

House Bill 1237

By: Representatives Bell of the 75th, Tran of the 80th, Davis of the 87th, Carter of the 93rd, Bazemore of the 69th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to waste
2 management, so as to enact the "Pollution Prevention and Producer Responsibility Act of
3 2026"; to provide for definitions; to provide for the creation of a Producer Responsibility
4 Advisory Board; to provide for its composition, duties, terms of office, and operations; to
5 provide for needs assessment studies; to provide for the contents and scope of such studies;
6 to provide for the registration of producers of certain packaging and containers; to provide
7 for producer responsibility programs; to provide for the scope and operation of such
8 programs; to provide for the review and rejection or approval of such programs; to provide
9 for certain fees; to provide for beverage container deposit return systems; to provide for the
10 scope and operation of such systems; to provide for performance standards; to provide for
11 reporting requirements; to provide for coordination plans; to provide for certain
12 certifications; to provide for alternative collection programs; to provide for the development
13 and publication and distribution of recyclable covered materials lists and approved recycling
14 processes; to provide for the development and publication and distribution of compostable
15 covered materials lists; to provide for a reuse financial assistance program; to provide for the
16 reduction of toxins in covered materials; to provide for certain reports; to provide for
17 enforcement; to provide for rule making; to provide for related matters; to repeal conflicting
18 laws; and for other purposes.

H. B. 1237

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 SECTION 1.

21 Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to waste
22 management, is amended by revising Article 4, which was previously reserved, as follows:

23 "ARTICLE 4

24 12-8-110.

25 This article shall be known and may be cited as the 'Pollution Prevention and Producer
26 Responsibility Act of 2026.' ~~Reserved.~~

27 12-8-110.1.

28 As used in this article, the term:

29 (1) 'Advisory board' means the Producer Responsibility Advisory Board established
30 under Code Section 12-8-110.2.

31 (2) 'Applicable refund value' means the value established under Code
32 Section 12-8-110.6.

33 (3) 'Beverage' means a drinkable liquid intended for human oral consumption. Such term
34 does not include:

35 (A) A drug regulated under the federal Food, Drug, and Cosmetic Act, 21 U.S.C.
36 Section 301, et seq.;

37 (B) One hundred percent fluid milk;

38 (C) Infant formula; or

39 (D) A meal replacement liquid.

40 (4) 'Beverage container' means a prepackaged container that:

41 (A) Is designed to hold a beverage;

42 (B) Is made of any material, including glass, plastic, metal, paper, or a combination
43 thereof; and

44 (C) Has a volume which is not less than 50 milliliters, nor greater than three liters.

45 (5) 'Beverage Producer Responsibility Organization' or 'beverage PRO' means a producer
46 responsibility organization that is designated by a producer of beverage containers or
47 group of producers of beverage containers to carry out the activities required of beverage
48 producers by this article.

49 (6) 'Brand' means a name, symbol, word, or mark that identifies a product and attributes
50 the product and its components, including packaging, to the brand owner.

51 (7) 'Brand owner' means a person or entity that owns or licenses a brand or that otherwise
52 has rights to market a product under the brand, whether or not the brand's trademark is
53 registered.

54 (8) 'Compostable' means that the covered materials meet the requirements of Code
55 Section 12-8-110.13 and meet, and are labeled to reflect they meet, the criteria according
56 to the Federal Trade Commission's Guides for Use of Environmental Marketing Claims
57 at 16 C.F.R. Section 260.7 (Compostable Claims) and either:

58 (A) Meet, and are labeled to reflect that they meet:

59 (i) The American Society for Testing and Materials Standard Specification for
60 Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial
61 Facilities (D6400) or its successor; and

62 (ii) The American Society for Testing and Materials Standard Specification for
63 Labeling of End Items that Incorporate Plastics and Polymers as Coatings or
64 Additives with Paper and Other Substrates Designed to be Aerobically Composted in
65 Municipal or Industrial Facilities (D6868) or its successor; or

66 (B) Comprise only:

67 (i) Wood without any coatings or additives; or

68 (ii) Paper without any coatings or additives.

69 (9) 'Composting,' 'compost,' or 'composted' means the controlled aerobic, biological
70 decomposition of biodegradable materials or organic waste to yield a humus-like product.

71 (10) 'Composting facility' means a facility that receives and composts materials into a
72 humus-like product.

73 (11) 'Composting rate' means the amount of covered material by type that is composted,
74 divided by the total amount of that covered material type sold, offered for sale, or
75 distributed in the state.

76 (12) 'Convenience standards' means:

77 (A) That collection, recycling, and composting services for packaging or paper
78 products provided under a producer responsibility plan are:

79 (i) At a minimum, as convenient as trash collection; and

80 (ii) Not a reduced level of convenience or service quality that was provided to the
81 covered entity before the producer responsibility plan was implemented; or

82 (B) That beverage container redemption modalities meet or exceed the convenience
83 standards described in paragraph (2) of subsection (e) of Code Section 12-8-110.6.

84 (13) 'Covered entity' means the following locations in this state:

85 (A) Single-family and multi-family residences; and

86 (B) Nonresidential locations identified in the needs assessment under Code
87 Section 12-8-110.3, including public places, small businesses, food service locations,
88 schools, hospitality locations, and state and local government buildings.

89 (14) 'Covered material' means packaging, paper products, and beverage containers sold,
90 offered for sale, or distributed in the state. Such term does not include:

91 (A) Materials intended to be used for the long-term storage or protection of a durable
92 product that is intended to transport, protect, or store the durable product on an ongoing
93 basis, and that can be expected to be usable for that purpose for a period of at least five
94 years; or

95 (B) Materials used to package pesticide products regulated by the Federal Insecticide,
96 Fungicide, and Rodenticide Act, 7 U.S.C. Section 136, et seq., that are in direct contact
97 with the regulated product.

98 (15) 'Department' means the Department of Natural Resources.

99 (16) 'End of life services' means:

100 (A) Reuse, collection, recycling, and composting services for packaging and paper
101 products; and

102 (B) Reuse, collection, recycling, and redemption services for beverage containers.

103 (17) 'End of life service costs' means the costs to conduct end of life services, including
104 the cost of:

105 (A) Administration of relevant end of life service programs;

106 (B) Collecting and processing covered materials, removing and handling contaminants
107 from covered materials at processing facilities, including, but not limited to, redemption
108 facilities, composting facilities, and material recovery facilities, and preparing materials
109 for responsible end markets;

110 (C) Transporting covered materials to processing facilities, including, but not limited
111 to, redemption facilities, composting facilities, and material recovery facilities;

112 (D) Transporting contaminants for management or disposal;

113 (E) Capital improvements to processing facilities, including, but not limited to,
114 redemption facilities, composting facilities, and material recovery facilities; and

115 (F) Education and outreach materials and activities.

116 (18) 'Environmental justice area' means a Tribal area or census tract that, based on the
117 most recent data published by the United States Census Bureau, meets one or more of the
118 following criteria:

119 (A) Forty percent or more of the area's total population is nonwhite;

120 (B) Thirty-five percent or more of households in the area have an income that is at or
121 below 200 percent of the federal poverty level;

122 (C) Forty percent or more of the population over the age of five has limited English
123 proficiency; or

124 (D) The area is located in Indian Country, as defined in 18 U.S.C. Section 1151.

125 (19) 'Household' means occupants of a single detached dwelling unit or occupants of a
126 single dwelling unit in a multifamily housing development located in this state.

127 (20) 'Living wage' means the minimum income necessary to allow a person working 40
128 hours per week to afford food, housing, transportation, childcare, taxes, and other basic
129 needs as estimated by the state.

130 (21) 'Material recovery facility' means a facility that receives, separates, and sells or
131 otherwise distributes postconsumer materials for recycling to responsible end markets.

132 (22) 'Multifamily housing development' means a structure that contains more than one
133 separate residential dwelling units and that is used or occupied, or intended to be used or
134 occupied, in whole or in part, as the home or residence of one or more persons.

135 (23) 'Packaging' means:

136 (A) A material used as:

137 (i) Primary packaging intended to provide an individual serving or unit of a product;

138 (ii) Secondary packaging intended to sell in bulk or display the product; or

139 (iii) Tertiary packaging intended to protect the product during transport.

140 (B) Packaging includes material that is:

141 (i) Used to protect, contain, transport, or serve an item;

142 (ii) Sold or supplied to consumers expressly for the purpose of protecting, containing,
143 transporting, or serving items;

144 (iii) Attached to an item or its container for the purpose of marketing or
145 communicating information about the item;

146 (iv) Supplied at the point of sale to facilitate the delivery of the item; or

147 (v) Supplied to or purchased by consumers expressly for the purpose of facilitating
148 food or beverage consumption that is ordinarily discarded by consumers after a
149 single-use or short-term use, whether or not it could be reused.

150 (24) 'Packaging Producer Responsibility Organization' or 'packaging PRO' means a PRO
151 that is designated by a packaging or paper producer or group of packaging or paper
152 producers to carry out the activities required of packaging and paper producers by this
153 article. A single packaging PRO can include both packaging and paper producers.

154 (25) 'Paper product' means paper sold, offered for sale, or distributed, including, but not
155 limited to, flyers, brochures, booklets, catalogues, magazines, copy paper, printing paper,
156 unsolicited mail, and all other paper materials except for:

157 (A) Bound books;

158 (B) Conservation grade and archival grade paper;

159 (C) Paper designed for use in building construction; and

160 (D) Paper products that, by any common and foreseeable use, could reasonably be
161 anticipated to become unsafe or unsanitary to handle.

162 (26) 'Plastic' means a synthetic or semisynthetic material chemically synthesized by the
163 polymerization of organic substances that can be shaped into various rigid and flexible
164 forms and includes coatings and adhesives. Such term does not include natural rubber
165 or naturally occurring polymers such as proteins or starches. Such term includes, and is
166 not limited to:

167 (A) Polyethylene terephthalate (PET);

168 (B) High-density polyethylene (HDPE);

169 (C) Polyvinyl chloride (PVC);

170 (D) Low-density polyethylene (LDPE);

171 (E) Polypropylene (PP);

172 (F) Polycarbonate (PC);

173 (G) Polystyrene (PS);

174 (H) Polylactic acid (PLA); and

175 (I) Aliphatic biopolyesters, such as polyhydroxyalkanoate (PHA) and
176 polyhydroxybutyrate (PHB).

