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SENATE BILL 25-163

BY SENATOR(S) Cutter and Ball, Amabile, Danielson, Daugherty, Hinrichsen, Jodeh, Kipp, Michaelson Jenet, Roberts, Wallace, Weissman, Winter F.;

also REPRESENTATIVE(S) Brown and Stewart R., Bird, Froelich, Hamrick, Lindsay, Lindstedt, Mabrey, McCormick, Paschal, Rutinel, Sirota, Smith, Stewart K., Valdez, Woodrow.

CONCERNING THE ESTABLISHMENT OF BATTERY STEWARDSHIP PROGRAMS
FOR THE DISPOSAL OF CERTAIN BATTERIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 10 to article 17 of title 25 as follows:

PART 10
BATTERY STEWARDSHIP PROGRAMS

25-17-1001. Short title. THE SHORT TITLE OF THIS PART 10 IS THE "BATTERY STEWARDSHIP ACT".

25-17-1002. Legislative declaration. (1) THE GENERAL ASSEMBLY

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

FINDS THAT:

(a) MULTIPLE STUDIES HAVE ESTABLISHED THAT EXPENSIVE AND HAZARDOUS RISKS RESULT FROM THE IMPROPER HANDLING AND DISPOSAL OF BATTERIES. IT IS IN THE PUBLIC INTEREST OF COLORADO RESIDENTS TO REDUCE THE INHERENT RISK OF FIRES THAT CAN OCCUR WHEN BATTERIES ARE IMPROPERLY DISPOSED OF AND TO ENCOURAGE THE RECOVERY OF VALUABLE MATERIALS IN BATTERIES THAT CAN BE PUT BACK INTO THE SUPPLY CHAIN.

(b) ACCORDING TO ANALYSES CONDUCTED BY SEVERAL STATE ORGANIZATIONS, ACCESS TO COLLECTION, RECOVERY, AND RECYCLING PROGRAMS FOR PORTABLE SMALL AND MEDIUM-FORMAT BATTERIES IS LIMITED, INCONVENIENT, AND COSTLY FOR MOST COLORADO RESIDENTS. COLORADO COMMUNITIES THAT OPERATE BATTERY COLLECTION EVENTS AND FACILITIES REPORT THAT SUCH EVENTS AND FACILITIES ARE COSTLY FOR LOCAL GOVERNMENTS TO OPERATE.

(c) WITHOUT A COORDINATED BATTERY STEWARDSHIP PROGRAM, CONSUMERS WILL CONTINUE TO BE CONFUSED ABOUT PROPER BATTERY DISPOSAL;

(d) ENSURING THE PROPER RECOVERY OF USED PORTABLE SMALL AND MEDIUM-FORMAT BATTERIES PREVENTS THE IGNITION OF FIRES AND THE RELEASE OF TOXIC MATERIALS INTO THE ENVIRONMENT; AND

(e) IT IS THE BEST PRACTICE FOR A BATTERY STEWARDSHIP PROGRAM TO COLLECT ALL BATTERY TYPES AND CHEMISTRIES, AS EVIDENCED BY SUCCESSFUL BATTERY STEWARDSHIP PROGRAMS OPERATING IN OTHER STATES.

(2) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT IT IS IN THE PUBLIC INTEREST OF COLORADO TO REQUIRE PRODUCERS OF BATTERIES TO FINANCE AND IMPLEMENT A COORDINATED, STATE-APPROVED SYSTEM THAT INCREASES ACCESS TO THE SAFE DISPOSAL OF BATTERIES IN COLORADO.

(3) THE GENERAL ASSEMBLY FURTHER DECLARES THAT BATTERY STEWARDSHIP ORGANIZATIONS ESTABLISHED PURSUANT TO THIS PART 10 ARE INDEPENDENT, NONGOVERNMENTAL ENTITIES AND, FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, ARE NOT DISTRICTS,

AS DEFINED IN SECTION 20 (2)(b) OF ARTICLE X OF THE STATE CONSTITUTION.

25-17-1003. Definitions - rules. AS USED IN THIS PART 10, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "APPROVED PLAN" MEANS A BATTERY STEWARDSHIP PLAN THAT HAS BEEN APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO SECTION 25-17-1005.

(2) "BATTERY-CONTAINING PRODUCT" MEANS A PRODUCT SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN OR INTO THE STATE THAT CONTAINS OR IS PACKAGED WITH RECHARGEABLE OR PRIMARY BATTERIES THAT ARE COVERED BATTERIES.

(3) "BATTERY STEWARDSHIP ORGANIZATION" OR "ORGANIZATION" MEANS A PRODUCER THAT DIRECTLY IMPLEMENTS A BATTERY STEWARDSHIP PLAN IN ACCORDANCE WITH THIS PART 10 OR A NONPROFIT ORGANIZATION DESIGNATED BY A PRODUCER OR A GROUP OF PRODUCERS TO IMPLEMENT A BATTERY STEWARDSHIP PLAN IN ACCORDANCE WITH THIS PART 10.

(4) "BATTERY STEWARDSHIP PLAN" OR "PLAN" MEANS A PLAN FOR THE COLLECTION, TRANSPORTATION, PROCESSING, AND RECYCLING OF COVERED BATTERIES SUBMITTED TO THE EXECUTIVE DIRECTOR PURSUANT TO SECTION 25-17-1005 (1).

(5) "BATTERY STEWARDSHIP PROGRAM" OR "PROGRAM" MEANS A PROGRAM IMPLEMENTED BY A BATTERY STEWARDSHIP ORGANIZATION IN ACCORDANCE WITH AN APPROVED PLAN.

(6) "COLLECTION RATE" MEANS A PERCENTAGE, BY WEIGHT, OF COVERED BATTERIES THAT A BATTERY STEWARDSHIP ORGANIZATION COLLECTS, WHICH IS CALCULATED BY DIVIDING THE TOTAL WEIGHT OF THE COVERED BATTERIES THAT THE BATTERY STEWARDSHIP ORGANIZATION COLLECTED DURING THE PREVIOUS CALENDAR YEAR BY THE AVERAGE ANNUAL WEIGHT OF COVERED BATTERIES THAT WERE ESTIMATED BY THE ORGANIZATION TO HAVE BEEN SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN OR INTO THE STATE DURING THE PREVIOUS THREE CALENDAR YEARS BY PRODUCERS PARTICIPATING IN AN APPROVED PLAN.

(7) "COMMISSION" MEANS THE SOLID AND HAZARDOUS WASTE COMMISSION CREATED IN SECTION 25-15-302 (1)(a).

(8) (a) "COVERED BATTERY" MEANS A PORTABLE BATTERY, A MEDIUM-FORMAT BATTERY, OR ANY BATTERY SOLD LOOSE OR AS AN EASILY REMOVABLE BATTERY WITHIN A BATTERY-CONTAINING PRODUCT OR A MOTORIZED DEVICE.

(b) "COVERED BATTERY" DOES NOT INCLUDE:

(I) A BATTERY CONTAINED WITHIN A MEDICAL DEVICE, AS DEFINED IN 21 U.S.C. SEC. 321 (h) AS OF THE EFFECTIVE DATE OF THIS PART 10;

(II) A BATTERY THAT CONTAINS AN ELECTROLYTE AS A FREE LIQUID;

(III) A LEAD-ACID BATTERY WEIGHING MORE THAN ELEVEN POUNDS;

(IV) AN EMBEDDED BATTERY;

(V) A BATTERY THAT IS DAMAGED, IS DEFECTIVE, OR HAS BEEN RECALLED; OR

(VI) A BATTERY, ASSEMBLED BY OR FOR A VEHICLE MANUFACTURER OR FRANCHISED DEALER, THAT IS DESIGNED TO POWER A MOTOR VEHICLE, A PART OF A MOTOR VEHICLE, OR A COMPONENT PART OF A MOTOR VEHICLE, INCLUDING A REPLACEMENT PART FOR USE IN A MOTOR VEHICLE.

(9) "DAMAGED OR DEFECTIVE BATTERY" MEANS A BATTERY THAT HAS BEEN DAMAGED OR IDENTIFIED BY THE MANUFACTURER AS BEING DEFECTIVE FOR SAFETY REASONS AND THAT HAS THE POTENTIAL OF PRODUCING A DANGEROUS EVOLUTION OF HEAT, FIRE, OR SHORT CIRCUIT, AS DESCRIBED IN 49 CFR 173.185 (f), OR AS UPDATED BY THE COMMISSION BY RULE TO MAINTAIN CONSISTENCY WITH FEDERAL STANDARDS.

(10) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CREATED IN SECTION 25-1-102.

(11) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

(12) "EASILY REMOVABLE" MEANS A BATTERY THAT IS INTENDED OR DESIGNED BY THE MANUFACTURER TO BE REMOVABLE BY THE USER OF THE BATTERY WITH NO MORE THAN COMMONLY USED HOUSEHOLD TOOLS.

(13) "EMBEDDED BATTERY" MEANS A BATTERY THAT IS CONTAINED IN A PRODUCT AND THAT IS NOT DESIGNED TO BE EASILY REMOVABLE.

(14) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT.

(15) "FUND" MEANS THE BATTERY STEWARDSHIP FUND CREATED IN SECTION 25-17-1012 (2)(a).

(16) "HOUSEHOLD HAZARDOUS WASTE FACILITY" MEANS A FACILITY THAT IS SUBJECT TO FEDERAL AND STATE REGULATIONS AND RULES THAT ENSURE THAT THE FACILITY IS COLLECTING UNIVERSAL WASTE, INCLUDING UNIVERSAL WASTE BATTERIES, IN A MANNER THAT PREVENTS THE HARMFUL IMPACT OF IMPROPER DISPOSAL OF THE UNIVERSAL WASTE AND PURSUANT TO FEDERAL AND STATE REGULATIONS AND RULES GOVERNING UNIVERSAL WASTE HANDLERS.

(17) "LOCAL GOVERNMENT" MEANS A COUNTY, CITY, TOWN, CITY AND COUNTY, OR SPECIAL DISTRICT WITHIN THE STATE OF COLORADO.

(18) "MATERIALS RECOVERY FACILITY" MEANS A FACILITY THAT PROCESSES MATERIALS THAT ARE COLLECTED FOR RECYCLING BEFORE BEING CONVEYED TO END-MARKET BUSINESSES.

