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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2026

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A N A C T

RELATING TO HEALTH AND SAFETY -- EXTENDED PRODUCER RESPONSIBILITY
FOR PACKAGING AND PAPER ACT

Introduced By: Senators McKenney, Valverde, LaMountain, Murray, Gu, Vargas, Urso,
Euer, DiMario, and Kallman

Date Introduced: March 05, 2026

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapters:

3 CHAPTER 19.20

4 EXTENDED PRODUCER RESPONSIBILITY FOR PACKAGING AND PAPER ACT

5 **23-19.20-1. Definitions.**

6 (a) As used in this chapter and in chapters 19.21 and 19.22 of title 23, the following words
7 and phrases shall have the following meanings, unless another meaning is clearly intended by the
8 context:

9 (1) "Additive of high concern" means:

10 (i) An intentionally added substance that is present beyond an incidental presence in
11 covered materials; and

12 (ii) Has been identified on the basis of credible scientific evidence and with a risk-based
13 approach as being:

14 (A) A carcinogen;

15 (B) A reproductive or developmental toxicant;

16 (C) An endocrine disruptor; or

17 (D) Persistent, bioaccumulative, and toxic. Additives of high concern do not include
18 materials regulated under the provisions of chapter 18.13 of title 23 ("toxic packaging reduction

1 act").

2 (2) "Applicable refund value" means the value established under § 23-19.20-11.

3 (3) "Beverage" means a drinkable liquid intended for human oral consumption. Beverage

4 does not include:

5 (i) A drug regulated under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Ch. 9, §

6 301 et seq.;

7 (ii) One hundred percent (100%) fluid milk;

8 (iii) Infant formula; or

9 (iv) A meal replacement liquid.

10 (4) "Beverage container" means any prepackaged container designed to hold beverages,

11 including the label, cap, and any other material attached to the container at the time of distribution.

12 (5) "Beverage container collection mechanism" means any manual or technological means

13 by which empty covered beverage containers are properly identified as part of processing a

14 consumer's refund.

15 (6)(i) "Beverage producer" means:

16 (A) The brand owner responsible for the brand visible on a covered beverage container and

17 who is responsible for compliance with the requirements of this chapter for a covered beverage

18 container that is introduced, either physically or via e-commerce, in this state;

19 (B) If there is no person to which subsection (a)(6)(i)(A) of this section applies, the

20 producer is the person who is the importer of record for the covered beverage container into the

21 United States for use in a commercial enterprise that sells, offers for sale, or distributes the item in

22 this state; or

23 (C) If there is no person to which subsections (a)(6)(i)(A) or (a)(6)(i)(B) of this section

24 applies, the producer is the person that first distributes the covered beverage container in or into

25 this state.

26 (ii) "Beverage producer" does not include:

27 (A) Government entities; or

28 (B) Registered 501(c)(3) charitable organizations and 501(c)(4) social welfare

29 organizations.

30 (7) "Brand" means a name, symbol, word, or mark that identifies a product and attributes

31 the product and its components, including packaging, to the brand owner.

32 (8) "Brand owner" means a person that owns or holds an exclusive license to a brand or

33 that otherwise has rights to market a product under the brand, whether or not the brand's trademark

34 is registered.

1 (9) "Canner" means individuals who collect and redeem covered beverage containers for
2 critical income.

3 (10) "Centralized processing facility" means a facility that sorts and then bales or
4 aggregates covered beverage containers and associated materials for the purpose of recycling.

5 (11) "Collection rate" means the amount of a covered material by covered materials type
6 collected by service providers and transported for recycling or composting divided by the total
7 amount of the type of a covered material by covered materials type sold or distributed into the State
8 of Rhode Island by the relevant unit of measurement in the approved program plan.

9 (12) "Compostable material" means a covered material that:

10 (i) Meets, and is labeled to reflect that it meets, the American Society for Testing and
11 Materials Standard Specification for Labeling of Plastics Designed to be Aerobically Composted
12 in Municipal or Industrial Facilities (D6400) or its successor;

13 (ii) Meets, and is labeled to reflect that it meets, the American Society for Testing and
14 Materials Standard Specification for Labeling of End Items that Incorporate Plastics and Polymers
15 as Coatings or Additives with Paper and Other Substrates Designed to be Aerobically Composted
16 in Municipal or Industrial Facilities (D6868) or its successor;

17 (iii) Is comprised of only wood without any coatings or additives; or

18 (iv) Is comprised of only paper without any coatings or additives.

19 (13) "Composting" means the controlled microbial degradation of source-separated
20 compostable materials to yield a humus-like product.

21 (14) "Composting rate" means the amount of compostable covered material that is managed
22 through composting, divided by the total amount of compostable covered material sold or
23 distributed into the State of Rhode Island by the relevant unit of measurement in the approved
24 program plan.

25 (15) "Consumer" means an individual who purchases a beverage in the State of Rhode
26 Island in a beverage container for consumption.

27 (16) "Contamination" means:

28 (i) The presence of materials that are not on the list of materials collected in that material
29 stream; or

30 (ii) The presence of materials that are not specified or accepted as a component of the
31 feedstock or commodity.

32 (17) "Coordination plan" means the joint plan developed by the packaging program
33 producer responsibility organization and the recycling refund producer responsibility organization.

34 (18) "Covered beverage container" means any of the following beverage containers subject

1 to a recycling refund:

2 (i) Except as provided in subsection (18)(ii) of this section, any glass, plastic, or metal can
3 or bottle with a capacity of at least forty milliliters (40 ml) and no more than one gallon; and

4 (ii) Beginning no earlier than the second recycling refund plan implementation period,
5 other beverage containers proposed for inclusion in the recycling program by a recycling refund
6 producer responsibility organization and approved by the department.

7 (19) "Covered entity" means a person or location that receives covered services for covered
8 materials in accordance with the requirements of this chapter, including:

9 (i) A single-family residence;

10 (ii) A multifamily residence;

11 (iii) A school as defined in § 16-8-7;

12 (iv) A nonprofit corporation with annual revenue of less than thirty-five million dollars
13 (\$35,000,000); and

14 (v) A state agency, political subdivision, public area, public entity or other governmental
15 unit.

16 (20)(i) "Covered material" means packaging and paper products introduced in the State of
17 Rhode Island.

18 (ii) "Covered material" does not include covered beverage containers or exempt materials.

19 (21) "Covered materials type" means a singular and specific type of covered material, such
20 as paper, plastic, metal, or glass, that:

21 (i) Can be categorized based on distinguishing chemical or physical properties, including
22 properties that allow a covered materials type to be aggregated into a discrete commodity category
23 for purposes of reuse, recycling, or composting; and

24 (ii) Is based on similar uses in the form of a product or package.

25 (22) "Covered services" means collecting, transferring, transporting, sorting, processing,
26 recovering, preparing, or otherwise managing for purposes of source reduction, reuse, recycling, or
27 composting.

28 (23) "De minimis" means a sum of revenue earned by a person in the most recent fiscal
29 year from global gross revenues, not including on-premises alcohol sales, for the prior fiscal year
30 of:

31 (i) Until January 1, 2030, less than two million dollars (\$2,000,000); or

32 (ii) Beginning January 1, 2030, less than two million dollars (\$2,000,000), as adjusted for
33 inflation by the department.

34 (24) "Department" means the department of environmental management.

1 (25) "Environmental impact" means the impact of a covered material on human health and
2 the environment from extraction and processing of the raw materials composing the covered
3 material through manufacturing, distribution, use, recovery for reuse, recycling, or composting;
4 and final disposal.

5 (26) "Environmental justice area" means a census block group with a low-income and/or
6 minority population greater than twice the statewide average.

7 (27) "Executive director" means the executive director of the packaging producer
8 responsibility organization or recycling refund producer responsibility organization.

9 (28) "Exempt materials" means materials, or any portion of materials, that:

10 (i) Are packaging for infant formula, as defined in 21 U.S.C. § 321(z);

11 (ii) Are packaging for medical food, as defined in 21 U.S.C. § 23 360ee(b)(3);

12 (iii) Are packaging for a fortified oral nutritional supplement used by persons who require
13 supplemental or sole source nutrition to meet nutritional needs due to special dietary needs directly
14 related to cancer, chronic kidney disease, diabetes, malnutrition, or failure to thrive, as those terms
15 are defined by the International Classification of Diseases, tenth revision;

16 (iv) Are packaging for a product regulated as a drug or medical device by the United States
17 Food and Drug Administration, including associated components and consumable medical
18 equipment;

19 (v) Are packaging for medical equipment or product used in medical settings that is
20 regulated by the United States Food and Drug Administration, including associated components
21 and consumable medical equipment;

22 (vi) Are drugs, biological products, parasiticides, medical devices, or in vitro diagnostics
23 that are used to treat, or that are administered to, animals and are regulated by the United States
24 Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301
25 et seq., by the United States Department of Agriculture under the federal Virus-Serum-Toxin Act,
26 21 U.S.C. § 151 et seq.;

27 (vii) Are packaging for products regulated by the United States Environmental Protection
28 Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq.;

29 (viii) Are packaging used to contain liquefied petroleum gas and are designed to be refilled;

30 (ix) Are packaging used to contain hazardous or flammable products regulated by the 2012
31 federal Occupational Safety and Health Administration Hazard Communication Standard, 29 CFR
32 § 1910.1200, that prevent the packaging from being source reduced or made reusable, recyclable,
33 or compostable, as determined by the department;

34 (x) Are packaging that is being collected and properly managed through a paint producer

1 responsibility program approved under chapter 24.12 of title 23 ("proper management of unused
2 paint");

3 (xi) Are exempt materials, as determined by the department; or

4 (xii) Are covered materials that:

5 (A) A producer distributes to another producer;

6 (B) Are subsequently used to contain a product, and the product is distributed to a
7 commercial or business entity for the production of another product; and

8 (C) Are not introduced to a person other than the commercial or business entity that first
9 received the product used for the production of another product.

10 (29) "Express redemption site" means a designated return location that allows consumers
11 to return covered beverage containers. These locations will not require cash handling on site; rather,
12 upon return, if needed, beverage containers will be transported to centralized processing facilities,
13 and refunds will be credited to the consumer's virtual account. This may include bag-drop systems,
14 reverse vending machines, or other beverage container collection mechanisms to enhance
15 convenience and accessibility for consumers.

16 (30) "Fraudulent activity" means any of the following:

17 (i) Redeeming a beverage container purchased outside the State of Rhode Island;

18 (ii) Altering a beverage container not eligible for a refund in the State of Rhode Island
19 recycling refund system to make it appear eligible for a refund;

20 (iii) Altering a receipt to increase the payout beyond the amount from appropriately
21 redeeming covered beverage containers;

22 (iv) Tampering with beverage container collection mechanisms to enable redemption of a
23 beverage container or knowingly attempting to redeem a beverage container that:

24 (A) Was not purchased in the State of Rhode Island;

25 (B) Is not in the State of Rhode Island recycling refund system;

26 (C) Had no deposit paid on it in the State of Rhode Island; or

27 (D) Has already been redeemed for a refund; and

28 (v) Selling or offering for sale a covered beverage container that has not been reported to
29 the recycling refunds producer responsibility organization.

30 (31) "Full-service redemption site" means a return location or avenue where individuals
31 may return covered beverage containers to receive immediate refunds for their returns.

32 (32) "Government entity" means any:

33 (i) City, town, or other local government, including any municipal corporation, quasi-
34 municipal corporation, or special purpose district, or any office, department, division, bureau,

1 board, commission, or agency thereof, or other local public agency;
2 (ii) State office, department, division, bureau, board, commission, or other state agency;
3 (iii) Federally-recognized Indian tribes whose traditional lands and territories include parts
4 of the State of Rhode Island; or
5 (iv) Federal office, department, division, bureau, board, commission, or other federal
6 agency.
7 (33) "Incidental presence" means the presence of an additive at a concentration that is less
8 than one hundred parts per million (100 ppm) by weight or one hundredths percent (0.01%).
9 (34) "Independent auditor" means an independent and actively licensed certified public
10 accountant that is:
11 (i) Retained by a producer responsibility organization;
12 (ii) Not otherwise employed by or affiliated with a producer responsibility organization;
13 and
14 (iii) Qualified to conduct an audit under State of Rhode Island law.
15 (35) "Individual plan" means a plan submitted by a producer or beverage producer that
16 registers with the department as a packaging producer responsibility organization or as a recycling
17 refunds producer responsibility organization to address the covered materials or covered beverage
18 containers of the producer.
19 (36) "Infrastructure investment" means an investment by a packaging producer
20 responsibility organization that funds:
21 (i) Equipment or facilities in which covered materials are prepared for reuse, recycling, or
22 composting;
23 (ii) Equipment or facilities used for source reduction, reuse, recycling, or composting of
24 covered materials; or
25 (iii) The expansion or strengthening of demand for and use of covered materials by
26 responsible end markets in the State of Rhode Island or region.
27 (37) "Intentionally added substance" means a substance that:
28 (i) A manufacturer intentionally added to a material in the formation of a covered material;
29 and
30 (ii) Serves an intended function or technical effect in the final covered material.
31 (iii) "Intentionally added substance" does not include the use of postconsumer recycled
32 content, where some portion of the postconsumer recycled content may contain amounts of the
33 substance but is neither desired nor deliberate.
34 (38) "Introduce" means to sell, offer for sale, distribute, or use to ship a product within or

1 into the State of Rhode Island.

2 (39) "Labor organization" means any organization that exists and is constituted for the
3 purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning
4 grievances, terms or conditions of employment, or of other mutual aid or protection.

5 (40) "Living wage" means the minimum hourly wage necessary to allow a person working
6 forty (40) hours per week to afford basic needs.

7 (41) "Lobby" and "lobbying" means the practice of promoting, opposing, or in any manner
8 influencing or attempting to influence the introduction, defeat, or enactment of legislation before
9 any legislative body; opposing or in any manner influencing the executive approval, veto, or
10 amendment of legislation; or the practice of promoting, opposing, or in any manner influencing or
11 attempting to influence the enactment, promulgation, modification, or deletion of regulations
12 before any regulatory body. The term does not include providing public testimony before a
13 legislative body or regulatory body or any committee thereof.

14 (42) "Material recovery facility" means a facility in the State of Rhode Island that collects,
15 compacts, repackages, sorts, or processes for transport source separated material for the purpose of
16 recycling.

17 (43) "Municipality" means the individual cities and towns of the State of Rhode Island.

18 (44) "Needs assessment" means an assessment conducted according to § 23-19.20-8.
19 Except where specified otherwise, needs assessment means the most recently completed needs
20 assessment.

