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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO HEALTH AND SAFETY

Introduced By: Representatives McEntee, Knight, Bennett, Boylan, Carson, McGaw,
Cortvriend, Donovan, Handy, and Kazarian

Date Introduced: April 09, 2025

Referred To: House Environment and Natural Resources

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 19.19

4 EXTENDED PRODUCER RESPONSIBILITY FOR PACKAGING AND PAPER ACT

5 **23-19.19-1. Definitions.**

6 (a) As used in this chapter and in chapters 19.20 and 19.21 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 a substance that:

10 (i) Is intentionally added beyond an incidental presence to covered materials to achieve a
11 physical or chemical effect during manufacturing or in the final material; 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 (C) Persistent, bioaccumulative, and toxic.

18 Additives of high concern do not include materials regulated under the provisions of
19 chapter 18.13 of title 23 ("toxic packaging reduction act").

- 1 (2) "Applicable refund value" means the value established under § 23-19.20-11.
- 2 (3) "Beverage" means a drinkable liquid intended for human oral consumption. Beverage
3 does not include:
- 4 (i) A drug regulated under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Ch. 9, §
5 301 et seq.;
- 6 (ii) One hundred percent (100%) fluid milk;
7 (iii) Infant formula; or
8 (iv) A meal replacement liquid.
- 9 (4) "Beverage container" means any prepackaged container designed to hold beverages,
10 including the label, cap, and any other material attached to the container at the time of distribution.
- 11 (5) "Beverage container collection mechanism" means any manual or technological means
12 by which empty covered beverage containers are properly identified as part of processing a
13 consumer's refund.
- 14 (6) "Beverage producer" means the person that satisfies the definition of producer for any
15 beverage sold, offered for sale, or distributed in or into the State of Rhode Island.
- 16 (7) "Brand" means a name, symbol, word, or mark that identifies a product and attributes
17 the product and its components, including packaging, to the brand owner.
- 18 (8) "Brand owner" means a person that owns or holds an exclusive license to a brand or
19 that otherwise has rights to market a product under the brand, whether or not the brand's trademark
20 is registered.
- 21 (9) "Canner" means individuals who collect and redeem covered beverage containers for
22 critical income.
- 23 (10) "Centralized processing facility" means a facility that sorts and then bales or
24 aggregates covered beverage containers and associated materials for the purpose of recycling.
- 25 (11) "Collection rate" means the amount of a covered material by covered materials type
26 collected by service providers and transported for recycling or composting divided by the total
27 amount of the type of a covered material by covered materials type sold or distributed into the State
28 of Rhode Island by the relevant unit of measurement in the approved program plan.
- 29 (12) "Compostable material" means a covered material that:
- 30 (i) Meets, and is labeled to reflect that it meets, the American Society for Testing and
31 Materials Standard Specification for Labeling of Plastics Designed to be Aerobically Composted
32 in Municipal or Industrial Facilities (D6400) or its successor;
- 33 (ii) Meets, and is labeled to reflect that it meets, the American Society for Testing and
34 Materials Standard Specification for Labeling of End Items that Incorporate Plastics and Polymers

1 as Coatings or Additives with Paper and Other Substrates Designed to be Aerobically Composted
2 in Municipal or Industrial Facilities (D6868) or its successor;
3 (iii) Is comprised of only wood without any coatings or additives; or
4 (iv) Is comprised of only paper without any coatings or additives.
5 (13) "Composting" means the controlled microbial degradation of source-separated
6 compostable materials to yield a humus-like product.
7 (14) "Composting rate" means the amount of compostable covered material that is managed
8 through composting, divided by the total amount of compostable covered material sold or
9 distributed into the State of Rhode Island by the relevant unit of measurement in the approved
10 program plan.
11 (15) "Consumer" means an individual who purchases a beverage in the State of Rhode
12 Island in a beverage container for consumption.
13 (16) "Coordination plan" means the joint plan developed by the packaging program
14 producer responsibility organization and the recycling refund producer responsibility organization.
15 (17) "Covered beverage container" means any beverage container subject to a recycling
16 refund as defined in the recycling refund program plan.
17 (18) "Covered entity" means a person or location that receives covered services for covered
18 materials in accordance with the requirements of this chapter, including:
19 (i) A single-family residence;
20 (ii) A multifamily residence;
21 (iii) A school as defined in § 16-8-7;
22 (iv) A nonprofit corporation with annual revenue of less than thirty-five million dollars
23 (\$35,000,000); and
24 (v) A state agency, political subdivision, public area, public entity or other governmental
25 unit.
26 (19) "Covered material" means packaging and paper products sold or supplied in the State
27 of Rhode Island. Covered material does not include exempt materials.
28 (20) "Covered materials type" means a singular and specific type of covered material, such
29 as paper, plastic, metal, or glass, that:
30 (i) Can be categorized based on distinguishing chemical or physical properties, including
31 properties that allow a covered materials type to be aggregated into a discrete commodity category
32 for purposes of reuse, recycling, or composting; and
33 (ii) Is based on similar uses in the form of a product or package.
34 (21) "Covered services" means collecting, transferring, transporting, sorting, processing,

1 recovering, preparing, or otherwise managing for purposes of source reduction, reuse, recycling, or
2 composting.

3 (22) "De minimis" means a person that in the most recent fiscal year earned global gross
4 revenues, not including on-premises alcohol sales, for the prior fiscal year of:

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

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

8 (23) "Department" means the department of environmental management.

9 (24) "Drop-off facility" means a specific area where individuals may bring household
10 recyclable materials to be sorted into material-specific receptacles and is located in the State of
11 Rhode Island.

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

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

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

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

21 (i) Are packaging for infant formula, as defined in United States Code, Title 21, § 321(z);

22 (ii) Are packaging for medical food, as defined in United States Code, Title 21, §
23 360ee(b)(3);

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

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

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

34 (vi) Are drugs, biological products, parasiticides, medical devices, or in vitro diagnostics

1 that are used to treat, or that are administered to, animals and are regulated by the United States
2 Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, United States
3 Code, title 21, § 301 et seq., by the United States Department of Agriculture under the federal
4 Virus-Serum-Toxin Act, United States Code, Title 21, § 151 et seq.;

5 (vii) Are packaging for products regulated by the United States Environmental Protection
6 Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, United States Code, Title
7 7, § 136 et seq.;

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

9 (ix) Are paper products used for a newspaper's print publications, including supplements
10 or enclosures, that include content derived from primary sources related to news and current events;

11 (x) Are paper products used for a magazine's print publication that has a circulation of less
12 than ninety-five thousand (95,000) and that primarily includes content derived from primary
13 sources related to news and current events;

14 (xi) Are packaging used to contain hazardous or flammable products regulated by the 2012
15 federal Occupational Safety and Health Administration Hazard Communication Standard, Code of
16 Federal Regulations, Title 29, § 1910.1200, that prevent the packaging from being source reduced
17 or made reusable, recyclable, or compostable, as determined by the department;

18 (xii) Are packaging that is being collected and properly managed through a paint producer
19 responsibility program approved under chapter 24.12 of title 23 ("proper management of unused
20 paint");

21 (xiii) Are exempt materials, as determined by the department; or

22 (xiv) Are covered materials that:

23 (A) A producer distributes to another producer;

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

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

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

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

1 (i) Redeeming a beverage container purchased outside the State of Rhode Island;
2 (ii) Altering a beverage container not eligible for a refund in the State of Rhode Island
3 recycling refund system to make it appear eligible for a refund;
4 (iii) Altering a receipt to increase the payout beyond the amount from appropriately
5 redeeming covered beverage containers; and
6 (iv) Tampering with beverage container collection mechanisms to enable redemption of a
7 beverage container or knowingly attempting to redeem a beverage container that:
8 (A) Was not purchased in the State of Rhode Island;
9 (B) Is not in the State of Rhode Island recycling refund system;
10 (C) Had no deposit paid on it in the State of Rhode Island; or
11 (D) Has already been redeemed for a refund.
12 (31) "Full-service redemption site" means a return point where individuals may return
13 covered beverage containers to receive immediate refunds for their returns.
14 (32) "Government entity" means any:
15 (i) County, city, town, or other local government, including any municipal corporation,
16 quasi-municipal corporation, or special purpose district, or any office, department, division, bureau,
17 board, commission, or agency thereof, or other local public agency;
18 (ii) State office, department, division, bureau, board, commission, or other state agency;
19 (iii) Federally-recognized Indian tribes whose traditional lands and territories include parts
20 of the State of Rhode Island; or
21 (iv) Federal office, department, division, bureau, board, commission, or other federal
22 agency.
23 (33) "Incidental presence" means the presence of an additive at a concentration that is less
24 than one hundred parts per million (100 ppm) by weight one hundredths percent (0.01%).
25 (34) "Independent auditor" means an independent and actively licensed certified public
26 accountant that is:
27 (i) Retained by a producer responsibility organization;
28 (ii) Not otherwise employed by or affiliated with a producer responsibility organization;
29 and
30 (iii) Qualified to conduct an audit under State of Rhode Island law.
31 (35) "Infrastructure investment" means an investment by a packaging producer
32 responsibility organization that funds:
33 (i) Equipment or facilities in which covered materials are prepared for reuse, recycling, or
34 composting;

1 (ii) Equipment or facilities used for source reduction, reuse, recycling, or composting of
2 covered materials; or

3 (iii) The expansion or strengthening of demand for and use of covered materials by
4 responsible markets in the State of Rhode Island or region.

5 (36) "Intentionally added" means the act of deliberately utilizing an additive in the
6 formation of a covered material where its continued presence is desired in the final covered material
7 to provide a specific characteristic, appearance, or quality. The use of an additive as a processing
8 agent, mold release agent, or intermediate is considered intentional addition for the purposes of this
9 chapter where the additive is detected in the final covered material. "Intentionally added" does not
10 include the use of postconsumer recycled content, where some portion of the postconsumer
11 recycled content may contain amounts of the additive but is neither desired nor deliberate.

