers; and

464

465 13. Refining the language for producers of paper products to ensure there is no double-paying or  
466 dual obligation in the chain of custody of those products.

467

468 Notable administrative fixes include:

469

470 1. Replacing "shall" with "must" throughout.

471

472 2. Including Saturdays (along with Sundays and holidays) for deadline rollovers.

473

474 3. Re-numbering of subsections for accuracy after amendments were made.

475

476

#### 477 **Alternatives Considered and Why Rejected**

478

479 No regulatory alternatives were evaluated because the statute is prescriptive on what the regulations  
480 should contain.

481

482 **Cost Benefit Analysis**

483

484 A cost benefit analysis will be performed if requested by the Colorado Department of Regulatory  
485 Agencies.