(19) "MEDIUM-FORMAT BATTERY" MEANS THE FOLLOWING PRIMARY OR RECHARGEABLE COVERED BATTERIES:

(a) FOR PRIMARY BATTERIES, A BATTERY WEIGHING AT LEAST FOUR AND FOUR-TENTHS POUNDS AND NO MORE THAN TWENTY-FIVE POUNDS; OR

(b) FOR RECHARGEABLE BATTERIES, A BATTERY WEIGHING:

(I) MORE THAN ELEVEN POUNDS OR HAVING A RATING OF MORE THAN THREE HUNDRED WATT-HOURS, OR BOTH; AND

(II) NO MORE THAN TWENTY-FIVE POUNDS AND HAVING A RATING OF

NO MORE THAN TWO THOUSAND WATT-HOURS.

(20) "PORTABLE BATTERY" MEANS THE FOLLOWING PRIMARY OR RECHARGEABLE COVERED BATTERIES:

(a) FOR PRIMARY BATTERIES, A BATTERY WEIGHING NO MORE THAN FOUR AND FOUR-TENTHS POUNDS; OR

(b) FOR RECHARGEABLE BATTERIES, A BATTERY WEIGHING NO MORE THAN ELEVEN POUNDS AND HAVING A RATING OF NO MORE THAN THREE HUNDRED WATT-HOURS.

(21) "PRIMARY BATTERY" MEANS A BATTERY THAT IS NOT CAPABLE OF BEING RECHARGED.

(22) (a) "PRODUCER" MEANS:

(I) FOR COVERED BATTERIES SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN OR INTO THE STATE:

(A) IF THE COVERED BATTERY IS SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN OR INTO THE STATE UNDER THE BRAND OF THE BATTERY MANUFACTURER, THE PRODUCER IS THE PERSON THAT MANUFACTURES THE BATTERY;

(B) IF THE COVERED BATTERY IS SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN OR INTO THE STATE UNDER A RETAIL BRAND OR UNDER A BRAND OWNED BY A PERSON OTHER THAN THE BATTERY MANUFACTURER, THE PRODUCER IS THE BRAND OWNER;

(C) IF THERE IS NO PERSON THAT SUBSECTION (22)(a)(I)(A) OR (22)(a)(I)(B) OF THIS SECTION APPLIES TO, THE PRODUCER IS THE LICENSEE OF THE BRAND OR TRADEMARK UNDER WHICH THE COVERED BATTERY IS SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN OR INTO THE STATE, REGARDLESS OF WHETHER THE TRADEMARK IS REGISTERED IN THE STATE;

(D) IF THERE IS NO PERSON IN THE UNITED STATES THAT SUBSECTION (22)(a)(I)(A), (22)(a)(I)(B), OR (22)(a)(I)(C) OF THIS SECTION APPLIES TO, THE PRODUCER IS THE PERSON THAT IS THE IMPORTER OF RECORD FOR THE COVERED BATTERY INTO THE UNITED STATES; AND

(E) IF THERE IS NO PERSON WITH A COMMERCIAL PRESENCE IN THE STATE THAT SUBSECTION (22)(a)(I)(A), (22)(a)(I)(B), (22)(a)(I)(C), OR (22)(a)(I)(D) OF THIS SECTION APPLIES TO, THE PRODUCER IS THE PERSON THAT FIRST SELLS, OFFERS FOR SALE, OR DISTRIBUTES THE COVERED BATTERY IN OR INTO THE STATE; AND

(II) FOR COVERED BATTERY-CONTAINING PRODUCTS SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN OR INTO THE STATE:

(A) IF THE BATTERY-CONTAINING PRODUCT IS SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN OR INTO THE STATE UNDER THE BRAND OF THE PRODUCT MANUFACTURER, THE PRODUCER IS THE PERSON THAT MANUFACTURES THE BATTERY-CONTAINING PRODUCT;

(B) IF THE BATTERY-CONTAINING PRODUCT IS SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN OR INTO THE STATE UNDER A RETAIL BRAND OR UNDER A BRAND OWNED BY A PERSON OTHER THAN THE PRODUCT MANUFACTURER, THE PRODUCER IS THE BRAND OWNER;

(C) IF THERE IS NO PERSON THAT SUBSECTION (22)(a)(II)(A) OR (22)(a)(II)(B) OF THIS SECTION APPLIES TO, THE PRODUCER IS THE LICENSEE OF THE BRAND OR TRADEMARK UNDER WHICH THE BATTERY-CONTAINING PRODUCT IS SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN OR INTO THE STATE, REGARDLESS OF WHETHER THE TRADEMARK IS REGISTERED IN THE STATE;

(D) IF THERE IS NO PERSON IN THE UNITED STATES THAT SUBSECTION (22)(a)(II)(A), (22)(a)(II)(B), OR (22)(a)(II)(C) OF THIS SECTION APPLIES TO, THE PRODUCER IS THE PERSON THAT IS THE IMPORTER OF RECORD FOR THE BATTERY-CONTAINING PRODUCT INTO THE UNITED STATES; AND

(E) IF THERE IS NO PERSON WITH A COMMERCIAL PRESENCE IN THE STATE THAT SUBSECTION (22)(a)(II)(A), (22)(a)(II)(B), (22)(a)(II)(C), OR (22)(a)(II)(D) OF THIS SECTION APPLIES TO, THE PRODUCER IS THE PERSON THAT FIRST SELLS, OFFERS FOR SALE, OR DISTRIBUTES THE BATTERY-CONTAINING PRODUCT IN OR INTO THE STATE.

(b) "PRODUCER" DOES NOT INCLUDE A PERSON THAT ONLY MANUFACTURES, SELLS, OFFERS FOR SALE, DISTRIBUTES, OR IMPORTS IN OR INTO THE STATE A BATTERY-CONTAINING PRODUCT IF:

(I) THE ONLY BATTERIES CONTAINED IN OR SUPPLIED WITH THE BATTERY-CONTAINING PRODUCT ARE SUPPLIED BY A PRODUCER THAT HAS JOINED A BATTERY STEWARDSHIP ORGANIZATION WITH AN APPROVED PLAN ACKNOWLEDGING THAT THE PRODUCER IS THE PRODUCER FOR THAT COVERED BATTERY PURSUANT TO THIS PART 10; AND

(II) THE PRODUCER PROVIDES WRITTEN CERTIFICATION TO BOTH THE PERSON DESCRIBED IN THIS SUBSECTION (22)(b) AND THE BATTERY STEWARDSHIP ORGANIZATION OF WHICH THE PRODUCER IS A MEMBER.

(c) A PERSON IS NOT THE PRODUCER OF A COVERED BATTERY OR BATTERY-CONTAINING PRODUCT SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN OR INTO THE STATE IF ANOTHER PARTY HAS CONTRACTUALLY ACCEPTED RESPONSIBILITY AS A PRODUCER AND HAS JOINED A BATTERY STEWARDSHIP ORGANIZATION WITH AN APPROVED PLAN ACKNOWLEDGING THAT THE OTHER PARTY IS THE PRODUCER FOR THAT COVERED BATTERY OR BATTERY-CONTAINING PRODUCT PURSUANT TO THIS PART 10.

(23) "PROPRIETARY INFORMATION" HAS THE MEANING SET FORTH IN SECTION 25-17-703 (34).

(24) "RECHARGEABLE BATTERY" MEANS A BATTERY THAT CONTAINS ONE OR MORE VOLTAIC OR GALVANIC CELLS, WHICH ARE ELECTRICALLY CONNECTED TO PRODUCE ELECTRIC ENERGY AND DESIGNED TO BE RECHARGED.

(25) "RECYCLING" HAS THE MEANING SET FORTH IN SECTION 25-17-703 (37).

(26) "RECYCLING EFFICIENCY RATE" MEANS THE RATIO OF THE WEIGHT OF COMPONENTS AND MATERIALS RECYCLED BY A BATTERY STEWARDSHIP ORGANIZATION FROM COVERED BATTERIES TO THE WEIGHT OF COVERED BATTERIES AS COLLECTED BY THE BATTERY STEWARDSHIP ORGANIZATION.

(27) "RETAILER" MEANS A PERSON THAT SELLS COVERED BATTERIES OR BATTERY-CONTAINING PRODUCTS IN OR INTO THE STATE, INCLUDING SALES MADE THROUGH AN INTERNET TRANSACTION, OR OFFERS OR OTHERWISE MAKES AVAILABLE COVERED BATTERIES OR BATTERY-CONTAINING PRODUCTS TO A CUSTOMER IN THE STATE.

(28) "UNIVERSAL WASTE" HAS THE MEANING SET FORTH IN RULES ADOPTED BY THE COMMISSION.

(29) "UNIVERSAL WASTE BATTERY" MEANS A WASTE BATTERY GENERATED BY A NONRESIDENTIAL ENTITY, SUCH AS A BUSINESS, SCHOOL, OR GOVERNMENT AGENCY, THAT IS MANAGED AS UNIVERSAL WASTE REGULATED IN ACCORDANCE WITH THE COMMISSION'S RULES GOVERNING STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.

(30) "UNIVERSAL WASTE HANDLER" MEANS THE OWNER OR OPERATOR OF A FACILITY THAT RECEIVES, ACCUMULATES, AND SENDS UNIVERSAL WASTE TO ANOTHER UNIVERSAL WASTE HANDLER, A DESTINATION FACILITY, OR A FOREIGN DESTINATION IN ACCORDANCE WITH THE COMMISSION'S RULES GOVERNING STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.

(31) "WRITTEN CERTIFICATION" MEANS WRITTEN CERTIFICATION BY A PRODUCER THAT:

(a) THE PRODUCER IS A MEMBER OF A BATTERY STEWARDSHIP ORGANIZATION; AND

(b) A COVERED BATTERY OR BATTERY-CONTAINING PRODUCT IS MARKED IN ACCORDANCE WITH SECTION 25-17-1013 OR THE RULES ADOPTED IN ACCORDANCE WITH SECTION 25-17-1013.

25-17-1004. Requirement that producers participate in a battery stewardship plan - retailer requirements - no point-of-sale fees. (1) ON AND AFTER AUGUST 1, 2027:

(a) A PRODUCER SELLING, MAKING AVAILABLE FOR SALE, OR DISTRIBUTING COVERED BATTERIES OR BATTERY-CONTAINING PRODUCTS IN OR INTO THE STATE SHALL PARTICIPATE IN AND FINANCE A BATTERY STEWARDSHIP ORGANIZATION THAT HAS SUBMITTED A PLAN PURSUANT TO SECTION 25-17-1005 (1)(a); AND

(b) EXCEPT AS PROVIDED IN SECTION 25-17-1003 (22)(b) AND (22)(c), A PRODUCER SHALL NOT SELL, MAKE AVAILABLE FOR SALE, OR DISTRIBUTE COVERED BATTERIES OR BATTERY-CONTAINING PRODUCTS IN OR INTO THE STATE UNLESS THAT PRODUCER PARTICIPATES IN A BATTERY

STEWARDSHIP ORGANIZATION AND A BATTERY STEWARDSHIP PLAN.