12 (37) "Introduce" means to sell, offer for sale, distribute, or use to ship a product within or
13 into the State of Rhode Island.

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

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

19 (40) "Lobby" and "lobbying" means the practice of promoting, opposing, or in any manner
20 influencing or attempting to influence the introduction, defeat, or enactment of legislation before
21 any legislative body; opposing or in any manner influencing the executive approval, veto, or
22 amendment of legislation; or the practice of promoting, opposing, or in any manner influencing or
23 attempting to influence the enactment, promulgation, modification, or deletion of regulations
24 before any regulatory body. The term does not include providing public testimony before a
25 legislative body or regulatory body or any committee thereof.

26 (41) "Material recovery facility" means a facility in the State of Rhode Island that collects,
27 compacts, repackages, sorts, or processes for transport source separated material for the purpose of
28 recycling.

29 (42) "Municipality" means the individual cities and towns of the State of Rhode Island.

30 (43) "Needs assessment" means an assessment conducted according to § 23-19.19-8.
31 Except where specified otherwise, needs assessment means the most recently completed needs
32 assessment.

33 (44) "Packaging" means a material type, such as paper, plastic, glass, metal, or multi-
34 material, that is used to protect, contain, transport, or serve a product. Packaging does not include

1 covered beverage containers.

2 (45) "Packaging and paper product producer" means the person that satisfies the definition
3 of producer for any packaging or paper product sold, offered for sale, or distributed in or into the
4 State of Rhode Island.

5 (46) "Packaging manufacturer" means any person, firm, association, partnership, or
6 corporation that produces packaging or a packaging component for the production of packaging.

7 (47) "Packaging producer responsibility organization" means a nonprofit corporation that
8 is tax exempt under chapter 501(c)(3) of the federal Internal Revenue Code and that is created by
9 a group of producers to implement the non-recycling refund activities under this chapter.

10 (48) "Packaging producer program plan" means a program plan developed by the
11 packaging producer responsibility organization pursuant to § 23-19.19-9 that is prepared and
12 submitted to the department for review and approval.

13 (49) "Packaging program" means a program where producers of covered materials not in
14 the recycling refund program pay a fee to meet certain performance targets.

15 (50) "Packaging program advisory council" means the council established under this
16 chapter.

17 (51) "Paper product" means a product made primarily from wood pulp or other cellulosic
18 fibers, but does not include bound books or products that recycling or composting facilities will not
19 accept because of the unsafe or unsanitary nature of the paper product. Paper product does not
20 include exempt materials.

21 (52) "Postconsumer recycled content" means the amount of postconsumer material used
22 by a producer in the production of a covered materials type, divided by the total amount of that
23 covered materials type used for products sold or distributed by the producer in that same calendar
24 year.

25 (53) "Producer" means the following person responsible for compliance with requirements
26 under this chapter for an item sold, offered for sale, or distributed in or into the State of Rhode
27 Island:

28 (i) For an item sold in or with packaging at a physical retail location in the State of Rhode
29 Island:

30 (A) If the item is sold in or with packaging that includes a brand, the producer is the brand
31 owner;

32 (B) If there is no person or entity described in subsection (a)(53)(i)(A) of this section, the
33 producer is the person or entity that is licensed to sell, offer for sale, or distribute to consumers in
34 the State of Rhode Island an item under the brand or trademark used in a commercial enterprise.

1 sold, offered for sale, or distributed in or into the State of Rhode Island, whether or not the
2 trademark is registered in the State of Rhode Island;

3 (C) If there is no person to which subsections (a)(53)(i)(A) or (a)(53)(i)(B) of this section
4 applies, the producer is the person that is licensed to manufacture and sell or offer for sale to
5 consumers in the State of Rhode Island an item under the brand or trademark of another
6 manufacturer or person;

7 (D) If there is no person described in subsections (a)(53)(i)(A) through (a)(53)(i)(C) of this
8 section within the United States, the producer is the person who is the importer of record for the
9 item into the United States for use in a commercial enterprise that sells, offers for sale, or distributes
10 the item in the State of Rhode Island; or

11 (E) If there is no person described in subsections (a)(53)(i)(A) through (a)(53)(i)(D) of this
12 section, the producer is the person that first distributes the item in or into the State of Rhode Island;

13 (ii) For items sold or distributed in or into the State of Rhode Island via e-commerce,
14 remote sale, or remote distribution:

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

17 (B) For packaging used to ship the item to a consumer, the producer of the packaging is
18 the person that packages the item to be shipped to the consumer;

19 (C) For packaging that is an item and is not included in the prior subsections to this
20 subsection (a)(53)(ii)(C), the producer of the packaging is the person that first distributes the item
21 in or into the State of Rhode Island;

22 (D) A person is the producer of an item or covered product sold, offered for sale, or
23 distributed in or into the State of Rhode Island, as defined in subsection (a)(53) of this section,
24 except where a private label producer has mutually agreed with a brand owner to accept
25 responsibility as the producer, and the private label producer has joined a registered producer
26 responsibility organization as the responsible producer for that item. In the event that a private label
27 producer accepts responsibility as the producer under this subsection, the brand owner shall provide
28 written certification of that contractual agreement to the producer responsibility organization; and

29 (E) If the producer described in this subsection is a business operated wholly or in part as
30 a franchise, the producer is the franchisor, if that franchisor has franchisees that have a commercial
31 presence within the State of Rhode Island.

32 (F) Producer does not include:

33 (I) Government entities; or

34 (II) Registered 501(c)(3) charitable organizations and 501(c)(4) social welfare

1 organizations.

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

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

8 (i) Landfill disposal;

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

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

12 (56) "Recycling rate" means the amount of recyclable covered material, in aggregate or by
13 individual covered materials type, recycled in a calendar year divided by the total amount of
14 recyclable covered material, in aggregate or by individual covered materials type, sold or
15 distributed into the State of Rhode Island by the relevant unit of measurement in the approved
16 program plan.

17 (57) "Recycling refund" means a covered beverage container redemption program that pays
18 a per-unit refund value to consumers for covered beverage containers and collects and processes
19 covered beverage containers as described in this chapter.

20 (58) "Recycling refund advisory council" means the council established under this chapter.

21 (59) "Recycling refund processing facility" means a location that is designated by the
22 recycling refund producer responsibility organization to receive, sort, and prepare redeemed
23 beverage containers for recycling or reuse.

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

28 (61) "Recycling refund program plan" means a program plan developed by the recycling
29 refund producer responsibility organization that is prepared and submitted to the department for
30 review and approval.

31 (62) "Redemption rate" means the number of covered beverage containers redeemed for
32 the recycling refund divided by the number of covered beverage containers sold in the State of
33 Rhode Island in a calendar year. Covered beverage containers transferred by material recovery
34 facilities to additional materials processing or end markets are not included in the redemption rate.

1 (63) "Redemption site" means a public or private place that provides, via any beverage
2 container collection mechanism, the ability to redeem a covered beverage container for which a
3 deposit was paid.

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

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

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

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

12 (65) "Responsible market" means a materials market that:

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

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

19 (iii) Possesses all requisite licenses and permits required by a federal or state agency or
20 political subdivision;

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

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

24 (vi) Meets the minimum operational standards adopted under a packaging producer
25 program plan to protect the environment, public health, worker health and safety, and minimize
26 adverse impacts to socially vulnerable populations.

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

31 (67) "Return rate" means the amount of reusable covered material, in aggregate or by
32 individual covered materials type, collected for reuse by a producer or service provider in a calendar
33 year, divided by the total amount of reusable covered material, in aggregate or by individual
34 covered materials type, sold or distributed into the State of Rhode Island by the relevant unit of

1 measurement in the approved program plan.

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

3 (69) "Reuse" means the return of a covered material to the marketplace and the continued
4 use of the covered material by a producer or service provider when the covered material is:

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

7 (ii) Designed for durability and maintenance to extend its useful life and reduce demand
8 for new production of the covered material;

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

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

13 (70) "Reuse rate" means the share of units of a reusable covered material sold or distributed
14 into the State of Rhode Island in a calendar year that are demonstrated and deemed reusable in
15 accordance with an approved packaging producer program plan or recycling refund program plan.

16 (71) "Service provider" means an entity that provides covered services for covered
17 materials. A political subdivision that provides or that contracts or otherwise arranges with another
18 party to provide covered services for covered materials within its jurisdiction may be a service
19 provider regardless of whether it provided, contracted for, or otherwise arranged for similar services
20 before the approval of the applicable producer program plan.

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

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

28 (74) "Unredeemed deposit" means a deposit paid by a consumer to a retailer upon purchase
29 of a covered beverage container for which no person claimed the deposit by returning the beverage
30 container to a redemption site.

31 (b) References to "this chapter" contained in chapters 19.19, 19.20, and 19.21 of title 23,
32 may and shall be applied jointly and severally, and a reference to one may be construed as a
33 reference to any or all of the other chapters as the context indicates, except where the context clearly
34 indicates otherwise.

1 **23-19.19-2. Registration of packaging producer responsibility organizations.**

2 (a) Appointment of packaging producer responsibility organization. By July 1, 2026, the
3 department shall accept applications from packaging producer responsibility organizations to
4 represent packaging and paper product producers in fulfilling the requirements of this chapter.

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

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

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

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

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

16 (c) By October 1, 2026, the department may approve, for a period not to exceed ten (10)
17 years, a single packaging producer responsibility organization if the packaging producer
18 responsibility organization demonstrates that it:

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

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

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

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

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

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

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

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

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

34 (2) The previously approved packaging producer responsibility organization shall continue

1 operating until the department appoints a new recycling refund producer responsibility
2 organization.