177 (27) 'Postconsumer material' means material generated by households or by commercial
178 and institutional facilities in their role as end users of the product which has been used
179 for its intended purpose and discarded. This includes returns of material from the
180 distribution chain.

181 (28) 'Postconsumer recycled content' means the proportion of a covered material
182 composed of postconsumer material, expressed as a percentage of the total weight of the
183 covered material. Postconsumer recycled content shall be third-party certified when
184 third-party certification is available for the material type and approved by the department
185 under Code Section 12-8-110.10.

186 (29) 'Processing' means to sort, segregate, break or flake, and clean covered material to
187 prepare it to meet the specification for sale to a responsible end market.

188 (30) 'Producer' means the following person or entity responsible for compliance with the
189 requirements of this article for covered materials sold, offered for sale, or distributed in
190 this state:

191 (A) For packaging:

192 (i) For items sold, offered for sale, or distributed in or with packaging at a physical
193 retail location in this state:

194 (I) If the item is sold, offered for sale, or distributed in or with packaging under the
195 manufacturer's own brand or is sold, offered for sale, or distributed in or with
196 packaging that lack identification of a brand, the producer is the person or entity that
197 manufactures the packaged item;

198 (II) If there is no person or entity to which subdivision (I) of this division applies,
199 the producer is the person or entity that is licensed to sell, offer for sale, or distribute
200 to consumers in this state an item in or with packaging under the brand or trademark

201 used in a commercial enterprise, sold, offered for sale, or distributed in or into this
202 state, whether or not the trademark is registered in this state;
203 (III) If there is no person or entity to which subdivision (I) or (II) of this division
204 applies, the producer is the brand owner of the item;
205 (IV) If there is no person or entity described in subdivisions (I) through (III) of this
206 division located in the United States, the producer is the person or entity that is the
207 importer of record for the item into the United States for use in a commercial
208 enterprise that sells, offers for sale, or distributes the item in this state; or
209 (V) If there is no person or entity described in subdivisions (I) through (IV) of this
210 division, the producer is the person that first distributes the item in or into this state;
211 (ii) For items sold, offered for sale, or distributed in or with packaging in this state
212 via e-commerce, remote sale, or distribution:
213 (I) For packaging used to directly protect or to indirectly contain the item, the
214 producer is the person or entity identified in division (i) of this subparagraph; and
215 (II) For packaging used to ship the item or a group of items to a consumer, the
216 producer is the person or entity that packages and ships the product or group of
217 products to the consumer; and
218 (B) For beverage containers:
219 (i) The producer is the brand owner responsible for the brand visible on the beverage
220 container that is introduced, either physically or via e-commerce or remote sales, in
221 this state;
222 (ii) If there is no person or entity described in division (i) of this subparagraph
223 located in the United States, the producer is the person or entity who is the importer
224 of record for the beverage container into the United States for use in a commercial
225 enterprise that sells, offers for sale, or distributes the item in this state; or

226 (iii) If there is no person or entity described in division (i) or (ii) of this subparagraph,
227 the producer is the person that first distributes the beverage container in or into this
228 state;

229 (C) For all other packaging or beverage containers, the producer of the packaging is
230 the person or entity that first distributes the item in this state;

231 (D) For paper products that are magazines, catalogues, telephone directories, or similar
232 publications, the producer is the publisher;

233 (E) For paper products not described in subparagraph (D) of this paragraph, the
234 producer is:

235 (i) The person or entity that manufactures the paper product under the manufacturer's
236 own brand;

237 (ii) If there is no person or entity described in division (i) of this subparagraph, the
238 producer is the person or entity that is the owner or licensee of a brand or trademark
239 under which the paper product is used in a commercial enterprise, sold, offered for
240 sale, or distributed in this state, whether or not the trademark is registered in this state;

241 (iii) If there is no person or entity described in division (i) or (ii) of this subparagraph,
242 the producer is the brand owner of the paper product;

243 (iv) If there is no person or entity described in division (i), (ii), or (iii) of this
244 subparagraph located in the United States, the producer is the person or entity that
245 imports the paper product into the United States for use in a commercial enterprise
246 that sells, offers for sale, or distributes the item in this state;

247 (F) If the producer defined in subparagraphs (A) through (E) of this paragraph is a
248 business operated wholly or in part as a franchise, the producer is the franchisor, if that
249 franchisor has franchisees that have a commercial presence within this state; and

250 (G) The term 'producer' does not include a person or entity that:

251 (i) Annually sells, offers for sale, distributes, or imports into this state less than one
252 ton of covered products; and

253 (ii) Has a global gross revenue of less than \$2 million for the person or entity's most
254 recent fiscal year.

255 (31) 'Producer Responsibility Organization' or 'PRO' means a nonprofit organization that
256 qualifies for a tax exemption under Section 501(c)(3) of the Federal Internal Revenue
257 Code of 1986 and is designated by a producer or group of producers to carry out the
258 activities required of producers by this article. A PRO may form to carry out the
259 responsibilities of beverage producer responsibility organizations or packaging producer
260 responsibility organizations, or both.

261 (32) 'Producer responsibility plan' means a document describing the activities of a PRO
262 to carry out the responsibilities of the PRO and producers under this article.

263 (33) 'Program year' means January 1 through December 31 of a calendar year.

264 (34) 'Public service provider' means a political subdivision that provides or that contracts
265 or otherwise arranges with another party to provide end of life services for covered
266 materials within its jurisdiction.

267 (35) 'Recyclable' means that the covered materials meet the requirements of Code
268 Section 12-8-110.12 and can be sorted by entities that process recyclable materials
269 generated in this state and have a consistently available responsible end market so that
270 entities processing recycled feedstock are willing to purchase or otherwise arrange to
271 accept that type of materials for use in the development of a new product.

272 (36)(A) 'Recycling' or 'recycle' means the act of collecting and processing materials
273 and returning them to, or maintaining them within, the economic mainstream in the
274 form of recovered material for new, reused, or reconstituted products which meet the
275 quality standards necessary to be used in the marketplace.

276 (B) To be considered recycling, the process shall meet all of the following, as
277 determined by the department:

278 (i) Results in postconsumer recycled content material for new packaging or product
279 applications, as certified by a third party approved by the department;

- 280 (ii) Does not include combustion, fuel production, or other forms of energy recovery
281 of covered materials in processing or disposal;
282 (iii) Displaces the use of virgin materials;
283 (iv) Complies with all established federal and state laws and regulations governing
284 greenhouse gas emissions and air and water quality standards; and
285 (v) Sends covered materials to a responsible end market.

286 (C) Recycling does not include:

- 287 (i) Combustion;
288 (ii) Fuel production;
289 (iii) Other forms of energy recovery; or
290 (iv) Disposal or disposition within the footprint of a landfill.

291 (37) 'Recycling rate' means the amount of covered materials recycled using approved
292 processes determined to be recycling by the department pursuant to Code
293 Section 12-8-110.12, by covered material type, in a plan year divided by the total amount
294 of that covered material type sold, offered for sale, or distributed in this state by weight.

295 (38) 'Redemption facility' means a specific area where individuals may bring covered
296 materials to place into material-specific receptacles for the purpose of reuse, recycling,
297 or composting.

298 (39) 'Redemption rate' means the amount of beverage containers accepted at redemption
299 facilities in a plan year divided by the total amount of beverage containers sold, offered
300 for sale, or distributed in this state.

301 (40) 'Refillable' means covered materials designed to be refilled by consumers multiple
302 times for the same or similar purpose in their original format, and that are sold, offered
303 for sale, or distributed to consumers once for the duration of their usable life.

304 (41) 'Reimbursement rates' means payments that are made to service providers by a
305 packaging PRO for end of life services provided under a producer responsibility plan and
306 that are:

- 307 (A) Based on a formula approved by the department; and
308 (B) Calculated on a per unit basis, such as per ton, per item, per household, or another
309 unit of measurement.
- 310 (42) 'Responsible end market' means a materials market that:
311 (A) Recycles, composts, or otherwise recovers materials and disposes of contaminants
312 in a manner that minimizes environmental harm and risks to public health and worker
313 health and safety;
314 (B) Complies with all applicable international treaties and federal, state, and local laws
315 and regulations, including, but not limited to, all requisite licensing and permit
316 requirements and laws and regulations governing greenhouse gas emissions, air and
317 water quality standards, trade regulation, and human rights and labor standards; and
318 (C) Does not disproportionately burden environmental justice areas and low-income
319 communities with negative human health and environmental impacts of pollution or
320 other environmental hazards resulting from the operation of the end market.
- 321 (43) 'Retailer' means any established person, corporation, partnership, business, facility,
322 vendor, organization, or other entity that sells or provides merchandise, goods, or
323 materials directly to a customer.
- 324 (44) 'Reusable' means covered materials designed to be recirculated multiple times for
325 the same or similar purpose in their original format in a system for reuse, that are owned
326 by producers or a third party, and are returned to producers or a third party after each use.
- 327 (45) 'Reuse' means the return of reusable covered materials to the marketplace and the
328 continued use of the reusable covered materials for their original intended purpose.
- 329 (46) 'Reuse rate' means the amount of reusable covered materials returned to producers
330 or a third party after use, divided by the total amount of covered materials sold, offered
331 for sale, or distributed into the state, measured per item.
- 332 (47) 'Service provider' means an entity that provides end of life services under a producer
333 responsibility plan and includes public service providers.

334 (48) 'Single-use' means conventionally disposed of after a single use, including through
335 recycling or composting, or not sufficiently durable or washable to be, or not intended to
336 be, reusable or refillable.

337 (49)(A) 'Source reduction' means the reduction in the amount of covered material
338 created by a producer relative to an established baseline.

339 (B) Methods of source reduction include, but are not limited to:

340 (i) Shifting to reusable or refillable covered materials;

341 (ii) Eliminating unnecessary covered materials;

342 (iii) Right-sizing, optimizing, or bulking of covered materials; or

343 (iv) Concentrating the product to reduce covered material use.