(2) (a) ON AND AFTER JULY 1, 2029, A RETAILER SHALL NOT SELL, OFFER FOR SALE, DISTRIBUTE, OR OTHERWISE MAKE AVAILABLE FOR SALE A COVERED BATTERY OR BATTERY-CONTAINING PRODUCT IN THE STATE UNLESS THE PRODUCER OF THE COVERED BATTERY OR BATTERY-CONTAINING PRODUCT IS PARTICIPATING IN A BATTERY STEWARDSHIP ORGANIZATION WITH AN APPROVED PLAN.

(b) A RETAILER DOES NOT VIOLATE SUBSECTION (2)(a) OF THIS SECTION IF THE LIST PROVIDED BY THE EXECUTIVE DIRECTOR IN ACCORDANCE WITH SECTION 25-17-1012 (2)(d)(III) INCLUDES, AS OF THE DATE A PRODUCT SOLD BY THE RETAILER IS MADE AVAILABLE FOR RETAIL SALE, THE PRODUCER OR BRAND OF COVERED BATTERY OR BATTERY-CONTAINING PRODUCT AS A PARTICIPANT IN AN APPROVED PLAN.

(c) (I) A RETAILER OF A COVERED BATTERY OR A BATTERY-CONTAINING PRODUCT IS NOT REQUIRED TO MAKE A RETAIL LOCATION AVAILABLE TO SERVE AS A COLLECTION SITE FOR A BATTERY STEWARDSHIP PROGRAM.

(II) A RETAILER THAT OFFERS A RETAIL LOCATION THAT SERVES AS A COLLECTION SITE MUST COMPLY WITH AN APPROVED BATTERY STEWARDSHIP PLAN AND THE REQUIREMENTS FOR COLLECTION SITES DESCRIBED IN SECTION 25-17-1008.

(d) A RETAILER SHALL NOT SELL, OFFER FOR SALE, DISTRIBUTE, OR OTHERWISE MAKE AVAILABLE FOR SALE A COVERED BATTERY OR BATTERY-CONTAINING PRODUCT UNLESS THE COVERED BATTERY OR BATTERY-CONTAINING PRODUCT IS MARKED IN ACCORDANCE WITH SECTION 25-17-1013 OR THE RULES ADOPTED IN ACCORDANCE WITH SECTION 25-17-1013.

(e) (I) A BATTERY STEWARDSHIP ORGANIZATION SHALL MAKE INFORMATION AVAILABLE TO A RETAILER FOR VOLUNTARY USE THAT THE RETAILER MAY USE TO INFORM CUSTOMERS OF AVAILABLE END-OF-LIFE MANAGEMENT OPTIONS FOR COVERED BATTERIES COLLECTED BY THE BATTERY STEWARDSHIP ORGANIZATION, WHICH INFORMATION MUST INCLUDE IN-STORE SIGNAGE, WRITTEN MATERIALS, AND OTHER PROMOTIONAL MATERIALS.

(II) A RETAILER SELLING, OFFERING FOR SALE, DISTRIBUTING, OR OTHERWISE MAKING AVAILABLE A COVERED BATTERY OR BATTERY-CONTAINING PRODUCT MAY PROVIDE THE INFORMATION DESCRIBED IN SUBSECTION (2)(e)(I) OF THIS SECTION TO CUSTOMERS AND THE PUBLIC.

(3) A RETAILER, PRODUCER, OR BATTERY STEWARDSHIP ORGANIZATION SHALL NOT CHARGE A POINT-OF-SALE FEE TO CONSUMERS TO COVER THE ADMINISTRATIVE OR OPERATIONAL COSTS OF A BATTERY STEWARDSHIP ORGANIZATION OR A BATTERY STEWARDSHIP PROGRAM.

25-17-1005. Battery stewardship plans - review and approval by the executive director. (1) NO LATER THAN JULY 1, 2027, AND EVERY FIVE YEARS THEREAFTER, A BATTERY STEWARDSHIP ORGANIZATION SHALL SUBMIT TO THE EXECUTIVE DIRECTOR A PLAN FOR THE COLLECTION, TRANSPORTATION, PROCESSING, AND RECYCLING OF COVERED BATTERIES UNDER A BATTERY STEWARDSHIP PROGRAM. THE EXECUTIVE DIRECTOR SHALL REVIEW AND APPROVE, DISAPPROVE, OR CONDITIONALLY APPROVE A PLAN BASED ON WHETHER THE PLAN:

(a) LISTS AND PROVIDES CONTACT INFORMATION FOR EACH PRODUCER, COVERED BATTERY BRAND, AND BATTERY-CONTAINING PRODUCT BRAND COVERED BY THE PLAN, INCLUDING IDENTIFYING PRODUCERS THAT HAVE CONTRACTUALLY ACCEPTED RESPONSIBILITY AS A PRODUCER IN ACCORDANCE WITH SECTION 25-17-1003 (22)(c);

(b) PROPOSES PERFORMANCE GOALS THAT ARE CONSISTENT WITH SECTION 25-17-1006, INCLUDING ESTABLISHING PERFORMANCE GOALS FOR EACH OF THE FIVE CALENDAR YEARS AFTER THE PLAN IS SUBMITTED TO THE EXECUTIVE DIRECTOR;

(c) DESCRIBES HOW THE ORGANIZATION WILL MAKE RETAILERS AWARE OF THE OBLIGATION DESCRIBED IN SECTION 25-17-1004 (2)(a) TO SELL ONLY COVERED BATTERIES AND BATTERY-CONTAINING PRODUCTS OF PRODUCERS PARTICIPATING IN AN APPROVED PLAN;

(d) DESCRIBES THE EDUCATION AND COMMUNICATIONS STRATEGY BEING IMPLEMENTED PURSUANT TO SECTION 25-17-1010 TO PROMOTE PARTICIPATION IN THE APPROVED PLAN AND TO PROVIDE THE INFORMATION NECESSARY FOR EFFECTIVE PARTICIPATION OF CONSUMERS, RETAILERS, AND

OTHERS;

(e) DESCRIBES HOW THE ORGANIZATION WILL MAKE SIGNAGE, WRITTEN MATERIALS, AND OTHER PROMOTIONAL MATERIALS AVAILABLE TO COLLECTION SITES SO THAT COLLECTION SITES MAY USE THE MATERIALS TO INFORM CONSUMERS OF AVAILABLE END-OF-LIFE MANAGEMENT OPTIONS FOR COVERED BATTERIES COLLECTED BY THE ORGANIZATION;

(f) LISTS PROMOTIONAL ACTIVITIES TO BE UNDERTAKEN BY THE ORGANIZATION, INCLUDING THE IDENTIFICATION OF CONSUMER AWARENESS GOALS AND STRATEGIES THAT THE ORGANIZATION WILL EMPLOY TO ACHIEVE THESE GOALS WHEN THE PROGRAM IS IMPLEMENTED;

(g) INCLUDES COLLECTION SITE SAFETY TRAINING PROCEDURES RELATED TO COVERED BATTERY COLLECTION ACTIVITIES AT COLLECTION SITES, INCLUDING A DESCRIPTION OF OPERATING PROTOCOLS TO REDUCE THE RISK OF A SPILL OR FIRE, RESPONSE PROTOCOLS IN THE EVENT OF A SPILL OR FIRE, AND PROTOCOLS FOR SAFE MANAGEMENT OF DAMAGED OR DEFECTIVE BATTERIES THAT ARE RETURNED TO COLLECTION SITES;

(h) DESCRIBES THE METHOD TO ESTABLISH AND ADMINISTER A MEANS FOR FULLY FUNDING THE PROGRAM IN A MANNER THAT EQUITABLY DISTRIBUTES THE PROGRAM'S COSTS AMONG THE PRODUCERS PARTICIPATING IN THE ORGANIZATION, INCLUDING A DESCRIPTION OF THE CHARGES COLLECTED FROM PRODUCERS PURSUANT TO SECTION 25-17-1007 (1). IF A PRODUCER CHOOSES TO DIRECTLY IMPLEMENT A PLAN INDIVIDUALLY WITHOUT DESIGNATING A NONPROFIT ORGANIZATION, THE PLAN MUST DESCRIBE THE PROPOSED METHOD TO ESTABLISH AND ADMINISTER A MEANS FOR FULLY FUNDING THE PROGRAM.

(i) DESCRIBES HOW THE PROGRAM WILL COLLECT ALL COVERED TYPES AND BRANDS OF COVERED BATTERIES ON A FREE, CONTINUOUS, CONVENIENT, VISIBLE, AND ACCESSIBLE BASIS, AND IN ACCORDANCE WITH SECTION 25-17-1008, INCLUDING A DESCRIPTION OF HOW THE STATEWIDE COLLECTION OPPORTUNITIES DESCRIBED IN SECTION 25-17-1008 (4)(b) AND (4)(c) WILL BE MET AND A LIST OF THE NAMES AND ADDRESSES OF COLLECTION SITES PARTICIPATING IN THE PROGRAM;

(j) DESCRIBES HOW THE PROGRAM WILL WORK WITH MATERIALS RECOVERY FACILITIES AND SECONDARY PROCESSORS TO PROPERLY PROCESS

AND TRANSPORT FOR RECYCLING ANY COVERED BATTERIES IMPROPERLY SENT TO THE FACILITIES THROUGH THE WASTE OR RECYCLING STREAMS;

(k) PROVIDES AN EXPLANATION FOR ANY DELAY ANTICIPATED BY THE ORGANIZATION FOR THE IMPLEMENTATION OF THE MANAGEMENT OF MEDIUM-FORMAT BATTERIES SUCH THAT THE IMPLEMENTATION WILL NOT BEGIN WITHIN SIX MONTHS AFTER THE PLAN IS APPROVED, INCLUDING A DELAY IN THE ABILITY TO COLLECT, PACKAGE, TRANSPORT, OR PROCESS MEDIUM-FORMAT BATTERIES IN ACCORDANCE WITH THIS PART 10, AND ESTABLISHES AN EXPECTED DATE OF COMPLIANCE FOR THE MANAGEMENT OF MEDIUM-FORMAT BATTERIES THAT IS NO LATER THAN JANUARY 1, 2029, IF A DELAY OCCURS;

(l) DESCRIBES THE CRITERIA TO BE USED BY THE PROGRAM TO DETERMINE WHETHER AN ENTITY MAY SERVE AS A COLLECTION SITE FOR COVERED BATTERIES UNDER THE PROGRAM;

(m) IDENTIFIES PROPOSED SERVICE PROVIDERS, SUCH AS SORTERS, TRANSPORTERS, AND PROCESSORS, TO BE USED BY THE PROGRAM FOR THE FINAL DISPOSITION OF COVERED BATTERIES AND PROPOSED PROVISIONS FOR RECORD KEEPING, TRACKING, AND DOCUMENTING THE FATE OF COLLECTED COVERED BATTERIES;

(n) DETAILS HOW THE PROGRAM WILL ACHIEVE A RECYCLING EFFICIENCY RATE OF AT LEAST SIXTY PERCENT FOR RECHARGEABLE BATTERIES AND AT LEAST SEVENTY PERCENT FOR PRIMARY BATTERIES;

(o) PROPOSES GOALS FOR INCREASING PUBLIC AWARENESS OF THE PROGRAM AND DESCRIBES HOW THE PUBLIC EDUCATION AND OUTREACH COMPONENTS OF THE PROGRAM REQUIRED BY SECTION 25-17-1010 WILL BE IMPLEMENTED; AND

(p) IF THE PERFORMANCE GOALS DESCRIBED IN SECTION 25-17-1006, AND AS APPROVED IN THE BATTERY STEWARDSHIP PLAN, HAVE NOT BEEN MET, INCLUDES CORRECTIVE MEASURES TO BE IMPLEMENTED BY THE ORGANIZATION TO MEET ITS PERFORMANCE GOALS, WHICH MAY INCLUDE IMPROVEMENTS TO THE COLLECTION SITE NETWORK OR INCREASED EXPENDITURES DEDICATED TO EDUCATION AND OUTREACH.