3 (f) Registration fee:

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

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

18 (3) The department shall annually reconcile the fees paid by a packaging producer
19 responsibility organization under this section with the actual costs incurred by the department by
20 means of credits or refunds to or additional payments required of a producer responsibility
21 organization, as applicable.

22 (g) Option for additional packaging producer responsibility organizations. After the first
23 packaging producer program plan approved by the department expires, the department may allow
24 registration of more than one packaging producer responsibility organization if:

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

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

28 (h) Disposition of fees. All fees received under this section shall be deposited in the State
29 of Rhode Island treasury and credited to the product producer responsibility account.

30 **23-19.19-3. Packaging producer responsibility organization duties.**

31 A packaging producer responsibility organization shall:

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

33 (2) Submit packaging producer program plans, as required under this chapter;

34 (3) Implement packaging producer program plans approved by the department under this

1 chapter:

2 (4) Forward upon receipt from the department the lists established under this chapter to all
3 service providers that participate in a packaging producer program plan administered by the
4 packaging producer responsibility organization;

5 (5) Establish by September 1, 2027, an initial packaging producer fee structure to fund the
6 initial implementation of the program, to be used until the packaging producer responsibility
7 organization has an approved packaging producer responsibility program plan, as required under §
8 23-19.19-9;

9 (6) Collect producer fees as required under § 23-19.19-11;

10 (7) Submit the reports required under § 23-19.19-13;

11 (8) Ensure that producers operating under a packaging producer program plan administered
12 by the packaging producer responsibility organization comply with the requirements of the
13 packaging producer program plan under § 23-19.19-9 and with this chapter;

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

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

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

21 (12) Maintain a website with the information required under § 23-19.19-12;

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

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

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

27 and

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

29 **23-19.19-4. Packaging program advisory council.**

30 (a) Establishment. The packaging program advisory council is established to review all
31 activities conducted by packaging producer responsibility organizations under this chapter and to
32 advise the department and packaging producer responsibility organizations regarding the
33 implementation of this chapter.

34 (b) Duties. The packaging program advisory council shall:

- 1 (1) Convene its initial meeting by June 1, 2027;
- 2 (2) Establish when, and a process by which, it will accept public comments;
- 3 (3) Advise on the development of packaging producer program plans and needs
4 assessments to help ensure they:
 - 5 (i) Align with best practices;
 - 6 (ii) Reflect the reality in the State of Rhode Island; and
 - 7 (ii) Consider the needs of the State of Rhode Island;
- 8 (4) Submit comments to packaging producer responsibility organizations and to the
9 department on any matter relevant to the administration of this chapter;
- 10 (5) Provide written comments to the department during any rulemaking process undertaken
11 by the department; and
- 12 (6) Comply with all other applicable requirements of this chapter.
- 13 (c) Membership. By March 1, 2027, the department shall establish and appoint the initial
14 membership of the packaging program advisory council. The membership of the packaging
15 program advisory council shall consist of the following:
 - 16 (1) Two (2) members representing manufacturers of covered materials or a State of Rhode
17 Island or national trade association representing those manufacturers;
 - 18 (2) One member representing recycling facilities that manage covered materials;
 - 19 (3) One member representing a waste hauler or a State of Rhode Island association
20 representing waste haulers;
 - 21 (4) One member representing retailers of covered materials or a State of Rhode Island trade
22 association representing those retailers;
 - 23 (5) Two (2) members representing State of Rhode Island nonprofit environmental
24 organizations;
 - 25 (6) Two (2) members representing community-based nonprofit environmental justice
26 organizations;
 - 27 (7) One member representing Rhode Island resource recovery corporation or another waste
28 facility that receives, and sorts covered materials and transfers them to another facility for reuse,
29 recycling, or composting;
 - 30 (8) One member representing a waste facility that receives compostable materials for
31 composting or a State of Rhode Island trade association that represents such facilities;
 - 32 (9) One member representing a labor organization;
 - 33 (10) Two (2) members representing an entity that develops or offers for sale covered
34 materials that are designed for reuse or refill and maintained through a reuse or refill system or

1 infrastructure or a State of Rhode Island or national trade association that represents such entities;
2 (11) Three (3) members representing non-federal or non-state government entities;
3 (12) Two (2) members representing other interested parties or additional members of
4 interests represented, as determined by the department; and
5 (13) One member representing the department.
6 (d) Terms. Removal. Members shall serve for a term of four (4) years, except that the initial
7 term for a majority of the initial appointees shall be two (2) years so that membership terms are
8 staggered. Members may be reappointed, but may not serve more than eight (8) consecutive years.
9 A member of the advisory council appointed under subsection (c)(12) of this section serves at the
10 pleasure of the department.
11 (e) Quorum. A quorum is reached when:
12 (1) A majority of packaging program advisory council member seats are filled; and
13 (2) A majority of the non-vacant packaging program advisory council member seats is
14 present.
15 (f) Voting. Action by the packaging program advisory council requires a quorum and a
16 majority of those present and voting. All members of the packaging program advisory council,
17 except the members appointed under subsection (c)(12) of this section, are voting members of the
18 council.
19 (g) Meetings. The packaging program advisory council shall meet at least two (2) times
20 per year and may meet more frequently upon ten (10) days' written notice at the request of the chair
21 or a majority of its members.
22 (h) Department role.
23 (1) The department shall provide administrative and operating support to the packaging
24 program advisory council, and the department may contract with a third-party facilitator to assist
25 in administering the activities of the packaging program advisory council, including establishing a
26 website or landing page on the department website.
27 (2) The department shall assist the advisory council in developing policies and procedures
28 governing the disclosure or perceived conflict of interest.
29 **23-19.19-5. Packaging and paper product producer responsibilities.**
30 (a) Duties. After July 1, 2027, a packaging and paper product producer shall be a member
31 of a packaging producer responsibility organization.
32 (b) A packaging and paper product producer shall:
33 (1) Register with the packaging producer responsibility organization;
34 (2) Implement the requirements of the packaging producer program plan;

1 (3) Pay producer fees under § 23-19.19-11;

2 (4) Report to the packaging producer responsibility organization at a frequency to be
3 determined by the packaging producer responsibility organization;

4 (i) The total amount, by unit and weight, of each type of packaging material sold, offered
5 for sale, or distributed for sale into the State of Rhode Island by the producer in the prior calendar
6 year; and

7 (ii) All other information necessary for the producer and the packaging producer
8 responsibility organization to meet its obligations required under this chapter.

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

10 **23-19.19-6. Packaging sales restrictions.**

11 (a) Packaging producer restrictions. After January 1, 2030, no packaging and paper product
12 producer may introduce covered materials, either separately or when used to package another
13 product, unless the producer enters into a written agreement with a packaging producer
14 responsibility organization to operate under an approved packaging producer program plan.

15 (b) After January 1, 2032, no producer may sell in the State of Rhode Island covered
16 materials unless covered services are provided for the covered materials through a program in a
17 packaging producer program plan approved by the department and the covered materials are:

18 (1) Reusable and capable of being managed through a reuse system that meets the reuse
19 rate and return rate required under chapter;

20 (2) Capable of refill and supported by a refill system;

21 (3) Included on the recyclable covered materials list established under § 23-19.19-7; or

22 (4) Included on the compostable covered material list established under § 23-19.19-7.

23 (c) A packaging producer responsibility organization may petition the department for a two
24 (2)-year extension to comply with the requirements of this section. The department may approve
25 the extension if the petition demonstrates that market or technical issues prevent a specific covered
26 material from being considered reusable or included on the lists established under § 23-19.19-7.
27 The packaging producer responsibility organization may petition the department for additional
28 annual extensions, if the packaging producer responsibility organization demonstrates that market
29 or technical issues preventing compliance persist.

30 **23-19.19-7. Packaging program department responsibilities.**

31 (a) The department shall:

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

34 (2) Provide administrative and operating support to the packaging program advisory

1 council;

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

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

6 (5) Review and determine whether to approve packaging producer program plans and
7 amendments to packaging producer program plans according to § 23-19.19-9;

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

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

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

14 (ii) Recycling and composting processing infrastructure;

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

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

19 (v) Availability of responsible markets;

20 (vi) Presence and amount of processing residuals, contamination, and additives of high
21 concern;

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

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

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

27 (9) Establish a process by which a packaging and paper product producer may request the
28 department classify one or more types of packaging or product products as an exempt material if
29 the department determines that a specific federal or State of Rhode Island health and safety
30 requirement prevents the packaging from being made reusable, recyclable, or compostable, with
31 each classification determination lasting no more than two (2) years with the ability to be renewed;

32 (10) Review provisions in packaging producer program plan to ensure responsible end
33 markets as part of determination whether to improve the packaging producer program plan;

34 (11) Post on the department's website;

- 1 (i) The most recent registration materials submitted by the packaging producer
2 responsibility organization;
- 3 (ii) A list of registered service providers;
- 4 (iii) The most recent packaging program needs assessments;
- 5 (iv) Any packaging plan or amendment submitted by a packaging producer responsibility
6 organization that is in draft form during the public comment period;
- 7 (v) The most recent recyclable or compostable covered lists established as required under
8 this section.
- 9 (vi) The list of exempt materials as defined in this chapter and covered materials exempt
10 from performance targets as approved in the packaging producer program plan;
- 11 (vii) Links to producer responsibility organization websites;
- 12 (viii) Comments of the public, advisory council, and producer responsibility organizations
13 on packaging producer plans and needs assessments, and, if any, the responses of the department
14 to those comments; and
- 15 (ix) Links to adopted rules implementing this chapter;
- 16 (12) Review and determine whether to approve the selection of independent auditors to
17 perform an annual financial audit of each producer responsibility organization; and
- 18 (13) Adopt any regulations necessary to implement this chapter.
- 19 **23-19.19-8. Packaging program needs assessments.**
- 20 (a) Needs assessments required. By June 1, 2028, the packaging producer responsibility
21 organization shall complete an initial needs assessment, and provide an updated needs assessment
22 every five (5) years thereafter.
- 23 (b) Content of needs assessment.
- 24 (1) An initial needs assessment, and all subsequent updates, shall include at least the
25 following:
- 26 (i) An evaluation of:
- 27 (ii) Existing source reduction, reuse, recycling, and composting, as applicable, for each
28 covered materials type, including collection rates, recycling rates, composting rates, reuse rates,
29 and return rates, as applicable, for each covered materials type;
- 30 (iii) Overall recycling rate, composting rate, reuse rate, and return rate for all covered
31 materials; and
- 32 (iv) The extent to which postconsumer recycled content, by the best estimate, is or could
33 be incorporated into each covered materials type, as applicable, including a review of market and
34 technical barriers to incorporating postconsumer materials into covered materials and of whether