21 (45) "On-site consumption" means consumption of a beverage in a covered beverage
22 container that is sold by an establishment and is intended to be consumed on the premises, and with
23 the beverage container retained at the same establishment after consumption.

24 (46) "Packaging" means a material, substance, or object that is used to protect, contain,
25 transport, serve, or facilitate delivery of a product and is sold or supplied with the product to the
26 consumer for personal, non-commercial use.

27 (47) "Packaging producer responsibility organization" means a nonprofit corporation that
28 is tax exempt under chapter 501(c)(3) of the federal Internal Revenue Code and that is created by
29 a group of producers to implement the packaging producer program plan.

30 (48) "Packaging producer program plan" means a program plan developed by the
31 packaging producer responsibility organization pursuant to § 23-19.20-9 that is prepared and
32 submitted to the department for review and approval.

33 (49) "Packaging program advisory council" means the council established under this
34 chapter for the packaging program.

1 (50)(i) "Paper product" means paper sold or supplied to a consumer for personal,
2 noncommercial use, including flyers, brochures, booklets, catalogs, magazines, printed paper, and
3 all other paper materials.

4 (ii) "Paper product" does not include:

5 (A) Bound books;

6 (B) Conservation-grade and archival-grade paper;

7 (C) Newspapers, including supplements or enclosures;

8 (D) Magazines that have a circulation of fewer than ninety-five thousand (95,000) and that
9 includes content derived from primary sources related to news and current events;

10 (E) Copy paper;

11 (F) Paper for use in building construction; and

12 (G) Paper that could reasonably be anticipated to become unsafe or unsanitary to handle.

13 (51) "Postconsumer recycled content" means the amount of postconsumer material used
14 by a producer in the production of a covered materials type, divided by the total amount of that
15 covered materials type used for products sold or distributed by the producer in that same calendar
16 year.

17 (52)(i) "Producer" means the following person responsible for compliance with
18 requirements under this chapter for a covered material introduced into the state:

19 (A) For items sold in or with packaging at a physical retail location in the State of Rhode
20 Island:

21 (I) If the item is sold in or with packaging under the brand of the item manufacturer or is
22 sold in packaging that lacks identification of a brand, the producer is the person or entity that
23 manufactures that item;

24 (II) If there is no person or entity described in subsection (a)(53)(i)(A)(I) of this section,
25 the producer is the person or entity that is licensed to manufacture and sell or offer for sale to
26 consumers in the State of Rhode Island an item with packaging under the brand or trademark of
27 another manufacturer or person;

28 (III) If there is no person to which subsections (a)(53)(i)(A)(I) or (a)(53)(i)(A)(II) of this
29 section applies, the producer is the brand owner of the item;

30 (IV) If there is no person described in subsections (a)(53)(i)(A)(I) through (a)(53)(i)(A)(III)
31 of this section within the United States, the producer is the person who is the importer of record for
32 the item into the United States for use in a commercial enterprise that sells, offers for sale, or
33 distributes the item in the State of Rhode Island; or

34 (V) If there is no person described in subsections (a)(53)(i)(A)(I) through (a)(53)(i)(A)(iv)

1 of this section, the producer is the person that first distributes the item in or into the State of Rhode
2 Island;

3 (B) For items sold or distributed in or into the State of Rhode Island via e-commerce,
4 remote sale, or remote distribution:

5 (I) For packaging used to directly protect or contain the item, the producer of the packaging
6 is the same as the producer identified under subsection (a)(53)(i)(A) of this section; and

7 (II) For packaging used to ship the item to a consumer, the producer of the packaging is
8 the person that packages the item to be shipped to the consumer;

9 (C) For packaging that is an item and is not included in the prior subsections, the producer
10 of the packaging is the person that first distributes the item in or into the State of Rhode Island;

11 (D) For paper products that are magazines, catalogs, telephone directories, or similar
12 publications, the producer is the publisher;

13 (E) For paper products not described in subsection (a)(53)(i)(A) of this section:

14 (I) If the paper product is sold under the manufacturer's own brand, the producer is the
15 person or entity that manufactures the paper product;

16 (II) If there is no person or entity to which subsection (a)(53)(i)(E)(I) of this section applies,
17 the producer is the person or entity that is the owner or licensee of a brand or trademark under
18 which the paper product is used in a commercial enterprise, sold, offered for sale, or distributed in
19 or into the State of Rhode Island, whether or not the trademark is registered in the State of Rhode
20 Island;

21 (III) If there is no person or entity to which subsection (a)(53)(i)(E)(I) or (a)(53)(i)(E)(II)
22 of this section applies, the producer is the brand owner of the paper product;

23 (IV) If there is no person or entity to which subsection (a)(53)(i)(E)(I), (a)(53)(i)(E)(II), or
24 (a)(53)(i)(E)(III) of this section within the United States, the producer is the person that imports the
25 paper product into the United States for use in a commercial enterprise that sells, offers for sale, or
26 distributes the paper product in the State of Rhode Island; or

27 (V) If there is no person described in subsections (a)(53)(i)(E)(I) through (a)(53)(i)(E)(IV)
28 of this subsection, the producer is the person that first distributes the paper product in or into the
29 State of Rhode Island;

30 (F) A person is the "producer" of a covered material sold, offered for sale, or distributed in
31 or into the State of Rhode Island, as defined in subsections (a)(53)(i)(A) through (a)(53)(i)(E) of
32 this subsection, except;

33 (I) Where another person or entity has mutually signed an agreement with a producer as
34 defined in (a)(53)(i)(A) through (a)(53)(i)(E) of this section that contractually assigns responsibility

1 to the person or entity as the producer, and the person or entity has joined a registered packaging
2 producer responsibility organization as the responsible producer for that covered material under
3 this chapter. If another person or entity is assigned responsibility as the producer under this
4 subsection, the producer under subsections (a)(53)(i)(A) through (a)(53)(i) (E) of this section must
5 provide written certification of that contractual agreement to the packaging producer responsibility
6 organization. The following persons or entities are not eligible to be the assigned recipient of
7 responsibility as a producer under this subsection:

8 (aa) A person or entity who produces an agricultural commodity introduced under the brand
9 or trademark of another manufacturer or person;

10 (bb) If the producer described in subsection (a)(53)(i)(A) through (a)(53)(i)(E) of this
11 subsection is a business operated wholly or in part as a franchise, the producer is the franchisor, if
12 that franchisor has franchisees that have a commercial presence within the State of Rhode Island.

13 (ii) Producer does not include:

14 (A) Government entities; or

15 (B) Registered 501(c)(3) charitable organizations and 501(c)(4) social welfare
16 organizations.

17 (53) "Producer responsibility organization" means a nonprofit corporation that is tax
18 exempt under chapter 501(c)(3) of the federal Internal Revenue Code and is set up to carry out the
19 responsibilities of either the packaging program or the recycling refund program, or both programs.

20 (54) "Recycling" means the series of activities by which material is collected, transported,
21 sorted, and processed for use in industrial feedstocks in place of virgin materials to manufacture
22 new products with minimal loss of material quality and quantity. "Recycling" does not include:

23 (i) Landfill disposal;

24 (ii) Use as alternative daily cover or any other beneficial use at a landfill; or

25 (iii) Energy recovery, energy generation, or fuel production by any means including, but
26 not limited to, combustion, incineration, pyrolysis, gasification, solvolysis, or waste-to-fuel.

27 (55) "Recycling rate" means the amount of recyclable covered material, in aggregate or by
28 individual covered materials type, delivered to responsible end markets for recycling in a calendar
29 year divided by the total amount of covered materials introduced by the relevant unit of
30 measurement and excluding covered materials that are reusable or compostable.

31 (56) "Recycling refund program" means a covered beverage container redemption program
32 that pays a per-unit refund value to consumers for covered beverage containers and collects and
33 processes covered beverage containers as described in this chapter.

34 (57) "Recycling refund advisory council" means the council established under this chapter

1 for the recycling refunds program.

2 (58) "Recycling refund processing facility" means a location that is designated by the
3 recycling refund producer responsibility organization to receive, sort, and prepare beverage
4 containers collected through the system for recycling or reuse.

5 (59) "Recycling refund producer responsibility organization" means a nonprofit
6 corporation that is tax exempt under chapter 501(c)(3) of the federal Internal Revenue Code created
7 by a group of recycling refund covered beverage containers producers to implement activities under
8 this chapter.

9 (60) "Recycling refund program plan" means a program plan developed by the recycling
10 refund producer responsibility organization that is prepared and submitted to the department for
11 review and approval.

12 (61) "Redemption rate" means the number of covered beverage containers redeemed for
13 the recycling refund divided by the number of covered beverage containers sold in the State of
14 Rhode Island in a calendar year.

15 (62) "Redemption site" means a public or private place that provides, via any beverage
16 container collection mechanism, the ability to redeem a covered beverage container for which a
17 deposit was paid.

18 (63) "Refillable" means capable of refill.

19 (64) "Refill" means the continued use of a covered material by a consumer through a
20 system that is:

21 (i) Intentionally designed and marketed for repeated filling of a covered material to reduce
22 demand for new production of the covered material;

23 (ii) Supported by adequate logistics and infrastructure to provide convenient access for
24 consumers; and

25 (iii) Compliant with all applicable statutes, rules, ordinances, and other laws governing
26 health and safety from any government entity.

27 (65) "Responsible end market" means a materials market that:

28 (i) First produces and sells, transfers, or uses recycled organic product or recycled content
29 feedstock that meets the quality standards necessary to be used in the creation of new or
30 reconstituted products in a manner that protects the environment and minimizes risks to public
31 health and worker health and safety;

32 (ii) Complies with all applicable statutes, rules, ordinances, and other laws governing
33 environmental, health, safety, and financial responsibility from any government entity;

34 (iii) Possesses all requisite licenses and permits required by a federal or state agency or

1 political subdivision;

2 (iv) If the market operates in a state, manages waste according to the waste management
3 goal and priority order of waste management practices stated in statute;

4 (v) Minimizes adverse impacts to environmental justice areas; and

5 (vi) Meets the minimum operational standards adopted under a packaging producer
6 program plan or recycling refunds program plan to protect the environment, public health, worker
7 health and safety, and minimize adverse impacts to socially vulnerable populations.

8 (66) "Retail establishment" means any person, corporation, partnership, business, facility,
9 vendor, organization, or individual that sells or provides merchandise, goods, or materials directly
10 to a consumer that engages in the sale of beverages that are covered beverage containers intended
11 for consumption off site.

12 (67) "Return rate" means the amount of reusable covered material or beverage containers,
13 in aggregate or by individual covered materials or covered beverage container type, collected for
14 reuse by a redemption site, producer responsibility organization, producer, or service provider in a
15 calendar year, divided by the total amount of reusable covered material or covered beverage
16 containers, in aggregate or by individual covered materials or covered beverage container type,
17 sold or distributed into the State of Rhode Island by the relevant unit of measurement in the
18 approved program plan.

19 (68) "Reusable" means capable of reuse.

20 (69) "Reuse" means the return of a covered material or covered beverage container to the
21 marketplace and the continued use of the covered material or covered beverage container by a
22 producer or service provider when the covered material or covered beverage container is:

23 (i) Intentionally designed and marketed to be used multiple times for its original intended
24 purpose without a change in form;

25 (ii) Designed for durability and maintenance to extend its useful life and reduce demand
26 for new production of the covered material or covered beverage container;

27 (iii) Supported by adequate logistics and infrastructure at a redemption site, retail location,
28 by a service provider, or on behalf of or by a producer, that provides convenient access for
29 consumers; and

30 (iv) Compliant with all applicable statutes, rules, ordinances, and other laws governing
31 health and safety from any government entity.

32 (70) "Reuse rate" means the share of units of a reusable covered material or covered
33 beverage containers sold or distributed into the State of Rhode Island in a calendar year that are
34 demonstrated and deemed reusable in accordance with an approved packaging producer program

1 plan or recycling refund program plan, excluding:

2 (i) A product protected by a recognized geographic indication, appellation of origin, or
3 certification mark that legally requires the product to originate from a specific geographic region
4 located more than one hundred fifty (150) miles from the State of Rhode Island; provided that, such
5 requirement is supported by federal, state, or international law or treaty; or

6 (ii) A product which, under national or state law, must be produced in a jurisdiction located
7 more than one hundred fifty (150) miles from the State of Rhode Island and therefore cannot be
8 practically sold in a reusable container;

9 (71) "Service provider" means an entity that provides covered services for covered
10 materials or covered beverage containers. A political subdivision that provides or that contracts or
11 otherwise arranges with another party to provide covered services for covered materials within its
12 jurisdiction may be a service provider regardless of whether it provided, contracted for, or
13 otherwise arranged for similar services before the approval of the applicable producer program
14 plan.

15 (72) "Source reduction" means the design, manufacture, acquisition, purchase, or use of
16 materials or products to reduce the amount of municipal waste before it enters the municipal trash.
17 This may be accomplished through the redesign of manufacturing processes; redesign of products;
18 changes in consumers' purchasing decisions, use, and disposal habits; and backyard composting.

19 (73) "Third-party certification" means certification by an accredited independent
20 organization that a standard or process required by this chapter, or by a packaging producer program
21 plan or a recycling refund program plan approved under this chapter, has been achieved.

22 (74) "Transfer station" means a specific area where individuals may bring household
23 recyclable materials to be sorted into material-specific receptacles and is located in the State of
24 Rhode Island.

25 (75) "Unredeemed deposit" means a deposit paid by a consumer to a retailer upon purchase
26 of a covered beverage container for which no person claimed the deposit by returning the beverage
27 container to a redemption site.

28 (b) References to "this chapter" contained in chapters 19.20, 19.21, and 19.22 of title 23,
29 may and shall be applied jointly and severally, and a reference to one may be construed as a
30 reference to any or all of the other chapters as the context indicates, except where the context clearly
31 indicates otherwise.

32 **23-19.20-2. Registration of packaging producer responsibility organizations.**

33 (a) Pursuant to the provisions of chapter 19.19 of title 23 upon the completion of the
34 statewide implementation analysis and final report, or January 1, 2027, whichever is earlier, the

1 department shall accept applications from packaging producer responsibility organizations to
2 represent packaging and paper product producers in fulfilling the requirements of this chapter.

3 (b) The application from a packaging producer responsibility organization shall include, at
4 a minimum, the following:

5 (1) Contact information for a person responsible for implementing an approved packaging
6 producer program plan;

7 (2) A list of any member packaging and paper product producers that have entered into
8 written agreements to operate under the packaging producer program plan;

9 (3) A list of current board members and the executive director if different from the person
10 responsible for implementing the approved packaging producer program plan; and

11 (4) Documentation demonstrating adequate financial responsibility and financial controls
12 to ensure proper management of funds and payment of the registration fee and packaging and paper
13 product producer fees.

14 (c) By March 1, 2027, the department may approve, for a period not to exceed five (5)
15 years, a single packaging producer responsibility organization if the packaging producer
16 responsibility organization demonstrates that it:

17 (1) Is an independent nonprofit organization that qualifies for tax exemption under 26
18 U.S.C. § 501(c)(3) of the federal Internal Revenue Code;

19 (2) Has the ability to administer the requirements of a packaging producer program plan
20 under this chapter;

21 (3) Has a governing board consisting of packaging and paper product producers that
22 represent the diversity of packaging in the market; and

23 (4) Has adequate financial responsibility and financial controls to ensure proper
24 management of funds and payment of the registration fee required under this section.

25 (d) The department may revoke the approval of a packaging producer responsibility
26 organization if the department determines that the packaging producer responsibility organization:

27 (1) Failed to meet the collection rate or recycling rate performance targets four (4) years in
28 a row; and

29 (2) Has not made reasonable progress over this four (4) year period toward compliance.

30 (e) If the department exercises its authority under this section, then:

31 (1) The department shall set dates to restart the appointment process; and

32 (2) The previously approved packaging producer responsibility organization shall continue
33 operating until the department appoints a new recycling refund producer responsibility
34 organization.

1 (f) By January 1, 2027, an individual producer may notify the department of its intent to
2 submit an individual plan for approval by the department, and comply individually with all relevant
3 requirements of this chapter.

4 (g)(1) By November 1, 2027, the packaging producer responsibility organization shall
5 submit a one-time payment to the department, in lieu of a registration fee, in an amount determined
6 by the department, to cover the previously incurred costs and future estimated costs of the
7 department under this chapter from the effective date of this chapter until the date in subsection
8 (g)(2) of this section. By August 1, 2027, the department shall provide written notice to the
9 appointed packaging producer responsibility organization of the amount of the registration fee;

10 (2) On July 1, 2028, and on each July 1 thereafter, the packaging producer responsibility
11 organization shall submit to the department a registration fee, as determined by the department. By
12 May 1, 2028, and on each May 1 thereafter, the department shall provide written notice to registered
13 packaging producer responsibility organizations of the amount of the registration fee. The
14 registration fee shall be set at an amount anticipated to meet, but not exceed the department's
15 estimate of the costs required to perform the department's duties and to otherwise administer,
16 implement, and enforce this chapter;

17 (3) On July 1, 2028, and on each July 1 thereafter, a producer that notifies the department
18 of its intent to submit an individual plan shall make payments in amounts determined by the
19 department to cover the amount anticipated to meet, but not exceed the department's estimate of
20 the costs required to perform the department's duties related to that producer's individual plan and
21 to otherwise administer, implement, and enforce the individual plan;

22 (4) The department shall annually reconcile the fees paid by a packaging producer
23 responsibility organization under this section with the actual costs incurred by the department by
24 means of credits or refunds to or additional payments required of a producer responsibility
25 organization, as applicable.

26 (h) After the first packaging producer program plan approved by the department expires,
27 the department may allow registration of more than one packaging producer responsibility
28 organization if:

29 (1) Producers of a covered materials type or a specific covered material appoint a packaging
30 producer responsibility organization; or

31 (2) Producers organize under additional packaging producer responsibility organizations.

32 (i) All fees received under this section shall be deposited in the State of Rhode Island
33 treasury and credited to the product producer responsibility account.

34 **23-19.20-3. Packaging producer responsibility organization duties.**

1 A packaging producer responsibility organization or individual producer shall:

2 (1) Register with the department, as required under this chapter;

3 (2) Submit a packaging producer program plan, as required under this chapter;

4 (3) Implement a packaging producer program plan approved by the department under this
5 chapter;

6 (4) Forward upon receipt from the department the lists established under § 23-19.20-7 to
7 all service providers that participate in a packaging producer program plan administered by the
8 packaging producer responsibility organization;

9 (5) Establish by September 1, 2027, an initial producer fee structure to fund the initial
10 implementation of the program, to be used until packaging producer responsibility organization has
11 an approved program plan as required under this chapter;

12 (6) Collect producer fees as required under § 23-19.20-11;

13 (7) Submit the reports required under § 23-19.20-13;

14 (8) Ensure that producers operating under a packaging producer program plan administered
15 by the packaging producer responsibility organization comply with the requirements of the
16 packaging producer program plan under § 23-19.20-9 and with this chapter;

17 (9) Expel a producer from the packaging producer responsibility organization if efforts to
18 return the producer to compliance with the plan or with the requirements of this chapter are
19 unsuccessful;

20 (10) Notify the department when a producer has been expelled;

21 (11) Consider and respond in writing within ninety (90) days to comments received from
22 the advisory council, including justifications for not incorporating advisory council
23 recommendations;

24 (12) Maintain a website with the information required under § 23-19.20-12;

25 (13) Notify the department within thirty (30) days of a change made to the contact
26 information for a person responsible for implementing the packaging producer program plan, to
27 board membership, or to the executive director;

28 (14) Assist service providers to identify, use, and expand responsible end markets;

29 (15) Contract directly with service providers and provide payments in a timely manner;
30 and

31 (16) Comply with all other applicable requirements of this chapter.

32 **23-19.20-4. Packaging program advisory council.**

33 (a) The packaging program advisory council is established to review all activities
34 conducted by packaging producer responsibility organizations or a producer submitting an

1 individual plan under this chapter and to advise the department and packaging producer
2 responsibility organizations regarding the implementation of this chapter.

3 (b) The packaging program advisory council shall:

4 (1) Convene its initial meeting by June 1, 2027;

5 (2) Establish when, and a process by which, it will accept public comments;

6 (3) Advise on the development of packaging producer program plans, individual plans, and
7 needs assessments to help ensure they:

8 (i) Align with best practices;

9 (ii) Reflect the reality in the State of Rhode Island; and

10 (ii) Consider the needs of the State of Rhode Island;

11 (4) Submit comments to packaging producer responsibility organizations, producers
12 submitting individual plans, and to the department on any matter relevant to the administration of
13 this chapter;

14 (5) Provide written comments to the department during any rulemaking process undertaken
15 by the department; and

16 (6) Comply with all other applicable requirements of this chapter.

17 (c) By March 1, 2027, the department shall establish and appoint the initial membership of
18 the packaging program advisory council. The membership of the packaging program advisory
19 council shall consist of the following:

20 (1) Two (2) members representing manufacturers of covered materials or the State of
21 Rhode Island or national trade association representing those manufacturers;

22 (2) One member representing recycling facilities that manage covered materials;

23 (3) One member representing a waste hauler or a State of Rhode Island association
24 representing waste haulers;

25 (4) One member representing retailers of covered materials or a State of Rhode Island trade
26 association representing those retailers;

27 (5) Two (2) members representing State of Rhode Island nonprofit environmental
28 organizations;

29 (6) Two (2) members representing community-based nonprofit environmental justice
30 organizations;

31 (7) One member representing Rhode Island resource recovery corporation or another waste
32 facility that receives, and sorts covered materials and transfers them to another facility for reuse,
33 recycling, or composting;

34 (8) One member representing a waste facility that receives compostable materials for

1 composting or the State of Rhode Island trade association that represents such facilities;

2 (9) One member representing a labor organization;

3 (10) Two (2) members representing an entity that develops or offers for sale covered
4 materials that are designed for reuse or refill and maintained through a reuse or refill system or
5 infrastructure or the State of Rhode Island or national trade association that represents such entities;

6 (11) Three (3) members representing local government entities;

7 (12) Two (2) members representing other interested parties or additional members of
8 interests represented, as determined by the department; and

9 (13) One member representing the department.

10 (d) Members shall serve for a term of four (4) years, except that the initial term for a
11 majority of the initial appointees shall be two (2) years so that membership terms are staggered.
12 Members may be reappointed, but may not serve more than eight (8) consecutive years. A member
13 of the advisory council appointed under subsection (c)(12) of this section serves at the pleasure of
14 the department.

15 (e) A quorum is reached when:

16 (1) A majority of packaging program advisory council member seats are filled; and

17 (2) A majority of the non-vacant packaging program advisory council member seats is
18 present.

19 (f) Action by the packaging program advisory council requires a quorum and a majority of
20 those present and voting. All members of the packaging program advisory council, except the
21 members appointed under subsection (c)(12) of this section, are voting members of the council.

22 (g) The packaging program advisory council shall meet at least two (2) times per year and
23 may meet more frequently upon ten (10) days' written notice at the request of the chair or a majority
24 of its members.

25 (h)(1) The department shall provide administrative and operating support to the packaging
26 program advisory council, and the department may contract with a third-party facilitator to assist
27 in administering the activities of the packaging program advisory council, including establishing a
28 website or landing page on the department website.

29 (2) The department shall assist the advisory council in developing policies and procedures
30 governing the disclosure or perceived conflict of interest.

31 **23-19.20-5. Producer responsibilities.**

32 (a) After September 1, 2027, a producer shall be a member of a packaging producer
33 responsibility organization or notify the department of their intent to submit an individual program
34 plan.

- 1 **(b) Unless submitting an individual program plan, a producer shall:**
2 **(1) Register with the packaging producer responsibility organization,**
3 **(2) Implement the requirements of the packaging producer program plan;**
4 **(3) Pay producer fees under § 23-19.20-11;**
5 **(4) Report covered material data to the packaging producer responsibility organization at**
6 **a frequency and by a date to be determined by the packaging producer responsibility organization:**
7 **(i) The total amount, by unit and weight, of each type of packaging material sold, offered**
8 **for sale, or distributed for sale into the State of Rhode Island by the producer in the prior calendar**
9 **year; and**
10 **(ii) All other information necessary for the producer and the packaging producer**
11 **responsibility organization to meet its obligations required under this chapter.**
12 **(c) Comply with all other applicable requirements of this chapter.**
13 **(d) If a producer's individual plan is approved by the department, the producer shall**
14 **implement the individual plan in compliance with all applicable requirements of this chapter.**

15 **23-19.20-6. Packaging sales restrictions.**

- 16 **(a) After July 1, 2030, no producer may introduce covered materials, either separately or**
17 **when used to package another product, unless the producer is a member of a packaging producer**
18 **responsibility organization and in compliance with the organization's plan, or is operating under an**
19 **approved individual plan.**
20 **(b) After July 1, 2032, no producer may introduce in the State of Rhode Island covered**
21 **materials unless covered services are provided for the covered materials through a packaging**
22 **program or individual plan approved by the department and the covered materials are:**
23 **(1) Reusable and capable of being managed through a reuse system that meets the reuse**
24 **rate and return rate required under this chapter;**
25 **(2) Capable of refill and supported by a refill system;**
26 **(3) Included on the recyclable covered materials list established under § 23-19.20-7; or**
27 **(4) Included on the compostable covered material list established under § 23-19.20-7.**
28 **(c) A packaging producer responsibility organization or producer operating under an**
29 **approved individual plan may petition the department for a two (2)-year extension to comply with**
30 **the requirements of this section. The department may approve the extension if the petition**
31 **demonstrates that market or technical issues prevent a specific covered material from being**
32 **considered reusable or included on the lists established under § 23-19.20-7. The packaging**
33 **producer responsibility organization may petition the department for additional annual extensions,**
34 **if the packaging producer responsibility organization demonstrates that market or technical issues**

1 preventing compliance persist.

2 **23-19.20-7. Packaging program department responsibilities.**

3 The department shall:

4 (1) Appoint the initial membership of the packaging program advisory council as required
5 under this chapter;

6 (2) Provide administrative and operating support to the packaging program advisory
7 council;

8 (3) Consult on the preliminary needs assessment and needs assessment updates that the
9 packaging producer responsibility organization conducts, and modify requirements for needs
10 assessments as it deems appropriate;

11 (4) Review and determine whether to approve a needs assessment according to this chapter;

12 (5) Review and determine whether to approve packaging producer program plans,
13 individual plans, and amendments to plans according to § 23-19.20-9;

14 (6) Establish requirements for a recycling rate, composting rate, reuse rate, return rate,
15 source reduction, and postconsumer recycled content, according to the requirements of this chapter;

16 (7) Generate, in consultation with the packaging producer responsibility organization, a list
17 of covered materials determined to be recyclable or compostable in the State of Rhode Island, using
18 the following criteria:

19 (i) Current availability of recycling and composting collection services;

20 (ii) Recycling and composting processing infrastructure;

21 (iii) Capacity and technology for sorting covered materials;

22 (iv) Whether a covered material is of a type and form that is regularly sorted and aggregated
23 into defined streams for recycling processes or is included in a relevant Institute of Scrap Recycling
24 Industries specification or its successors;

25 (v) Availability of responsible end markets;

26 (vi) Presence and amount of processing residuals, contamination, and additives of high
27 concern;

28 (vii) Quantity of covered material estimated to be available and recoverable; and

29 (viii) Projected future conditions for the criteria in this subsection;

30 (8) Establish a process by which the department will consider adding to the recyclable or
31 compostable list in subsection (7) of this section new materials as proposed by the packaging
32 producer responsibility organization in a program plan;

33 (9) Establish a process by which a packaging and paper product producer may request the
34 department classify one or more types of packaging or products as an exempt material if the

1 department determines that a specific federal or State of Rhode Island health and safety requirement
2 prevents the packaging from being made reusable, recyclable, or compostable, with each
3 classification determination lasting no more than two (2) years with the ability to be renewed;

4 (10) Post on the department's website:

5 (i) The most recent registration materials submitted by the packaging producer
6 responsibility organization;

7 (ii) A list of registered service providers;

8 (iii) The most recent packaging program needs assessments;

9 (iv) Any packaging plan or amendment submitted by a packaging producer responsibility
10 organization or producer that is in draft form during the public comment period;

11 (v) The most recent recyclable or compostable covered lists established as required under
12 this section.

13 (vi) The list of exempt materials as defined in this chapter and covered materials exempt
14 from performance targets as approved in the packaging producer program plan;

15 (vii) Links to producer responsibility organization websites;

16 (viii) Comments of the public, advisory council, and producer responsibility organizations
17 on packaging producer plans and needs assessments, and, if any, the responses of the department
18 to those comments; and

19 (ix) Links to adopted rules implementing this chapter;

20 (11) Review and determine whether to approve the selection of independent auditors to
21 perform an annual financial audit of each producer responsibility organization; and

22 (12) Adopt any regulations necessary to implement this chapter.

23 **23-19.20-8. Packaging program needs assessments.**

24 (a) By June 1, 2028, the packaging producer responsibility organization shall complete an
25 initial needs assessment, and provide an updated needs assessment every five (5) years thereafter.

26 (b)(1) An initial needs assessment, and all subsequent updates, shall include at least the
27 following:

28 (i) An evaluation of:

29 (A) Existing source reduction, refill, reuse, recycling, and composting capacity and
30 infrastructure, as applicable, for each covered materials type, including collection rates, recycling
31 rates, composting rates, reuse rates, and return rates, as applicable, for each covered materials type;

32 (B) Current recycling rates, composting rates, reuse rates, and return rates for covered
33 materials; and

34 (C) The extent to which postconsumer recycled content, by the best estimate, is or could

1 be incorporated into each covered materials type, as applicable, including a review of market and
2 technical barriers to incorporating postconsumer materials into covered materials and of whether
3 for certain covered materials more recycled content has a net negative environmental impact, with
4 the evaluation for plastics, including a separate evaluation of rigid plastics by resin type and an
5 evaluation for film and flexible plastics;

6 (2) An evaluation of covered materials in the disposal, recycling, and composting streams
7 to determine the covered materials types and amounts within each stream, using new studies
8 conducted by the department or publicly available and applicable studies;

9 (3) An evaluation of potential reuse, return, recycling, and composting rates for each
10 covered materials type that could reasonably be accomplished within a five (5) year time frame in
11 multiple units of measurement including, but not limited to, unit-based, weight-based, and volume-
12 based;

13 (4) Recommended collection methods by covered materials type to maximize collection
14 efficiency, maximize feedstock quality, and optimize service and convenience for collection of
15 covered materials to be considered or that are included on lists established;

16 (5) An evaluation of potential plans and metrics for how to measure progress in achieving
17 performance targets;

18 (6) An inventory of the current system, including:

19 (i) Tons of collected covered materials;

20 (ii) Capacity at recycling facilities, compost facilities, drop-off collection sites, and transfer
21 stations;

22 (iii) Infrastructure, capacity, and performance for the existing covered services for covered
23 materials operating in the State of Rhode Island;

24 (iv) Availability and cost of covered services for covered materials to covered entities and
25 any other location where covered materials are introduced, including identification of disparities in
26 the availability of these services in environmental justice areas compared with other areas and
27 proposals for reducing or eliminating those disparities;

28 (7) An evaluation of investments needed to increase source reduction, reuse, return,
29 recycling, and composting rates of covered materials to meet the proposed performance targets in
30 § 23-19.20-9;

31 (8) An assessment of the viability and robustness of markets for recyclable covered
32 materials and the degree to which these markets can be considered responsible end markets;

33 (9) An assessment of the level and causes of contamination of source-separated recyclable
34 materials, source-separated compostable materials and collected reusables, and the impacts of

1 contamination on service providers, including the cost to manage this contamination; and

2 (10) Recommendations for meeting the criteria for an alternative collection program as
3 established in this chapter, and in every subsequent needs assessment after the initial needs
4 assessment, a review of existing alternative collection programs for each covered material listed to
5 determine if the program is meeting the criteria in this chapter.

6 (11) The department may modify what the packaging producer responsibility organization
7 is required to include in the initial needs assessment and the needs assessment updates.

8 (c) In conducting a needs assessment, the packaging producer responsibility organization
9 shall:

10 (1) Initiate a consultation process to obtain recommendations from the packaging program
11 advisory council, political subdivisions, service providers and other interested parties regarding the
12 type and scope of information that should be collected and analyzed in the needs assessment
13 required by § 23-19.20-8;

14 (2) Contract with a third party who is not a producer, a packaging producer responsibility
15 organization, or a member of the advisory council to conduct the needs assessment; and

16 (3) Prior to finalizing the needs assessment, make the draft needs assessment available for
17 comment by the advisory council, the department, and the public.

18 (d)(1) A service provider or other person with data or information necessary to complete a
19 needs assessment shall provide the data or information to the packaging producer responsibility
20 organization contractor conducting the needs assessment upon request.

21 (2) The packaging producer responsibility organization contractor conducting the needs
22 assessment shall aggregate and anonymize the data or information, excluding location data
23 necessary to assess needs, received from all parties under subsection (d)(1) of this section.

24 (e)(1) Within one hundred twenty (120) days of the completion of any needs assessment,
25 the department shall review the needs assessment and either approve, modify, or deny it.

26 (2) In making a determination under subsection (a) of this section, the department shall
27 confirm:

28 (i) All requirements of this section are met; and

29 (ii) The needs assessment was produced with sufficient rigor and using an appropriate,
30 evidence-based methodology, ensuring accuracy, reliability, and alignment with established best
31 practices.

32 (3) If the department denies or requests additional information for a needs assessment, the
33 department shall provide the packaging producer responsibility organization with the reasons, in
34 writing, that the needs assessment does not meet the requirements of this section. The packaging

1 producer responsibility organization has sixty (60) days from the date that the rejection or request
2 for additional information is received to submit to the department any revisions or additional
3 information necessary for the approval of the needs assessment. The department shall review and
4 approve or disapprove the needs assessment no later than sixty (60) days after the date the
5 department receives the revisions or additional information.

6 (4) A packaging producer responsibility organization may resubmit a needs assessment to
7 the department on not more than two (2) occasions. If after the second resubmission, the department
8 determines that the needs assessment does not meet the plan requirements of this chapter, the
9 packaging producer responsibility organization shall pay a service provider to complete work in
10 accordance with a scope of work provided by the department that will bring the needs assessment
11 into compliance with this section.

12 **23-19.20-9. Packaging producer program plan.**

13 (a)(1) By January 1, 2029, and every five (5) years thereafter, a packaging producer
14 responsibility organization shall submit a packaging producer program plan to the department that
15 describes the proposed operation by the organization of programs to fulfill the requirements of this
16 chapter and that incorporates the findings and results of needs assessments. If there is more than
17 one packaging producer responsibility organization, they shall coordinate to submit a single
18 packaging producer program plan. Once approved, a packaging producer program plan remains in
19 effect for five (5) years, as amended, or until a subsequent packaging producer program plan is
20 approved.

21 (2) By January 1, 2029, and every five (5) years thereafter, an individual producer that has
22 notified the department of its intent to submit an individual plan shall submit an individual plan to
23 the department that describes the proposed operation by the producer of a program to fulfill the
24 requirements of this chapter and that incorporates the findings and results of needs assessments.
25 Once approved, an individual plan remains in effect for five (5) years, as amended, or until a
26 subsequent individual plan is approved.

27 (3) By July 1, 2030, or within six (6) months of plan approval, whichever is later, a
28 packaging producer responsibility organization or individual producer shall implement a packaging
29 producer program plan or individual plan. Subsequent packaging producer program plans shall be
30 implemented within six (6) months of approval by the department.

31 (b) A packaging producer responsibility organization or individual producer shall submit a
32 draft packaging producer program plan, individual plan, or draft amendment to the advisory council
33 prior to submitting the draft plan or draft amendment to the department and shall, prior to
34 submission of the draft plan or draft amendment to the department, respond to advisory council

1 comments and recommendations received within sixty (60) days of providing the draft program
2 plan or draft amendment to the advisory council and indicate whether those comments or
3 recommendations were accepted or rejected.

4 (c) A draft packaging producer program plan or individual plan shall include at a minimum:

5 (1) Proposed collection rate and recycling rate performance targets as applicable to each
6 covered materials type to be accomplished within a five (5) year period;

7 (2) Proposed performance targets for composting, source reduction, reuse, and return that:

8 (i) Meet the requirements set by the department in § 23-19.20-9(a);

9 (ii) Are informed by the latest needs assessment and the most recent State of Rhode Island
10 solid waste management plan;

11 (3) Proposed performance targets for post-consumer recycled content for covered materials
12 that do not have sufficient end-markets, as well as any other covered materials the packaging
13 producer responsibility organization deems appropriate;

14 (4) A description of the methods of collection, how collection service convenience metrics
15 shall be met, and processing infrastructure and covered services to be used for each covered
16 materials type at covered entities, at a minimum, and how these shall meet the performance targets
17 established for covered materials:

18 (i) Included on the recyclable list established in this chapter;

19 (ii) Included on the compostable list established in this chapter;

20 (iii) That are reusable covered materials managed through a reuse system; and

21 (iv) That are capable of refill and managed through a refill system;

22 (5) Proposals for exemptions from performance targets for covered materials that cannot
23 be source reduced or made reusable, recyclable, or compostable due to federal or State of Rhode
24 Island health and safety requirements, identifying the specific federal or State of Rhode Island
25 requirements and their impact on the covered materials;

26 (6) A description of how, for each covered materials type, the producer responsibility
27 organization shall measure recycling rates, reuse rates, return rates, composting rates, and the
28 inclusion of postconsumer recycled content, including the relevant unit of measurement;

29 (7) Third-party certifications as required by the department or voluntarily undertaken;

30 (8) A budget identifying funding needs for each of the plan's five (5) calendar years,
31 producer fees, a description of the process used to calculate the fees, and an explanation of how the
32 fees meet the requirements of this chapter;

33 (9)(i) As part of the proposed budget, the producer responsibility organization shall propose
34 a percentage of its overall budget sufficient to achieve the proposed performance targets for

1 reusable and refillable packaging:

2 (ii) For the first program plan, the percentage of the packaging producer responsibility
3 organization's budget that must be dedicated to investment in and support for producer's use of
4 reusable and refillable packaging may not be less than five percent (5%). Upon submission of a
5 packaging producer responsibility organization's subsequent program plans the budget for reusable
6 and refillable packaging may be less than three percent (3%) if the resulting expenditures will be
7 sufficient to achieve the approved reuse and return rates for the program;

8 (10) A description of infrastructure investments, including goals and outcomes and a
9 description of how the process to offer and select opportunities will be conducted in an open,
10 competitive, and fair manner; how it will address gaps in the system not met by service providers;
11 and potential financial and legal instruments to be used;

12 (11) An explanation of how the program will be paid for by the producer responsibility
13 organization through fees from producers, without any new or additional consumer-facing charge
14 to members of the public, businesses, service providers, the State of Rhode Island or any political
15 subdivisions, or any other person who is not a producer, unless the charge is:

16 (i) A deposit made in connection with a product's refill, reuse, or recycling that can be
17 redeemed by a consumer; or

18 (ii) A charge for service by a service provider, regardless of whether registered;

19 (12) An explanation of how the packaging producer responsibility organization will
20 coordinate with the Rhode Island resource recovery corporation on implementation;

21 (13) A description of activities to be undertaken by the packaging producer responsibility
22 organization during each year to:

23 (i) Foster the improved design of covered materials in accordance with the design attributes
24 identified in this chapter on packaging and producer fee setting to reduce environmental and human
25 health impacts;

26 (ii) Provide funding to expand and increase the convenience of source reduction, reuse,
27 refill, collection, recycling, and composting services to covered entities;

28 (iii) Provide for contract rates to service providers for State of Rhode Island coverage of
29 covered services at an optimal level of convenience and service for covered materials on the list
30 established, to covered entities, at a minimum;

31 (iv) Monitor to ensure that postconsumer materials are delivered to responsible end
32 markets; and

33 (v) Expand responsible end markets and incentivize the purchase of recycled content from
34 only responsible markets that are domestic or North American;

1 (14) Include terms and conditions for service agreements with service providers and
2 templates of the service agreements;

3 (15) Operational standards for service providers as applicable to the service provided
4 including, but not limited to:

5 (i) Accepting all covered materials on the recyclable or compostable list required under
6 this chapter;

7 (ii) Labor standards and safety practices including, but not limited to, safety programs,
8 health benefits, and living wages; and

9 (iii) Meets operating standards, such as capture rates, residual rates, and bale quality;

10 (16) A description of how the packaging producer responsibility organization shall treat
11 and protect nonpublic data submitted by service providers;

12 (17) A description of how the packaging producer responsibility organization shall provide
13 technical assistance to service providers in order to assist them in delivering covered materials to
14 responsible end markets;

15 (18) Minimum operational standards to protect the environment, public health, worker
16 health and safety, and minimize adverse impacts to socially vulnerable populations;

17 (19) A description of how the packaging producer responsibility organization shall increase
18 public awareness, educate, and complete outreach activities that include culturally responsive
19 materials and methods and evaluate the efficacy of these efforts;

20 (20) Proposed alternative collection programs;

21 (21) A description of how producers can purchase postconsumer materials from service
22 providers at market prices if the producer is interested in obtaining recycled feedstock to achieve
23 minimum postconsumer recycled content performance targets;

24 (22) A list of additives of high concern and the credible scientific evidence forming the
25 basis for this list;

26 (23) A discussion of technical assistance provided to producers regarding additives of high
27 concern in covered materials and actions taken by producers to reduce additives of high concern in
28 covered materials; and

29 (24) A summary of consultations held with the advisory council and other interested parties
30 to provide input to the packaging producer program plan, a list of recommendations that were
31 incorporated into the packaging producer program plan as a result, and a list of rejected
32 recommendations and the reasons for rejection;

33 (25) In approving the performance targets in this section, the department shall consider:

34 (i) The findings of the needs assessment;

1 (ii) Goals of the most recent State of Rhode Island solid waste management plan;
2 (iii) With source reduction, the aim of eliminating unnecessary use of material while not
3 compromising health or safety;
4 (iv) With postconsumer recycled content, the net environmental impact of using more
5 postconsumer material and the ability of packaging to include recycled content given health
6 considerations, safety considerations, or its unique properties; and
7 (v) With reuse rate, whether reusable containers shall be reused enough times to have a
8 lower environmental impact than the single-use alternatives.
9 (d)(1) The department shall review and approve, deny, or request additional information
10 for packaging producer program plans, individual plans, or draft plan amendments no later than
11 one hundred twenty (120) days after the date the department receives it from a packaging producer
12 responsibility organization. The department shall post a draft plan or draft amendment on the
13 department's website and allow public comment for no less than forty-five (45) days before
14 approving, denying, or requesting additional information on a draft plan or draft amendment.
15 (2) In reviewing draft plans, the department shall consider, among other factors, the
16 following:
17 (i) Feasibility;
18 (ii) Advisory council feedback;
19 (iii) Cost;
20 (iv) Goals and plans in the Rhode Island solid waste management plan;
21 (v) Increasing reuse, including the proposed percentage of budget funds proposed by the
22 PRO that must be dedicated to reuse and refill; and
23 (vi) Reducing unnecessary use of materials.
24 (3) If the department denies or requests additional information for a draft plan or draft
25 amendment, the department shall provide the packaging producer responsibility organization or
26 producer with the reasons, in writing, that the plan or plan amendment does not meet the plan
27 requirements in this chapter. The packaging producer responsibility organization or producer has
28 sixty (60) days from the date that the rejection or request for additional information is received to
29 submit to the department any revisions or additional information necessary for the approval of the
30 draft plan or draft amendment. The department shall review and approve or disapprove the draft
31 plan or draft amendment no later than sixty (60) days after the date the department receives the
32 revisions or additional information.
33 (4) A packaging producer responsibility organization or producer may resubmit a draft plan
34 or draft amendment to the department on not more than two (2) occasions. If after the second

1 resubmission, the department determines that the draft plan or draft amendment does not meet the
2 plan requirements of this chapter, the department shall modify the draft plan or draft amendment
3 as necessary for it to meet the requirements of this chapter and approve it.

4 **23-19.20-10. Packaging performance target methodology.**

5 (a)(1) For purposes of determining whether recycling performance targets are being met,
6 except as modified by the department, the packaging producer program plan or individual plan shall
7 provide a methodology for measuring the amount of recycled material at the point at which material
8 leaves a recycling facility and shall account for:

9 (i) Levels of estimated contamination documented by the facility; and

10 (ii) Any exclusions for fuel or energy capture.

11 (2) For purposes of determining whether reuse and return performance targets are being
12 met, a packaging producer program plan or individual plan shall provide a methodology for
13 measuring the amount of reusable covered materials at the point at which reusable covered
14 materials meet the following criteria as demonstrated by the producer and approved by the
15 department:

16 (i) Whether the average minimum number of cycles of reuses within a recognized reuse
17 system has been met based on the number of times an item shall be reused for it to have lower
18 environmental impacts than the single-use alternatives of those items; and

19 (ii) Whether the demonstrated or research-based anticipated return rate of the covered
20 material to the reuse system has been met.

21 (3) For purposes of determining whether postconsumer recycled content performance
22 targets are being met, a packaging producer program plan or individual plan shall provide a
23 methodology for measuring postconsumer recycled content across all producers for a covered
24 materials type where producers may determine their postconsumer recycled content based on their
25 United States market territory if State of Rhode Island-specific postconsumer recycled content is
26 impractical to determine.

27 (4) For other performance targets, the producer responsibility organization or individual
28 plan shall propose methodologies for review and approval as part of the packaging producer
29 program plan and recycling refund producer program plan.

30 (b)(1) A packaging producer responsibility organization shall implement an alternative
31 collection program for covered materials included on an alternative collection list established under
32 this chapter that:

33 (i) Provides year-round, convenient, collection opportunities across the State of Rhode
34 Island, including at least one drop-off collection site located in each municipality;

- 1 (ii) Provides tiers of service for collection, convenience, number of drop-off collection
2 sites, and additional collection systems based on:
- 3 (A) Municipal population size;
4 (B) Municipal population density;
5 (iii) Ensures materials are sent to responsible end markets;
6 (iv) Uses education and outreach strategies that can be expected to significantly increase
7 consumer awareness of the program throughout the State of Rhode Island; and
8 (v) Accurately measures the amount of each covered material collected and the applicable
9 performance target.
- 10 (c) The department, in consultation with an advisory council, may require that a packaging
11 producer responsibility organization, recycling refund producer responsibility organization, or
12 individual producer operating an individual plan obtain and pay for a third-party certification of
13 any activity or achievement required by this chapter if a third-party certification is readily available,
14 deemed applicable, and of reasonable cost. The department shall provide a producer responsibility
15 organization or individual producer with notice of at least six (6) months prior to requiring use of
16 third-party certification.

17 **23-19.20-11. Producer fees.**

18 (a) By September 1, 2028, each producer that is a member of the packaging producer
19 responsibility organization shall submit an initial fee to the packaging producer responsibility
20 organization, as determined by the initial fee schedule developed under § 23-19.19-3(5).

21 (b)(1) Beginning January 1, 2030, a packaging producer responsibility organization shall
22 annually collect a fee from each member producer that shall:

23 (i) Vary based on the total amount of covered materials each producer introduces in the
24 prior year calculated on a per-unit basis, such as per ton, per item, or another unit of measurement;

25 (ii) Reflect the program costs for each covered materials type, net of commodity value for
26 that covered materials type, as well as allocated fixed costs that do not vary based on covered
27 materials type;

28 (iii) Create incentives to reduce environmental impacts, which shall include:

29 (A) Reducing the amount of:

30 (I) Packaging per individual covered material that is necessary to efficiently deliver a
31 product without damage or spoilage and without reducing its ability to be recycled;

32 (II) Paper used to manufacture individual paper products; and

33 (III) Additives of high concern;

34 (B) Increasing:

1 (I) The amount of covered materials managed in a reuse system that are reused the number
2 of times needed to have lower environmental impacts than the single-use alternatives of those
3 items; and

4 (II) Increasing the proportion of postconsumer material in covered materials while
5 considering technical limitations and net environmental impact of using more postconsumer
6 material; and

7 (C) Enhancing the recyclability or compostability of a covered material;

8 (iv) Discourage using materials and design attributes in covered materials whose
9 environmental impacts and human health impacts can be reduced by the methods listed within this
10 section; and

11 (v) Generate revenue sufficient to pay in full:

12 (A) The required fees, including both one-time and annual registration fees required under
13 § 23-19.20-2(f);

14 (B) Financial obligations to complete activities described in an approved packaging
15 producer program plan, including payments to service providers;

16 (C) The operating costs of the producer responsibility organization; and

17 (D) For establishment and maintenance of a financial reserve that is sufficient to operate
18 the program in a fiscally prudent and responsible manner.

19 (2) A packaging producer responsibility organization shall not charge de minimis
20 producers an annual fee.

21 (3) Fees for reusable and refillable packaging:

22 (i) Shall be lower than fees for single use packaging for the first two (2) program plan
23 periods, after which time the producer responsibility organization may propose an alternative
24 incentive for reusable and refillable packaging; and

25 (ii) Shall incentivize producers to achieve maximum return rates for reusable and refillable
26 packaging.

27 (c) Revenue collected under this section that exceeds the amount needed to pay the costs
28 described herein, shall be used to improve or enhance program outcomes or to reduce producer fees
29 according to provisions of an approved packaging producer program plan.

30 (d) Fees collected under this section may not be used for lobbying.

31 **23-19.20-12. Packaging producer responsibility organization website requirements.**

32 (a) A packaging producer responsibility organization shall maintain a website that uses best
33 practices for accessibility.

34 (b) The packaging producer responsibility organization website shall contain, at a

1 minimum:

2 (1) Information regarding a process that members of the public can use to contact the
3 relevant producer responsibility organization with questions;

4 (2) The draft and approved packaging producer program plans and any draft and approved
5 amendments;

6 (3) Annual reports submitted to the department;

7 (4) A link to related administrative rules implementing this chapter;

8 (5) The names of producers and brands that are not in compliance with this chapter; and

9 (6) A list, updated at least monthly, of all member producers operating under the packaging
10 producer program plan or recycling refund program plan.

11 (c) In addition to the requirements in subsection (b) of this section, the packaging producer
12 responsibility organization website shall have:

13 (1) A directory of all service providers operating under the packaging producer program
14 plan administered by the packaging producer responsibility organization, grouped by location or
15 political subdivision, and information about how to request service;

16 (2) Information for State of Rhode Island residents on what to do with materials on the
17 recyclable and compostable lists as well as information on how to return reusable covered materials
18 and covered beverage containers;

19 (3) The list of exempt materials as defined in this chapter and covered materials exempt
20 from performance targets as approved in the packaging producer program plan;

21 (4) Current approved performance targets and past performance targets and a summary of
22 whether these were met;

23 (5) Current and all past needs assessments; and

24 (6) Education materials on source reduction, reuse, recycling, and composting for
25 producers and the general public.

26 **23-19.20-13. Packaging program reporting.**

27 (a)(1) By July 1, 2031, and annually thereafter, a packaging producer responsibility
28 organization or producer operating under an approved individual plan shall submit a report to the
29 department that contains, at a minimum, the following information for the previous calendar year:

30 (i) The total amount of covered materials introduced, by each covered materials type, by
31 both weight and number of units;

32 (ii) Progress made toward the performance targets reported in the same units used to
33 establish producer fees and reported for the State of Rhode Island, including:

34 (A) The amount of covered materials successfully source reduced, reused, recycled, and

1 composted by covered materials type and the strategies or collection method used; and
2 (B) Information about third-party certifications obtained;
3 (C) Where performance targets are not being met, an explanation of why the packaging
4 producer responsibility organization believes the targets are not being met, and how the packaging
5 producer responsibility organization intends to achieve performance targets;
6 (iii) The total cost to implement the program and a detailed description of program
7 expenditures by category, including:
8 (A) The total amount of producer fees collected;
9 (B) A description of infrastructure investments made; and
10 (C) A breakdown of payments by covered services, covered entities, and regions of the
11 State of Rhode Island;
12 (iv) A copy of a financial audit of program operations conducted by an independent auditor
13 approved by the department that meets the requirements of the Financial Accounting Standards
14 Board's Accounting Standards Update 2016-14, Not-for-Profit Entities (Topic 958), as amended;
15 (v) A description of program performance problems that emerged in specific locations and
16 efforts taken or proposed by the producer responsibility organization to address them;
17 (vi) A description of public awareness, education, and outreach activities undertaken,
18 including any evaluations conducted of their efficacy;
19 (vii) A summary of consultations held with the advisory council and how any feedback
20 was incorporated into the report as a result, together with a list of rejected recommendations and
21 the reasons for rejection;
22 (viii) A list of producers found to be out of compliance with this chapter and actions taken
23 by the producer responsibility organization to return producers to compliance, and notification of
24 any producers that are no longer participating in the producer responsibility organization or have
25 been expelled due to their lack of compliance;
26 (ix) Proposed amendments to the packaging producer program plan to improve program
27 performance or reduce costs, including changes to producer fees, infrastructure investments, or
28 contract rates;
29 (x) Recommendations for additions or removal of covered materials to or from the
30 recyclable or compostable covered materials lists developed under this chapter; and
31 (xi) Information requested by the department to evaluate the effectiveness of the program
32 as it is described in the packaging producer program plan and to assist with determining compliance
33 with this chapter.
34 (2) If there is more than one packaging producer responsibility organization, they shall

1 coordinate to submit a single annual report.

2 (3) Every fourth year after a packaging producer program plan or individual plan is
3 approved by the department, a performance audit of the program shall be completed by the
4 packaging producer responsibility organization or individual producer operating an approved
5 individual plan. The performance audit shall conform to audit standards established by the United
6 States Government Accountability Office; the National Association of State Auditors,
7 Comptrollers, and Treasurers; or another nationally recognized organization approved by the
8 department.

9 (b) A packaging producer responsibility organization or individual producer operating an
10 individual plan that fails to meet a performance target required under this chapter or approved in a
11 packaging producer program plan or individual plan shall, within ninety (90) days of filing an
12 annual report under this section, file with the department an explanation of the factors contributing
13 to the failure and propose an amendment to the packaging producer program plan or individual plan
14 specifying changes in operations that the packaging producer responsibility organization, recycling
15 refund producer responsibility organization, or individual producer will make that are designed to
16 achieve the performance targets.

17 (c) If the approved reuse or return rate targets have not been met, the packaging producer
18 responsibility organization or individual producer shall increase the proportion of the overall
19 program budget dedicated to reuse and refill for the following program year.

20 **23-19.20-14. Packaging producer responsibility program account.**

21 (a) The packaging producer responsibility account is established as a separate restricted
22 receipt account in the State of Rhode Island treasury department established pursuant to the
23 provisions of chapter 10 of title 42.

24 (b) Appropriations and transfers to the account and fees collected shall be credited to the
25 account. Earnings, such as interest, dividends, and any other earnings arising from assets of the
26 account, shall be credited to the account. Money remaining in the account at the end of a fiscal year
27 does not revert to the general fund but remains in the account until expended.

28 (c) Money from the account is appropriated to the department to pay the reasonable costs
29 of the department to administer this chapter.

30 CHAPTER 19.21

31 EXTENDED PRODUCER RESPONSIBILITY FOR PACKAGING AND PAPAER ACT

32 **23-19.21-1. Registration of recycling refund producer responsibility organization.**

33 (a)(1) By January 1, 2027, the department shall accept applications from recycling refund
34 producer responsibility organizations to represent beverage producers in fulfilling the requirements

1 of this chapter.

2 (2) By March 1, 2027, the department may approve, for a period not to exceed five (5)
3 years, a single recycling refund producer responsibility organization if the recycling refund
4 producer responsibility organization demonstrates that it:

5 (i) Is an independent nonprofit organization that qualifies for tax exemption under 26
6 U.S.C. § 501(c)(3) of the federal Internal Revenue Code;

7 (ii) Has the ability to administer the requirements of a recycling refund program plan under
8 this chapter;

9 (iii) Has a governing board consisting of beverage producers that represent the diversity of
10 beverage containers in the market;

11 (iv) Has adequate financial responsibility and financial controls to ensure proper
12 management of funds and payment of the registration fee required under this section; and

13 (v) Meets any other reasonable requirements set by the department.

14 (b) By January 1, 2027, an individual beverage producer may notify the department of its
15 intent to submit an individual plan for approval by the department, and comply individually with
16 all relevant requirements of this chapter.

17 (c)(1) By November 1, 2027, the recycling refund producer responsibility organization
18 shall submit a one-time payment to the department, in lieu of a registration fee, in an amount
19 determined by the department, to cover the previously incurred costs and future estimated costs of
20 the department under this chapter from the effective date of this chapter through paying the annual
21 registration fee required. By August 1, 2027, the department shall provide written notice to
22 registered packaging producer responsibility organization of the amount of the registration fee.

23 (2) On July 1, 2028, and on each July 1 thereafter, the recycling refund producer
24 responsibility organization shall submit to the department a registration fee, as determined by the
25 department. By May 1, 2028, and on each May 1 thereafter, the department shall provide written
26 notice to the registered recycling refund producer responsibility organization of the amount of the
27 registration fee. The registration fee shall be set at an amount anticipated to in the aggregate meet,
28 but not exceed the department's estimate of the costs required to perform the department's duties
29 and to otherwise administer, implement, and enforce this chapter for the twelve (12) months after
30 the registration date. Enforcement activities by the department shall include measures to identify
31 and enforce against fraudulent activity.

32 (3) On July 1, 2028, and on each July 1 thereafter, a beverage producer that notifies the
33 department of its intent to submit an individual plan shall make payments in amounts determined
34 by the department to cover the amount anticipated to meet, but not exceed the department's estimate

1 of the costs required to perform the department's duties related to that beverage producer's
2 individual plan and to otherwise administer, implement, and enforce the individual plan;

3 (4) The department shall annually reconcile the fees paid by a recycling refund producer
4 responsibility organization under this subsection with the actual costs incurred by the department
5 by means of credits or refunds to or additional payments required of a producer responsibility
6 organization, as applicable.

7 (d) All fees received under this section shall be deposited in the state treasury and credited
8 to the recycling refund program account.

9 (e)(1) The department may revoke the approval of the recycling refund producer
10 responsibility organization if the department determines that the recycling refund producer
11 responsibility organization:

12 (i) Failed to meet the redemption rate targets four (4) years in a row; and

13 (ii) Has not made reasonable progress over this four (4) year period toward compliance.

14 (2) If the department exercises its authority under subsection (a) of this section, then:

15 (i) The department shall set dates to restart the appointment process; and

16 (ii) The previously approved recycling refund producer responsibility organization shall
17 continue operating until the department appoints a new recycling refund producer responsibility
18 organization.

19 **23-19.21-2. Recycling refund producer responsibility organization duties.**

20 A recycling refund producer responsibility organization shall:

21 (1) Register with the department and pay the department fees, as required pursuant to § 23-
22 19.20-1;

23 (2) Submit a recycling refund producer plan to the department, as required under this
24 chapter;

25 (3) Implement recycling refund producer plans approved by the department under this
26 section;

27 (4) Establish by September 1, 2027, an initial beverage producer fee structure to fund the
28 initial implementation of the program, to be used until the recycling refund producer responsibility
29 organization has an approved program plan as required under this chapter;

30 (5) Collect fees from registered beverage producers;

31 (6) Submit the reports required under this chapter;

32 (7) Ensure that beverage producers operating under a recycling refund program plan
33 administered by the recycling refund producer responsibility organization comply with the
34 requirements of the recycling refund program plan and with this chapter;

1 (8) Expel a beverage producer from the recycling refund producer responsibility
2 organization if efforts to return the beverage producer to compliance with the plan or with the
3 requirements of this chapter are unsuccessful;

4 (9) Notify the department when a beverage producer has been expelled;

5 (10) Consider and respond in writing within ninety (90) days to comments received from
6 the advisory council, including justifications for not incorporating advisory council
7 recommendations;

8 (11) Maintain a website with the information required under § 23-19.20-10;

9 (12) Notify the department within thirty (30) days of a change made to the contact
10 information for a person responsible for implementing the recycling refund program plan, to board
11 membership, or to the executive director;

12 (13) Contract directly with service providers and provide payments in a timely manner;
13 and

14 (14) Comply with all other applicable requirements of this chapter.

15 **23-19.21-3. Recycling refund advisory council.**

16 (a) The recycling refund advisory council is established to review all activities conducted
17 by recycling refund producer responsibility organizations under this chapter and to advise the
18 department and recycling refund producer responsibility organizations regarding the
19 implementation of this chapter.

20 (b) The recycling refund advisory council shall:

21 (1) Convene its initial meeting by July 1, 2027;

22 (2) Establish when and a process by which it will accept public comments;

23 (3) Review the recycling refund program plan and provide comments to the recycling
24 refund producer responsibility organization, prior to the draft being issued as an official draft for
25 public comment, to ensure the recycling refund program plan:

26 (i) Aligns with best practices;

27 (ii) Reflects the reality in the State of Rhode Island; and

28 (iii) Considers the needs of the State of Rhode Island;

29 (4) Review program reports and audits and raise issues for recycling refund producer
30 responsibility organization follow-up or department enforcement action;

31 (5) Review annual reports and provide comments to the department;

32 (6) Ensure that the recycling refund producer responsibility organization and department
33 are considering a broad range of perspectives in developing recycling refund program plans and in
34 implementing programs.

1 (c)(1) By March 1, 2027, the department shall establish and appoint the initial membership
2 of the recycling refund advisory council. The membership of the recycling refund advisory council
3 shall consist of representatives of the following:

4 (i) Two (2) members representing a local government entity;

5 (ii) One member representing a retailer, with a preference for a retailer that hosts beverage
6 container collection mechanisms;

7 (iii) One member representing a packaging manufacturer that is not a beverage producer;

8 (iv) One member representing Rhode Island resource recovery corporation or a recycling
9 processor;

10 (v) One member representing an environmental nonprofit organization;

11 (vi) One member representing an environmental justice organization;

12 (vii) One member who is a canner or represents a canner organization;

13 (viii) One member representing a labor organization; and

14 (ix) Two (2) members representing other interested parties or additional members of
15 interests, as determined by the department;

16 (2) In making appointments under subsection (c) of this section, the department:

17 (i) Shall not appoint members who are state legislators;

18 (ii) Shall not appoint members who are employees of a beverage producer required to be
19 members of a producer responsibility organization in this state;

20 (iii) Shall endeavor to appoint members from all regions of the state; and

21 (iv) Shall endeavor to appoint at least one member that has experience with or expertise in
22 reusable beverage container systems.

23 (3) A chair is elected by majority vote of present members at the first meeting of each year
24 at which a quorum is reached.

25 (d) Members shall serve for a term of four (4) years, except that the initial term for a
26 majority of the initial appointees shall be two (2) years so that membership terms are staggered.
27 Members may be reappointed but may not serve more than eight (8) consecutive years. A member
28 of the advisory council appointed under subsection (c)(1)(ix) of this section, serves at the pleasure
29 of the department.

30 (e) A quorum is reached when:

31 (1) A majority of advisory council member seats are filled; and

32 (2) A majority of the non-vacant advisory council member seats is present.

33 (f) Action by an advisory council requires a quorum and a majority of those present and
34 voting. All members of an advisory council, except the members appointed under subsection

1 (c)(1)(ix) of this section, are voting members of the board.

2 (g) Each advisory council shall meet at least two (2) times per year and may meet more
3 frequently upon ten (10) days' written notice at the request of the chair or a majority of its members.

4 (h)(1) The department shall provide administrative and operating support to each advisory
5 council, and the department may contract with a third-party facilitator to assist in administering the
6 activities of each advisory council, including establishing a website or landing page on the
7 department website.

8 (2) The department shall assist the advisory council in developing policies and procedures
9 governing the disclosure or perceived conflict of interest.

10 **23-19.21-4. Beverage producer responsibilities.**

11 (a) After September 1, 2027, a beverage producer shall be a member of a recycling refund
12 producer responsibility organization registered in this state or notify the department of their intent
13 to submit an individual program plan.

14 (b) Unless submitting an individual plan, a beverage producer shall:

15 (1) Register with the recycling refund producer responsibility organization;

16 (2) Implement the requirements of the recycling refund program plan under which the
17 beverage producer operates;

18 (3) Pay producer fees pursuant to § 23-19.21-9;

19 (4) Provide necessary information for covered beverage containers to the recycling refund
20 producer responsibility organization at a frequency and by a date to be determined by the recycling
21 refund producer responsibility organization;

22 (5) Register with the recycling refund producer responsibility organization by providing
23 identifying information for all covered beverage containers introduced into the state as required by
24 the recycling refund producer responsibility organization, which may include, but is not limited to,
25 barcodes and Universal Product Codes; and

26 (6) Comply with all other applicable requirements of this chapter.

27 **23-19.21-5. Beverage container sales restrictions.**

28 After July 1, 2030, no beverage producer may introduce in or into the state a covered
29 beverage container of a beverage producer that is not participating in the recycling refund producer
30 responsibility organization or operating under an approved individual plan, or that is not in
31 compliance with the requirements of this chapter or rules adopted under this chapter.

32 **23-19.21-6. Recycling refund program department responsibilities.**

33 (a) The department shall:

34 (1) Appoint the initial membership of the advisory council, as required;

- 1 (2) Provide administrative and operating support to the advisory council;
- 2 (3) Review and determine whether to approve recycling refund program plans or individual
3 plans and amendments to recycling refund program plans or individual plans;
- 4 (4) Post on the department's website:
- 5 (i) The most recent registration materials submitted by the producer responsibility
6 organizations;
- 7 (ii) A list of registered service providers;
- 8 (iii) Any plan or amendment submitted by a packaging producer responsibility organization
9 or beverage producer that is in draft form during the public comment period;
- 10 (iv) Comments of the public, advisory council, and recycling refund producer
11 responsibility organization on plans and needs assessments, and, if any, the responses of the
12 department to those comments;
- 13 (v) Links to adopted rules implementing this chapter;
- 14 (vi) Review the selection of independent auditors to perform an annual financial audit of
15 the recycling refund producer responsibility organization or a beverage producer operating under
16 an approved individual plan; and
- 17 (vii) Conduct enforcement actions as permitted under this chapter.
- 18 (b) The department may alter the performance targets of § 23-19.21-8 and reporting
19 requirements of this chapter to accommodate a recycling refund producer responsibility
20 organization that is operating regionally with the State of Rhode Island and one or more
21 neighboring states.

22 **23-19.21-7. Recycling refund program plan.**

23 (a)(1) By January 1, 2029, and every five (5) years thereafter, a recycling refund producer
24 responsibility organization shall submit a recycling refund program plan to the department that
25 describes the proposed operation by the organization of the program to fulfill the requirements of
26 this chapter. Once approved, a recycling refund program plan remains in effect for five (5) years,
27 as amended, or until a subsequent recycling refund program plan is approved.

28 (2) By July 1, 2030, or within six (6) months of plan approval, whichever is later,
29 implement the plan approved by the department; subsequent recycling refund program plans shall
30 be implemented within six (6) months of approval by the department.

31 (3) By January 1, 2029, and every five (5) years thereafter, an individual beverage producer
32 that has notified the department of its intent to submit an individual plan shall submit an individual
33 plan to the department that describes the proposed operation by the beverage producer of a program
34 to fulfill the requirements of this chapter and that incorporates the findings and results of needs

1 assessments. Once approved, an individual plan remains in effect for five (5) years, as amended, or
2 until a subsequent individual plan is approved.

3 (b) A recycling refund producer responsibility organization or beverage producer shall
4 submit a draft recycling refund producer program plan, individual plan, or draft amendment to the
5 recycling refund advisory council prior to submitting the draft plan or draft amendment to the
6 department and shall, prior to submission of the draft plan or draft amendment to the department,
7 respond to recycling refund advisory council comments and recommendations received within
8 sixty (60) days of providing the draft program plan or draft amendment to the recycling refund
9 advisory council and indicate whether those comments or recommendations were accepted or
10 rejected.

11 (c) The recycling refund program plan or individual plan shall contain the following:

12 (1) A list of the types of covered beverage containers that will be included in the recycling
13 refund program,

14 (2) Proposed reuse rate and return rate performance targets with deadlines;

15 (3) How the recycling refund producer responsibility organization or beverage producer
16 submitting an individual plan will meet performance targets for redemption rates, as described in
17 this chapter and the proposed reuse rate performance targets in § 23-19.21-8;

18 (4) How the performance targets shall be measured;

19 (5) How the recycling refund producer responsibility organization shall encourage
20 improvements in the design of beverage containers for recyclability;

21 (6) How the proposed network of redemption sites:

22 (i) Satisfies the convenience standards set in this chapter and addresses the evaluation
23 criteria established in this chapter and chapters 19.20 and 19.22 of this title; and

24 (ii) Provides sufficient opportunity for consumers of limited economic means to get their
25 applicable refund value immediately upon redemption;

26 (7) How deposits collected from consumers shall be remitted to the recycling refund
27 producer responsibility organization;

28 (8) What incentives the recycling refund producer responsibility organization shall provide
29 to retail establishments so that they choose to host covered beverage container collection
30 mechanisms;

31 (9) How the program shall ensure that collection of covered beverage containers is
32 provided from establishments with on-site consumption of covered beverage containers at no
33 additional cost to those establishments;

34 (10) How the program shall conduct outreach and provide convenient redemption;

1 (i) Throughout the state;
2 (ii) In rural, urban, and environmental justice areas; and
3 (iii) To those that redeem relatively large amounts of covered beverage containers;
4 (11) How beverage containers shall be marked or consumers otherwise made aware of the
5 beverage containers eligible for the applicable refund value;
6 (12) A description of how the recycling refund producer responsibility organization shall
7 educate the public on the recycling refund program and the availability of redemption sites,
8 including culturally responsive materials and methods to evaluate the efficacy of these efforts;
9 (13) A description of how the recycling refunds producer responsibility organization shall
10 monitor and report any suspected instances of fraudulent activity to the department;
11 (14) A description of the producer fee structure established pursuant to § 23-19.21-9 and
12 how those fees shall be used to support the proposed network of redemption sites and other costs
13 of administrating the recycling refund producer responsibility organization and the recycling refund
14 program plan;
15 (15) An explanation of how the recycling refund producer responsibility organization shall
16 coordinate with Rhode Island resource recovery corporation on implementation, including:
17 (i) Quality standards for bales or equivalent units of commodities of covered beverage
18 containers sorted by the Rhode Island resource recovery corporation, including a methodology for
19 determining the number of covered beverage containers in bales or equivalent units of
20 commodities;
21 (ii) A methodology and schedule of incentive payments for bales or equivalent units of
22 covered beverage containers that meet the quality standards in subsection (15)(i) of this section.
23 The incentive payments under this subsection are a requirement separate from and in addition to
24 the reciprocal compensation mechanism required under the coordination plan in § 23-19.21-2;
25 (16) A description of how the recycling refunds producer responsibility organization shall
26 provide beverage producers with the opportunity to purchase recycled content sourced from
27 covered beverage containers managed through the recycling refunds program; and
28 (17) Any other reasonable information requested by the department.
29 (d)(1) The department shall review and approve, deny, or request additional information
30 for draft recycling refund program plans and draft plan amendments no later than one hundred
31 twenty (120) days after the date the department receives it from a packaging producer responsibility
32 organization, recycling refund producer responsibility organization, or beverage producer. The
33 department shall post a draft plan or draft amendment on the department's website and allow public
34 comment for no less than forty-five (45) days before approving, denying, or requesting additional

1 information on a draft plan or draft amendment.

2 (2) In reviewing a draft plan, the department shall consider, among other factors, the
3 following:

4 (i) Feasibility;

5 (ii) Advisory council feedback;

6 (iii) Cost;

7 (iv) Goals and plans in the Rhode Island solid waste management plan;

8 (v) Increasing reuse;

9 (vi) Adequacy of consumer-facing communications, including so consumers know which
10 beverage containers are in the recycling refund system and their refund value;

11 (vii) Reducing unnecessary use of materials; and

12 (viii) Whether the plan adequately meets the convenience standard criteria described in §
13 23- 19.21-12.

14 (3) If the department denies or requests additional information for a draft plan or draft
15 amendment, the department shall provide the recycling refund producer organization or beverage
16 producer with the reasons, in writing, that the plan or plan amendment does not meet the plan
17 requirements. The recycling refund producer organization or beverage producer has sixty (60) days
18 from the date that the rejection or request for additional information is received to submit to the
19 department any revisions or additional information necessary for the approval of the draft plan or
20 draft amendment. The department shall review and approve or disapprove the draft plan or draft
21 amendment no later than sixty (60) days after the date the department receives the revisions or
22 additional information.

23 (4) A recycling refund producer organization or beverage producer with an approved
24 individual plan may resubmit a draft plan or draft amendment to the department on not more than
25 two (2) occasions. If after the second resubmission, the department determines that the draft plan
26 or draft amendment does not meet the plan requirements of this chapter, the department shall
27 modify the draft plan or draft amendment as necessary for it to meet the requirements of this chapter
28 and approve it.

29 (e) If a recycling refund producer responsibility organization fails to register with the
30 department and submit a program plan by the relevant dates in this chapter, the department may
31 develop a program plan for covered beverage containers. Beverage producers that do not notify the
32 department of their intent to submit an individual plan shall be subject to the program plan
33 developed by the department.

34 **23-19.21-8. Recycling refund performance targets.**

1 (a) The recycling refund producer responsibility organization or beverage producer
2 operating under an individual plan shall achieve the following performance targets:

3 (1) Starting with calendar year 2033, and each year thereafter, the annual redemption rate
4 aggregated for all covered beverage containers shall be greater than sixty-five percent (65%).

5 (2) Starting with calendar year 2036, and each year thereafter, the annual redemption rate
6 aggregated for all covered beverage containers shall be greater than eighty-five percent (85%).

7 (b)(1) The recycling refund producer responsibility organization or beverage producer
8 operating an individual plan shall achieve the reuse rate and return rate performance target in the
9 approved recycling refund program plan.

10 (2) The reuse rate and return rate performance targets in a program plan shall increase with
11 each subsequent program plan for the first three (3) program plan periods.

12 **23-19.21-9. Recycling refund producer fees.**

13 (a) By September 1, 2028, each beverage producer that is a member of the recycling
14 refunds producer responsibility organization shall submit an initial fee to the recycling refunds
15 producer responsibility organization, as determined by the initial fee schedule developed under §
16 23-19.21-2(a)(4).

17 (b)(1) Beginning January 1, 2030, a recycling refunds producer responsibility organization
18 shall set and collect fees on a frequency to be determined by the recycling refunds producer
19 responsibility organization from each member producer that must:

20 (i) Vary based on the total amount of covered beverage containers each producer introduces
21 into the state;

22 (ii) Reflect program costs for each covered beverage container type, net of commodity
23 value for that material type when used as a recycled material, as well as allocated fixed costs that
24 do not vary based on material type;

25 (iii) After the first program plan, each recycling refunds producer responsibility
26 organization will consider incentivizing using materials and design attributes that reduce the
27 environmental impacts and human health impacts of covered beverage containers;

28 (2) The recycling refund producer responsibility organization shall offer a flat fee structure
29 for de minimis beverage producers.

30 (c) Revenue collected under this section that exceeds the amount needed to pay the costs
31 described in subsection (a) of this section, shall be used to improve or enhance program outcomes,
32 or to reduce beverage producer fees according to provisions of an approved packaging producer
33 program plan.

34 (d) Fees collected under this section may not be used for lobbying.

1 **23-19.21-10. Recycling refund website requirements.**

2 (a) A recycling refund producer responsibility organization shall maintain a website that
3 uses best practices for accessibility.

4 (b) The recycling refund producer responsibility organization website shall contain, at a
5 minimum:

6 (1) Information regarding a process that members of the public can use to contact the
7 recycling refund producer responsibility organization with questions;

8 (2) The draft and approved recycling refund program plans and any draft and approved
9 amendments;

10 (3) Annual reports submitted to the department;

11 (4) A link to related administrative rules implementing this chapter;

12 (5) The names of beverage producers that are not in compliance with this chapter;

13 (6) A list, updated at least monthly, of all member beverage producers operating under the
14 recycling refund program plan;

15 (7) The list of covered beverage containers that are redeemable for the applicable refund
16 value under the provisions of § 23-19.20-11;

17 (8) Education materials on how to redeem covered beverage containers and the importance
18 of reusing and recycling covered beverage containers; and

19 (9) A list and map of all redemption sites currently accepting covered beverage containers
20 for a refund, including the hours each redemption site accepts covered beverage containers.

21 **23-19.21-11. Applicable refund value.**

22 (a)(1) Every covered beverage container sold or offered for sale in the state shall have a
23 refund value of ten cents (\$0.10) beginning July 1, 2030, or within six (6) months of plan approval,
24 whichever is later, except that beverage producers of reusable and refillable beverage containers
25 may elect to assign a higher refund value on these containers.

26 (2) Containers sold for on-site consumption are exempt from the requirements of
27 subsection (a)(1) of this section, provided the covered beverage containers are collected and
28 recycled as described in the recycling refund producer responsibility organization's plan in § 23-
29 19.21-7.

30 (3) If a redemption rate performance target was not met in each of the two (2) previous
31 calendar years, the department may adopt rules providing a higher refund value than the refund
32 value provided under this section, so long as the modified refund value is not based on the type of
33 beverage container, but no more than:

34 (i) Once during any ten (10) year period in consultation with the recycling refund producer

1 responsibility organization; and

2 (ii) Once during any five (5) year period if there is a request from the recycling refund
3 producer responsibility organization for a change in the refund amount.

4 (4) The charge for the refund value of covered beverage containers shall be separately
5 stated on a receipt, invoice, or similar billing document given to the consumer.

6 (b)(1) The recycling refund producer responsibility organization or beverage producer is
7 not required to pay refunds on:

8 (i) A beverage container visibly containing or contaminated by a substance other than
9 water, residue of the original contents, or ordinary dust;

10 (ii) A beverage container that is broken or damaged to the extent that the brand appearing
11 on the container cannot be identified;

12 (iii) A beverage container that the recycling refund producer responsibility organization or
13 beverage producer has reasonable grounds to believe was bought in another state; or

14 (iv) A beverage container for which the recycling refund producer responsibility
15 organization or beverage producer has reasonable grounds to believe a refund has already been
16 given.

17 (2) Notwithstanding an provision in this section to the contrary, the recycling refund
18 producer responsibility organization or beverage producer may accept covered beverage containers
19 described in subsection (b)(1)(i) and (b)(1)(ii) of this section from material recovery facilities and
20 transfer stations, provided the covered beverage containers meet the quality standards developed
21 by the recycling refunds producer responsibility organization as described in § 23-19.21-7(c)(14).

22 **23-19.21-12. Convenience standard for redemption of beverage containers.**

23 (a) The recycling refund producer responsibility organization or a beverage producer
24 submitting an individual plan shall propose a quantitative convenience standard for redemption of
25 containers in the recycling refund program plan that is based on the following:

26 (1) Ensures all consumers who pay a deposit have reasonably convenient opportunities to
27 redeem;

28 (2) Ensures consumers who require refunds immediately have sufficient opportunity to
29 receive refunds immediately;

30 (3) Provides appropriately convenient and equitable access in urban, suburban, and rural
31 areas; and

32 (4) Accounts for total population, population density, sales of covered beverage containers
33 in regions of the state, and proximity to centers of beverage sales business activity.

34 (b)(1) The department shall evaluate the proposed convenience standard based on the

1 following criteria:

2 (i) Proximity to businesses that sell a high volume of covered beverage containers;

3 (ii) Additional vehicle miles traveled;

4 (iii) Car and public transportation access;

5 (iv) Population density;

6 (v) Environmental justice areas;

7 (vi) Average family income; and

8 (vii) Needs of people collecting large amounts of covered beverage containers for primary
9 or important supplemental income.

10 (2) At least once per year, the department may audit the redemption system to determine
11 whether the recycling refund producer responsibility organization or beverage producer operating
12 an approved individual plan is meeting the convenience standard in an approved recycling refund
13 program plan and the redemption system requirements in this chapter, and the department shall
14 conduct such an audit at least every five (5) years.

15 (c) The recycling refund producer responsibility organization shall include in its program
16 plan any relevant data to allow the department to verify whether the recycling refund producer
17 responsibility organization's proposed convenience standards meet the requirements of this chapter.

18 (d) In the event that the recycling refund producer responsibility organization or beverage
19 producer operating an approved individual plan does not meet the convenience standards in an
20 approved program plan for two (2) calendar years in a row, the department may initiate rulemaking
21 to support the recycling refund producer responsibility organization or beverage producer's
22 program plan amendment to achieve the convenience standards in this chapter.

23 **23-19.21-13. Redemption system.**

24 (a)(1) The recycling refund producer responsibility organization or beverage producer
25 operating an approved individual plan shall, at its own cost, install, operate, and maintain a network
26 of covered beverage container collection mechanisms for consumers to redeem covered beverage
27 containers for the applicable refund value that satisfies:

28 (i) The convenience standard in this chapter; and

29 (ii) The redemption rate performance targets in this chapter.

30 (b) The network of covered beverage container collection mechanisms shall include a mix
31 of ways for consumers to redeem covered beverage containers, including express redemption sites
32 and full-service redemption sites at locations convenient to consumers such as nearby or in the
33 parking lots of retailers that sell covered beverage containers, nonprofit organization facilities, and
34 government sites.

1 (c) At a minimum, the network for collecting covered beverage containers shall:

2 (1) In each municipality with a population density less than one thousand (1,000) residents

3 per square mile, have:

4 (i) At least one redemption site in the municipality; or

5 (ii) At least one redemption site within one mile of a retail establishment greater than ten

6 thousand square feet (10,000 sq. ft) that is within three (3) miles of the municipality's borders.

7 (2) In each municipality with a population density more than one thousand (1,000)

8 residents per square mile, have at least two (2) redemption sites;

9 (3) In each municipality with greater than twenty-five thousand (25,000) residents but

10 fewer than seventy-five thousand (75,000) residents, at least one redemption site in each zip code

11 tabulation area.

12 (d) The recycling refund producer responsibility organization or beverage producer

13 operating an approved individual plan may establish and dissolve partnerships with any

14 organization or individual to enhance redemption network operations and better serve consumers.

15 (e)(1) All redemption sites in the redemption network shall:

16 (i) Be clean, safe, and well-lighted;

17 (ii) Be accessible to persons with disabilities, including those related to mobility, hearing,

18 and sight;

19 (iii) Be readily identifiable and clearly marked as being part of the recycling refund system;

20 (iv) Appear on the recycling refund producer responsibility organization's website under §

21 23-19.21-10;

22 (v) Accept for redemption all covered beverage containers;

23 (vi) Accept for redemption and handle reusable containers in a manner that allows for their

24 reuse;

25 (vii) Accept covered beverage containers for redemption for at least eight (8) hours on all

26 weekdays and one weekend day, except on federal holidays;

27 (viii) Post the hours of operation at a place that is clearly visible from outside; and

28 (ix) Provide year-round access during open hours free of charge.

29 (2) The department may approve a limited number of redemption sites to not comply with

30 all the requirements in subsection (a) of this section to reduce costs or expand the number of

31 redemption sites.

32 (f) The recycling refund producer responsibility organization or producer operating under

33 an approved individual plan shall fairly compensate all locations hosting redemption sites for the

34 space occupied by the covered beverage container collection mechanisms.

1 (g)(1) A retail establishment has no obligation under this chapter to host a covered beverage
2 container collection mechanism.

3 (2) A retail establishment that chooses to host a redemption site is eligible to have a self-
4 serve kiosk, located at the retail establishment at no charge by the recycling refund producer
5 responsibility organization or beverage producer, to facilitate the printing of redemption vouchers,
6 and pay the value of redemption vouchers to consumers that can be used on the premises. The
7 recycling refund producer responsibility organization or beverage producer operating an approved
8 individual plan shall reimburse retailers for the value of valid vouchers redeemed by customers.

9 (h)(1) A retail establishment larger than twenty thousand square feet (20,000 sq. ft) shall
10 sell bags for the redemption program at the price established by the recycling refund producer
11 responsibility organization or beverage producer operating an approved individual plan.

12 (2) If the standard bags for the bag-drop program are made of plastic film, the recycling
13 refund producer organization or beverage producer shall:

14 (i) Ensure that the bags have a minimum of fifty percent (50%) postconsumer recycled
15 content;

16 (ii) Demonstrate, upon request of the department, that the waste film from the bags is being
17 recycled at responsible end markets; and

18 (iii) Include instructions on the bag how the bag should be utilized and recycled through a
19 drop-off program.

20 (3) The recycling refund producer organization or beverage producer shall credit the cost
21 of any required bag purchased back to the consumer when the bag is returned and processed through
22 the deposit return system.

23 **23-19.21-14. Use of unredeemed deposits.**

24 Any unredeemed deposits are to only be spent by the recycling refund producer
25 organization or beverage producer and only on any of the following purposes:

26 (1) Education and outreach activities to encourage redemption activity;

27 (2) Increasing the number of redemption sites; and

28 (3) Other activities that are described in the recycling refund program plan that directly
29 contribute to achieving the performance requirements described in § 23-19.21-8 and other
30 provisions of this chapter.

31 **23-19.21-15. Recycling refund program reporting.**

32 (a)(1) By July 1, 2031, and on each July 1 thereafter, the recycling refund producer
33 responsibility organization or beverage producer operating under an approved individual plan shall
34 submit a report to the department that contains, at a minimum, the following information for the

1 previous calendar year:

2 (i) Number of covered beverage containers included in the program sold in the state, by
3 material type and whether reusable;

4 (ii) Number of covered beverage containers redeemed and recycled through the program,
5 by material type;

6 (iii) Number of times reusable covered beverage containers were sold;

7 (iv) Number of times reusable covered beverage containers were returned through the
8 recycling refund program;

9 (v) An analysis of whether the recycling refund producer responsibility organization or
10 beverage producer is on track to reach the redemption rate performance targets specified in this
11 chapter and the reuse rate and return rate performance targets specified in the recycling refund
12 program plan, and what the recycling refund producer responsibility organization or beverage
13 producer is doing to achieve the performance targets by the relevant deadlines;

14 (vi) A list of redemption sites and processing facilities and their locations;

15 (vii) Verification of materials handled at responsible end markets;

16 (viii) Audited financial reports, including sources and uses of funds.