(2) A BATTERY STEWARDSHIP ORGANIZATION MUST PROVIDE PLAN

AMENDMENTS TO THE EXECUTIVE DIRECTOR FOR APPROVAL WHEN PROPOSING CHANGES TO THE PERFORMANCE GOALS DESCRIBED IN SECTION 25-17-1006 BASED ON THE EXPERIENCE OF THE PROGRAM, INCLUDING THE EXPERIENCE OF THE PROGRAM DURING THE SIX MONTHS BEFORE THE SUBMISSION OF THE AMENDMENTS, OR WHEN THERE IS A CHANGE TO THE METHOD OF FINANCING THE PROGRAM PURSUANT TO SECTION 25-17-1007 (1).

(3) (a) THE EXECUTIVE DIRECTOR SHALL REVIEW BATTERY STEWARDSHIP PLANS AND PLAN AMENDMENTS FOR COMPLIANCE WITH THIS PART 10 AND SHALL APPROVE, DISAPPROVE, OR CONDITIONALLY APPROVE A PLAN OR A PLAN AMENDMENT WITHIN ONE HUNDRED TWENTY DAYS AFTER RECEIPT OF THE PLAN OR PLAN AMENDMENT; EXCEPT THAT, IF MULTIPLE PLANS ARE SUBMITTED, THE REVIEW TIMELINE IS EXTENDED BY SIXTY DAYS.

(b) IF THE EXECUTIVE DIRECTOR DISAPPROVES A BATTERY STEWARDSHIP PLAN OR PLAN AMENDMENT, THE EXECUTIVE DIRECTOR SHALL PROVIDE A WRITTEN NOTICE OF DISAPPROVAL EXPLAINING HOW THE PLAN OR PLAN AMENDMENT DOES NOT COMPLY WITH THIS PART 10. THE BATTERY STEWARDSHIP ORGANIZATION SHALL SUBMIT TO THE EXECUTIVE DIRECTOR A REVISED PLAN, PLAN AMENDMENT, OR NOTICE OF PLAN WITHDRAWAL WITHIN SIXTY DAYS AFTER THE DATE THAT THE WRITTEN NOTICE OF DISAPPROVAL IS ISSUED. THE EXECUTIVE DIRECTOR SHALL REVIEW A REVISED PLAN OR PLAN AMENDMENT WITHIN NINETY DAYS AFTER THE ORGANIZATION SUBMITS THE REVISED PLAN, PLAN AMENDMENT, OR NOTICE OF PLAN WITHDRAWAL.

(c) IF A REVISED PLAN IS DISAPPROVED BY THE EXECUTIVE DIRECTOR, A PRODUCER OPERATING UNDER THE PLAN IS NOT IN COMPLIANCE WITH THIS PART 10 UNTIL THE EXECUTIVE DIRECTOR APPROVES A PLAN SUBMITTED BY AN ORGANIZATION THAT COVERS THE PRODUCER OR THE PRODUCER'S BATTERY BRAND OR BATTERY-CONTAINING PRODUCT BRAND.

(d) IF A PLAN, PLAN AMENDMENT, OR REVISED PLAN IS SUBMITTED TO THE EXECUTIVE DIRECTOR PURSUANT TO THIS SECTION, THE EXECUTIVE DIRECTOR SHALL MAKE THE PLAN, PLAN AMENDMENT, OR REVISED PLAN AVAILABLE FOR PUBLIC REVIEW AND COMMENT FOR AT LEAST THIRTY DAYS.

(e) A BATTERY STEWARDSHIP ORGANIZATION SHALL PROVIDE WRITTEN NOTIFICATION TO THE EXECUTIVE DIRECTOR WITHIN THIRTY DAYS

AFTER A PRODUCER BEGINS TO PARTICIPATE OR CEASES TO PARTICIPATE IN THE ORGANIZATION OR AFTER THE ADDING OR REMOVING OF A PROCESSOR OR TRANSPORTER.

25-17-1006. Performance goals. (1) A BATTERY STEWARDSHIP PLAN MUST INCLUDE PERFORMANCE GOALS THAT MEASURE, ON AN ANNUAL BASIS, THE ACHIEVEMENTS OF THE BATTERY STEWARDSHIP PROGRAM, INCLUDING:

(a) THE COLLECTION RATE FOR COVERED BATTERIES BY THE PROGRAM, INCLUDING TARGET COLLECTION RATES FOR PRIMARY BATTERIES AND RECHARGEABLE BATTERIES;

(b) THE RECYCLING EFFICIENCY RATE OF THE PROGRAM, INCLUDING TARGET RECYCLING EFFICIENCY RATES OF AT LEAST SIXTY PERCENT FOR RECHARGEABLE BATTERIES AND AT LEAST SEVENTY PERCENT FOR PRIMARY BATTERIES; AND

(c) PUBLIC AWARENESS OF THE PROGRAM, INCLUDING GOALS FOR PUBLIC AWARENESS, CONVENIENCE, AND ACCESSIBILITY THAT MEET OR EXCEED THE MINIMUM REQUIREMENTS ESTABLISHED IN SECTION 25-17-1010.

(2) A BATTERY STEWARDSHIP ORGANIZATION SHALL MEET THE PERFORMANCE GOALS ESTABLISHED PURSUANT TO THE ORGANIZATION'S APPROVED PLAN AND SHALL NOT REDUCE OR CEASE COLLECTION, EDUCATION AND OUTREACH, OR OTHER ACTIVITIES IMPLEMENTED UNDER AN APPROVED PLAN BASED ON THE ACHIEVEMENT OF PERFORMANCE GOALS.

25-17-1007. Collection of charges - reimbursement of collection sites and electronic waste recyclers. (1) (a) A BATTERY STEWARDSHIP ORGANIZATION IMPLEMENTING A BATTERY STEWARDSHIP PLAN ON BEHALF OF PRODUCERS SHALL DEVELOP AND ADMINISTER A SYSTEM TO COLLECT CHARGES FROM PARTICIPATING PRODUCERS TO COVER THE COSTS OF PROGRAM IMPLEMENTATION, INCLUDING:

(I) COVERED BATTERY COLLECTION, SORTATION, TRANSPORTATION, PROCESSING, AND RECYCLING IN A MANNER THAT IS SAFE FOR PUBLIC HEALTH AND THE ENVIRONMENT;

(II) EDUCATION AND OUTREACH;

(III) PROGRAM ADMINISTRATION, EVALUATION, AND REPORTING;
AND

(IV) PAYMENT OF ANNUAL FEES TO THE DEPARTMENT PURSUANT TO
SECTION 25-17-1012 (1).

(b) A BATTERY STEWARDSHIP ORGANIZATION IS RESPONSIBLE FOR
ALL COSTS OF A BATTERY STEWARDSHIP PROGRAM, INCLUDING THE COSTS
DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION.

(2)(a) A BATTERY STEWARDSHIP ORGANIZATION SHALL REIMBURSE
A PARTICIPATING COLLECTION SITE, AS DESCRIBED IN SECTION 25-17-1008,
FOR:

(I) DEMONSTRABLE COSTS INCURRED BY A LOCAL GOVERNMENT
SERVING AS A COLLECTION SITE, A SOLID WASTE FACILITY, OR A LOCAL
GOVERNMENT'S DESIGNATED COLLECTION SITE AS A RESULT OF
IMPLEMENTING A BATTERY STEWARDSHIP PROGRAM, INCLUDING ASSOCIATED
LABOR COSTS AND OTHER COSTS ASSOCIATED WITH ACCESSIBILITY AND
COLLECTION SITE STANDARDS SUCH AS STORAGE; AND

(II) COSTS OF AGREED-UPON EDUCATION AND OUTREACH.

(b) NOTWITHSTANDING ANY LAW TO THE CONTRARY, A LOCAL
GOVERNMENT IS NOT REQUIRED TO SERVE AS A COLLECTION SITE PURSUANT
TO THIS PART 10.

(c) A BATTERY STEWARDSHIP ORGANIZATION SHALL, AT A MINIMUM,
PROVIDE COLLECTION SITES WITH APPROPRIATE CONTAINERS FOR COVERED
BATTERIES SUBJECT TO ITS PROGRAM AS WELL AS TRAINING, SIGNAGE,
SAFETY GUIDANCE, AND EDUCATIONAL MATERIALS AT NO COST TO THE
COLLECTION SITES.

(3) A BATTERY STEWARDSHIP ORGANIZATION SHALL REIMBURSE
ELECTRONIC WASTE RECYCLERS FOR THE COSTS TO REMOVE AND RECYCLE
COVERED BATTERIES FROM BATTERY-CONTAINING PRODUCTS.

**25-17-1008. Collection site requirements - statewide collection
opportunities - minimum amount of collection sites.** (1) (a) A BATTERY
STEWARDSHIP ORGANIZATION IMPLEMENTING A BATTERY STEWARDSHIP

PLAN SHALL PROVIDE THE COLLECTION OF COVERED BATTERIES, INCLUDING ALL TYPES AND BRANDS OF COVERED BATTERIES, ON A FREE, CONTINUOUS, CONVENIENT, VISIBLE, AND ACCESSIBLE BASIS TO ANY PERSON.