1 for certain covered materials more recycled content has a net negative environmental impact, with
2 the evaluation for plastics, including a separate evaluation of rigid plastics by resin type and an
3 evaluation for film and flexible plastics;

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

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

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

13 (5) Proposed plans and metrics for how to measure progress in achieving performance
14 targets;

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

16 (i) Tons of collected covered materials;

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

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

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

25 (7) An evaluation of investments needed to increase source reduction, reuse, recycling, and
26 composting rates of covered materials to meet the proposed performance targets in § 23-19.19-9;

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

29 (9) An assessment of the level and causes of contamination of source-separated recyclable
30 materials, source-separated compostable materials and collected reusables, and the impacts of
31 contamination on service providers, including the cost to manage this contamination; and

32 (10) Recommendations for meeting the criteria for an alternative collection program as
33 established in this chapter, and in every subsequent needs assessment after the initial needs
34 assessment, a review of existing alternative collection programs for each covered material listed to

1 determine if the program is meeting the criteria in this chapter.

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

4 (c) Input from interested parties. In conducting a needs assessment, the packaging producer
5 responsibility organization shall:

6 (1) Initiate a consultation process to obtain recommendations from the packaging program
7 advisory council, political subdivisions, service providers and other interested parties regarding the
8 type and scope of information that should be collected and analyzed in the needs assessment
9 required by § 23-19.19-8;

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

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

14 (d) Participation required.

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

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

21 (e) Department review.

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

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

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

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

30 (3) If the department denies or requests additional information for a needs assessment, the
31 department shall provide the packaging producer responsibility organization with the reasons, in
32 writing, that the needs assessment does not meet the requirements of this section. The packaging
33 producer responsibility organization has sixty (60) days from the date that the rejection or request
34 for additional information is received to submit to the department any revisions or additional

1 information necessary for the approval of the needs assessment. The department shall review and
2 approve or disapprove the needs assessment no later than sixty (60) days after the date the
3 department receives the revisions or additional information.

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

10 **23-19.19-9. Packaging producer program plan.**

11 (a) Packaging producer program plan required.

12 (1) By January 1, 2030, and every five (5) years thereafter, a packaging producer
13 responsibility organization shall submit a packaging producer program plan to the department that
14 describes the proposed operation by the organization of programs to fulfill the requirements of this
15 chapter and that incorporates the findings and results of needs assessments. If there is more than
16 one packaging producer responsibility organization, they shall coordinate to submit a single
17 packaging producer program plan. Once approved, a packaging producer program plan remains in
18 effect for five (5) years, as amended, or until a subsequent packaging producer program plan is
19 approved.

20 (2) By January 1, 2031, or within six (6) months of plan approval, whichever is later,
21 implement the first packaging producer program plan; subsequent packaging producer program
22 plans shall be implemented within six (6) months of approval by the department.

23 (b) Packaging program advisory council review of draft plan and amendments. A
24 packaging producer responsibility organization shall submit a draft packaging producer program
25 plan or draft amendment to the advisory council prior to submitting the draft plan or draft
26 amendment to the department and shall, prior to submission of the draft plan or draft amendment
27 to the department, respond to advisory council comments and recommendations received within
28 sixty (60) days of providing the draft program plan or draft amendment to the advisory council and
29 indicate whether those comments or recommendations were accepted or rejected.

30 (c) Content of packaging producer program plan. A draft packaging producer program plan
31 shall include at a minimum:

32 (1) Collection rate and recycling rate performance targets established under § 23-19.19-10
33 as applicable to each covered materials type to be accomplished within a five (5) year period;

34 (2) Proposed performance targets for composting, source reduction, reuse, refill that:

- 1 (i) Meet the requirements set by the department in § 23-19.19-9(b);
- 2 (ii) Are informed by the latest needs assessment and the most recent State of Rhode Island
- 3 solid waste management plan;
- 4 (3) Proposed performance targets for post-consumer recycled content for covered materials
- 5 that do not have sufficient end-markets, as well as any other covered materials the packaging
- 6 producer responsibility organization deems appropriate;
- 7 (4) A description of the methods of collection, how collection service convenience metrics
- 8 will be met, and processing infrastructure and covered services to be used for each covered
- 9 materials type at covered entities, at a minimum, and how these will meet the performance targets
- 10 established for covered materials:
- 11 (i) Included on the recyclable list established in this chapter;
- 12 (ii) Included on the compostable list established in this chapter;
- 13 (iii) That are reusable covered materials managed through a reuse system; and
- 14 (iv) That are capable of refill and managed through a refill system;
- 15 (5) Proposals for exemptions from performance targets for covered materials that cannot
- 16 be source reduced or made reusable, recyclable, or compostable due to federal or State of Rhode
- 17 Island health and safety requirements, identifying the specific federal or State of Rhode Island
- 18 requirements and their impact on the covered materials;
- 19 (6) A description of how, for each covered materials type, the producer responsibility
- 20 organization will measure recycling, reuse, composting, and the inclusion of postconsumer
- 21 recycled content, including the relevant unit of measurement;
- 22 (7) Third-party certifications as required by the department or voluntarily undertaken;
- 23 (8) A budget identifying funding needs for each of the plan's five (5) calendar years,
- 24 producer fees, a description of the process used to calculate the fees, and an explanation of how the
- 25 fees meet the requirements of this chapter;
- 26 (9) A description of infrastructure investments, including goals and outcomes and a
- 27 description of how the process to offer and select opportunities will be conducted in an open,
- 28 competitive, and fair manner; how it will address gaps in the system not met by service providers;
- 29 and potential financial and legal instruments to be used;
- 30 (10) An explanation of how the program will be paid for by the producer responsibility
- 31 organization through fees from producers, without any new or additional consumer-facing fee to
- 32 members of the public, businesses, service providers, the State of Rhode Island or any political
- 33 subdivisions, or any other person who is not a producer, unless the fee is:
- 34 (i) A deposit made in connection with a product's refill, reuse, or recycling that can be

1 redeemed by a consumer; or

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

3 (11) An explanation of how the packaging producer responsibility organization will
4 coordinate with the Rhode Island resource recovery corporation on implementation;

5 (12) A description of activities to be undertaken by the packaging producer responsibility
6 organization during each year to:

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

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

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

15 (iv) Monitor to ensure that postconsumer materials are delivered to responsible markets;
16 and

17 (v) Expand responsible markets and incentivize the purchase of recycled content from only
18 responsible, domestic or North American markets;

19 (13) Include terms and conditions for service agreements with service providers and
20 templates of the service agreements;

21 (14) Performance standards for service providers as applicable to the service provided
22 including, but not limited to:

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

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

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

28 (15) A description of how the packaging producer responsibility organization will treat and
29 protect nonpublic data submitted by service providers;

30 (16) A description of how the packaging producer responsibility organization will provide
31 technical assistance to service providers in order to assist them in delivering covered materials to
32 responsible markets;

33 (17) Minimum operational standards to protect the environment, public health, worker
34 health and safety, and minimize adverse impacts to socially vulnerable populations;

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

4 (19) Proposed alternative collection programs;

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

8 (21) A list of additives of high concern and the credible scientific evidence forming the
9 basis for this list;

10 (22) A discussion of technical assistance provided to producers regarding additives of high
11 concern in covered materials and actions taken by producers to reduce additives of high concern in
12 covered materials; and

13 (23) A summary of consultations held with the advisory council and other interested parties
14 to provide input to the packaging producer program plan, a list of recommendations that were
15 incorporated into the packaging producer program plan as a result, and a list of rejected
16 recommendations and the reasons for rejection;

17 (24) The department, in consultation with the packaging producer responsibility
18 organization and in consideration of the findings in the needs assessment, shall establish
19 requirements for the State of Rhode Island and the date by which they shall be met for the following
20 categories:

21 (i) Composting rate;

22 (ii) Reuse rate;

23 (iii) Return rate;

24 (iv) Source reduction; and

25 (v) Post-consumer recycled content for covered materials that do not have sufficient end-
26 markets, as well as any other covered materials the department deems appropriate;

27 (25) In setting the requirements in this section, the department shall consider:

28 (i) The findings of the needs assessment;

29 (ii) Goals of the most recent State of Rhode Island solid waste management plan;

30 (iii) With source reduction, the aim of eliminating unnecessary use of material while not
31 compromising health or safety;

32 (iv) With postconsumer recycled content, the net environmental impact of using more
33 postconsumer material and the ability of packaging to include recycled content given health
34 considerations, safety considerations, or its unique properties; and

1 (v) With reuse rate, whether reusable containers will be reused enough times to have a
2 lower environmental impact than the single-use alternatives.

3 (d) Review and approval procedure.

4 (1) The department shall review and approve, deny, or request additional information for
5 packaging producer program plans, or draft plan amendments no later than one hundred twenty
6 (120) days after the date the department receives it from a packaging producer responsibility
7 organization. The department shall post a draft plan or draft amendment on the department's website
8 and allow public comment for no less than forty-five (45) days before approving, denying, or
9 requesting additional information on a draft plan or draft amendment.

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

12 (i) Feasibility;

13 (ii) Advisory council feedback;

14 (iii) Cost;

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

16 (v) Increasing reuse; and

17 (vi) Reducing unnecessary use of materials.

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

26 (4) A packaging producer responsibility organization may resubmit a draft plan or draft
27 amendment to the department on not more than two (2) occasions. If after the second resubmission,
28 the department determines that the draft plan or draft amendment does not meet the plan
29 requirements of this chapter, the department shall modify the draft plan or draft amendment as
30 necessary for it to meet the requirements of this chapter and approve it.

31 **23-19.19-10. Packaging performance targets.**

32 (a) Packaging program collection and recycling performance targets.

33 (1) The packaging producer responsibility organization is to achieve the following
34 collection and recycling performance targets:

1 (i) Starting with calendar year 2033, and annually thereafter:
2 (A) A collection rate that is greater than fifty percent (50%); and
3 (B) A recycling rate that is greater than forty percent (40%);
4 (ii) Starting with calendar year 2037, and annually thereafter:
5 (A) A collection rate that is greater than sixty-five percent (65%); and
6 (B) A recycling rate that is greater than fifty-five percent (55%);
7 (iii) Starting with calendar year 2041, and annually thereafter:
8 (A) A collection rate that is greater than seventy-five percent (75%); and
9 (B) A recycling rate that is greater than sixty-five percent (65%).
10 (2) The department may:
11 (i) Modify the collection rate or recycling rate performance targets in subsection (a)(1) of
12 this section no more than ten (10) percentage points based on feasibility, cost, or other
13 considerations; or
14 (ii) Extend the calendar year start of the collection or recycling rate targets in subsection
15 (a)(1) of this section no more than two (2) years based on feasibility, cost, or other considerations.
16 (b) Measurement criteria for performance targets.
17 (1) For purposes of determining whether recycling performance targets are being met,
18 except as modified by the department, the packaging producer program plan shall provide a
19 methodology for measuring the amount of recycled material at the point at which material leaves a
20 recycling facility and shall account for:
21 (i) Levels of estimated contamination documented by the facility; and
22 (ii) Any exclusions for fuel or energy capture.
23 (2) For purposes of determining whether reuse and refill performance targets are being met,
24 a packaging producer program plan shall provide a methodology for measuring the amount of
25 reusable covered materials at the point at which reusable covered materials meet the following
26 criteria as demonstrated by the producer and approved by the department:
27 (i) Whether the average minimum number of cycles of reuses within a recognized reuse
28 system has been met based on the number of times an item shall be reused for it to have lower
29 environmental impacts than the single-use alternatives of those items; and
30 (2) Whether the demonstrated or research-based anticipated return rate of the covered
31 material to the reuse system has been met.
32 (3) For purposes of determining whether postconsumer recycled content performance
33 targets are being met, a packaging producer program plan shall provide a methodology for
34 measuring postconsumer recycled content across all producers for a covered materials type where

1 producers may determine their postconsumer recycled content based on their United States market
2 territory if State of Rhode Island-specific postconsumer recycled content is impractical to
3 determine.

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

7 (c) Alternative collection programs.

8 (1) A packaging producer responsibility organization shall implement an alternative
9 collection program for covered materials included on an alternative collection list established under
10 this chapter that:

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

13 (ii) Provides tiers of service for collection, convenience, number of drop-off collection
14 sites, and additional collection systems based on:

15 (A) County population size;

16 (B) County population density;

17 (iii) Ensures materials are sent to responsible markets;

18 (iv) Uses education and outreach strategies that can be expected to significantly increase
19 consumer awareness of the program throughout the State of Rhode Island; and

20 (v) Accurately measures the amount of each covered material collected and the applicable
21 performance target.

22 (d) Audits. The department, in consultation with an advisory council, may require that a
23 packaging producer responsibility organization or recycling refund producer responsibility
24 organization obtain and pay for a third-party certification of any activity or achievement required
25 by this chapter if a third-party certification is readily available, deemed applicable, and of
26 reasonable cost. The department shall provide a producer responsibility organization with notice of
27 at least six (6) months prior to requiring use of third-party certification.

28 **23-19.19-11. Packaging and paper product producer fees.**

29 (a) Packaging producer responsibility organization annual fee.

30 (1) A packaging producer responsibility organization shall annually collect a fee from each
31 member producer that shall:

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

34 (ii) Reflect the program costs for each covered materials type, net of commodity value for

1 that covered materials type, as well as allocated fixed costs that do not vary based on covered
2 materials type;

3 (iii) Create incentives to reduce environmental impacts, which may include:

4 (A) Reducing the amount of:

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

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

8 (III) Additives of high concern;

9 (B) Increasing:

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

13 (II) Increasing the proportion of postconsumer material in covered materials while
14 considering technical limitations and net environmental impact of using more postconsumer
15 material; and

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

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

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

21 (A) The required fees;

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

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

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

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

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

32 (c) Prohibited conduct. Fees collected under this section may not be used for lobbying.

33 **23-19.19-12. Packaging producer responsibility organization website requirements.**

34 (a) A packaging producer responsibility organization shall maintain a website that uses best

1 practices for accessibility.

2 (b) The packaging producer responsibility organization website shall contain, at a
3 minimum:

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

6 (2) The draft and approved packaging producer program plans and any draft and approved
7 amendments;

8 (3) Annual reports submitted to the department;

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

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

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

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

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

18 (2) Information for State of Rhode Island residents on what to do with materials on the
19 recyclable and compostable lists;

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

22 (4) Current and all past needs assessments; and

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

25 **23-19.19-13. Packaging program reporting.**

26 (a) Packaging producer responsibility organization annual report.

27 (1) By June 1, 2032, and annually thereafter, a packaging producer responsibility
28 organization shall submit a report to the department that contains, at a minimum, the following
29 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 (iii) The total cost to implement the program and a detailed description of program
4 expenditures by category, including:
5 (A) The total amount of producer fees collected;
6 (B) A description of infrastructure investments made; and
7 (C) A breakdown of payments by covered services, covered entities, and regions of the
8 State of Rhode Island;
9 (iv) A copy of a financial audit of program operations conducted by an independent auditor
10 approved by the department that meets the requirements of the Financial Accounting Standards
11 Board's Accounting Standards Update 2016-14, Not-for-Profit Entities (Topic 958), as amended;
12 (v) A description of program performance problems that emerged in specific locations and
13 efforts taken or proposed by the producer responsibility organization to address them;
14 (vi) A description of public awareness, education, and outreach activities undertaken,
15 including any evaluations conducted of their efficacy;
16 (vii) A summary of consultations held with the advisory council and how any feedback
17 was incorporated into the report as a result, together with a list of rejected recommendations and
18 the reasons for rejection;
19 (viii) A list of producers found to be out of compliance with this chapter and actions taken
20 by the producer responsibility organization to return producers to compliance, and notification of
21 any producers that are no longer participating in the producer responsibility organization or have
22 been expelled due to their lack of compliance;
23 (ix) Proposed amendments to the packaging producer program plan to improve program
24 performance or reduce costs, including changes to producer fees, infrastructure investments, or
25 contract rates;
26 (x) Recommendations for additions or removal of covered materials to or from the
27 recyclable or compostable covered materials lists developed under this chapter; and
28 (xi) Information requested by the department to evaluate the effectiveness of the program
29 as it is described in the packaging producer program plan and to assist with determining compliance
30 with this chapter.
31 (2) If there is more than one packaging producer responsibility organization, they shall
32 coordinate to submit a single annual report.
33 (3) Every fourth year after a packaging producer program plan is approved by the
34 department, a performance audit of the program shall be completed by the packaging producer

1 responsibility organization. The performance audit shall conform to audit standards established by
2 the United States Government Accountability Office; the National Association of State Auditors,
3 Comptrollers, and Treasurers; or another nationally-recognized organization approved by the
4 department.

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

12 **23-19.19-14. Packaging producer responsibility program account.**

13 The packaging producer responsibility account is established as a separate account in the
14 special revenue fund in the State of Rhode Island treasury.

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

19 (2) Money from the account is appropriated to the department to pay the reasonable costs
20 of the department to administer this chapter.

21 CHAPTER 19.20

22 BEVERAGE CONTAINERS RECYCLING ACT

23 **23-19.20-1. Registration of recycling refund producer responsibility organization.**

24 (a) Appointment of recycling refund producer responsibility organization.

25 (1) By January 1, 2026, the department shall accept applications from recycling refund
26 producer responsibility organizations to represent beverage producers in fulfilling the requirements
27 of this chapter.

28 (2) By April 1, 2026, the department may approve, for a period not to exceed ten (10) years,
29 a single recycling refund producer responsibility organization if the recycling refund producer
30 responsibility organization demonstrates that it:

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

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

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

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

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

6 (b) Registration fee.

7 (1) By November 1, 2026, the recycling refund producer responsibility organization shall
8 submit a one-time payment to the department, in lieu of a registration fee, in an amount determined
9 by the department, to cover the previously incurred costs and future estimated costs of the
10 department under this chapter from the effective date of this chapter through paying the annual
11 registration fee required. By August 1, 2026, the department shall provide written notice to
12 registered packaging producer responsibility organization in writing of the amount of the
13 registration fee.

14 (2) On July 1, 2027, and on each July 1 thereafter, the recycling refund producer
15 responsibility organization shall submit to the department a registration fee, as determined by the
16 department. By May 1, 2027, and on each May 1 thereafter, the department shall provide written
17 notice to the registered recycling refund producer responsibility organization in writing of the
18 amount of the registration fee. The registration fee shall be set at an amount anticipated to in the
19 aggregate to meet but not exceed the department's estimate of the costs required to perform the
20 department's duties and to otherwise administer, implement, and enforce this chapter for the twelve
21 (12) months after the registration date.

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

26 (c) Disposition of fees. All fees received under this section shall be deposited in the state
27 treasury and credited to the recycling refund program account.

28 (d) Approval revocation.

29 (1) The department may revoke the approval of the recycling refund producer
30 responsibility organization if the department determines that the recycling refund producer
31 responsibility organization:

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

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

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

- 1 (i) The department shall set dates to restart the appointment process; and
2 (ii) The previously approved recycling refund producer responsibility organization shall
3 continue operating until the department appoints a new recycling refund producer responsibility
4 organization.

5 **23-19.20-2. Recycling refund producer responsibility organization duties.**

6 (a) A recycling refund producer responsibility organization shall:

- 7 (1) Register with the department and pay the department fees, as required pursuant to § 23-
8 19.20-1;
9 (2) Submit a recycling refund producer plan to the department, as required under this
10 chapter;
11 (3) Implement recycling refund producer plans approved by the department under this
12 section;
13 (4) Establish by September 1, 2026, an initial beverage producer fee structure to fund the
14 initial implementation of the program, to be used until the recycling refund producer responsibility
15 organization has an approved program plan as required under this chapter;
16 (5) Collect fees annually from registered beverage producers;
17 (6) Submit the reports required under this chapter;
18 (7) Ensure that producers operating under a recycling refund program plan administered
19 by the recycling refund producer responsibility organization comply with the requirements of the
20 recycling refund program plan and with this chapter;
21 (8) Expel a beverage producer from the recycling refund producer responsibility
22 organization if efforts to return the beverage producer to compliance with the plan or with the
23 requirements of this chapter are unsuccessful;
24 (9) Notify the department when a producer has been expelled;
25 (10) Consider and respond in writing within ninety (90) days to comments received from
26 the advisory council, including justifications for not incorporating board recommendations;
27 (11) Maintain a website with the information required under § 23-19.20-10;
28 (12) Notify the department within thirty (30) days of a change made to the contact
29 information for a person responsible for implementing the recycling refund program plan, to board
30 membership, or to the executive director;
31 (13) Contract directly with service providers and provide payments in a timely manner;
32 and
33 (14) Comply with all other applicable requirements of this chapter.

34 **23-19.20-3. Recycling refund advisory council.**

1 (a) Establishment.

2 (1) The recycling refund advisory council is established to review all activities conducted
3 by recycling refund producer responsibility organizations under this chapter and to advise the
4 department and recycling refund producer responsibility organizations regarding the
5 implementation of this chapter.

6 (b) Duties.

7 (1) The recycling refund advisory council shall:

8 (i) Convene its initial meeting by June 1, 2026;

9 (ii) Establish when and a process by which it will accept public comments;

10 (iii) Review the recycling refund program plan and provide comments to the recycling
11 refund producer responsibility organization, prior to the draft being issued as an official draft for
12 public comment, to ensure the recycling refund program plan:

13 (A) Aligns with best practices;

14 (B) Reflects the reality in the State of Rhode Island; and

15 (C) Considers the needs of the State of Rhode Island;

16 (iv) Review program reports and audits and raise issues for recycling refund producer
17 responsibility organization follow-up or department enforcement action;

18 (v) Review annual reports and provide comments to the department;

19 (vi) Ensure that the recycling refund producer responsibility organization and department
20 are considering a broad range of perspectives in developing recycling refund program plans and in
21 implementing programs.

22 (c) Membership.

23 (1) By March 1, 2026, the department shall establish and appoint the initial membership of
24 the recycling refund advisory council. The membership of the recycling refund advisory council
25 shall consist of representatives of the following:

26 (i) Two (2) members representing a non-federal or non-state government entity;

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

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

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

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

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

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

1 (viii) One member representing a labor organization; and
2 (ix) Two (2) members representing other interested parties or additional members of
3 interests, as determined by the department;

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

5 (i) May not appoint members who are state legislators;

6 (ii) May not appoint members who are employees of a producer required to be members of
7 a producer responsibility organization in this state; and

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

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

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

16 (d) Quorum. A quorum is reached when:

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

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

19 (e) Voting. Action by an advisory council requires a quorum and a majority of those present
20 and voting. All members of an advisory council, except the member appointed under subsection
21 (c)(1)(ix) of this section, are voting members of the board.

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

25 (g) Department role.

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

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

32 **23-19.20-4. Beverage producer responsibilities.**

33 (a) Duties.

34 (1) After July 1, 2026, a beverage producer shall be a member of a recycling refund

1 producer responsibility organization registered in this state.

2 (2) A beverage producer shall:

3 (i) Register with the recycling refund producer responsibility organization;

4 (ii) Implement the requirements of the recycling refund program plan under which the
5 producer operates;

6 (iii) Pay producer fees pursuant to § 23-19.20-9;

7 (iv) Provide necessary information for covered beverage containers to the recycling refund
8 producer responsibility organization at a frequency to be determined by the recycling refund
9 producer responsibility organization;

10 (v) Register with the recycling refund producer responsibility organization the barcode and
11 Universal Product Code of all covered beverage containers introduced into the state; and

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

13 **23-19.20-5. Beverage container sales restrictions.**

14 Beverage container sales and distribution restrictions. After July 1, 2029, a person may not
15 sell or distribute in or into the state a covered beverage container of a producer that is not
16 participating in the recycling refund producer responsibility organization or that is not in
17 compliance with the requirements of this chapter or rules adopted under this chapter.

18 **23-19.20-6. Recycling refund program department responsibilities.**

19 (a) Department responsibilities.

20 (1) The department shall:

21 (i) Appoint the initial membership of the advisory council, as required;

22 (ii) Provide administrative and operating support to the advisory council;

23 (iii) Review and determine whether to approve recycling refund program plans and
24 amendments to recycling refund program plans;

25 (iv) Post on the department's website:

26 (A) The most recent registration materials submitted by the producer responsibility
27 organizations;

28 (B) A list of registered service providers;

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

31 (D) Comments of the public, advisory council, and recycling refund producer responsibility
32 organization on packaging producer plans and needs assessments, and, if any, the responses of the
33 department to those comments;

34 (E) Links to adopted rules implementing this chapter;

1 (F) Review the selection of independent auditors to perform an annual financial audit of
2 the recycling refund producer responsibility organization; and

3 (G) Conduct enforcement actions as permitted under this chapter.

4 (b) The department may alter the performance targets of § 23-19.20-8 and reporting
5 requirements of this chapter to accommodate a recycling refund producer responsibility
6 organization that is operating regionally with the State of Rhode Island and one or more
7 neighboring states.

8 **23-19.20-7. Recycling refund program plan.**

9 (a) Recycling refund program plan submission and implementation.

10 (1) By September 1, 2027, and every five (5) years thereafter, a recycling refund producer
11 responsibility organization shall submit a recycling refund program plan to the department that
12 describes the proposed operation by the organization of the program to fulfill the requirements of
13 this chapter. Once approved, a recycling refund program plan remains in effect for five (5) years,
14 as amended, or until a subsequent recycling refund program plan is approved.

15 (2) By July 1, 2028, or within six (6) months of plan approval, whichever is later,
16 implement the plan approved by the department; subsequent recycling refund program plans shall
17 be implemented within six (6) months of approval by the department.

18 (b) Advisory council review of draft plan and amendments. A recycling refund producer
19 responsibility organization shall submit a draft recycling refund producer program plan or draft
20 amendment to the recycling refund advisory council prior to submitting the draft plan or draft
21 amendment to the department and shall, prior to submission of the draft plan or draft amendment
22 to the department, respond to recycling refund advisory council comments and recommendations
23 received within sixty (60) days of providing the draft program plan or draft amendment to the
24 recycling refund advisory council and indicate whether those comments or recommendations were
25 accepted or rejected.

26 (c) The recycling refund program plan shall contain the following:

27 (1) A list of the types of covered beverage containers that will be included in the recycling
28 refund program, which at a minimum shall include all beverage containers that are:

29 (i) Glass bottles, rigid plastic bottles, or metal cans; and

30 (ii) Have a capacity between forty milliliters (40 ml) and one gallon;

31 (2) Proposed reuse rate performance targets with deadlines;

32 (3) How the recycling refund producer responsibility organization will meet performance
33 targets for redemption rates, as described in this chapter and the proposed reuse rate performance
34 targets in § 23-19.20-8;

1 (4) How the performance targets will be measured;
2 (5) How the recycling refund producer responsibility organization will encourage
3 improvements in the design of beverage containers for recyclability;
4 (6) How the proposed network of redemption sites:
5 (i) Satisfies the convenience standards set in this chapter and addresses the evaluation
6 criteria established in this legislation; and
7 (ii) Provides sufficient opportunity for consumers of limited economic means to get their
8 applicable refund value immediately upon redemption;
9 (7) How deposits collected from consumers will be remitted to the recycling refund
10 producer responsibility organization;
11 (8) What incentives the recycling refund producer responsibility organization will provide
12 to retail establishments so that they choose to host covered beverage container collection
13 mechanisms;
14 (i) How the program will conduct outreach and provide convenient redemption:
15 (A) Throughout the state;
16 (B) In rural, urban, and environmental justice areas; and
17 (C) To those that redeem relatively large amounts of covered beverage containers;
18 (9) How beverage containers will be marked or consumers otherwise made aware of the
19 beverage containers eligible for the applicable refund value;
20 (10) A description of how the recycling refund producer responsibility organization will
21 educate the public on the recycling refund program and the availability of redemption sites,
22 including culturally responsive materials and methods to evaluate the efficacy of these efforts;
23 (11) A description of the producer fee structure established pursuant to § 23-19.20-9 and
24 how those fees will be used to support the proposed network of redemption sites and other costs of
25 administrating the recycling refund producer responsibility organization and the recycling refund
26 program plan;
27 (12) An explanation of how the recycling refund producer responsibility organization will
28 coordinate with Rhode Island resource recovery corporation on implementation; and
29 (13) Any other reasonable information requested by the department.
30 (d) Review and approval procedure.
31 (1) The department shall review and approve, deny, or request additional information for
32 draft recycling refund program plans and draft plan amendments no later than one hundred twenty
33 (120) days after the date the department receives it from a packaging producer responsibility
34 organization or recycling refund producer responsibility organization. The department shall post a

1 draft plan or draft amendment on the department's website and allow public comment for no less
2 than forty-five (45) days before approving, denying, or requesting additional information on a draft
3 plan or draft amendment.