17 (ix) An evaluation of convenience of the program with the same criteria the department
18 shall use under this chapter; and

19 (x) A description of public awareness, education, and outreach activities undertaken by the
20 recycling refund producer responsibility organization or beverage producer, including analyses of
21 their efficacy.

22 (2) The recycling refund producer responsibility organization or beverage producer that
23 submits information or records to the department under this section may request that a portion of
24 the information or records be made available only for the confidential use of the department, the
25 director, or the appropriate division of the department. The director of the department shall give
26 consideration to the request, and if the director determines that this action is not detrimental to the
27 public interest, the director shall grant the request for the information to remain confidential.

28 (b) All data reported by a recycling refund producer responsibility organization or beverage
29 producer operating under an approved individual plan under this section shall, at the request of the
30 department no more than once annually, be audited by an independent third party. A recycling
31 refund producer responsibility organization or beverage producer is responsible for all costs
32 associated with the data audit. Auditable data shall only include data held by a recycling refund
33 producer responsibility organization or beverage producer. Auditing of any data inputs to the
34 recycling refund producer responsibility organization or beverage producer is the responsibility of

1 the recycling refund producer responsibility organization or beverage producer.

2 (c) A recycling refund producer responsibility organization or beverage producer that fails
3 to meet a redemption rate performance target or convenience standard required under this chapter
4 or approved in a recycling refund program plan shall, within ninety (90) days of filing an annual
5 report under this section, file with the department an explanation of the factors contributing to the
6 failure and propose an amendment to the recycling refund program plan or individual plan
7 specifying changes, including in its operations that the recycling refund producer responsibility
8 organization or beverage producer will make that are designed to achieve the redemption rate
9 performance targets and convenience standards.

10 (d) By January 1, 2032, and every two (2) years thereafter, the department shall submit a
11 report to the governor and to the chairs and ranking minority members of the legislative committees
12 with jurisdiction over solid waste. The report shall contain:

13 (1) A summary of the operations of this act during the previous years, including the
14 redemption rate performance targets versus actual performance;

15 (2) A link to reports filed under this section;

16 (3) Recommendations for policy, statutory, or regulatory changes to the program;

17 (4) A list of efforts undertaken by the department to enforce and secure compliance with
18 this act; and

19 (5) Any other information the department deems to be relevant.

20 **23-19.21-16. Recycling refund program account.**

21 (a) The recycling refund program account is created in the custody of the State of Rhode
22 Island treasurer. All receipts received by the department under this chapter shall be deposited in the
23 account.

24 (b) Expenditures from the account may be used by the department only for implementing,
25 administering, and enforcing the requirements of this chapter related to the recycling refund
26 program. Only the director of the department may authorize expenditures from the account. The
27 account is subject to the allotment procedures under this chapter, but an appropriation is not
28 required for expenditures.

29 CHAPTER 19.22

30 GENERAL PROVISIONS

31 **23-19.22-1. Single producer responsibility organization.**

32 (a) The department may appoint the same organization to be the packaging producer
33 responsibility organization and the recycling refund producer responsibility organization.

34 (b) If the department appoints the same organization under subsection (a) of this section,

1 then that organization shall:

2 (1) Comply with all the responsibilities under this chapter of the packaging producer
3 responsibility organization and the recycling refund producer responsibility organization; and

4 (2) Institute governance to separately implement the packaging producer program plan and
5 the recycling refund program plan in a coordinated manner.

6 **23-19.22-2. Coordination plan.**

7 (a) If the same organization is not appointed as the packaging producer responsibility
8 organization and the recycling refund producer responsibility organization according to the
9 provisions of chapters 19.20 or 19.21 or 19.22 of title 23, then by January 1, 2029, the packaging
10 producer responsibility organization and the recycling refund producer responsibility organization
11 shall create a coordination plan to ensure that their respective programs are complementary, operate
12 efficiently, and meet all targets.

13 (b) The coordination plan shall:

14 (1) Ensure consistent education and outreach messaging to consumers;

15 (2) Ensure that a reciprocal compensation mechanism exists so that the recycling refund
16 producer responsibility organization pays the packaging producer responsibility organization for
17 covered beverage containers in material recovery facilities, and the packaging producer
18 responsibility organization pays the recycling refund producer responsibility organization for
19 covered materials in the recycling refund system;

20 (3) Evaluate packages and formats managed by each program and consider opportunities
21 for adding or moving packages from one program to the other;

22 (4) Evaluate opportunities to coordinate identification of, and efficient access to,
23 processing infrastructure and markets; and

24 (5) Identify actions to jointly optimize infrastructure for recycling and reuse and refill
25 programs.

26 **23-19.22-3. General department responsibilities.**

27 (a) The department shall notify each producer responsibility organization in writing of the
28 amount of the fee for the following year to be paid with their annual registration, which may not
29 exceed the department's estimate of the costs required to:

30 (1) Administer, implement, and enforce this chapter, including staff costs;

31 (2) Rulemaking to implement this chapter, if applicable;

32 (3) Provide reimbursement for staffing for the advisory council; and

33 (4) Fulfill the department's responsibilities under this chapter.

34 (b) In setting the annual fee for each producer responsibility organization, the department

1 shall develop and implement a process to allocate costs to each producer responsibility organization
2 proportional to the costs associated with that producer responsibility organization, including costs
3 for future needs assessments.

4 (c) The department shall develop and implement a process to reconcile the fees paid by a
5 producer responsibility organization under this section with the actual costs incurred by the
6 department, by means of credits or refunds to or additional payments required of a producer
7 responsibility organization, as applicable.

8 (d) By January 1, 2032, and every two (2) years thereafter, the department shall submit a
9 report to the governor and to the chairs and ranking minority members of the legislative committees
10 with jurisdiction over solid waste. The report shall contain:

11 (1) A summary of the operations of this chapter during the previous years, including the
12 performance targets versus actual performance;

13 (2) A summary of the needs assessment;

14 (3) A link to reports filed under this section;

15 (4) Recommendations for policy, statutory, or regulatory changes to the program;

16 (5) An analysis of the impacts of exempting certain materials from the definition of covered
17 materials and of exempting certain persons from the definition of producer;

18 (6) A list of efforts undertaken by the department to enforce and secure compliance with
19 this chapter; and

20 (7) Any other information the department deems to be relevant.

21 **23-19.22-4. Service providers.**

22 (a) A packaging producer responsibility organization or a recycling refund producer
23 responsibility organization shall require in any contract with a service provider that the service
24 provider:

25 (1) Meets operational standards established in an approved packaging producer program
26 plan and the recycling refund program plan;

27 (2) Ensures that covered materials or covered beverage containers are sent to responsible
28 end markets; and

29 (3) Provides documentation to the recycling refund producer responsibility organization
30 and packaging producer responsibility organization on the amounts, materials types, and volumes
31 of materials by covered service method.

32 (b) The packaging producer responsibility organization shall directly contract to pay one
33 hundred percent (100%) of covered services for covered materials, exclusive of exempt materials.
34 The methodology for contract rates shall consider estimated revenue received by service providers

1 from the sale of covered materials based upon relevant material indices and incorporate relevant
2 cost information identified by the needs assessment. Contract rates shall be annually updated and
3 reflect the net costs for covered services for covered materials from covered entities, at a minimum.

4 (c) Contract rates shall be based on the following, as applicable by the service provided:

5 (1) The cost to collect covered material or covered beverage containers for recycling, a
6 proportional share of composting, or reuse adjusted to reflect conditions that affect those costs,
7 varied by region or jurisdiction in which the covered services are provided including, but not
8 limited to:

9 (i) The number and type of covered entities;

10 (ii) Population density;

11 (iii) Collections methods employed;

12 (iv) Distance traveled by collection vehicles to consolidation or transfer facilities; to reuse,
13 recycling, or composting facilities; and to responsible end markets;

14 (v) Other factors that may contribute to regional or jurisdictional cost differences;

15 (vi) The proportion of covered compostable materials within all source-separated
16 compostable materials collected or managed through composting; and

17 (vii) The general quality of covered materials collected by service providers;

18 (2) The cost to transfer collected covered materials from consolidation or transfer facilities
19 to reuse, processing, recycling, or composting facilities or to responsible end markets;

20 (3) The cost to:

21 (i) Sort and process covered materials for sale or use and remove contamination from
22 covered materials by a recycling or composting facility, less the average fair market value for that
23 covered material based on market indices for the region; and

24 (ii) Manage contamination removed from collected covered material;

25 (4) Administrative costs of service providers, including education, public awareness
26 campaigns, and outreach program costs as applicable; and

27 (5) The costs of covered services for a refill system or covered services provided for
28 reusable covered materials and management of contamination.

29 (d) A service provider retains all revenue from the sale of covered materials. Nothing in
30 this chapter shall restrict a service provider from charging a fee for covered services of covered
31 materials to the extent that payment from a packaging producer responsibility organization does
32 not cover all costs of services, including continued investment and innovation in operations,
33 operating profits, and returns on investments required by a service provider to provide sustainability
34 of the services.

1 (e) Contract rates may be calculated per ton, by household, or by another unit of
2 measurement under an approved packaging producer program plan or recycling refund program
3 plan.

4 (f) By January 1, 2028, and annually thereafter, a service provider seeking reimbursement
5 for covered services provided under an approved program plan shall register with the department
6 by submitting the following information:

7 (1) The contact information for a person representing the service provider;

8 (2) The address of the service provider; and

9 (3) If applicable to services provided, a report of the total amount billed for collection for
10 covered entities, processing services, and transfer station operations provided during the preceding
11 calendar year and, when possible, values shall be separated for collection, transfer, and processing.

12 (g) A producer responsibility organization or a recycling refund producer responsibility
13 organization shall establish a dispute resolution process utilizing third-party mediators for disputes
14 related to payments.

15 **23-19.22-5. Transfer station and material recovery facilities.**

16 By April 1, 2030, and each year thereafter, each material recovery facility and transfer
17 station that receives covered materials are to report annually to the packaging producer
18 responsibility organization, the recycling refund producer responsibility organization, and the
19 department, including the following information:

20 (1) Amount of material accepted by supplier and location of origin (municipality, service
21 provider, or other);

22 (2) Amount of material sold to market, by commodity type;

23 (3) Amount of residue or waste generated; and

24 (4) Verification that end-markets are responsible and compliant with program
25 requirements.

26 **23-19.22-6. Enforcement.**

27 (a) The department may administratively impose a civil penalty of up to one thousand
28 dollars (\$1,000) per violation per day on any producer who violates this chapter and up to ten
29 thousand dollars (\$10,000) per violation per day for the second and each subsequent violation in
30 any calendar year.

31 (b) The department may administratively impose a civil penalty of up to one thousand
32 dollars (\$1,000) per violation per day on any packaging producer responsibility organization or
33 recycling refund producer responsibility organization that violates this chapter and up to ten
34 thousand dollars (\$10,000) per violation per day for the second and each subsequent violation in

1 any calendar year.

2 (c) The department may, in addition to assessing the penalties provided in subsections (a)
3 and (b) of this section, take any combination of the following actions:

4 (1) Issue a corrective action order to a producer or a packaging producer responsibility
5 organization or a recycling refund producer responsibility organization;

6 (2) Issue an order to a packaging producer responsibility organization or a recycling refund
7 producer responsibility organization to provide for the continued implementation of the program
8 in the absence of an approved plan;

9 (3) Revoke the producer responsibility organization's plan approval and require resubmittal
10 of a producer responsibility organization's program plan;

11 (4) Require a producer responsibility organization to revise or resubmit a plan within a
12 specified time frame; or

13 (5) Require additional reporting related to the area of noncompliance.

14 (d) The department may assess a penalty on a person that engages in fraudulent activity.

15 The amount of the penalty that the department may assess under this section is twice the amount of
16 money the person received from the fraudulent activity in violation of this chapter or five hundred
17 dollars (\$500), whichever is greater.

18 (e) The department may assess a penalty on a person that continues to sell or distribute
19 covered beverage containers of a producer that has been assessed a penalty under subsection (a) of
20 this section, sixty (60) days after the person receives a written warning from the department. The
21 amount of the penalty that the department may assess under this subsection is twice the value of
22 the covered beverage containers sold in violation of this chapter or five hundred dollars (\$500),
23 whichever is greater. The department shall waive the penalty upon verification that the person has
24 discontinued distribution or sales of the covered beverage containers within thirty (30) days of the
25 date the penalty is assessed.

26 (f) For a producer, beverage producer or producer responsibility organization out of
27 compliance with the requirements of this chapter, the department shall provide written notification
28 and offer information. For the purposes of this section, written notification serves as notice of the
29 violation. The department shall issue at least one notice of violation by certified mail prior to
30 assessing a penalty and the department may only impose a penalty on a producer that has not met
31 the requirements of this chapter sixty (60) days following the date the written notification of the
32 violation was received.

33 (g) Any person who incurs a penalty or receives an order may appeal the penalty or order
34 pursuant to the chapter 35 of title 42 ("administrative procedures").

1 (h) Penalties levied under this section shall be deposited in the recycling refund program
2 account or packaging producer responsibility program account.

3 **23-19.22-7. Anti-competitive conduct.**

4 A packaging producer responsibility organization or a recycling refund producer
5 responsibility organization that arranges collection, recycling, composting, source reduction, or
6 reuse services under this chapter may engage in anticompetitive conduct to the extent necessary to
7 plan and implement collection, recycling, composting, source reduction, or reuse systems to meet
8 the obligations under this chapter, and is immune from liability under State of Rhode Island laws
9 relating to antitrust, restraint of trade, and unfair trade practices.

10 **23-19.22-8. Rulemaking.**

11 The department may adopt rules to implement this chapter.

12 SECTION 2. This act shall take effect upon passage.

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LC006008
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY -- EXTENDED PRODUCER RESPONSIBILITY
FOR PACKAGING AND PAPER ACT

1 This act would create multiple chapters to provide and establish a comprehensive program
2 for recycling of beverage containers and extended producer responsibility for packaging and paper,
3 after the completion of an implementation analysis by the department of environmental
4 management, which would be the lead department in overseeing, implementing, and enforcing the
5 provisions of this act.

6 This act would take effect upon passage.

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LC006008
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