(b) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, A BATTERY STEWARDSHIP PLAN MUST ARRANGE FOR THE COLLECTION OF EACH TYPE AND BRAND OF COVERED BATTERY FROM A PERSON AT A COLLECTION SITE IN ACCORDANCE WITH THE STATEWIDE COLLECTION OPPORTUNITIES DESCRIBED IN SUBSECTIONS (4)(b) AND (4)(c) OF THIS SECTION.

(2) (a) FOR EACH COLLECTION SITE USED BY A BATTERY STEWARDSHIP PROGRAM, THE BATTERY STEWARDSHIP ORGANIZATION IMPLEMENTING THE PROGRAM SHALL:

(I) PROVIDE SUITABLE COLLECTION CONTAINERS FOR COVERED BATTERIES SO THAT THE COVERED BATTERIES ARE SEGREGATED FROM OTHER SOLID WASTE; OR

(II) MAKE MUTUALLY AGREEABLE ALTERNATIVE ARRANGEMENTS WITH THE COLLECTION SITE FOR THE COLLECTION OF COVERED BATTERIES AT THE COLLECTION SITE.

(b) THE LOCATION OF THE COLLECTION CONTAINERS DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION MUST BE:

(I) WITHIN VIEW OF AN INDIVIDUAL WHO HAS BEEN DESIGNATED BY THE ORGANIZATION HOSTING THE COLLECTION SITE AS RESPONSIBLE FOR COMPLYING WITH THE SAFE COLLECTION OF BATTERIES; AND

(II) ACCOMPANIED BY SIGNAGE THAT IS MADE AVAILABLE TO THE COLLECTION SITE BY THE ORGANIZATION AND THAT INFORMS CONSUMERS REGARDING THE END-OF-LIFE MANAGEMENT OPTIONS FOR COVERED BATTERIES COLLECTED BY THE COLLECTION SITE.

(3) (a) MEDIUM-FORMAT BATTERIES MUST BE COLLECTED AT HOUSEHOLD HAZARDOUS WASTE FACILITIES OR OTHER STAFFED COLLECTION SITES OR EVENTS THAT MEET APPLICABLE FEDERAL, STATE, AND LOCAL REGULATORY REQUIREMENTS.

(b) DAMAGED OR DEFECTIVE BATTERIES MUST BE COLLECTED AT

COLLECTION SITES AND EVENTS STAFFED BY INDIVIDUALS TRAINED TO HANDLE AND SHIP THOSE BATTERIES.

(4)(a)(I) A BATTERY STEWARDSHIP ORGANIZATION IMPLEMENTING A BATTERY STEWARDSHIP PLAN SHALL:

(A) ENSURE STATEWIDE COLLECTION OPPORTUNITIES FOR ALL COVERED BATTERIES IN ACCORDANCE WITH SUBSECTIONS (4)(b) AND (4)(c) OF THIS SECTION; AND

(B) FOR THE PURPOSES OF PROVIDING EFFICIENT DELIVERY OF SERVICES AND AVOIDING UNNECESSARY DUPLICATION OF EFFORT AND EXPENSE, COORDINATE ACTIVITIES WITH OTHER PROGRAM OPERATORS, INCLUDING COVERED BATTERY COLLECTORS, RECYCLING PROGRAMS, AND ELECTRONIC WASTE RECYCLERS, WITH REGARD TO THE PROPER MANAGEMENT OR RECYCLING OF COLLECTED COVERED BATTERIES.

(II) A BATTERY STEWARDSHIP ORGANIZATION SHALL DETERMINE STATEWIDE COLLECTION OPPORTUNITIES THROUGH GEOGRAPHIC INFORMATION MODELING THAT CONSIDERS PERMANENT COLLECTION SITES.

(III) A BATTERY STEWARDSHIP PROGRAM MAY RELY, IN PART, ON COLLECTION EVENTS TO SUPPLEMENT THE COLLECTION SITE CRITERIA REQUIRED BY SUBSECTIONS (4)(b) AND (4)(c) OF THIS SECTION. ONLY PERMANENT COLLECTION SERVICES SPECIFIED IN SUBSECTIONS (4)(b) AND (4)(c) OF THIS SECTION SATISFY THE REQUIREMENTS OF THIS SUBSECTION (4)(a).

(b) WITHIN SIX MONTHS AFTER A BATTERY STEWARDSHIP PLAN IS APPROVED PURSUANT TO SECTION 25-17-1005 (1) AND NO LATER THAN OCTOBER 1, 2028, A BATTERY STEWARDSHIP ORGANIZATION SHALL PROVIDE STATEWIDE COLLECTION OPPORTUNITIES FOR PORTABLE BATTERIES THAT INCLUDE:

(I) AT LEAST ONE PERMANENT COLLECTION SITE FOR PORTABLE BATTERIES WITHIN A FIFTEEN-MILE RADIUS FOR AT LEAST NINETY-FIVE PERCENT OF THE STATE'S RESIDENTS; AND

(II) AT LEAST ONE PERMANENT COLLECTION SITE OR A COLLECTION SERVICE, OR ONE COLLECTION EVENT PER YEAR, FOR PORTABLE BATTERIES

IN ADDITION TO THOSE REQUIRED BY SUBSECTION (4)(b)(I) OF THIS SECTION FOR EVERY THIRTY THOUSAND RESIDENTS OF A COUNTY.

(c)(I) WITHIN SIX MONTHS AFTER A BATTERY STEWARDSHIP PLAN IS APPROVED PURSUANT TO SECTION 25-17-1005 (1) AND NO LATER THAN JANUARY 1, 2029, A BATTERY STEWARDSHIP ORGANIZATION SHALL PROVIDE STATEWIDE COLLECTION OPPORTUNITIES FOR MEDIUM-FORMAT BATTERIES THAT INCLUDE:

(A) AT LEAST FIFTEEN PERMANENT COLLECTION SITES IN THE STATE;

(B) REASONABLE GEOGRAPHIC DISPERSION OF COLLECTION SITES THROUGHOUT THE STATE;

(C) A PERMANENT COLLECTION SITE IN EACH COUNTY OF AT LEAST ONE HUNDRED FIFTY THOUSAND PERSONS, AS DETERMINED BY THE MOST RECENT FEDERAL DECENNIAL CENSUS; AND

(D) SERVICE TO AREAS WITHOUT A PERMANENT COLLECTION SITE.

(II) A BATTERY STEWARDSHIP ORGANIZATION SHALL ENSURE THAT THERE IS A COLLECTION EVENT FOR MEDIUM-FORMAT BATTERIES, INCLUDING DAMAGED OR DEFECTIVE MEDIUM-FORMAT BATTERIES, AT LEAST ONCE ANNUALLY IN EACH COUNTY OF THE STATE THAT DOES NOT HAVE A PERMANENT COLLECTION SITE.

(d) THE STATEWIDE COLLECTION OPPORTUNITIES SET FORTH IN SUBSECTIONS (4)(b) AND (4)(c) OF THIS SECTION MAY BE SATISFIED BY THE COLLECTION LOCATIONS PARTICIPATING IN A HOUSEHOLD BATTERY RECYCLING PROGRAM SPONSORED BY THE EXECUTIVE DIRECTOR OR A LOCAL GOVERNMENT.

(5) EACH COLLECTION SITE MUST MEET APPLICABLE FEDERAL, STATE, AND LOCAL REGULATORY REQUIREMENTS.

(6)(a) IF COST-EFFECTIVE, MUTUALLY AGREEABLE, AND OTHERWISE PRACTICABLE, A BATTERY STEWARDSHIP ORGANIZATION SHALL USE EXISTING PUBLIC AND PRIVATE WASTE COLLECTION SERVICES AND FACILITIES IN IMPLEMENTING A BATTERY STEWARDSHIP PROGRAM, INCLUDING COLLECTION SITES THAT ARE ESTABLISHED THROUGH OTHER BATTERY

COLLECTION SERVICES, TRANSPORTERS, CONSOLIDATORS, PROCESSORS, ELECTRONIC WASTE RECYCLERS, AND RETAILERS.

(b) UPON THE SUBMISSION OF A REQUEST BY AN ENTITY TO SERVE AS A COLLECTION SITE, A BATTERY STEWARDSHIP PROGRAM SHALL USE THE ENTITY AS A COLLECTION SITE FOR COVERED BATTERIES FOR UP TO THE MINIMUM NUMBER OF COLLECTION SITES REQUIRED FOR COMPLIANCE WITH SUBSECTIONS (4)(b) AND (4)(c) OF THIS SECTION IF THE ENTITY MEETS THE CRITERIA FOR COLLECTION SITES IN THE APPROVED PLAN.

(c) A BATTERY STEWARDSHIP PROGRAM MAY USE ADDITIONAL COLLECTION SITES IN EXCESS OF THE MINIMUM NUMBER OF COLLECTION SITES REQUIRED FOR COMPLIANCE WITH SUBSECTIONS (4)(b) AND (4)(c) OF THIS SECTION AS MAY BE AGREED BETWEEN THE BATTERY STEWARDSHIP ORGANIZATION AND THE APPLICABLE ENTITY.

(d) (I) THE DEPARTMENT MAY ISSUE A WARNING TO, SUSPEND, OR TERMINATE A COLLECTION SITE THAT:

(A) DOES NOT ADHERE TO THE CRITERIA FOR COLLECTION SITES IN THE APPROVED PLAN; OR

(B) POSES AN IMMEDIATE HEALTH AND SAFETY CONCERN.

(II) A BATTERY STEWARDSHIP ORGANIZATION SHALL REPORT A NONCOMPLIANT SITE TO THE DEPARTMENT FOR REVIEW AND POTENTIAL ENFORCEMENT ACTION. THE BATTERY STEWARDSHIP ORGANIZATION SHALL SUSPEND SERVICES TO THE SITE AT THE TIME THE BATTERY STEWARDSHIP ORGANIZATION REPORTS THE SITE TO THE DEPARTMENT AND UNTIL THE SITE COMES INTO COMPLIANCE.

25-17-1009. Assessment of battery-containing products required. (1) ON OR BEFORE DECEMBER 1, 2028, A BATTERY STEWARDSHIP ORGANIZATION SHALL COMPLETE AN ASSESSMENT OF THE OPPORTUNITIES AND CHALLENGES ASSOCIATED WITH THE END-OF-LIFE MANAGEMENT OF PORTABLE AND MEDIUM-FORMAT EMBEDDED BATTERIES IN THE STATE. A BATTERY STEWARDSHIP ORGANIZATION SHOULD, TO THE EXTENT FEASIBLE, EXTRAPOLATE FINDINGS FROM RELATED STUDIES, INCLUDING THOSE CONDUCTED WITHIN COLORADO, AND APPLY THE FINDINGS TO THE ASSESSMENT FOR COLORADO.