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

- 6 (i) Feasibility;
- 7 (ii) Advisory council feedback;
- 8 (iii) Cost;
- 9 (iv) Goals and plans in the Rhode Island solid waste management plan;
- 10 (v) Increasing reuse;
- 11 (vi) Adequacy of consumer-facing communications, including so consumers know which
12 beverage containers are in the recycling refund system and their refund value; and
- 13 (vii) Reducing unnecessary use of materials.

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

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

27 **23-19.20-8. Recycling refund performance targets.**

28 (a) Redemption rate performance targets. The recycling refund producer responsibility
29 organization shall achieve the following performance targets:

30 (1) Starting with calendar year 2031, and each year thereafter, the annual redemption rate
31 aggregated for all covered beverage containers shall be greater than sixty-five percent (65%).

32 (2) Starting with calendar year 2034, and each year thereafter, the annual redemption rate
33 aggregated for all covered beverage containers shall be greater than eight-five percent (85%).

34 (b) Reuse rate performance targets.

1 (1) The recycling refund producer responsibility organization shall achieve the reuse rate
2 performance target in the approved recycling refund program plan.

3 (2) The reuse rate performance targets in the program plan shall increase with each
4 subsequent program plan.

5 **23-19.20-9. Recycling refund producer fees.**

6 (a) Recycling refund producer responsibility organization annual fee.

7 (1) Costs to pay the registration fee required in this chapter and to meet the performance
8 targets in § 23-19.20-8 and convenience standards in § 23-19.20-12 that exceed the amount retained
9 through scrap value and unclaimed deposits are to be paid by beverage producers as a material-
10 specific fee that is:

11 (i) Based on the cost to manage the material minus its scrap value, among other factors;

12 (ii) Modulated based on factors to reduce environmental impact, which may include:

13 (A) Use of domestically sourced, verified postconsumer recycled content;

14 (B) Compliance with industry-accepted design for recyclability standards;

15 (C) Use of labeling to encourage appropriate recycling behaviors; and

16 (D) Use of design factors that inhibit recyclability.

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

19 (b) Overcollections. Revenue collected under this section that exceeds the amount needed
20 to pay the costs described in subsection (a)(1) of this section, shall be used to improve or enhance
21 program outcomes.

22 (c) Prohibited conduct. Fees collected under this section may not be used for lobbying.

23 **23-19.20-10. Recycling refund website requirements.**

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

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

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

30 (2) The draft and approved recycling refund program plans and any draft and approved
31 amendments;

32 (3) Annual reports submitted to the department;

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

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

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

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

5 (8) Education materials on how to redeem covered beverage containers and the importance
6 of recycling covered beverage containers; and

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

9 **23-19.20-11. Applicable refund value.**

10 (a) Applicable refund value.

11 (1) Every covered beverage container sold or offered for sale in the state shall have a refund
12 value of ten cents (\$0.10) beginning July 1, 2029.

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

17 (i) Once during any ten (10) year period in consultation with the recycling refund producer
18 responsibility organization; and

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

21 (3) For covered beverage containers sold at retail, the retail establishment shall collect the
22 refund value and remit it to the recycling refund producer responsibility organization.

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

25 (b) Nonredeemable materials.

26 (1) Excluding the material recovery facility and drop-off facility payments in this section,
27 the recycling refund producer responsibility organization is not required to pay refunds on:

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

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

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

34 (iv) A beverage container for which the recycling refund producer responsibility

1 organization has reasonable grounds to believe a refund has already been given.

2 **23-19.20-12. Convenience standard for redemption of beverage containers.**

3 (a) Criteria for establishing a convenience standard. The recycling refund producer
4 responsibility organization shall propose a quantitative convenience standard for redemption of
5 containers in the recycling refund program plan that is based on the following:

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

8 (2) Ensures consumers who require refunds immediately have sufficient opportunity to
9 receive refunds immediately;

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

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

14 (b) Department evaluation of convenience standard and redemption system.

15 (1) The department shall evaluate the proposed convenience standard based on the
16 following criteria:

17 (i) Proximity to businesses that sell a high volume of covered beverages containers;

18 (ii) Additional vehicle miles traveled;

19 (iii) Car and public transportation access;

20 (iv) Population density;

21 (v) Environmental justice areas;

22 (vi) Average family income; and

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

25 (2) At least once per year, the department may audit the redemption system to determine
26 whether the recycling refund producer responsibility organization is meeting the convenience
27 standard in an approved recycling refund program plan and the redemption system requirements in
28 this chapter, and the department shall conduct such an audit at least every five (5) years.

29 (c) Failure to meet convenience standards. In the event that the recycling refund producer
30 responsibility organization does not meet the convenience standards in an approved program plan
31 for two (2) calendar years in a row, the department may initiate rulemaking to support the recycling
32 refund producer responsibility organization's program plan amendment to achieve the convenience
33 standards in this chapter.

34 **23-19.20-13. Redemption system.**

1 (a) Network for collecting qualifying covered beverage containers.

2 (1) The recycling refund producer responsibility organization shall, at its own cost, install,
3 operate, and maintain a network of covered beverage container collection mechanisms for
4 consumers to redeem covered beverage containers for the applicable refund value that satisfies:

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

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

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

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

13 (1) In each municipality with a population density less than one thousand (1,000) residents
14 per square mile, have:

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

16 (ii) At least one redemption site within one mile of a retail establishment greater than ten
17 thousand square feet (10,000 ft²) that is within three (3) miles of the municipality's borders.

18 (2) In each municipality with a population density more than one thousand (1,000)
19 residents per square mile, have at least two (2) redemption sites;

20 (3) In each municipality with greater than twenty-five thousand (25,000) residents but
21 fewer than seventy-five thousand (75,000) residents, at least one redemption site in each zip code
22 tabulation area.

23 (d) The recycling refund producer responsibility organization may establish and dissolve
24 partnerships with any organization or individual to enhance redemption network operations and
25 better serve consumers.

26 (e) Redemption site requirements.

27 (1) All redemption sites in the recycling refund producer responsibility organization's
28 redemption network shall:

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

30 (ii) Be accessible to persons with disabilities, including those related to mobility, hearing,
31 and sight;

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

33 (iv) Appear on the recycling refund producer responsibility organization's website under §
34 23-19.20-10;

1 (v) Accept for redemption all covered beverage containers;
2 (vi) Handle reusable containers in a manner that allows for their reuse;
3 (vii) Accept covered beverage containers for redemption for at least eight (8) hours on all
4 weekdays and one weekend day, except on federal holidays;
5 (viii) Post the hours of operation at a place that is clearly visible from outside; and
6 (ix) Provide year-round access during open hours free of charge.
7 (2) The department may approve a limited number of redemption sites to not comply with
8 all the requirements in subsection (a) of this section to reduce costs or expand the number of
9 redemption sites.
10 (f) Compensation and incentives for hosting redemption. The recycling refund producer
11 responsibility organization shall fairly compensate all locations hosting redemption sites for the
12 space occupied by the covered beverage container collection mechanisms.
13 (g) Retailer optionality.
14 (1) A retail establishment has no obligation under this chapter to host a covered beverage
15 container collection mechanism.
16 (2) A retail establishment that chooses to host a redemption site is eligible to have a self-
17 serve kiosk, located at the retail establishment at no charge by the recycling refund producer
18 responsibility organization, to facilitate the printing of redemption vouchers, and pay the value of
19 redemption vouchers to consumers that can be used on the premises. The recycling refund producer
20 responsibility organization shall reimburse retailers for the value of valid vouchers redeemed by
21 customers.
22 (h) Standard bags for bag drop.
23 (1) A retail establishment larger than twenty thousand square feet (20,000 ft²) shall sell
24 bags for the redemption program at the price established by the recycling refund producer
25 responsibility organization.
26 (2) If the standard bags for the bag-drop program are made of plastic film, the recycling
27 refund producer organization shall:
28 (i) Ensure that the bags have a minimum of fifty percent (50%) postconsumer recycled
29 content;
30 (ii) Demonstrate, upon request of the department, that the waste film from the bags is being
31 recycled at responsible end markets; and
32 (iii) Include instructions on the bag how the bag should be utilized and recycled through a
33 drop-off program.
34 (3) The recycling refund producer organization shall credit the cost of any required bag

1 purchase back to the customer when the bag is returned and processed through the deposit return
2 system.

3 **23-19.20-14. Use of unredeemed deposits.**

4 Any unredeemed deposits are to only be spent by the recycling refund producer
5 organization and only on any of the following purposes:

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

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

8 (3) Other activities that are described in the recycling refund program plan that directly
9 contribute to achieving the performance requirements described in § 23-19.20-17 and other
10 provisions of this chapter.

11 **23-19.20-15. Refund value to drop-off facilities and material recovery facilities.**

12 (a) Information required.

13 (1) Starting after the first full month that covered beverage containers are sold with the
14 applicable refund value and ending once the packaging program begins, the recycling refund
15 producer organization shall make a monthly payment directly to each material recovery facility and
16 drop-off facility based on data submitted by each material recovery facility drop-off facility.

17 (2) The recycling refund producer responsibility organization shall establish a quality
18 standard for each material.