344 (C) The term 'source reduction' does not include:

345 (i) Replacing a recyclable or compostable covered material with a nonrecyclable or
346 noncompostable covered material or a covered material that is less likely to be
347 recycled or composted; or

348 (ii) Switching from virgin covered material to postconsumer recycled content.

349 (50) 'Toxic substance' means a substance that is identified as an additive of high concern
350 under Code Section 12-8-110.15.

351 12-8-110.2.

352 (a) The department shall establish within 120 days of the effective date of this article the
353 Producer Responsibility Advisory Board to review all programs conducted by PROs under
354 this article and to advise the department and the PROs regarding producer responsibility
355 plans and operations of and improvements to programs.

356 (b)(1) The advisory board shall consist of members appointed by the department for a
357 term of four years, as follows:

358 (A) Three representatives of political subdivisions that represent rural, suburban, and
359 urban areas of the state;

- 360 (B) Two representatives of community based organizations representing the interests
361 of groups in environmental justice areas;
- 362 (C) One member representing material recovery facilities that process covered
363 materials;
- 364 (D) One member representing recycling service providers focused on recycling
365 collection or a state-wide association representing such recycling service providers;
- 366 (E) One member representing a composting facility that receives source separated
367 compostable covered materials for composting or a state-wide trade association that
368 represents such facilities;
- 369 (F) One member representing a nonprofit environmental organization;
- 370 (G) One member with expertise in deposit return systems;
- 371 (H) One member with expertise in reuse systems;
- 372 (I) One member representing retailers or a retail association in this state; and
- 373 (J) Representatives of approved PROs and the department who shall serve as nonvoting
374 members.
- 375 (2) On making appointments under paragraph (1) of this subsection, the department shall
376 not appoint voting members who are members of the General Assembly, registered
377 lobbyists, or members of a PRO and shall endeavor to appoint members from all regions
378 of the state.
- 379 (3) The advisory board shall convene its initial meeting within six months of the
380 effective date of this article at which time a chairperson and vice chairperson shall be
381 elected by majority vote of the board for terms not to exceed two years.
- 382 (4) The advisory board shall meet at least four times a year and may meet more
383 frequently at the request of the chairperson or a majority of the members of the board.
- 384 (5) All advisory board meetings shall be open to the public.
- 385 (6) The advisory board shall make decisions by majority vote of the board.
- 386 (7) The advisory board may establish subcommittees.

387 (8) The department shall provide staff support to the advisory board and may contract
388 with a third-party facilitator to assist in administering the activities of the advisory board.
389 The PROs shall reimburse the department for all direct and related costs of the advisory
390 board.

391 (9) Advisory board members shall be compensated as provided in the amount set forth
392 in subsection (b) of Code Section 45-7-21 with reimbursement from the PROs.

393 (10) The department shall assist the advisory board in developing policies and
394 procedures governing the disclosure of actual or perceived conflicts of interest that
395 advisory board members may have as a result of their employment or the financial
396 holdings of themselves or of their family members. Each advisory board member shall
397 be responsible for reviewing and complying with such conflict-of-interest policies and
398 procedures. An advisory board member shall disclose any instance of actual or perceived
399 conflicts of interest at each meeting of the advisory board at which votes,
400 recommendations, or other decisions are made by the advisory board.

401 (c)(1) The advisory board shall:

402 (A) Consult with the department regarding the scoping of the needs assessment under
403 Code Section 12-8-110.3 and provide written comments on the final needs assessment
404 within 60 days of receipt of the assessment;

405 (B) Review and provide written comments to the PROs and the department on all new,
406 updated, and revised producer responsibility plans; proposed producer responsibility
407 plan amendments; annual reports; and coordination plans within 60 days of receipt of
408 such documents and before the documents are submitted by the PRO to the department;
409 and

410 (C) Consult with the department and review and provide written comments during any
411 rule making to implement this article.

412 (2) The advisory board may comment on program operations or propose amendments
413 to producer responsibility plans to the department at any time. Comments,

414 recommendations, and proposed amendments shall be reviewed and considered by the
415 department and the relevant PRO.

416 (3) Comments, recommendations, and proposed amendments submitted to the
417 department by the advisory board shall be posted publicly on the department website.

418 (4) No later than June 30 of each even-numbered year, the advisory board shall submit
419 to the House Committee on Natural Resources and Environment and the Senate Natural
420 Resources and the Environment Committee a report that describes the work of the
421 advisory board.

422 12-8-110.3.

423 (a) Not later than nine months after the effective date of this article, the department shall
424 contract with an independent third party to conduct a state-wide needs assessment to be
425 completed not later than one year after the initiation of the contract that, at a minimum:

426 (1) Inventories the infrastructure, capacity, funding level, and method and sources of
427 financing of existing end of life services and supporting transportation and processing
428 systems for packaging and paper products operating in the state, and evaluates strategies
429 needed to:

430 (A) Maintain and improve operations of existing infrastructure;

431 (B) Increase waste prevention and reduction, reuse, recycling, and composting rates
432 for packaging and paper products;

433 (C) Expand the availability and accessibility of end of life services for packaging and
434 paper products to all residents of the state to meet or exceed convenience standards; and

435 (D) Support public and private investment to meet performance standards under Code
436 Section 12-8-110.7, increase market demand for recycled packaging and paper products
437 and finished compost, and increase the share of packaging and paper products that are
438 being reused through an established reuse system;

- 439 (2) Identifies the viability and robustness of markets for reuse of packaging and paper
440 products and for recycled packaging and paper products and the degree to which these
441 markets can be considered responsible end markets;
- 442 (3) Identifies actions necessary to reduce the level of contamination of source-separated
443 recyclable and compostable materials that include packaging and paper products collected
444 for recycling and composting to reduce impacts of contamination on recycling and
445 composting facilities;
- 446 (4) Assesses the availability of end of life services provided at all residential covered
447 entities in the state;
- 448 (5) Assesses the availability, gaps, and costs associated with providing end of life
449 services to nonresidential covered entities, with particular attention to small businesses,
450 and identify which types and locations of nonresidential covered entities could be
451 provided with end of life services that would increase state-wide reduction, reuse,
452 recycling, and composting rates to meet the performance standards in Code
453 Section 12-8-110.7 in a cost-effective manner;
- 454 (6) Reviews existing consumer education strategies on source reduction, reuse, recycling,
455 and composting of packaging and paper products in this state and funding needed to
456 implement education best practice strategies;
- 457 (7) Identifies factors to be considered in developing reimbursement rates to service
458 providers for end of life services delivered under a producer responsibility plan,
459 including:
- 460 (A) Population size and density, including typical route length to collect packaging and
461 paper products from covered entities;
- 462 (B) Distance from covered entities to the nearest reuse facility, material recovery
463 facility, or composting facility or to facilities for consolidation and transfer;
- 464 (C) Distance to responsible end markets;
- 465 (D) Equipment costs;

- 466 (E) Cost of living based on living wage in the region; and
467 (F) Other factors that may contribute to regional or jurisdictional cost differences;
468 (8) Identifies information to be considered in determining whether packaging or paper
469 products are reusable, recyclable, or compostable, including its potential to meet quality
470 standards necessary to be used in the marketplace;
471 (9) Compiles information on the presence of toxic substances in each packaging and
472 paper product type and their potential impacts on consumers and the environment;
473 (10) Identifies disparities in end of life services available to covered entities located in
474 environmental justice areas and proposes recommendations to reduce or eliminate the
475 disparities and meet or exceed convenience standards;
476 (11) Proposes plans and metrics for how to measure source reduction, recycling, reuse,
477 and composting;
478 (12) Establishes current rates across the state for each packaging and paper product type,
479 as applicable for each of the following:
480 (A) Reuse;
481 (B) Recycling;
482 (C) Composting; and
483 (D) Postconsumer recycled content;
484 (13) Estimates the level of funding necessary to support end of life services for
485 packaging and paper products to meet the performance standards in Code
486 Section 12-8-110.7;
487 (14) Evaluates options for third-party certifications as described in Code
488 Section 12-8-110.10; and
489 (15) In the first needs assessment, establish a baseline for the source reduction
490 performance standard based on the amount of single-use plastic packaging that was sold,
491 offered for sale, or distributed in this state in the calendar year following the effective
492 date of this article.

493 (b) The first needs assessment shall be completed not later than one year and nine months
494 after the effective date of this article.

495 (c) The department shall ensure the needs assessment is updated every five years.

496 (d) Subsequent needs assessments shall include updated information on the topics
497 specified in subsection (a) of this Code section as well as any additional information
498 deemed necessary to meet the requirements of this article, as determined by the department,
499 including, but not limited to, inclusion of beverage containers in future needs assessments.

500 (e) The PROs shall reimburse the department for the cost of conducting the needs
501 assessment according to Code Section 12-8-110.4, and costs for updated needs assessments
502 shall be assigned to PROs using the process set forth under subsection (f) of Code
503 Section 12-8-110.4.

504 12-8-110.4.

505 (a) Not later than one year after the effective date of this article, no producer shall sell,
506 offer for sale, or distribute packaging or paper products in this state unless the producer is
507 registered with a packaging PRO that is approved pursuant to this Code section or has
508 applied to independently participate in a producer responsibility plan under paragraph (3)
509 of subsection (c) of this Code section.

510 (b) Not later than one year after the effective date of this article, no producer shall sell,
511 offer for sale, or distribute beverage containers in this state unless the producer is registered
512 with the beverage PRO that is approved pursuant to this Code section.

513 (c)(1) Not later than nine months after the effective date of this article, the department
514 shall select a single packaging PRO and a single beverage PRO to implement activities
515 under this article. To be selected, a PRO shall:

516 (A) Submit an application following a procedure established by the department;

517 (B) Be an independent nonprofit organization that qualifies for a tax exemption under
518 Section 501(c)(3) of the Federal Internal Revenue Code of 1986;

519 (C) Have a governing board that represents the diversity of covered materials placed
520 on the market by those entities, and of producers in terms of size; and

521 (D) Have adequate financial responsibility and financial controls in place to ensure
522 proper management of funds.

523 (2) A single PRO may be formed to perform the duties of both a packaging PRO and
524 beverage PRO at the department's discretion if the PRO agrees to comply with all
525 requirements and obligations applicable to both a packaging PRO and beverage PRO as
526 established in this article.