(2) IN COMPLETING THE ASSESSMENT, A BATTERY STEWARDSHIP ORGANIZATION SHALL CONSULT WITH THE DEPARTMENT AND INTERESTED STAKEHOLDERS AND MAY COORDINATE WITH OTHER BATTERY STEWARDSHIP ORGANIZATIONS.

(3) AS PART OF THE ASSESSMENT, A BATTERY STEWARDSHIP ORGANIZATION SHALL IDENTIFY ADJUSTMENTS TO THE BATTERY STEWARDSHIP PROGRAM REQUIREMENTS ESTABLISHED BY THIS PART 10 THAT WOULD MAXIMIZE PUBLIC HEALTH, SAFETY, AND ENVIRONMENTAL BENEFITS.

(4) THE ASSESSMENT MUST CONSIDER:

(a) THE DIFFERENT CATEGORIES AND USES OF BATTERY-CONTAINING PRODUCTS;

(b) METHODS BY WHICH UNWANTED BATTERY-CONTAINING PRODUCTS ARE MANAGED IN COLORADO AND OTHER STATES AND UNITED STATES TERRITORIES;

(c) CHALLENGES POSED BY THE POTENTIAL COLLECTION IN RURAL AND URBAN AREAS, MANAGEMENT, AND TRANSPORTATION OF BATTERY-CONTAINING PRODUCTS, INCLUDING CHALLENGES ASSOCIATED WITH REMOVING BATTERIES THAT WERE NOT INTENDED OR DESIGNED TO BE EASILY REMOVED FROM PRODUCTS OTHER THAN BY THE MANUFACTURER; AND

(d) WHICH REQUIREMENTS OF THIS PART 10 MAY APPLY TO BATTERY-CONTAINING PRODUCTS IN A MANNER THAT IS IDENTICAL OR ANALOGOUS TO THE REQUIREMENTS APPLICABLE TO COVERED BATTERIES.

(5) THE DEPARTMENT SHALL SUBMIT THE ASSESSMENT COMPLETED PURSUANT TO THIS SECTION TO THE GENERAL ASSEMBLY ON OR BEFORE MARCH 1, 2028.

25-17-1010. Education and outreach requirements - coordination with other battery stewardship organizations - survey of public awareness. (1) A BATTERY STEWARDSHIP ORGANIZATION SHALL CARRY OUT PROMOTIONAL ACTIVITIES IN SUPPORT OF THE IMPLEMENTATION OF A BATTERY STEWARDSHIP PROGRAM, INCLUDING:

- (a) THE DEVELOPMENT AND MAINTENANCE OF A WEBSITE;
- (b) THE DEVELOPMENT AND DISTRIBUTION OF PERIODIC PRESS RELEASES AND ARTICLES;
- (c) THE DEVELOPMENT AND PLACEMENT OF ADVERTISEMENTS FOR USE ON SOCIAL MEDIA OR OTHER RELEVANT MEDIA PLATFORMS;
- (d) THE DEVELOPMENT OF PROMOTIONAL MATERIALS ABOUT THE PROGRAM AND THE REQUIREMENTS FOR THE DISPOSAL OF COVERED BATTERIES PURSUANT TO SECTION 25-17-1014 TO BE USED BY PERSONS, INCLUDING RETAILERS, GOVERNMENT AGENCIES, WASTE AND RECYCLING COLLECTORS, AND NONPROFIT ORGANIZATIONS;
- (e) THE DEVELOPMENT AND DISTRIBUTION TO COLLECTION SITES OF COLLECTION SITE SAFETY TRAINING PROCEDURES THAT ARE IN COMPLIANCE WITH STATE AND LOCAL LAW TO HELP ENSURE PROPER MANAGEMENT OF COVERED BATTERIES AT COLLECTION SITES; AND
- (f) THE DEVELOPMENT AND IMPLEMENTATION OF OUTREACH AND EDUCATIONAL RESOURCES THAT ARE CONCEPTUALLY, LINGUISTICALLY, AND CULTURALLY ACCURATE FOR THE COMMUNITIES SERVED AND THAT REACH THE STATE'S DIVERSE ETHNIC POPULATIONS, INCLUDING THROUGH MEANINGFUL CONSULTATION WITH DISPROPORTIONATELY IMPACTED COMMUNITIES.

(2) A BATTERY STEWARDSHIP ORGANIZATION SHALL PROVIDE:

- (a) CONSUMER-FOCUSED EDUCATIONAL AND PROMOTIONAL MATERIALS TO EACH COLLECTION SITE USED BY THE BATTERY STEWARDSHIP PROGRAM AND TO RETAILERS THAT SELL COVERED BATTERIES OR BATTERY-CONTAINING PRODUCTS;
- (b) SAFETY INFORMATION RELATED TO COVERED BATTERY COLLECTION ACTIVITIES TO THE OPERATOR OF EACH COLLECTION SITE, INCLUDING APPROPRIATE PROTOCOLS TO REDUCE RISKS OF SPILLS OR FIRES, RESPONSE PROTOCOLS IN THE EVENT OF A SPILL OR FIRE, AND RESPONSE PROTOCOLS IN THE EVENT OF DETECTION OF A DAMAGED OR DEFECTIVE BATTERY;

(c) SAFETY TRAINING MATERIALS FOR FIREFIGHTERS AND FIRST RESPONDERS RELATED TO BATTERY FIRES, RESPONSE PROTOCOLS IN THE EVENT OF A BATTERY FIRE, AND PROTOCOLS FOR SAFE MANAGEMENT OF COVERED AND DAMAGED OR DEFECTIVE BATTERIES; AND

(d) EDUCATIONAL MATERIALS TO THE OPERATOR OF EACH COLLECTION SITE FOR THE MANAGEMENT OF RECALLED BATTERIES, WHICH ARE NOT REQUIRED TO BE COLLECTED PURSUANT TO THIS PART 10, TO HELP FACILITATE THE TRANSPORTATION AND PROCESSING OF RECALLED BATTERIES.

(3) A BATTERY STEWARDSHIP ORGANIZATION MAY SEEK REIMBURSEMENT FROM THE PRODUCER OF A RECALLED BATTERY FOR EXPENSES INCURRED IN THE COLLECTION, TRANSPORTATION, AND PROCESSING OF THE RECALLED BATTERY.

(4) UPON REQUEST BY A RETAILER OR OTHER POTENTIAL COLLECTOR, A BATTERY STEWARDSHIP ORGANIZATION SHALL PROVIDE THE RETAILER OR OTHER POTENTIAL COLLECTOR EDUCATIONAL MATERIALS DESCRIBING COLLECTION OPPORTUNITIES FOR BATTERIES.

(5) IF MULTIPLE BATTERY STEWARDSHIP ORGANIZATIONS ARE IMPLEMENTING APPROVED PLANS, THE ORGANIZATIONS SHALL COORDINATE IN CARRYING OUT THEIR EDUCATION AND OUTREACH RESPONSIBILITIES PURSUANT TO THIS SECTION AND SHALL INCLUDE A SUMMARY OF THEIR COORDINATED EDUCATION AND OUTREACH EFFORTS IN THE ANNUAL REPORTS REQUIRED BY SECTION 25-17-1011.

(6) DURING THE FIRST YEAR OF PROGRAM IMPLEMENTATION, AND EVERY FIVE YEARS THEREAFTER, A BATTERY STEWARDSHIP ORGANIZATION SHALL CARRY OUT, IN COORDINATION WITH THE OTHER APPROVED BATTERY STEWARDSHIP ORGANIZATIONS, A SURVEY OF PUBLIC AWARENESS REGARDING THE REQUIREMENTS OF THE PROGRAM ESTABLISHED PURSUANT TO THIS PART 10. THE BATTERY STEWARDSHIP ORGANIZATION SHALL SHARE THE RESULTS OF THE PUBLIC AWARENESS SURVEY WITH THE EXECUTIVE DIRECTOR THROUGH THE ANNUAL REPORTING PROCESS DESCRIBED IN SECTION 25-17-1011.

25-17-1011. Annual reporting requirements - proprietary information. (1) ON OR BEFORE JUNE 1, 2029, AND ON OR BEFORE EACH

JUNE 1 THEREAFTER, A BATTERY STEWARDSHIP ORGANIZATION SHALL SUBMIT AN ANNUAL REPORT TO THE EXECUTIVE DIRECTOR COVERING THE PRECEDING CALENDAR YEAR OF BATTERY STEWARDSHIP PLAN IMPLEMENTATION. THE REPORT MUST INCLUDE THE FOLLOWING:

(a) AN INDEPENDENT THIRD-PARTY FINANCIAL ASSESSMENT OF THE PROGRAM IMPLEMENTED BY THE ORGANIZATION, INCLUDING A BREAKDOWN OF THE PROGRAM'S EXPENSES, SUCH AS COLLECTION EXPENSES, RECYCLING EXPENSES, EDUCATION AND OUTREACH EXPENSES, AND OVERHEAD EXPENSES;

(b) A SUMMARY FINANCIAL STATEMENT DOCUMENTING THE FINANCING OF THE ORGANIZATION'S PROGRAM AND AN ANALYSIS OF PROGRAM COSTS AND EXPENDITURES, INCLUDING AN ANALYSIS OF THE PROGRAM'S EXPENSES, SUCH AS COLLECTION, TRANSPORTATION, RECYCLING, EDUCATION, AND ADMINISTRATIVE OVERHEAD. THE SUMMARY FINANCIAL STATEMENT MUST BE SUFFICIENTLY DETAILED TO SHOW THAT THE CHARGES COLLECTED FROM PRODUCERS AS A RESULT OF THE PRODUCERS' ACTIVITIES IN THE STATE ARE SPENT ON PROGRAM IMPLEMENTATION IN THE STATE. IF THE ORGANIZATION IS IMPLEMENTING SIMILAR PROGRAMS IN MULTIPLE STATES, THE ORGANIZATION MAY SUBMIT A FINANCIAL STATEMENT INCLUDING ALL COVERED STATES, AS LONG AS THE STATEMENT BREAKS OUT FINANCIAL INFORMATION PERTINENT TO COLORADO.

(c) THE WEIGHT, BY CHEMISTRY, OF COVERED BATTERIES COLLECTED UNDER THE PROGRAM;

(d) THE WEIGHT OF MATERIALS RECYCLED FROM COVERED BATTERIES COLLECTED UNDER THE PROGRAM, IN TOTAL AND BY METHOD OF BATTERY RECYCLING;

(e) A CALCULATION OF THE RECYCLING EFFICIENCY RATES, AS MEASURED IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION;

(f) A LIST OF ALL FACILITIES USED IN THE PROCESSING AND FINAL DISPOSITION OF COVERED BATTERIES, INCLUDING IDENTIFICATION OF A FACILITY'S LOCATION AND WHETHER THE FACILITY IS LOCATED DOMESTICALLY, IN AN ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT COUNTRY, OR IN A COUNTRY THAT MEETS ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT OPERATING STANDARDS. FOR

DOMESTIC FACILITIES, THE ORGANIZATION SHALL PROVIDE A SUMMARY OF THE VIOLATIONS OF ENVIRONMENTAL LAWS AND REGULATIONS AT EACH FACILITY OVER THE THREE YEARS IMMEDIATELY PRECEDING THE SUBMISSION OF THE ANNUAL REPORT.