19 (3) On a monthly basis, the operator of a material recovery facility and drop-off facility
20 shall submit the following information to the recycling refund producer responsibility organization:

21 (i) The number of tons of covered beverage containers the facility received for processing
22 in the previous month by material; and

23 (ii) The number of tons of covered beverage containers the facility transferred to additional
24 materials processing or end markets in the previous month by material;

25 (4) The recycling refund producer organization shall convert the material tons to unit
26 equivalent using a methodology that is published on its website and developed in consultation with
27 material recovery facilities.

28 (5) The recycling refund producer organization shall pay each material recovery facility
29 and drop-off facility at least fifty percent (50%) of the refund value for each covered beverage
30 container that the material recovery facility transferred to additional materials processing or end
31 markets and that meets the quality standard required by this section.

32 (6) Material recovery facilities shall share the payments with their customers consistent
33 with their supply agreements so that communities and generators receive the appropriate amount
34 of the refund values paid to material recovery facilities and drop-off facilities.

1 (7) The operators of material recovery facilities and drop-off facilities shall use an industry-
2 standard scale to measure the weight of all covered beverage container materials that enter the
3 facility.

4 (8) The recycling refund producer responsibility organization may conduct quarterly audits
5 on the quality and quantity of the material recovery facilities' and drop-off facilities' material upon
6 request by the organization and at the organization's expense.

7 (9) The recycling refund producer responsibility organization may choose to partner with
8 a material recovery facility or drop-off facility to provide space and install the necessary equipment
9 to co-locate a recycling refund processing facility in the same vicinity.

10 (10) Monthly payments to the material recovery facilities and drop-off facilities shall end
11 six (6) months after the packaging producer program plan begins to be implemented.

12 **23-19.20-16. Recycling refund program reporting.**

13 (a) Recycling refund producer responsibility organization annual report.

14 (1) By June 1, 2031, and on each June 1 thereafter, the recycling refund producer
15 responsibility organization shall submit a report to the department that contains, at a minimum, the
16 following information for the previous calendar year:

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

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

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

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

24 (v) An analysis of whether the recycling refund producer responsibility organization is on
25 track to reach the redemption rate performance targets specified in this chapter and the reuse rate
26 performance targets specified in the recycling refund program plan, and what the recycling refund
27 producer responsibility organization is doing to achieve the performance targets by the relevant
28 deadlines;

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

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

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

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

34 (x) A description of public awareness, education, and outreach activities undertaken by the

1 recycling refund producer responsibility organization, including analyses of their efficacy.

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

8 (b) Audits. All data reported by a recycling refund producer responsibility organization
9 under this section shall, at the request of the department no more than once annually, be audited by
10 an independent third party. A recycling refund producer responsibility organization is responsible
11 for all costs associated with the data audit. Auditable data shall only include data held by a recycling
12 refund producer responsibility organization. Auditing of any data inputs to the recycling refund
13 producer responsibility organization is the responsibility of the recycling refund producer
14 responsibility organization.

15 (c) Action following unmet redemption rate performance target or convenience standard.
16 A recycling refund producer responsibility organization that fails to meet a redemption rate
17 performance target or convenience standard required under this chapter or approved in a recycling
18 refund program plan shall, within ninety (90) days of filing an annual report under this section, file
19 with the department an explanation of the factors contributing to the failure and propose an
20 amendment to the recycling refund program plan specifying changes, including in its operations
21 that the recycling refund producer responsibility organization will make that are designed to
22 achieve the redemption rate performance targets and convenience standard.

23 (d) Department report. By October 15, 2032, and every two (2) years thereafter, the
24 department shall submit a report to the governor and to the chairs and ranking minority members
25 of the legislative committees with jurisdiction over solid waste. The report shall contain:

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

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

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

30 (4) An analysis of the impacts of exempting certain materials from the definition of covered
31 materials and of exempting certain persons from the definition of producer;

32 (5) A list of efforts undertaken by the department to enforce and secure compliance with
33 this act; and

34 (6) Any other information the department deems to be relevant.

1 **23-19.20-17. Recycling refund program account.**

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

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

10 CHAPTER 19.21

11 GENERAL PROVISIONS

12 **23-19.21-1. Single producer responsibility organization.**

13 Option for single producer responsibility organization.

14 (1) The department may appoint the same organization to be the packaging producer
15 responsibility organization and the recycling refund producer responsibility organization.

16 (2) If the department appoints the same organization under subsection (a)(1) of this section,
17 then that organization shall:

18 (i) Comply with all the responsibilities under this chapter of the packaging producer
19 responsibility organization and the recycling refund producer responsibility organization; and

20 (ii) Institute governance to separately implement the packaging producer program plan and
21 the recycling refund program plan in a coordinated manner.

22 **23-19.21-2. Coordination plan.**

23 Coordination plan.

24 (1) If the same organization is not appointed as the packaging producer responsibility
25 organization and the recycling refund producer responsibility organization according to the
26 provisions of chapters 19.19 or 19.20 of title 23, then by January 1, 2029, the packaging producer
27 responsibility organization and the recycling refund producer responsibility organization shall
28 create a coordination plan to ensure that their respective programs are complementary, operate
29 efficiently, and meet all targets.

30 (2) The coordination plan shall:

31 (i) Ensure consistent education and outreach messaging to consumers;

32 (ii) Ensure that a reciprocal compensation mechanism exists so that the recycling refund
33 producer responsibility organization pays the packaging producer responsibility organization for
34 covered beverage containers in material recovery facilities, and the packaging producer

1 responsibility organization pays the recycling refund producer responsibility organization for
2 secondary packaging in the recycling refund system;

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

5 (iv) Evaluate opportunities to coordinate identification of, and efficient access to,
6 processing infrastructure and markets; and

7 (v) Identify actions to jointly optimize infrastructure for reuse and refill programs.

8 **23-19.21-3. General department responsibilities.**

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

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

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

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

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

16 (b) In setting the annual fee for each producer responsibility organization, the department
17 shall develop and implement a process to allocate costs to each producer responsibility organization
18 proportional to the costs associated with that producer responsibility organization, including costs
19 for future needs assessments.

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

24 (d) Department report. By October 15, 2034, and every two (2) years thereafter, the
25 department shall submit a report to the governor and to the chairs and ranking minority members
26 of the legislative committees with jurisdiction over solid waste. The report shall contain:

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

29 (2) A summary of the needs assessment;

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

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

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

34 (6) A list of efforts undertaken by the department to enforce and secure compliance with

1 this chapter; and

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

3 **23-19.21-4. Service providers.**

4 (a) Contracting requirements. A packaging producer responsibility organization or a
5 recycling refund producer responsibility organization shall require in any contract with a service
6 provider that the service provider:

7 (1) Meets performance standards established in an approved packaging producer program
8 plan and the recycling refund program plan;

9 (2) Ensures that covered materials are sent to responsible markets; and

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

13 (b) Bidding processes and ownership ability. For infrastructure investments included in an
14 approved packaging producer program plan or recycling refund program plan, a packaging
15 producer responsibility organization or a recycling refund producer responsibility organization
16 shall use the competitive bidding processes and publicly post bid opportunities, except that
17 preference shall be given to existing facilities, providers of services, and holders of service accounts
18 in the State of Rhode Island for source reduction, reuse, collection, recycling, and composting of
19 covered materials.

20 (c) No packaging producer responsibility organization or recycling refund producer
21 responsibility organization may own or partially own infrastructure that is used to fulfill obligations
22 under this chapter, except in the following circumstances:

23 (1) A producer may hold an ownership stake in infrastructure used to fulfill obligations
24 under this chapter so long as the stake was held before enactment of this chapter and the ownership
25 stake is fully disclosed by the producer to the packaging producer responsibility organization; or

26 (2) After a bidding process described in subsection (a) of this section under which no
27 service provider bids on the contract, the packaging producer responsibility organization or the
28 recycling refund producer responsibility organization may make infrastructure investments
29 identified under an approved packaging producer program plan or recycling refund program plan
30 to implement the requirements in this chapter.

31 (d) Contracting rates. The packaging producer responsibility organization and recycling
32 refund producer responsibility organization shall directly contract to pay one hundred percent
33 (100%) of covered services for covered materials, exclusive of exempt materials. The methodology
34 for contract rates shall consider estimated revenue received by service providers from the sale of

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

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

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

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

9 (ii) Population density;

10 (iii) Collections methods employed;

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

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

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

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

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

19 (3) The cost to:

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

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

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

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

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

34 (g) Contract rates may be calculated per ton, by household, or by another unit of

1 measurement under an approved packaging producer program plan or recycling refund program
2 plan.

3 (h) Registration. By January 1, 2027, and annually thereafter, a service provider seeking
4 reimbursement for covered services provided under an approved program plan shall register with
5 the department by submitting the following information:

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

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

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

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

14 **23-19.21-5. Drop-off and material recovery facilities.**

15 Materials recovery facilities and drop-off facilities. By April 1, 2030, and each year
16 thereafter, each material recovery facility and drop-off facility that receives covered materials are
17 to report annually to the packaging producer responsibility organization, the recycling refund
18 producer responsibility organization, and the department, including the following information:

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

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

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

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

25 **23-19.21-6. Enforcement.**

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

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

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

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

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

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

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

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

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

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

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

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

34 (h) Penalties levied under this section shall be deposited in the recycling refund program

1 [account or packaging producer responsibility program account.](#)

2 **23-19.21-7. Anti-competitive conduct.**

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

9 **23-19.21-8. Rulemaking.**

10 [The department may adopt rules to implement this chapter.](#)

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

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LC002622
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY

1 This act would create multiple chapters to provide and establish a comprehensive program
2 for extended producer responsibility for packaging and paper, and for recycling of beverage
3 containers. This act would also provide general provisions for oversight of single-producer
4 organizations. This act would also establish the department of environmental management as the
5 lead department in overseeing, implementing, and enforcing the provisions of this act.

6 This act would take effect upon passage.

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