527 (3) A producer of packaging and paper products may comply with this article
528 individually without participating in a PRO if the producer can demonstrate to the
529 department, and the department determines at its sole discretion, that the producer can
530 demonstrate a recycling, reuse, or composting rate of 65 percent for three consecutive
531 years prior to their application, and on and after that date demonstrates a recycling, reuse,
532 or composting rate at or over 70 percent annually.

533 (4) A producer who chooses to comply with this article individually under paragraph (3)
534 of this subsection shall assume individual responsibility for complying with all
535 requirements and obligations applicable to a packaging PRO as outlined in this article.

536 (5) After the expiration of the first packaging producer responsibility plan and in
537 consultation with the advisory board, the department may approve applications from
538 additional organizations to serve as a packaging PRO if the department determines that
539 additional packaging PROs would be beneficial in satisfying the requirements of this
540 article and that the applying packaging PRO meets the requirements of this Code section.

541 (6) If the department approves more than one packaging PRO under paragraph (5) of this
542 subsection, producers of packaging and paper products shall choose one packaging PRO
543 with which to register, unless they independently participate in an approved producer
544 responsibility plan under paragraph (3) of this subsection.

545 (d)(1) Not later than nine months after the effective date of this article, the department
546 shall provide written notice to the PROs of the preregistration fee to be paid by each,
547 which shall be calculated as follows:

548 (A) For the packaging PRO, the department's estimate of the cost of conducting the
549 needs assessment required under Code Section 12-8-110.3 and the department's cost to
550 administer this article during the period before the initial registration of the PRO with
551 regard to packaging and paper products; and

552 (B) For the beverage PRO, the department's cost to administer this article during the
553 period before the initial registration of the PRO with regard to beverage containers.

554 (2) Within 90 days of receipt of the notice from the department under paragraph (1) of
555 this subsection, each PRO shall remit payment for those costs in full to the department.

556 (e) Not later than July 1 of each year after its initial selection under subsection (c) of this
557 Code section, each PRO shall register with the department by submitting the following:

558 (1) Contact information for a person responsible for implementing the PRO's producer
559 responsibility plan;

560 (2) A list of all producers participating in the PRO and, for each producer, a list of all
561 brands of the producer's covered materials sold, offered for sale, or distributed in this
562 state;

563 (3) Certification that the PRO has written agreements with each producer, which shall
564 be made available to the department upon request, stating that the PRO is the producer's
565 agent with respect to fulfilling the responsibilities of producers required under this article
566 and that the producer pledges to comply with those provisions;

567 (4) A list of current board members and the executive director if different than the person
568 responsible for implementing the producer responsibility plan; and

569 (5) Payment of the annual fee required under this Code section.

570 (f)(1) Not later than March 31 of each year, the department shall notify each PRO in
571 writing of the amount of the fee for the following year to be paid with their annual

572 registration under subsection (e) of this Code section, which shall not exceed the
573 department's estimate of the costs required to:

574 (A) Administer, implement, and enforce this article, including staff costs;

575 (B) Rule making to implement this article, if applicable;

576 (C) Provide reimbursement for staffing for the advisory board; and

577 (D) Conduct a needs assessment under Code Section 12-8-110.3.

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

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

584 (g)(1) A PRO is responsible for compliance with this Code section, including the
585 preparation and implementation of a producer responsibility plan, the achievement of
586 performance standards specified in Code Section 12-8-110.7, and the preparation and
587 submission to the department of annual reports.

588 (2) At least 90 days before the following items are submitted to the department, a PRO
589 shall submit to the advisory board for review and comment:

590 (A) All new, updated, and revised producer responsibility plans and proposed
591 amendments; and

592 (B) All annual reports.

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

597 (4) A PRO shall maintain a website that uses best practices for accessibility that
598 contains:

599 (A) Information regarding a process that members of the public can use to contact the
600 PRO with questions;

601 (B) The draft and approved producer responsibility plan and any draft and approved
602 amendments;

603 (C) The lists of recyclable and compostable covered materials developed by the
604 department under Code Sections 12-8-110.12 and 12-8-110.13;

605 (D) The most recent and all past needs assessments, as applicable;

606 (E) Annual reports filed by the PRO;

607 (F) The coordination plan developed under Code Section 12-8-110.9;

608 (G) A link to administrative rules implementing this Code section; and

609 (H) Comments of the advisory board on the producer responsibility plan, proposed
610 amendments, and annual plan documents and the responses of the PRO to those
611 comments.

612 (5) In addition to the requirements in paragraph (4) of this subsection, a website
613 maintained by a packaging PRO shall contain a directory of all service providers
614 operating under the producer responsibility plan, grouped by location or political
615 subdivision, and how to request service.

616 (6) In addition to the requirements in paragraph (4) of this Code section, a website
617 maintained by the beverage PRO shall contain a list and map of all redemption facilities
618 and what redemption modalities are available at each location.

619 (7) A PRO shall notify the department within 30 days if a change is made to the contact
620 information for a person responsible for implementing the producer responsibility plan,
621 or a change to the board members.

622 12-8-110.5.

623 (a)(1) Each PRO shall submit a producer responsibility plan to the department describing
624 the proposed operation of programs to fulfill the requirements of this article.

625 (2) For the packaging PRO selected under paragraph (1) of subsection (c) of Code
626 Section 12-8-110.4, the producer responsibility plan shall be submitted to the department
627 not later than 30 months after the effective date of this article and every five years
628 thereafter.

629 (3) For additional approved packaging PROs, producer responsibility plans shall be
630 submitted following a process and timeline to be determined by the department, including
631 review by the advisory board under subparagraph (c)(1)(B) of Code Section 12-8-110.2
632 and paragraphs (2) and (3) of subsection (g) of Code Section 12-8-110.4.

633 (4) For the beverage PRO selected under paragraph (1) of subsection (c) of Code
634 Section 12-8-110.4, the producer responsibility plan shall be submitted to the department
635 not later than 18 months after the effective date of this article and every five years
636 thereafter.

637 (5) A producer responsibility plan shall describe activities to be undertaken during the
638 next five program years and shall, at a minimum:

639 (A) Describe how the PRO and participating producers will meet the performance
640 standards described in Code Section 12-8-110.7;

641 (B) Expand end of life services for covered materials for covered entities, including
642 how they will meet or exceed convenience standards;

643 (C) Summarize consultations held with the advisory board and other stakeholders to
644 provide input on the producer responsibility plan, a list of recommendations that were
645 incorporated into the producer responsibility plan as a result, and a list of rejected
646 recommendations that includes the reasons for rejection;

647 (D) Describe how the program uses and interacts with existing end of life services and
648 service providers;

649 (E) Describe expanded and improved operations specifically designed to ensure that
650 the performance targets under subparagraph (G) of this paragraph and performance
651 standards under Code Section 12-8-110.7 are met;

652 (F) Describe the viability of available responsible end markets and what improvements
653 are needed to markets to improve program performance and ensure that performance
654 targets and standards are met;
655 (G) Propose annual performance targets for each covered material type that will ensure
656 compliance with the performance standards set forth in Code Section 12-8-110.7 and
657 describe how the PRO will measure progress against those performance targets;
658 (H) Include a proposed budget for each of the next five program years;
659 (I) Include proposed producer fees in a fee schedule by material category and describe
660 the process used to calculate producer fees, including how the fees reflect the
661 requirements of this article;
662 (J) Certify that the PRO shall treat data submitted by service providers as nonpublic
663 data;
664 (K) Describe activities the PRO shall conduct to ensure recyclers and composters of
665 covered materials send covered materials to responsible end markets;
666 (L) Describe proposed campaigns to educate consumers about how to manage covered
667 materials in an environmentally sound manner and how to access end of life services
668 for covered materials, and describe how these campaigns will work with consumer
669 education provided by nonprofit organizations, local governments, service providers,
670 and other organizations;
671 (M) Describe how the PRO will assist producers in improving product labels as a
672 means of informing consumers about environmentally sound management of covered
673 materials, including how to access end of life services;
674 (N) Describe how the PRO will assist producers in product redesign, source reduction,
675 compliance with Code Section 12-8-110.15, and other necessary actions that support
676 overall performance targets and standards; and
677 (O) Include a plan for adopting third-party certifications approved pursuant to Code
678 Section 12-8-110.10, as applicable.

679 (6) In addition to the requirements of paragraph (5) of this subsection, a producer
680 responsibility plan submitted by a packaging PRO shall, at a minimum:

681 (A) Include a source reduction plan designed to meet the requirements of Code
682 Section 12-8-110.7 that describes, at a minimum:

683 (i) How the PRO will collect individual source reduction plans from participating
684 producers that include:

685 (I) The amount of plastic packaging the producer plans to source reduce to meet the
686 performance standards in subsection (a) of this Code section, including a description
687 of how the producer plans to achieve the source reduction; and

688 (II) Other information as determined necessary by the PRO to achieve the source
689 reduction performance standard and reporting requirements;

690 (ii) How the PRO will aggregate individual producer source reduction plans to
691 achieve the performance standard in Code Section 12-8-110.7;

692 (iii) How the PRO will ensure participating producers are making appropriate
693 progress to achieve their planned source reduction; and

694 (iv) To ensure equity in the market, how the PRO will require a new participating
695 producer or a producer that introduces plastic packaging material that is new to the
696 producer subsequent to the approval of the PRO's plan to optimize and right size the
697 plastic packaging, including through the use of malus fees;

698 (B) Describe how the PRO will prioritize the use of existing service providers pursuant
699 to subsection (d) of this Code section;

700 (C) Include a reimbursement formula and a schedule of reimbursement rates for service
701 providers that elect to participate in the program and a description of how the formula
702 and schedule were developed;

703 (D) Include a list of packaging and paper products designated for collection and the
704 method of collection to be used for each;

705 (E) Describe how reimbursements will be distributed;

- 706 (F) Propose a dispute resolution process for disputes regarding reimbursements;
707 (G) Include terms and conditions for service agreements with service providers and
708 templates of the service agreements; and
709 (H) Describe how the PRO will work with service providers to increase postconsumer
710 recycled content in trash, recycling, and composting carts utilized by PRO funded
711 programs.
- 712 (7) In addition to the requirements of paragraph (5) of this subsection, a producer
713 responsibility plan submitted by a beverage PRO shall, at a minimum:
- 714 (A) Include a plan for beverage container redemption and processing mechanisms that
715 provide equitable access that meets or exceeds the convenience standards in
716 paragraph (2) of subsection (e) of Code Section 12-8-110.6 across this state;
717 (B) Describe how the beverage PRO will operate redemption facilities or enter into
718 agreements with redemption facility operators to meet or exceed the convenience
719 standards in paragraph (2) of subsection (e) of Code Section 12-8-110.6;
720 (C) Describe how the beverage PRO will make payments to material recovery facilities
721 or a packaging PRO, as applicable, for beverage containers processed in material
722 recovery facilities pursuant to paragraph (4) of subsection (g) of Code
723 Section 12-8-110.6 and paragraph (2) of subsection (a) of Code Section 12-8-110.9; and
724 (D) Include a methodology to determine the average amount of redeemable beverage
725 containers per ton of material recycled to be used in calculating the payments in
726 subparagraph (C) of this paragraph, which may include requirements for standardized
727 measurement of beverage containers that enter material recovery facilities.
- 728 (8) The department shall review a producer responsibility plan and approve, modify, or
729 reject it within 60 days of receipt, providing reasons for modification or rejection in
730 writing to the PRO. A PRO shall submit a revised producer responsibility plan, if
731 necessary, within 60 days of receiving the department's decision. The department shall
732 review a revised producer responsibility plan within 45 days of receipt. The department

733 may require submission of additional revised producer responsibility plans until a revised
734 producer responsibility plan is approved.

735 (9) A PRO may file a proposed amendment to the producer responsibility plan with the
736 department at any time. The department, with recommendations from the advisory board,
737 may approve, modify, or reject the proposed amendment. A PRO shall not change
738 operations under an approved producer responsibility plan without the department's
739 written approval.

740 (10) The department may require amending a producer responsibility plan if the advisory
741 board petitions the department to request an amendment and the department determines
742 that an amendment is necessary to ensure that a PRO maintains progress to meet
743 performance targets under subparagraph (a)(5)(G) of Code Section 12-8-110.5 and
744 performance standards under Code Section 12-8-110.7 and the goals for the producer
745 responsibility plan. A PRO shall address any comments and feedback and shall list
746 rejected recommendations and the reasons for rejection during the amendment approval
747 process.

748 (11) Within 30 calendar days after approval of a producer responsibility plan or
749 amendments by the department, a PRO shall implement the approved producer
750 responsibility plan and post the plan on the PRO's website.

751 (b)(1) A PRO shall collect fees from producers sufficient to fulfill the responsibilities
752 under this article, including:

753 (A) The annual fee required under Code Section 12-8-110.4;

754 (B) Fees from producers of plastic covered materials as required to fund the reuse
755 financial assistant program pursuant to Code Section 12-8-110.14;

756 (C) Costs to implement the producer responsibility plan; and

757 (D) Establishment and maintenance of a financial reserve that is sufficient to operate
758 the program in a fiscally prudent and responsible manner.

759 (2) Fees for producers shall be structured considering the following:

760 (A) For all PROs:

761 (i) Base fees that are based on the total amount of covered material by material type
762 each producer sells, offers for sale, or distributes in this state in the prior program year
763 calculated on a per unit basis, such as per ton, per item, or another unit of
764 measurement and the cost for end of life services for those covered materials;

765 (ii) Prioritize reuse by charging fees for covered materials that are managed through
766 a reuse system only once;

767 (iii) Increased or decreased fees to incentivize using materials and design attributes
768 that reduce the environmental and human health impacts of covered materials, by the
769 following methods in order of priority:

770 (I) Eliminating the presence of toxic substances;

771 (II) Reducing the amount of packaging per individual covered material that is
772 necessary to efficiently deliver a product without damage or spoilage and without
773 reducing its ability to be recycled;

774 (III) Increasing the percentage of covered materials managed in a reuse system;

775 (IV) Enhancing the recyclability of covered materials; and

776 (V) Increasing the proportion of postconsumer material used to produce covered
777 materials; and

778 (iv) Increased or decreased fees as necessary to incentivize producers to achieve the
779 performance targets under subparagraph (a)(5)(G) of Code Section 12-8-110.5 and
780 performance standards under Code Section 12-8-110.7 for producers and the PRO as
781 a whole;

782 (B) In addition to the requirements in subparagraph (A) of this paragraph, a packaging
783 PRO shall:

784 (i) To the extent possible, establish a fee schedule that is consistent with similar fees
785 being collected in other states with similar requirements for producers; and

786 (ii) Collect revenues to be used for and that are sufficient to pay in full
 787 reimbursements to service providers for end of life service costs incurred under a
 788 producer responsibility plan approved by the department, including the cost of
 789 ensuring all employees working at facilities to collect, process, and aggregate
 790 packaging and paper products are paid a living wage, receive health benefits, and
 791 have strong labor and work safety practices; and

792 (C) In addition to the requirements in subparagraph (A) of this paragraph, the beverage
 793 PRO shall:

794 (i) Collect revenues to be used for and that are sufficient to pay in full:

795 (I) The cost of collecting and processing each beverage container type;

796 (II) The cost of ensuring all employees working at facilities to redeem, collect,
 797 process, and aggregate beverage containers are paid a living wage, receive health
 798 benefits, and have strong labor and work safety practices;

799 (III) The set payments to material recovery facilities and redemption facilities as
 800 required by subsection (g) of Code Section 12-8-110.6 and paragraph (2) of
 801 subsection (a) of Code Section 12-8-110.9; and

802 (IV) Any other responsibilities of the beverage PRO under Code
 803 Section 12-8-110.6; and

804 (ii) With the revenue from the sale of redeemed beverage containers, credit each
 805 beverage PRO member against the fee charged under this subsection based on:

806 (I) The revenue generated from the sale of each beverage container type; and

807 (II) The percentage of each beverage container type that a beverage PRO member
 808 distributes or sells in this state.

809 (3) Fees collected under this Code section shall not be used for costs associated with:

810 (A) An administrative civil penalty pursuant to this article;

811 (B) Litigation between the PRO or a participating producer and the state;

812 (C) Lobbying by or on behalf of a PRO or any of its members; or

813 (D) Subsidizing, incentivizing or otherwise supporting incineration or other
814 technologies that do not meet the definition of recycling pursuant to paragraph (36) of
815 subsection (a) of Code Section 12-8-110.1.

816 (4) Any fees collected under this Code section in excess of the costs identified in
817 paragraph (1) of this subsection shall be reinvested to improve end of life services and
818 consumer education.

819 (5) No retailer of covered materials or products packaged in covered materials shall
820 charge a point-of-sale or point-of-collection fee to a consumer for services provided
821 under a producer responsibility plan, unless the fee is a deposit that is made in connection
822 with a product's reuse or recycling and that will be returned to the consumer.

823 (c) Each PRO, in collaboration with and after consulting with the department, political
824 subdivisions, and the advisory board, as well as service providers and retailers as relevant,
825 shall:

826 (1) Develop and disseminate easy-to-understand, culturally responsive materials
827 designed to educate covered entities in multiple languages regarding the management of
828 covered materials through end of life services;

829 (2) Conduct or fund others to conduct state-wide and local campaigns promoting
830 awareness of how covered entities can conveniently access end of life services for
831 covered materials; and

832 (3) Disseminate education and outreach materials to the department, service providers,
833 retailers, community organizations, and political subdivisions as relevant.

834 (d)(1) During the term of the initial packaging producer responsibility plan approved by
835 the department, a packaging PRO shall prioritize contracting with existing service
836 providers in this state through a transparent, open, and fair bidding process for end of life
837 services for packaging and paper products at service volumes that are no less than those
838 delivered by the service providers as of the effective date of this article, so long as the
839 service provider meets the requirements under paragraph (5) of this subsection and is able

840 to meet operating standards necessary for the PRO to maintain progress toward meeting
841 performance targets under subparagraph (a)(5)(G) of Code Section 12-8-110.5 and
842 performance standards under Code Section 12-8-110.7.

843 (2) Paragraph (1) of this subsection shall apply to:

844 (A) Service providers that provide end of life services for covered entities; and

845 (B) Service providers that process packaging and paper products.

846 (3) A packaging PRO shall contract with service providers identified in paragraph (2) of
847 this subsection to conduct services identified in paragraph (2) of this subsection. The
848 terms and conditions of service shall be established under a service agreement between
849 both parties and shall include a reimbursement rate for services that is based on a formula
850 described in the approved producer responsibility plan as required by this Code section,
851 that:

852 (A) Incorporates relevant cost information identified by the needs assessment
853 conducted under Code Section 12-8-110.3; and

854 (B) Reflects conditions that affect end of life service and processing costs in the
855 jurisdiction in which the services are provided, including, but not limited to:

856 (i) The number and size of covered entities by location type;

857 (ii) Population density; and

858 (iii) Collections methods employed.

859 (4) A packaging PRO shall use open, competitive, and fair procurement practices when
860 entering into contracts with service providers.

861 (5) Contracts under this subsection shall require that service providers:

862 (A) Have strong labor standards and work safety practices, including, but not limited
863 to, safety programs, health benefits, and living wages;

864 (B) Meet established operating standards, such as capture rates, residual rates, and bale
865 quality; and

866 (C) Demonstrate that covered materials are sent to responsible end markets.

867 (6) The end of life services delivered by a packaging PRO under a producer
868 responsibility plan shall not reduce the level of convenience or service quality that was
869 provided to any covered entity before the producer responsibility plan was implemented.

870 (7) Nothing in this Code section shall require a local government to operate under a
871 producer responsibility plan, nor shall it restrict the authority of a local government to
872 provide waste management services to residents or to contract with any entity to provide
873 waste management services.

874 (8) If there is not a public service provider or a public service provider elects not to
875 operate under the packaging producer responsibility plan or organize and contract with
876 a private service provider, it is the responsibility of the packaging PRO to contract with
877 a private service provider to provide end of life services to all covered entities.

878 (9) A local government providing services to covered entities shall provide at least a
879 one-year advance notice to the PRO if the local government will cease to coordinate end
880 of life services to covered entities.

881 12-8-110.6.

882 (a)(1) All beverage containers that are made of 90 percent or more aluminum, steel,
883 glass, HDPE, PP, or PET and are sold, offered for sale, or distributed in this state shall
884 have the applicable refund value pursuant to subsection (b) of this Code section not later
885 than two years after the effective date of this article.

886 (2) All beverage containers that are sold, offered for sale, or distributed in this state shall
887 have the applicable refund value pursuant to subsection (b) of this Code section not later
888 than three years after the effective date of this article.

889 (b)(1) Not later than two years after the effective date of this article, the applicable
890 refund value shall be 10¢.

891 (2) If the beverage PRO's redemption rate does not reach the redemption performance
892 standards as required under paragraph (1) of subsection (g) of Code Section 21-8-110.7,

893 then the applicable refund value for every beverage container sold, offered for sale, or
894 distributed in this state shall increase to 15¢ for each beverage container, and the
895 beverage PRO shall conduct a study to determine whether any education or convenience
896 factors of the plan need to be strengthened.

897 (c)(1) A producer of a beverage container that is sold, offered for sale, or distributed in
898 this state shall clearly display on the top or side of the beverage container:

899 (A) The abbreviation 'RV,' which indicates the container has a refund value;

900 (B) The abbreviation of the state; and

901 (C) The applicable refund value.

902 (2) A producer of a beverage container that is sold, offered for sale, or distributed in this
903 state may include a barcode or unique code verification on the beverage container to
904 allow for automated identification.

905 (d) It is unlawful to redeem a beverage container in this state that was not sold, offered for
906 sale, or distributed to a consumer in this state.

907 (e)(1) The beverage PRO shall offer, at a minimum, the following modalities of beverage
908 container redemption in this state:

909 (A) Bag drop programs that use standard bags that allow for multiple beverage
910 containers to be redeemed at redemption facilities; and

911 (B) Individual container redemption, including convenient options for high-volume
912 redemption without the use of a standard bag.

913 (2) The beverage PRO shall ensure that the redemption modalities in paragraph (1) of
914 this subsection for beverage containers meet or exceed the following convenience
915 standards:

916 (A) All consumers who pay a deposit have reasonably convenient opportunities to
917 redeem, including access to redemption facilities that provide for cash redemption;

918 (B) Redemption options should be as convenient as beverage purchase options;

919 (C) Access should be appropriately convenient and equitable in both urban and rural
920 areas; and

921 (D) All redemption locations, including retail locations and other redemption facilities,
922 shall collect all beverage containers with applicable refund value pursuant to
923 subsection (f) of this Code section.

924 (3) A retail establishment may choose to serve as a redemption facility or as the site of
925 a collection event, or both, through mutual agreement with the beverage PRO.

926 (4) The department shall use the following criteria to evaluate whether the requirements
927 of paragraph (2) of this subsection are met:

928 (A) The proximity of redemption locations to the volume of beverage sales in an area;

929 (B) Access in rural counties that does not require additional vehicle miles traveled;

930 (C) Access in urban areas builds on existing convenience;

931 (D) Access is provided in economically strained and underserved communities;

932 (E) The number and geographic distribution of high-volume redemption opportunities;

933 and

934 (F) Redemption options shall not disproportionately burden underserved communities
935 or populations.

936 (5) In the event that the beverage PRO does not achieve the convenience standards in
937 paragraph (2) of this subsection as evaluated by the department pursuant to paragraph (4)
938 of this subsection, the department shall engage in rulemaking to achieve the convenience
939 standards in paragraph (2) of this subsection.

940 (6) If the standard bags for a bag drop program under subparagraph (A) of paragraph (1)
941 of this subsection are made of plastic film, the beverage PRO shall:

942 (A) Ensure that the bags have a minimum of 50 percent postconsumer recycled
943 content;

944 (B) Demonstrate, upon request of the department, that the waste film from the bags is
945 being recycled at responsible end markets; and

946 (C) Include instructions on the bag for how the bag should be utilized and recycled
947 through a bag drop program.

948 (f) Excluding the material recovery facility and redemption facility payments in
949 subsection (g) of this Code section, the beverage PRO or a redemption facility operator
950 acting pursuant to an agreement with the beverage PRO is not required to pay refunds on:

951 (1) A beverage container that:

952 (A) Visibly contains or is contaminated by a substance other than water, residue of the
953 original contents, or ordinary dust;

954 (B) Is crushed or broken; or

955 (C) Is damaged to the extent that the brand appearing on the container cannot be
956 identified;

957 (2) A beverage container that the beverage PRO or redemption facility operator has
958 reasonable grounds to believe was bought in another state; or

959 (3) A beverage container for which the beverage PRO or redemption facility operator has
960 reasonable grounds to believe a refund has already been given.

961 (g)(1) On a monthly basis, operators of material recovery facilities shall submit to the
962 beverage PRO the number of tons of beverage containers the facility processed in the
963 previous month.

964 (2) On a monthly basis, operators of redemption facilities shall submit to the beverage
965 PRO the number of beverage containers processed by the facility in the previous month.

966 (3) Starting after the first full month that beverage containers are sold, offered for sale,
967 or distributed in this state with the applicable refund value, the beverage PRO shall make
968 a monthly payment directly to each redemption facility operator that is based on the data
969 submitted by the redemption facility operators under paragraph (2) of this subsection.

970 (4) Starting after the first full month that beverage containers are sold, offered for sale,
971 or distributed in this state with the applicable refund value and until the coordination plan
972 in Code Section 12-8-110.9 is approved by the department, the beverage PRO shall make

973 a monthly payment directly to each material recovery facility that processes beverage
974 containers that is based on the data submitted by the redemption facility operators under
975 paragraph (1) of this subsection.

976 (5) The monthly payment required in paragraph (4) of this subsection to material
977 recovery facilities shall reflect a payment of at least 50 percent of the applicable refund
978 value for each beverage container that the material recovery facility processes based on
979 the methodology established in subparagraph (a)(7)(D) of Code Section 12-8-110.5.

980 (6) The beverage PRO may conduct two audits per calendar year on the quality and
981 quantity of the redemption facility or material recovery facilities' material upon request
982 by the beverage PRO and at the beverage PRO's expense.

983 (h) The beverage PRO shall pay for:

984 (1) Any beverage container redemption or processing mechanism or self-service kiosk
985 that the beverage PRO installs, services, and operates;

986 (2) Any facilities in this state necessary to efficiently aggregate and process the material
987 collected at redemption locations;

988 (3) Reasonable costs incurred by redemption facility operators;

989 (4) A credit to consumers for the cost of the bags that are processed through the beverage
990 PRO's bag drop program;

991 (5) The material recovery facility and redemption facility payments under this Code
992 section and paragraph (2) of subsection (a) of Code Section 12-8-110.9; and

993 (6) Necessary investments and improvements to provide services to or enhance the
994 redemption experience of diverse or low-income consumers redeeming beverage
995 containers.

996 (i) The beverage PRO shall use any applicable refund value that is not returned to the
997 consumer for any of the following purposes:

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

999 (2) Increasing the number of redemption facilities; or

- 1000 (3) Operation of the redemption system.
- 1001 12-8-110.7.
- 1002 (a)(1) Each packaging PRO shall propose performance standards based on the needs
1003 assessment that meet the state-wide requirements in subsection (f) of this Code section.
- 1004 (2) Performance targets shall be proposed in the PRO plan. Performance targets shall
1005 include:
- 1006 (A) Reuse rates;
1007 (B) Return rates;
1008 (C) Recycling rates;
1009 (D) Composting rates;
1010 (E) Plastic source reduction; and
1011 (F) Postconsumer recycled content requirements by covered material type.
- 1012 (b)(1) Beginning the first month after beverage containers are sold, offered for sale, or
1013 distributed in this state with the applicable refund value:
- 1014 (A) The beverage PRO shall provide redemption options that meet the redemption
1015 convenience standards in paragraph (2) of subsection (e) of Code Section 12-8-110.6;
1016 and
- 1017 (B) All redeemed beverage containers shall be recycled or reused.
- 1018 (2) The beverage PRO shall propose performance standards to meet the state-wide
1019 requirements in subsection (g) of this Code section, including:
- 1020 (A) Redemption rates;
1021 (B) Reuse rates; and
1022 (C) Postconsumer recycled content requirements by covered material type.
- 1023 (c) The department may require a PRO to obtain third-party certification of any activity
1024 or achievement of any performance target required by this article if a third-party
1025 certification is readily available, deemed applicable, of reasonable cost, and meets the

1026 requirements of Code Section 12-8-110.10. The department shall provide the PRO with
1027 notice of at least one year prior to requiring the use of third-party certification.

1028 (d) Proposed performance standards shall demonstrate continuous improvement over time.

1029 (e) For purposes of determining whether performance targets are being met, the PRO plan
1030 shall provide a methodology for measuring performance targets, subject to approval by the
1031 department, based on the metrics and plans outlined in the needs assessment.

1032 (f) The department shall establish state-wide requirements and a date by which those
1033 requirements shall be met for each of the following categories for packaging and paper
1034 products:

1035 (1) Reuse rates;

1036 (2) Return rates;

1037 (3) Recycling rates;

1038 (4) Composting rates;

1039 (5) Plastic source reduction; and

1040 (6) Postconsumer recycled content requirements by covered material type.

1041 (g) The department shall establish state-wide requirements and a date by which those
1042 requirements shall be met for each of the following categories for beverage containers:

1043 (1) Redemption rates;

1044 (2) Reuse rates; and

1045 (3) Postconsumer recycled content requirements by covered material type.

1046 12-8-110.8.

1047 (a)(1) Not later than four years after the effective date of this article, and each March
1048 thereafter, each PRO shall submit a written annual report to the department that contains,
1049 at a minimum, the following information for the previous program year:

1050 (A) The amount of covered materials sold, offered for sale, or distributed in this state
1051 by the participating producers of that PRO, by material type;

- 1052 (B) The amount of covered materials reused, recycled, and composted by material
1053 type;
- 1054 (C) A description of the responsible end markets that accepted covered materials;
- 1055 (D) The total cost to implement the producer responsibility plan and a detailed
1056 description of plan expenditures;
- 1057 (E) A copy of a financial audit of program operations conducted by an independent
1058 third party approved by the department;
- 1059 (F) A list of any producers found to be out of compliance with the requirements of this
1060 article and actions taken by the PRO to return the producer to compliance;
- 1061 (G) A description of education and outreach activities undertaken, any evaluations
1062 conducted of their efficacy, and plans for next program year's activities;
- 1063 (H) A description of technical assistance provided to producers regarding source
1064 reduction and covered material redesign and actions taken by producers to reduce waste
1065 and redesign covered materials to be reusable, recyclable, and compostable and comply
1066 with Code Section 12-8-110.15;
- 1067 (I) An evaluation of the process established by the PRO to answer questions from
1068 covered entities regarding relevant end of life services;
- 1069 (J) A description of program performance problems that emerged in specific locations
1070 and efforts taken or proposed by the producer organization to address them;
- 1071 (K) Any proposed amendments to the producer responsibility plan to improve program
1072 performance or reduce costs;
- 1073 (L) A summary of consultations held with the advisory board and how any feedback
1074 was incorporated into the report as a result of the consultations, together with a list of
1075 rejected recommendations and the reasons for rejection; and
- 1076 (M) A description of progress made toward the performance targets in the PRO's
1077 producer responsibility plan under subparagraph (a)(5)(G) of Code Section 12-8-110.5
1078 and performance standards under Code Section 12-8-110.7.

1079 (2) To facilitate preparing the annual report, service providers operating under a service
1080 agreement with the PRO shall, if requested, forward relevant data to the PRO. The PRO
1081 shall treat any data submitted under this paragraph as nonpublic data.

1082 (3) A PRO that fails to meet a performance target established in the producer
1083 responsibility plan under subparagraph (a)(5)(G) of Code Section 12-8-110.5 shall, within
1084 90 days of filing an annual report under this Code section, file with the department a
1085 discussion of the factors contributing to the failure and propose an amendment to the
1086 producer responsibility plan specifying changes in operations that the producer
1087 responsibility plan will make that are designed to achieve the following year's targets.

1088 (b)(1) Each material recovery facility, composting facility, redemption facility, or similar
1089 facility operating under an agreement with a PRO shall report annually to the department
1090 and the PROs on the following:

1091 (A) Inbound and outbound contamination levels;

1092 (B) Incoming and outgoing weight of covered materials;

1093 (C) A list of incoming material sources, and outgoing material destinations that receive
1094 covered material by type of material and weight;

1095 (D) How materials are managed; and

1096 (E) Number of inbound and outbound beverage containers with the applicable refund
1097 value.

1098 (2) Annual reports under this subsection shall be published by the state and include a
1099 breakdown of covered materials and noncovered materials managed at facilities.

1100 (c) Each public service provider, including municipalities operating or contracting with
1101 a private service provider to operate a recycling, reuse, or composting program for covered
1102 materials and service providers directly contracting with a PRO, shall provide the following
1103 information annually to the relevant PRO:

1104 (1) Number of covered entities by covered entity type served by the program and total
1105 number of covered entities in the municipality;

- 1106 (2) Covered materials collected for recycling, reuse, or composting;
1107 (3) Method and frequency of recycling collection, including whether collection is
1108 through carts, bins, single stream, dual stream, or some other method;
1109 (4) Annual amounts of covered material collected for recycling, reuse, or composting;
1110 (5) Facility to which covered materials are delivered; and
1111 (6) Assessment of convenience, as compared to waste collection, tracked year over year.

1112 12-8-110.9.

1113 (a) The packaging and beverage PROs shall establish a coordinating body and
1114 coordination plan to ensure the efficient delivery of services and coordinated efforts to
1115 meet the requirements of this article. These coordinating efforts shall:

- 1116 (1) Ensure end of life service costs are fairly distributed, regardless of which system a
1117 consumer returns covered materials through;
1118 (2) Describe a method through which the PROs will compensate each other for handling
1119 covered materials and cross-program expenses;
1120 (3) Address planning and operating jointly funded infrastructure, including, but not
1121 limited to, alternative collection programs and reuse infrastructure;
1122 (4) Coordinate education and outreach to ensure consistent and appropriate messaging;
1123 (5) Coordinate activities under the reuse financial assistance program pursuant to Code
1124 Section 12-8-110.14; and
1125 (6) Periodically evaluate covered materials managed by each PRO and whether
1126 alternative management of those covered materials would better achieve the performance
1127 standards in Code Section 12-8-110.7.

1128 (b) The PROs, through the coordinating body, shall submit the coordination plan required
1129 under subsection (a) of this Code section to the department not later than the date on which
1130 the packaging PRO submits its first producer responsibility plan under paragraph (2) of
1131 subsection (a) of Code Section 12-8-110.5 and every five years thereafter.

1132 (c) The PROs, through the coordinating body, shall submit the coordination plan to the
1133 advisory board for review and comment at least 90 days before the plan is submitted to the
1134 department.

1135 (d) The department shall review the coordination plan or any amendments and approve,
1136 modify, or reject them following the process described in paragraphs (8) through (10) of
1137 subsection (a) of Code Section 12-8-110.5.

1138 (e) Within 30 calendar days after approval of the coordination plan or amendments by the
1139 department, the coordinating body and the beverage and packaging PROs shall implement
1140 the approved coordination plan and post the plan on each PRO's website.

1141 12-8-110.10.

1142 (a) The department shall adopt rules to review third-party certifications and create a
1143 publicly available list of approved third-party certifications for the following:

1144 (1) Postconsumer recycled content;

1145 (2) Responsible end markets;

1146 (3) Reusable covered materials; and

1147 (4) Recycling, composting, and reuse rates.

1148 (b) In the rules adopted under subsection (a) of this Code section, the department shall
1149 include procedures for periodic review of approved third-party certifications, including for
1150 public petition for review and for removal of approval for third-party certifications.

1151 12-8-110.11.

1152 (a) A PRO or an individual producer may, as part of a producer responsibility plan or in
1153 a separate filing with the department, propose alternative collection programs for covered
1154 materials that are not on the recyclable covered materials list developed under Code
1155 Section 12-8-110.12 or the compostable covered materials list developed under Code
1156 Section 12-8-110.13.

- 1157 (b) No alternative collection program shall be implemented without the department's
1158 written approval as described in this Code section.
- 1159 (c) The department shall, in consultation with the advisory board, service providers,
1160 political subdivisions, and others, approve or reject an alternative collection program for
1161 a covered material if petitioned by a PRO, or an individual producer.
- 1162 (d) The department shall establish a process by which the PRO or an individual producer
1163 can petition for an alternative collection program to be considered.
- 1164 (e) The department may only approve an alternative collection program if it meets, at a
1165 minimum, the following criteria:
- 1166 (1) The alternative collection program is accessible to at least 60 percent of the
1167 population of the state;
- 1168 (2) The covered material will be recycled and composted at a rate that meets or exceeds
1169 the rates set in the performance standards in Code Section 12-8-110.7; and
- 1170 (3) Covered materials are sent to responsible end markets.
- 1171 (f) The department shall publish a ruling on the alternative collection program describing
1172 why it was approved or denied and how it measured against the criteria listed in
1173 subsection (e) of this Code section.
- 1174 (g) Approved alternative collection programs shall be reviewed by the department every
1175 five years to ensure the alternative collection program continues to meet the criteria listed
1176 in subsection (e) of this Code section. If the alternative collection program fails to meet
1177 the criteria, the department shall remove the program from the list of approved alternative
1178 collection programs.
- 1179 (h) A producer that manages a type of covered material under an approved alternative
1180 collection program may offset their payment obligations to a PRO.

- 1181 12-8-110.12.
- 1182 (a) The department shall, in consultation with the advisory board, PROs, service providers,
1183 political subdivisions, and others, develop and publish a list of:
- 1184 (1) Approved processes determined to be recycling; and
1185 (2) Recyclable covered materials in the state.
- 1186 (b) In developing the list of approved processes determined to be recycling under
1187 paragraph (1) of subsection (a) of this Code section, the department shall ensure the
1188 approved processes meet the definition of recycling in paragraph (36) of subsection (a) of
1189 Code Section 12-8-110.1 and shall take into consideration:
- 1190 (1) The generation of hazardous waste;
1191 (2) The generation of greenhouse gases;
1192 (3) Environmental impacts;
1193 (4) Environmental justice area impacts;
1194 (5) Public health impacts; and
1195 (6) Meets an unmet need in this state.
- 1196 (c) The covered materials included on the list of recyclable covered materials under
1197 paragraph (2) of subsection (a) of this Code section shall meet the definition of recyclable
1198 in paragraph (35) of subsection (a) of Code Section 12-8-110.1 and shall meet all of the
1199 following criteria:
- 1200 (1) The covered material type and form is regularly accepted in residential recycling
1201 programs or redemption facilities and separated for mechanical or manual recycling by
1202 recycling programs for jurisdictions that collectively encompass at least 60 percent of the
1203 population of this state;
- 1204 (2) The covered material type and form is regularly sorted and aggregated into regularly
1205 traded commodity grades accepted for recycling at responsible end markets;
- 1206 (3) The covered material format falls into a relevant Institution of Scrap Recycling
1207 Industries specification;

1208 (4) Seventy-five percent of that covered material category, by unit, is in a recyclable
1209 format;

1210 (5) For plastic covered materials, the plastic covered material is designed to ensure
1211 recyclability and does not include any components, inks, adhesives, or labels that prevent
1212 the recyclability of the covered material according to the APR Design Guide published
1213 by the Association of Plastic Recyclers or its successor;

1214 (6) For nonplastic covered materials, the covered material is designed to ensure
1215 recyclability and does not include any components, inks, adhesives, or labels that prevent
1216 the recyclability of the covered material; and

1217 (7) The product or packaging does not contain an additive of high concern identified in
1218 Code Section 12-8-110.15.

1219 (d) Not later than two years after the effective date of this article, the department shall
1220 provide the lists required under subsection (a) of this Code section to the PROs, which shall
1221 forward the list to all service providers and political subdivisions as relevant. Recyclable
1222 covered materials in this state are required to be collected by service providers either
1223 directly contracted by a PRO or a public service provider receiving reimbursement from
1224 a PRO.

1225 (e) The department may update the lists in subsection (a) of this Code section every two
1226 years. PROs shall enact additions and removals from the lists across the state within one
1227 year of notification by the department. In adding or removing covered materials to the list
1228 of recyclable covered materials in this state, the department shall consider whether the
1229 covered material type and form will be accepted pursuant to a producer responsibility plan.

1230 12-8-110.13.

1231 (a) The department shall, in consultation with the advisory board, the PROs, service
1232 providers, political subdivisions, and others, develop a list of compostable covered
1233 materials in this state. The covered materials included on such list shall meet the definition

1234 of compostable in paragraph (8) of subsection (a) of Code Section 12-8-110.1 and shall
1235 meet all of the following criteria:

1236 (1) The covered material type and form are regularly accepted in residential composting
1237 programs and collected by composting programs for jurisdictions that collectively
1238 encompass at least 60 percent of the population of this state; and

1239 (2) The covered material does not contain an additive of high concern identified in Code
1240 Section 12-8-110.15.

1241 (b) Not later than two years after the effective date of this article, the department shall
1242 provide a list of compostable covered materials to the PROs, which shall forward the list
1243 to all service providers and political subdivisions as relevant. Covered materials
1244 determined to be compostable in this state are required to be collected by service providers
1245 either directly contracted by a PRO or a public service provider receiving reimbursement
1246 from a PRO.

1247 (c) The department may add or remove covered materials to the compostable covered
1248 materials list every two years. PROs shall enact additions and removals from covered
1249 materials across this state within one year of notification by the department. In adding or
1250 removing covered materials to the compostable covered materials list, the department shall
1251 consider whether the covered material type and form will be accepted pursuant to a
1252 producer responsibility plan.

1253 12-8-110.14.

1254 (a) Each registered PRO shall annually fund and implement a reuse financial assistance
1255 program to reduce the negative environmental impacts of covered materials through reuse
1256 systems. The funded amount shall be:

1257 (1) At least \$5 million beginning in the first year of implementation of the PRO's first
1258 accepted program plan and adjusted annually thereafter for inflation. The PRO shall use

1259 the Consumer Price Index for Urban Wage Earners and Clerical Workers to calculate the
1260 annual rate of inflation adjustment effective January 1 of each year; and

1261 (2) Sufficient to achieve the reuse and return rate targets and requirements established
1262 in Code Section 12-8-110.7. If, at any point, the department determines that the reuse
1263 and return rate targets or state-wide requirements are not met, each PRO shall increase
1264 annual contributions to and expenditures from the reuse financial assistance program.

1265 (b) Entities eligible for reuse financial assistance include, but are not limited to:

1266 (1) Government entities;

1267 (2) Tribal governments;

1268 (3) Nonprofit organizations; and

1269 (4) Private organizations.

1270 (c) In administering the reuse financial assistance program, the PROs shall solicit
1271 applications using an open and competitive process and shall select applications through
1272 an evaluation that considers criteria, including, but not limited to:

1273 (1) Environmental benefits of the activity;

1274 (2) Ability to scale and harmonize the activity;

1275 (3) Coordination with other proposed or funded activities by any PRO;

1276 (4) Cost-effectiveness of the activity; and

1277 (5) The needs of economically distressed or overburdened communities.

1278 (d) The PROs shall consult with the advisory board in determining the criteria in
1279 subsection (c) of this Code section, evaluating and selecting applications, and in
1280 administering the reuse financial assistance program.

1281 12-8-110.15.

1282 (a) As used in this Code section, the term:

1283 (1) 'Additive' means a substance which is intentionally added to covered materials to
1284 achieve a physical or chemical effect during manufacturing or in the final material.

- 1285 (2) 'Credible scientific evidence' means the results of a study, the experimental design
1286 and conduct of which have undergone independent scientific peer review, that are
1287 published in a peer reviewed journal or in a publication of an authoritative federal, state,
1288 or international governmental agency, including, but not limited to:
- 1289 (A) The United States Department of Health and Human Services;
 - 1290 (B) The National Toxicology Program;
 - 1291 (C) The United States Food and Drug Administration;
 - 1292 (D) The United States Centers for Disease Control and Prevention;
 - 1293 (E) The United States Environmental Protection Agency;
 - 1294 (F) The World Health Organization; or
 - 1295 (G) The European Union, European Chemicals Agency.
- 1296 (3) 'Incidental presence' means the presence of an additive as an unintended or undesired
1297 ingredient of a covered material at a concentration that is less than 100 parts per million
1298 by weight (0.01 percent), or a lower threshold as determined to be necessary to protect
1299 human health by the department.
- 1300 (4) 'Intentionally added' means the act of deliberately utilizing an additive in the
1301 formation of a covered material where its continued presence is desired in the final
1302 covered material to provide a specific characteristic, appearance, or quality. The use of
1303 an additive as a processing agent, mold release agent, or intermediate is considered
1304 intentional addition for the purposes of this article where the additive is detected in the
1305 final covered material. Such term does not include the use of postconsumer recycled
1306 content, where some portion of the postconsumer recycled content may contain amounts
1307 of the additive but is neither desired nor deliberate.
- 1308 (5) 'Manufacturing' means the physical or chemical modification of a material to produce
1309 covered materials.

1310 (6) 'Perfluoroalkyl and polyfluoroalkyl substances' or 'PFAS' means all members of the
1311 class of fluorinated organic chemicals containing at least one fully fluorinated carbon
1312 atom.

1313 (7) 'Persistent, bioaccumulative, and toxic' means substances meeting the criteria
1314 established in Section 1 of Annex XIII to the Registration, Evaluation, Authorisation and
1315 Restriction of Chemicals (REACH) Regulation of the European Union (EC) No
1316 1907/2006 of the European Parliament and of the Council of 18 December 2006, as
1317 amended, or its successor.

1318 (8) 'Persistent, mobile, and toxic' means substances meeting the criteria established in
1319 'REACH: Improvement of guidance and methods for the identification and assessment
1320 of PMT/vPvM substances: Final Report,' or its successor.

1321 (9) 'Phthalates' means all members of the class of organic chemicals that are esters of
1322 phthalic acid and that contain two carbon chains located in the ortho position.

1323 (b)(1) Not later than four years after the effective date of this article, a producer shall not
1324 sell, offer for sale or for promotional purposes, or distribute covered materials to which
1325 the following additives of high concern have been intentionally added during
1326 manufacturing or distribution in any amount greater than an incidental presence:

1327 (A) Lead;

1328 (B) Cadmium;

1329 (C) Mercury;

1330 (D) Hexavalent chromium;

1331 (E) Phthalates;

1332 (F) PFAS; and

1333 (G) Other additives of high concern as identified and prohibited by the department
1334 under this Code section.

1335 (2) No material used to replace an additive regulated by this article in a covered material
1336 may be used in a quantity or manner that creates a hazard as great as or greater than the

1337 hazard created by the additive regulated by this article, taking into account the factors in
1338 paragraph (2) of subsection (c) of this Code section.

1339 (c)(1) In accordance with the requirements of this Code section, the department shall
1340 periodically revise and publish a list of additives or groups of additives of high concern
1341 in covered materials.

1342 (2) An additive or group of additives may be included on the list of additives of high
1343 concern under this Code section only if:

1344 (A) The additive or group of additives has been identified by a governmental entity on
1345 the basis of credible scientific evidence as being:

1346 (i) A carcinogen;

1347 (ii) A reproductive or developmental toxicant;

1348 (iii) An endocrine disruptor;

1349 (iv) Persistent, bioaccumulative, and toxic; or

1350 (v) Persistent, mobile, and toxic; or

1351 (B) The department determines that there is credible scientific evidence that the
1352 additive or group of additives is a reproductive or developmental toxicant, endocrine
1353 disruptor, or carcinogen in humans or the environment.

1354 (3) The department in its periodic review of the list of additives of high concern
1355 published pursuant to this Code section shall remove from the list any additives or group
1356 of additives that no longer meets the criteria of paragraph (2) of this subsection and may
1357 add to the list of additives of high concern additional additives or groups of additives that
1358 meet the criteria of paragraph (2) of this subsection.

1359 (4) The department may consider the extent to which an additive or group of additives
1360 known to be used or present in covered materials is adequately regulated by the federal
1361 government or an agency of this state to reduce or prevent the same public health threats
1362 that would be the basis for addressing the additive under this Code section.

1363 12-8-110.16.

1364 Not later than five years after the effective date of this article and every year thereafter, the
1365 department shall submit a report to the Governor and to the chairpersons and ranking
1366 minority members of House Committee on Natural Resources and Environment and the
1367 Senate Natural Resources and the Environment Committee. The report shall:

1368 (1) Summarize the annual reports submitted to the department by all PROs;

1369 (2) Report on progress achieved in the previous year toward performance targets under
1370 subparagraph (a)(5)(G) of Code Section 12-8-110.5 and performance standards under
1371 Code Section 12-8-110.7;

1372 (3) Report on implementation of Code Section 12-8-110.15;

1373 (4) Summarize enforcement actions under Code Section 12-8-110.17; and

1374 (5) Contain other information regarding the performance of the PROs in implementing
1375 this article.

1376 12-8-110.17.

1377 (a) The department shall enforce this article as provided under this Code section. The
1378 department or the Attorney General shall first issue a corrective order before pursuing other
1379 enforcement actions.

1380 (b) The department may issue a notice of violation to, and impose an administrative civil
1381 penalty not to exceed \$50,000.00 per day of violation on, any entity not in compliance with
1382 this article or any of the regulations which the department adopts to implement this article.

1383 (c) In the event that the department determines that a PRO no longer meets the
1384 requirements of this article or fails to implement and administer an approved producer
1385 responsibility plan in a manner that effectuates the purposes of this article, the department
1386 shall revoke its approval of the PRO and may approve additional PROs pursuant to Code
1387 Section 12-8-110.4.

1388 (d) If the department determines that a PRO or producer has not achieved the performance
1389 standards established pursuant to Code Section 12-8-110.7, the department shall, through
1390 a public process, adopt regulations that place requirements on the PRO or producers to
1391 achieve the performance standards specified in Code Section 12-8-110.7.

1392 12-8-110.18.

1393 The department is authorized to promulgate rules and regulations to implement the
1394 provisions of this article."

1395 **SECTION 2.**

1396 All laws and parts of laws in conflict with this Act are repealed.