(g) FOR EACH FACILITY USED IN THE FINAL DISPOSITION OF COVERED BATTERIES, A DESCRIPTION OF HOW THE FACILITY RECYCLED OR OTHERWISE MANAGED BATTERIES AND BATTERY COMPONENTS;

(h) THE WEIGHT AND CHEMISTRY OF COVERED BATTERIES SENT TO EACH FACILITY USED FOR THE FINAL DISPOSITION OF BATTERIES. THE INFORMATION IN THIS SUBSECTION (1)(h) MAY BE APPROXIMATED FOR PROGRAM OPERATIONS IN THE STATE BASED ON EXTRAPOLATIONS OF NATIONAL OR REGIONAL DATA FOR PROGRAMS IN OPERATION IN MULTIPLE STATES.

(i) THE COLLECTION RATE ACHIEVED UNDER THE PROGRAM, INCLUDING A DESCRIPTION OF HOW THIS COLLECTION RATE IS CALCULATED AND HOW IT COMPARES TO THE COLLECTION RATE GOALS ESTABLISHED PURSUANT TO SECTION 25-17-1006 (1)(a);

(j) THE ESTIMATED AGGREGATE SALES, BY WEIGHT AND CHEMISTRY, OF COVERED BATTERIES AND OF BATTERIES CONTAINED IN OR WITH BATTERY-CONTAINING PRODUCTS SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN OR INTO THE STATE BY PARTICIPATING PRODUCERS FOR EACH OF THE THREE YEARS IMMEDIATELY PRECEDING THE SUBMISSION OF THE ANNUAL REPORT;

(k) A DESCRIPTION OF THE MANNER IN WHICH THE COLLECTED COVERED BATTERIES WERE MANAGED AND RECYCLED, INCLUDING A DISCUSSION OF BEST AVAILABLE TECHNOLOGIES AND RECYCLING EFFICIENCY RATE;

(l) A DESCRIPTION OF THE EDUCATION AND OUTREACH EFFORTS SUPPORTING PLAN IMPLEMENTATION, INCLUDING:

(I) AN EVALUATION OF THE EFFECTIVENESS OF EDUCATION AND OUTREACH ACTIVITIES;

(II) A SUMMARY OF EDUCATION AND OUTREACH PROVIDED TO

CONSUMERS, COLLECTION SITES, MANUFACTURERS, DISTRIBUTORS, AND RETAILERS BY THE PROGRAM OPERATOR FOR THE PURPOSE OF PROMOTING THE COLLECTION AND RECYCLING OF COVERED BATTERIES;

(III) A DESCRIPTION OF HOW THE EDUCATION AND OUTREACH EFFORTS MEET THE REQUIREMENTS OF SECTION 25-17-1010;

(IV) SAMPLES OF EDUCATION AND OUTREACH MATERIALS;

(V) A SUMMARY OF COORDINATED EDUCATION AND OUTREACH EFFORTS WITH ANY OTHER BATTERY STEWARDSHIP ORGANIZATIONS IMPLEMENTING AN APPROVED PLAN; AND

(VI) A SUMMARY OF ANY CHANGES MADE TO EDUCATION AND OUTREACH ACTIVITIES DURING THE CALENDAR YEAR IMMEDIATELY PRECEDING THE SUBMISSION OF THE ANNUAL REPORT;

(m) A LIST OF ALL COLLECTION SITES USED TO IMPLEMENT THE PROGRAM, AN ADDRESS FOR EACH COLLECTION SITE, AN UP-TO-DATE MAP INDICATING THE LOCATION OF EACH COLLECTION SITE, AND LINKS TO APPROPRIATE WEBSITES WHERE THERE ARE EXISTING WEBSITES ASSOCIATED WITH A COLLECTION SITE;

(n) A DESCRIPTION OF METHODS USED TO COLLECT, TRANSPORT, AND RECYCLE COVERED BATTERIES BY THE ORGANIZATION; AND

(o) A SUMMARY OF PROGRESS MADE TOWARD THE PERFORMANCE GOALS ESTABLISHED PURSUANT TO SECTION 25-17-1006 AND AN EXPLANATION OF WHY PERFORMANCE GOALS WERE NOT MET, IF APPLICABLE.

(2) THE WEIGHT OF COVERED BATTERIES OR RECOVERED RESOURCES FROM THOSE BATTERIES MUST ONLY BE COUNTED ONCE TOWARD AN ORGANIZATION'S RECYCLING EFFICIENCY RATE AND FOR THE PURPOSES OF COLLECTING CHARGES PURSUANT TO SECTION 25-17-1007 (1)(a) AND MAY NOT BE COUNTED BY MORE THAN ONE BATTERY STEWARDSHIP ORGANIZATION.

(3) THE EXECUTIVE DIRECTOR AND AN ORGANIZATION SHALL KEEP PROPRIETARY INFORMATION PROVIDED BY A PRODUCER CONFIDENTIAL.

25-17-1012. Annual fee - battery stewardship fund - responsibilities of the executive director. (1) (a) IN ADDITION TO THE ANNUAL FEE DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION, A BATTERY STEWARDSHIP ORGANIZATION SHALL PAY A ONE-TIME PLAN REVIEW FEE, IN THE AMOUNT OF FIFTY THOUSAND DOLLARS, AT THE TIME THE BATTERY STEWARDSHIP ORGANIZATION SUBMITS A PLAN TO THE EXECUTIVE DIRECTOR FOR APPROVAL. IF THE EXECUTIVE DIRECTOR APPROVES THE PLAN, THE BATTERY STEWARDSHIP ORGANIZATION SHALL PAY AN ADDITIONAL ADMINISTRATIVE FEE OF EIGHTY-SIX THOUSAND DOLLARS WITHIN THREE MONTHS AFTER THE PLAN IS APPROVED. THERE IS NO FEE WHEN A BATTERY STEWARDSHIP ORGANIZATION SEEKS TO RENEW A PLAN THAT WAS PREVIOUSLY APPROVED BY THE EXECUTIVE DIRECTOR OR SUBMITS A PLAN AMENDMENT.

(b) WITHIN TWELVE MONTHS AFTER A PLAN IS APPROVED, AND ON OR BEFORE EACH JULY 1 THEREAFTER, A BATTERY STEWARDSHIP ORGANIZATION SHALL PAY TO THE DEPARTMENT AN ANNUAL FEE TO COVER THE DEPARTMENT'S COST OF IMPLEMENTING, ADMINISTERING, AND ENFORCING THIS PART 10. THE STATE TREASURER SHALL CREDIT THE ANNUAL FEES TO THE FUND, AND THE DEPARTMENT SHALL USE THE FEES FOR COSTS ASSOCIATED WITH THE ADMINISTRATION OF THIS PART 10. THE COMMISSION SHALL ESTABLISH THE FEE AMOUNT BY RULE.

(2) (a) THE BATTERY STEWARDSHIP FUND IS CREATED IN THE STATE TREASURY.

(b) THE FUND CONSISTS OF FEES PAID TO THE DEPARTMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

(c) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. MONEY NOT EXPENDED AT THE END OF A STATE FISCAL YEAR REMAINS IN THE FUND AND DOES NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

(d) THE DEPARTMENT SHALL USE FUNDS COLLECTED PURSUANT TO THIS SECTION TO PROVIDE DIRECT SERVICES TO BATTERY STEWARDSHIP ORGANIZATIONS WITH AN APPROVED PLAN TO ENSURE EFFECTIVE PROGRAM

OVERSIGHT, COMPLIANCE SUPPORT, AND PUBLIC ENGAGEMENT. SUCH SERVICES INCLUDE:

(I) REVIEWING, APPROVING, AND PROVIDING FEEDBACK ON BATTERY STEWARDSHIP PLANS AND PLAN AMENDMENTS TO ENSURE COMPLIANCE WITH STATE LAW AND TO HELP ORGANIZATIONS MEET PERFORMANCE GOALS EFFICIENTLY;

(II) CONDUCTING COMPLIANCE AUDITS, REVIEWING ANNUAL REPORTS SUBMITTED PURSUANT TO SECTION 25-17-1011 WITHIN NINETY DAYS AFTER SUBMISSION, AND OFFERING APPLICABLE TECHNICAL RECOMMENDATIONS TO IMPROVE PROGRAM EFFECTIVENESS AND TRANSPARENCY;

(III) PROVIDING, UPON REQUEST, A LIST OF APPROVED BATTERY STEWARDSHIP ORGANIZATIONS, PARTICIPATING PRODUCERS, AND COMPLIANT RETAILERS TO INCREASE CONSUMER AWARENESS AND PROMOTE PARTICIPATION IN A BATTERY STEWARDSHIP PROGRAM;

(IV) OFFERING TECHNICAL ASSISTANCE, INCLUDING REGULATORY GUIDANCE, BEST PRACTICES FOR COLLECTION SITE OPERATIONS, AND SUPPORT FOR RETAILERS AND PRODUCERS NAVIGATING COMPLIANCE REQUIREMENTS;

(V) COLLABORATING WITH APPROVED BATTERY STEWARDSHIP ORGANIZATIONS TO ADDRESS OPERATIONAL CHALLENGES, FACILITATE COORDINATION BETWEEN PRODUCERS, RECYCLERS, AND LOCAL GOVERNMENTS, AND ENSURE CONTINUOUS PROGRAM IMPROVEMENT; AND

(VI) ENFORCING THIS PART 10 PURSUANT TO SECTION 25-17-1015, ENSURING FAIR ENFORCEMENT AMONG PARTICIPANTS, AND PROTECTING THE INTEGRITY OF BATTERY STEWARDSHIP PROGRAMS.

25-17-1013. Marking requirements for batteries - rules.

(1) (a) EXCEPT AS OTHERWISE PROVIDED IN RULES ADOPTED BY THE COMMISSION PURSUANT TO SUBSECTION (2) OF THIS SECTION, ON AND AFTER JANUARY 1, 2028, A PRODUCER OR RETAILER SHALL NOT SELL, OFFER FOR SALE, OR DISTRIBUTE IN OR INTO THE STATE A COVERED BATTERY OR BATTERY-CONTAINING PRODUCT UNLESS THE COVERED BATTERY IS:

(I) MARKED WITH AN IDENTIFICATION OF THE PRODUCER OF THE COVERED BATTERY; AND

(II) MARKED WITH PROPER LABELING TO ENSURE PROPER COLLECTION AND RECYCLING, BY IDENTIFYING THE CHEMISTRY OF THE COVERED BATTERY AND INCLUDING AN INDICATION THAT THE COVERED BATTERY SHOULD NOT BE DISPOSED OF AS HOUSEHOLD WASTE.

(b) SUBSECTION (1)(a) OF THIS SECTION DOES NOT APPLY TO A COVERED BATTERY THAT IS LESS THAN ONE-HALF INCH IN DIAMETER OR THAT DOES NOT CONTAIN A SURFACE LENGTH THAT EXCEEDS ONE-HALF INCH.

(2) THE COMMISSION MAY ADOPT RULES ESTABLISHING MARKING REQUIREMENTS FOR COVERED BATTERIES OR BATTERY-CONTAINING PRODUCTS AS NEEDED TO MAINTAIN CONSISTENCY WITH THE LABELING REQUIREMENTS OR VOLUNTARY STANDARDS FOR BATTERIES ESTABLISHED IN FEDERAL LAW OR THE LAWS OF OTHER STATES.

25-17-1014. Battery disposal and collection requirements.

(1) ON AND AFTER JANUARY 1, 2030, A PERSON SHALL MANAGE UNWANTED COVERED BATTERIES THROUGH THE FOLLOWING METHODS:

(a) DELIVERY TO A COLLECTION SITE, EVENT, OR PROGRAM ESTABLISHED BY OR INCLUDED IN A BATTERY STEWARDSHIP PROGRAM CREATED PURSUANT TO THIS PART 10; AND

(b) FOR COVERED BATTERIES THAT ARE HAZARDOUS WASTE AS DEFINED UNDER FEDERAL OR STATE HAZARDOUS OR SOLID WASTE LAWS, MANAGEMENT IN A MANNER CONSISTENT WITH THOSE LAWS.

(2) ON AND AFTER JANUARY 1, 2030:

(a) A FEE SHALL NOT BE CHARGED WHEN A LOOSE COVERED BATTERY IS DELIVERED OR COLLECTED FOR MANAGEMENT. NOTHING IN THIS PART 10 PROHIBITS THE CHARGING OF FEES FOR BATTERY-CONTAINING PRODUCTS.

(b) A PERSON SHALL COLLECT, TRANSPORT, AND PROCESS COVERED BATTERIES IN ACCORDANCE WITH THIS PART 10, UNLESS THE COVERED BATTERIES ARE HAZARDOUS WASTE AS DEFINED UNDER FEDERAL OR STATE

HAZARDOUS OR SOLID WASTE LAWS;

(c) A PERSON SHALL NOT KNOWINGLY CAUSE OR ALLOW:

(I) THE MIXING OF A COVERED BATTERY WITH RECYCLABLE MATERIALS THAT ARE INTENDED FOR PROCESSING AND SORTING AT A MATERIALS RECOVERY FACILITY;

(II) THE MIXING OF A COVERED BATTERY WITH MUNICIPAL WASTE THAT IS INTENDED FOR DISPOSAL AT A SANITARY LANDFILL;

(III) THE DISPOSAL OF A COVERED BATTERY IN A SANITARY LANDFILL;

(IV) THE MIXING OF A COVERED BATTERY WITH WASTE THAT IS INTENDED FOR BURNING OR INCINERATION; OR

(V) THE BURNING OR INCINERATION OF A COVERED BATTERY;

(d) AN OWNER OR OPERATOR OF A SOLID WASTE FACILITY DOES NOT VIOLATE THIS SECTION IF THE FACILITY HAS POSTED IN A CONSPICUOUS LOCATION A SIGN STATING THAT COVERED BATTERIES MUST BE MANAGED THROUGH COLLECTION SITES ESTABLISHED BY A BATTERY STEWARDSHIP ORGANIZATION AND ARE NOT ACCEPTED FOR DISPOSAL; AND

(e) A SOLID WASTE COLLECTOR DOES NOT VIOLATE THIS SECTION FOR A COVERED BATTERY PLACED IN A DISPOSAL CONTAINER BY A THIRD PARTY.

25-17-1015. Enforcement. FOR VIOLATIONS RELATED TO COVERED BATTERIES AND THE MANAGEMENT OF UNIVERSAL WASTE PURSUANT TO THIS PART 10, THE ENFORCEMENT PROCESS IS CONDUCTED PURSUANT TO SECTION 25-15-308 AND RULES ADOPTED BY THE COMMISSION IN ACCORDANCE WITH SECTION 25-15-302.

25-17-1016. Antitrust. IF A BATTERY STEWARDSHIP ORGANIZATION ENGAGES IN AN ACTIVITY PERFORMED SOLELY IN FURTHERANCE OF IMPLEMENTING AN APPROVED PLAN IN COMPLIANCE WITH THIS PART 10, THE ACTIVITY IS NOT A VIOLATION OF THE ANTITRUST, RESTRAINT OF TRADE, AND UNFAIR TRADE PRACTICES PROVISIONS OF THE "UNFAIR PRACTICES ACT", ARTICLE 2 OF TITLE 6, OR THE "COLORADO STATE ANTITRUST ACT OF 2023",

ARTICLE 4 OF TITLE 6.

25-17-1017. Collection of batteries independent of a battery stewardship program. (1) NOTHING IN THIS PART 10 PREVENTS OR PROHIBITS A PERSON FROM OFFERING OR PERFORMING A FEE-BASED, HOUSEHOLD COLLECTION, OR A MAIL-BACK PROGRAM FOR END-OF-LIFE PORTABLE BATTERIES OR MEDIUM-FORMAT BATTERIES INDEPENDENTLY OF A BATTERY STEWARDSHIP PROGRAM, PROVIDED THAT THE PERSON MEETS THE FOLLOWING REQUIREMENTS:

(a) THE PERSON'S SERVICES SHALL BE PERFORMED, AND THE PERSON'S FACILITIES SHALL BE OPERATED, IN COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS AND REQUIREMENTS, INCLUDING ALL APPLICABLE FEDERAL DEPARTMENT OF TRANSPORTATION AND ENVIRONMENTAL PROTECTION AGENCY REGULATIONS;

(b) THE PERSON SHALL MAKE AVAILABLE ALL BATTERIES COLLECTED FROM THE PERSON'S COLORADO CUSTOMERS TO A BATTERY STEWARDSHIP ORGANIZATION; AND

(c) AFTER CONSOLIDATION OF PORTABLE OR MEDIUM-FORMAT BATTERIES AT THE PERSON'S FACILITIES, THE TRANSPORT TO AND PROCESSING OF THE BATTERIES BY THE BATTERY STEWARDSHIP ORGANIZATION'S DESIGNATED SORTERS OR PROCESSORS IS AT THE BATTERY STEWARDSHIP ORGANIZATION'S EXPENSE.

25-17-1018. Rules. THE COMMISSION MAY ADOPT RULES IMPLEMENTING THIS PART 10.

SECTION 2. In Colorado Revised Statutes, 25-15-308, **amend** (2)(a) and (4)(a); and **add** (5) as follows:

25-15-308. Prohibited acts - enforcement - definition.
(2) (a) Whenever the department finds that ~~any~~ A person is or has been in violation of any permit, rule, regulation, or requirement of this part 3 OR PART 10 OF ARTICLE 17 OF THIS TITLE 25, the department may issue an order identifying the factual and legal elements of such violation with particularity and requiring such person to comply with any such permit, rule, regulation, or requirement and may request the attorney general to bring suit for injunctive relief or for penalties pursuant to section 25-15-309

or 25-15-310.

(4) (a) Any action pursuant to this part 3 OR PART 10 OF ARTICLE 17 OF THIS TITLE 25 shall commence within two years after the date upon which the department discovers an alleged violation of this part 3 OR PART 10 OF ARTICLE 17 OF THIS TITLE 25 or within five years after the date upon which the alleged violation occurred, whichever date occurs earlier; except that such limitation period is tolled during any period that the alleged violation is intentionally concealed. ~~For the purposes of this section, "intentionally" shall have the meaning provided for such term in section 18-1-501 (5), C.R.S.~~

(5) AS USED IN THIS SECTION, "INTENTIONALLY" HAS THE MEANING SET FORTH IN SECTION 18-1-501 (5).

SECTION 3. In Colorado Revised Statutes, 25-15-309, **amend** (1), (2), (3) introductory portion, and (4) as follows:

25-15-309. Administrative and civil penalties. (1) ~~Any~~ A person who violates ~~the provisions of section 25-15-308, or who~~ violates any compliance order of the department ~~which~~ THAT is not subject to a stay pending judicial review and ~~which~~ THAT has been issued pursuant to this part 3, OR VIOLATES PART 10 OF ARTICLE 17 OF THIS TITLE 25 shall, for each such violation, be subject to a penalty for each day during which such violation occurs or continues. The department may impose an administrative penalty of no more than fifteen thousand dollars per day per violation. In lieu of imposing an administrative penalty pursuant to this section, the department may seek a civil penalty for violation of state environmental law in the district court of the judicial district in which the violation occurs. The district court may impose a civil penalty of no more than twenty-five thousand dollars per day per violation.

(2) The department shall not be precluded from referring a matter for criminal prosecution regardless of whether an order is issued pursuant to section 25-15-301 (4)(a) or 25-15-308. The department shall not impose both a civil penalty and an administrative penalty for any particular instance of a violation of this part 3 OR PART 10 OF ARTICLE 17 OF THIS TITLE 25.

(3) The department, the administrative law judge, the commission, or the court shall consider the factors contained in ~~paragraphs (a) to (i) of~~

~~this subsection (3)~~ SUBSECTIONS (3)(a) TO (3)(i) OF THIS SECTION in determining the amount of any administrative or civil penalty for a violation of this part 3 OR PART 10 OF ARTICLE 17 OF THIS TITLE 25. The factors contained in ~~paragraphs (f), (g), and (h) of this subsection (3)~~ SUBSECTIONS (3)(f), (3)(g), AND (3)(h) OF THIS SECTION shall be mitigating factors and may be applied, together with other factors, to reduce penalties. Such factors are:

(4) Notwithstanding ~~the provisions of subsection (3) of this section,~~ the department may enter into settlement agreements regarding any penalty or claim resolved pursuant to this part 3 OR PART 10 OF ARTICLE 17 OF THIS TITLE 25. Any settlement agreement may include but is not necessarily limited to the payment or contribution of ~~moneys~~ MONEY to state or local agencies or for other environmentally beneficial purposes.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO