

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 3561

| (SENATE AUTHORS: MORRISON, Hawj, McEwen, Hoffman and Kupec) | | |
|---|--------|--|
| DATE | D-PG | OFFICIAL STATUS |
| 02/12/2024 | 11559 | Introduction and first reading Referred to Environment, Climate, and Legacy |
| 02/15/2024 | 11620 | Author added Kupec |
| 02/26/2024 | 11762a | Comm report: To pass as amended and re-refer to Commerce and Consumer Protection |
| 03/13/2024 | 12199 | Withdrawn and re-referred to State and Local Government and Veterans |
| 03/18/2024 | 12331a | Comm report: To pass as amended and re-refer to Judiciary and Public Safety |

1.1

A bill for an act

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relating to solid waste; establishing Packaging Waste and Cost Reduction Act;

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authorizing rulemaking; proposing coding for new law in Minnesota Statutes,

1.4

chapter 115A.

1.5

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6

Section 1. [115A.144] SHORT TITLE.

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Sections 115A.144 to 115A.1462 may be cited as the "Packaging Waste and Cost

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Reduction Act."

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Sec. 2. [115A.1441] DEFINITIONS.

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Subdivision 1. **Scope.** For the purposes of sections 115A.144 to 115A.1462, the terms

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in this section have the meanings given.

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Subd. 2. **Advisory board.** "Advisory board" or "board" means the Producer

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Responsibility Advisory Board established under section 115A.1444.

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Subd. 3. **Brand.** "Brand" means a name, symbol, word, or mark that identifies a product

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

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Subd. 4. **Brand owner.** "Brand owner" means a person that owns or licenses a brand or

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

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trademark is registered.

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Subd. 5. **Collection rate.** "Collection rate" means the amount of a covered material by

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covered materials type collected by service providers and transported for recycling or

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composting divided by the total amount of the type of a covered material by covered materials

type sold or distributed into the state by the relevant unit of measurement established in section 115A.1451.

Subd. 6. Compostable material. "Compostable material" means a covered material that:

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

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

(3) is comprised of only wood without any coatings or additives; or

(4) is comprised of only paper without any coatings or additives.

Subd. 7. Composting. "Composting" means the controlled microbial degradation of source-separated compostable materials to yield a humus-like product.

Subd. 8. Composting rate. "Composting rate" means the amount of compostable covered material that is managed through composting, divided by the total amount of compostable covered material sold or distributed into the state by the relevant unit of measurement established in section 115A.1451.

Subd. 9. Covered material. "Covered material" means packaging and paper products introduced into the state. Covered material does not include exempt materials.

Subd. 10. Covered materials type. "Covered materials type" means a singular and specific type of covered material that can be categorized based on distinguishing chemical or physical properties, including properties that allow for a covered materials type to be aggregated into a commonly defined discrete commodity category for purposes of reuse, recycling, or composting, and based on similar uses in the form of a product or package.

Subd. 11. De minimis producer. "De minimis producer" means a person that in the most recent fiscal year:

(1) introduced less than one ton of covered material into this state; or

(2) earned global gross revenues of less than \$2,000,000.

Subd. 12. Environmental impact. "Environmental impact" means the environmental impact of a covered material from extraction and processing of the raw materials composing

the material through manufacturing; distribution; use; recovery for reuse, recycling, or composting; and final disposal.

Subd. 13. **Exempt materials.** "Exempt materials" means materials, or any portion of materials, that:

(1) are packaging for infant formula, as defined in United States Code, title 21, section 321(z);

(2) are packaging for medical food, as defined in United States Code, title 21, section 360ee(b)(3);

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

(4) are a product, including its peripheral accessories, and the packaging or packaging components for any investigational or approved product regulated as a drug or medical device by the United States Food and Drug Administration;

(5) are medical equipment or products or their components, including consumable medical equipment or products and their components, and the packaging or packaging components for any products used in health care settings, including hospitals and clinics that are regulated by the United States Food and Drug Administration or used for infection prevention and dispensing of medication;

(6) are medical equipment or products and the packaging or packaging components for any product intended for Research Use Only as defined in the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 360 et seq.; or

(7) are drugs, biological products, parasitocides, medical devices, or in vitro diagnostics used to treat, or administered to, animals and regulated by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 301 et seq., by the United States Department of Agriculture under the federal Virus-Serum-Toxin Act, United States Code, title 21, section 151 et seq., or by the United States Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, United States Code, title 7, section 136 et seq.

Subd. 14. **Food packaging.** "Food packaging" has the meaning given in section 325F.075.

Subd. 15. **Independent auditor.** "Independent auditor" means an independent and actively licensed certified public accountant that is:

4.1 (1) retained by a producer responsibility organization;

4.2 (2) not otherwise employed by or affiliated with a producer responsibility organization;

4.3 and

4.4 (3) qualified to conduct an audit under state law.

4.5 Subd. 16. **Infrastructure investment.** "Infrastructure investment" means an investment
4.6 by a producer responsibility organization that funds:

4.7 (1) equipment or facilities in which covered materials are prepared for reuse, recycling,
4.8 or composting;

4.9 (2) equipment or facilities used for waste reduction, reuse, recycling, or composting of
4.10 covered materials; or

4.11 (3) the expansion or strengthening of demand for and use of covered materials by
4.12 responsible markets in the state or region.

4.13 Subd. 17. **Introduce.** "Introduce" means to sell, offer for sale, distribute, or use to ship
4.14 a product within or into this state.

4.15 Subd. 18. **Living wage.** "Living wage" means the minimum hourly wage necessary to
4.16 allow a person working 40 hours per week to afford basic needs.

4.17 Subd. 19. **Needs assessment.** "Needs assessment" means an assessment conducted
4.18 according to section 115A.1450. Except where the context requires otherwise, needs
4.19 assessment means the most recently completed needs assessment.

4.20 Subd. 20. **Nondisclosure agreement.** "Nondisclosure agreement" means an agreement
4.21 that requires the parties to the agreement to treat private and nonpublic data submitted to
4.22 facilitate completion of a needs assessment according to the definitions and requirements
4.23 established in section 115A.06, subdivision 13.

4.24 Subd. 21. **Packaging.** "Packaging" has the meaning given in section 115A.03 and
4.25 includes food packaging. Packaging does not include exempt materials.

4.26 Subd. 22. **Paper product.** "Paper product" means a product made primarily from wood
4.27 pulp or other cellulosic fibers, except that paper product does not include bound books or
4.28 products that recycling or composting facilities will not accept because of the unsafe or
4.29 unsanitary nature of the paper product.

4.30 Subd. 23. **Postconsumer recycled content.** "Postconsumer recycled content" means
4.31 the portion of a product composed of postconsumer material, expressed as a percentage of
4.32 the total weight of the product.

5.1 Subd. 24. **Producer.** (a) "Producer" means the following person responsible for
5.2 compliance with requirements under this act for a covered material sold, offered for sale,
5.3 or distributed in or into this state:

5.4 (1) for items sold in or with packaging at a physical retail location in this state:

5.5 (i) if the item is sold in or with packaging under the brand of the item manufacturer or
5.6 is sold in packaging that lacks identification of a brand, the producer is the person that
5.7 manufactures the item;

5.8 (ii) if there is no person to which item (i) applies, the producer is the person that is
5.9 licensed to manufacture and sell or offer for sale to consumers in this state an item with
5.10 packaging under the brand or trademark of another manufacturer or person;

5.11 (iii) if there is no person to which item (i) or (ii) applies, the producer is the brand owner
5.12 of the item;

5.13 (iv) if there is no person described in item (i), (ii), or (iii) within the United States, the
5.14 producer is the person who is the importer of record for the item into the United States for
5.15 use in a commercial enterprise that sells, offers for sale, or distributes the item in this state;
5.16 or

5.17 (v) if there is no person described in items (i) to (iv), the producer is the person that first
5.18 distributes the item in or into this state;

5.19 (2) for items sold or distributed in packaging in or into this state via e-commerce, remote
5.20 sale, or distribution:

5.21 (i) for packaging used to directly protect or contain the item, the producer of the packaging
5.22 is the same as the producer identified under clause (1); and

5.23 (ii) for packaging used to ship the item to a consumer, the producer of the packaging is
5.24 the person that packages the item to be shipped to the consumer;

5.25 (3) for packaging that is a covered material and is not included in clauses (1) and (2),
5.26 the producer of the packaging is the person that first distributes the item in or into this state;

5.27 (4) for paper products that are magazines, catalogs, telephone directories, or similar
5.28 publications, the producer is the publisher;

5.29 (5) for paper products not described in clause (4):

5.30 (i) if the paper product is sold under the manufacturer's own brand, the producer is the
5.31 person that manufactures the paper product;

(ii) if there is no person to which item (i) applies, the producer is the person that is the owner or licensee of a brand or trademark under which the paper product is used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state;

(iii) if there is no person to which item (i) or (ii) applies, the producer is the brand owner of the paper product;

(iv) if there is no person described in item (i), (ii), or (iii) within the United States, the producer is the person that imports the paper product into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the paper product in this state; or

(v) if there is no person described in items (i) to (iv), the producer is the person that first distributes the paper product in or into this state; and

(6) a person is the producer of a covered material sold, offered for sale, or distributed in or into this state, as defined in clauses (1) to (5), except:

(i) where another person has mutually signed an agreement with a producer as defined in clauses (1) to (5) that contractually assigns responsibility to the person as the producer, and the person has joined a registered producer responsibility organization as the responsible producer for that covered material under this act. In the event that another person is assigned responsibility as the producer under this subdivision, the producer under clauses (1) to (5) must provide written certification of that contractual agreement to the producer responsibility organization; and

(ii) if the producer described in clauses (1) to (5) is a business operated wholly or in part as a franchise, the producer is the franchisor if that franchisor has franchisees that have a commercial presence within the state.

(b) "Producer" does not include:

(1) government agencies, municipalities, or other political subdivisions of the state;

(2) registered 501(c)(3) charitable organizations and 501(c)(4) social welfare organizations; or

(3) de minimis producers.

Subd. 25. **Producer responsibility organization.** "Producer responsibility organization" means a nonprofit corporation that is tax exempt under chapter 501(c)(3) of the federal

7.1 Internal Revenue Code and that is created by a group of producers to implement activities
7.2 under this act.

7.3 Subd. 26. **Recycling.** "Recycling" has the meaning given in section 115A.03 except that
7.4 recycling does not include reuse or composting, as defined in this act.

7.5 Subd. 27. **Recycling rate.** "Recycling rate" means the amount of covered material, in
7.6 aggregate or by individual covered materials type, managed through recycling in a calendar
7.7 year divided by the total amount of covered materials sold or distributed into the state by
7.8 the relevant unit of measurement established in section 115A.1451.

7.9 Subd. 28. **Refill.** "Refill" means the continued use of a covered material by a consumer
7.10 through a system that is:

7.11 (1) intentionally designed and marketed for repeated filling of a covered material to
7.12 reduce demand for new production of the covered material;

7.13 (2) supported by adequate logistics and infrastructure to provide convenient access for
7.14 consumers; and

7.15 (3) compliant with all applicable state and local statute, rule, ordinance, or other law
7.16 governing health and safety.

7.17 Subd. 29. **Responsible market.** "Responsible market" means a materials market that:

7.18 (1) reuses, recycles, composts, or otherwise recovers materials and disposes of
7.19 contaminants in a manner that protects the environment and minimizes risks to public health
7.20 and worker health and safety;

7.21 (2) complies with all applicable federal, state, and local statutes, rules, ordinances, or
7.22 other laws governing environmental, health, safety, and financial responsibility;

7.23 (3) possesses all requisite licenses and permits required by government agencies;

7.24 (4) if the market operates in the state, manages waste according to the waste management
7.25 goal and priority order of waste management practices stated in section 115A.02; and

7.26 (5) minimizes adverse impacts to environmental justice areas.

7.27 Subd. 30. **Return rate.** "Return rate" means the amount of reusable covered material in
7.28 aggregate or by individual covered materials type, collected for reuse by the producer or
7.29 service provider in a calendar year, divided by the total amount of reusable covered materials
7.30 sold or distributed into the state by the relevant unit of measurement established in section
7.31 115A.1451.

8.1 Subd. 31. **Reusable.** "Reusable" means capable of reuse.

8.2 Subd. 32. **Reuse.** "Reuse" means the return of a covered material to the marketplace and
8.3 the continued use of the covered material by a producer or service provider when the covered
8.4 material is:

8.5 (1) intentionally designed and marketed to be used multiple times for its original intended
8.6 purpose without a change in form;

8.7 (2) designed for durability and maintenance to extend its useful life and reduce demand
8.8 for new production of the covered material;

8.9 (3) supported by adequate logistics and infrastructure at a retail location, by a service
8.10 provider, or on behalf of or by a producer, that provides convenient access for consumers;
8.11 and

8.12 (4) compliant with all applicable state and local statutes, rules, ordinances, or other laws
8.13 governing health and safety.

8.14 Subd. 33. **Reuse rate.** "Reuse rate" means the share of units of a covered material sold
8.15 or distributed into the state in a calendar year that are deemed reusable by the commissioner
8.16 according to section 115A.1451.

8.17 Subd. 34. **Service provider.** "Service provider" means an entity that collects, transfers,
8.18 sorts, processes, or otherwise prepares covered materials for reuse, recycling, or composting.
8.19 A political subdivision that provides or that contracts or otherwise arranges with another
8.20 party to provide reuse, collection, recycling, or composting services for covered materials
8.21 within its jurisdiction may be a service provider regardless of whether it provided, contracted
8.22 for, or otherwise arranged for similar services before the approval of the applicable
8.23 stewardship plan.

8.24 Subd. 35. **Third-party certification.** "Third-party certification" means certification by
8.25 an accredited independent organization that a standard or process required by this act, or a
8.26 stewardship plan approved under this act, has been achieved.

8.27 Subd. 36. **This act.** "This act" means sections 115A.144 to 115A.1462.

8.28 Subd. 37. **Toxic substance.** "Toxic substance" means hazardous waste, a problem
8.29 material, a chemical or chemical class regulated under section 115A.965, 116.943, 325F.075,
8.30 or 325F.172 to 325F.179, or a chemical of high concern identified under section 116.9402.

9.1 Subd. 38. **Waste reduction or source reduction.** "Waste reduction" or "source reduction"
9.2 has the meaning given in section 115A.03, except that waste reduction or source reduction
9.3 does not include reuse, but does include refill, as defined in this act.

9.4 Sec. 3. **[115A.1442] ESTABLISHMENT OF PROGRAM.**

9.5 Producers must implement and finance a statewide program for packaging and paper
9.6 products in accordance with this act that encourages packaging redesign to reduce the
9.7 environmental impacts and human health impacts and that reduces generation of covered
9.8 materials waste through waste reduction, reuse, recycling, and composting and by providing
9.9 for negotiation and execution of agreements to collect, transport, and process used covered
9.10 materials for reuse, recycling, and composting.

9.11 Sec. 4. **[115A.1443] REGISTRATION OF PRODUCER RESPONSIBILITY**
9.12 **ORGANIZATIONS.**

9.13 Subdivision 1. **Annual registration.** (a) By January 1, 2025, and annually thereafter,
9.14 producers must appoint a producer responsibility organization and the organization must
9.15 register with the commissioner by submitting the following:

9.16 (1) contact information for a person responsible for implementing an approved
9.17 stewardship plan;

9.18 (2) a list of all member producers that will operate under the stewardship plan
9.19 administered by the producer responsibility organization and, for each producer, a list of
9.20 all brands of the producer's covered materials introduced;

9.21 (3) copies of written agreements with each producer stating that each producer agrees
9.22 to operate under an approved stewardship plan administered by the producer responsibility
9.23 organization;

9.24 (4) a list of current board members and the executive director if different than the person
9.25 responsible for implementing approved stewardship plans; and

9.26 (5) payment of the annual fee required under subdivision 2.

9.27 (b) If more than a single producer responsibility organization is established, the producers
9.28 and producer responsibility organizations must establish a coordinating body and process
9.29 to prevent redundancy of service contracts among service providers and to ensure the efficient
9.30 delivery of waste management services. The stewardship plans of all producer responsibility
9.31 organizations must be integrated into a single stewardship plan that covers all requirements
9.32 of this act and encompasses all producers when submitted to the commissioner for approval.

10.1 The annual reports of all producer responsibility organizations must be integrated into a
10.2 single annual report that covers all requirements of this act and encompasses all producers
10.3 when submitted to the commissioner.

10.4 Subd. 2. **Registration fee.** (a) As part of its annual registration with the commissioner,
10.5 a producer responsibility organization must submit to the commissioner an annual fee for
10.6 the following year, as determined by the commissioner. Beginning October 1, 2028, and
10.7 annually thereafter, the commissioner must notify registered producer responsibility
10.8 organizations in writing of the amount of the fee for the following year. If there is more
10.9 than one registered producer responsibility organization, the coordinating body described
10.10 in subdivision 1, paragraph (b), must equitably apportion payment of the annual fee between
10.11 all registered producer responsibility organizations. The annual fee must be set at an amount
10.12 anticipated to in the aggregate meet but not exceed the commissioner's estimate of the costs
10.13 required to perform the commissioner's duties as described in section 115A.1445 and to
10.14 otherwise administer, implement, and enforce this act.

10.15 (b) The commissioner must reconcile the fees paid by a producer responsibility
10.16 organization under this subdivision with the actual costs incurred by the agency on an annual
10.17 basis, by means of credits or refunds to or additional payments required of a producer
10.18 responsibility organization, as applicable.

10.19 Subd. 3. **Initial producer responsibility organization registration; implementation**
10.20 **fee.** (a) Notwithstanding the other provisions of this section, the commissioner may not
10.21 allow registration of more than one producer responsibility organization under this section
10.22 before the first stewardship plan approved by the commissioner expires. If more than one
10.23 producer responsibility organization applies to register under this section before the first
10.24 stewardship plan is approved by the commissioner, the commissioner must select the producer
10.25 responsibility organization that will represent producers until the first stewardship plan
10.26 expires and must return the registration fee paid by applicants who are not selected. When
10.27 selecting a producer responsibility organization, the commissioner must consider whether
10.28 the producer responsibility organization:

10.29 (1) has a governing board consisting of producers that represent a diversity of covered
10.30 materials introduced; and

10.31 (2) demonstrates adequate financial responsibility and financial controls to ensure proper
10.32 management of funds.

10.33 (b) By October 1, 2025, and annually until the first stewardship plan is approved, the
10.34 commissioner must provide written notice to the initial producer responsibility organization

registered under this section of the commissioner's estimate of the cost of conducting the initial needs assessment and the commissioner's costs to administer this act during the period prior to plan approval. The producer responsibility organization must remit payment in full for these costs to the commissioner within 45 days of receipt of this notice. The producer responsibility organization may charge each member producer to cover the cost of its implementation fee according to each producer's unit-, weight-, volume-, or sales-based market share or by another method it determines to be an equitable determination of each producer's payment obligation.

Subd. 4. **Requirement for additional producer responsibility organizations.** The commissioner may allow registration of more than one producer responsibility organization if:

(1) producers of a covered materials type or a specific covered material appoint a producer responsibility organization; or

(2) producers organize under additional producer responsibility organizations that meet the criteria established in subdivision 3, paragraph (a).

Sec. 5. [115A.1444] ESTABLISHMENT OF PRODUCER RESPONSIBILITY ADVISORY BOARD.

Subdivision 1. **Establishment.** The Producer Responsibility Advisory Board is established to review all programs conducted by producer responsibility organizations under this act and to advise the commissioner and producer responsibility organizations regarding the implementation of this act.

Subd. 2. **Membership.** (a) The membership of the advisory board consists of persons appointed by the commissioner by January 1, 2025, as follows:

(1) two members representing manufacturers of covered materials or a statewide or national trade association representing those manufacturers;

(2) two members representing recycling facilities that manage covered materials;

(3) one member representing a waste hauler or a statewide association representing waste haulers;

(4) one member representing retailers of covered materials or a statewide trade association representing those retailers;

(5) one member representing a statewide nonprofit environmental organization;

12.1 (6) one member representing a community-based nonprofit environmental justice
12.2 organization;

12.3 (7) one member representing a waste facility that receives and sorts covered materials
12.4 and transfers them to another facility for reuse, recycling, or composting;

12.5 (8) one member representing a waste facility that receives compostable materials for
12.6 composting or a statewide trade association that represents such facilities;

12.7 (9) two members representing an entity that develops or offers for sale covered materials
12.8 that are designed for reuse and maintained through a reuse system or infrastructure or a
12.9 statewide or national trade association that represents such entities;

12.10 (10) three members representing organizations of political subdivisions;

12.11 (11) two members representing other stakeholders or additional members of interests
12.12 represented under clauses (1) to (10) as determined by the commissioner; and

12.13 (12) one member representing the commissioner.

12.14 (b) In making appointments under paragraph (a), the commissioner:

12.15 (1) may not appoint members who are state legislators or registered lobbyists;

12.16 (2) may not appoint members who are employees of a producer required to be members
12.17 of a producer responsibility organization in this state under this act; and

12.18 (3) must endeavor to appoint members from all regions of the state.

12.19 Subd. 3. **Terms; removal.** A member of the advisory board appointed under subdivision
12.20 2, paragraph (a), clause (12), serves at the pleasure of the commissioner. All other members
12.21 serve for a term of four years, except that the initial term for nine of the initial appointees
12.22 must be two years so that membership terms are staggered. Members may be reappointed
12.23 but may not serve more than eight consecutive years. Removing members and filling of
12.24 vacancies is governed by section 15.059, subdivision 4. Except as otherwise provided,
12.25 chapter 15 does not apply to the board.

12.26 Subd. 4. **Compensation.** Members of the board must be compensated according to
12.27 section 15.059, subdivision 3.

12.28 Subd. 5. **Quorum.** A majority of the voting board members constitutes a quorum. If
12.29 there is a vacancy in the membership of the board, a majority of the remaining voting
12.30 members of the board constitutes a quorum.

13.1 Subd. 6. **Voting.** Action by the advisory board requires a quorum and a majority of those
13.2 present and voting. All members of the advisory board, except the member appointed under
13.3 subdivision 2, paragraph (a), clause (12), are voting members of the board.

13.4 Subd. 7. **Meetings.** The advisory board must meet at least two times per year and may
13.5 meet more frequently upon ten days' written notice at the request of the chair or a majority
13.6 of its members.

13.7 Subd. 8. **Open meetings.** Meetings of the board must comply with chapter 13D.

13.8 Subd. 9. **Chair.** At its initial meeting, and every two years thereafter, the advisory board
13.9 must elect a chair and vice-chair from among its members.

13.10 Subd. 10. **Administrative and operating support.** The commissioner must provide
13.11 administrative and operating support to the advisory board and may contract with a third-party
13.12 facilitator to assist in administering the activities of the advisory board, including establishing
13.13 a website or landing page on the agency website.

13.14 Subd. 11. **Conflict of interest policies.** The commissioner must assist the advisory board
13.15 in developing policies and procedures governing the disclosure of actual or perceived
13.16 conflicts of interest that advisory board members may have as a result of their employment
13.17 or financial holdings of themselves or of family members. Each advisory board member is
13.18 responsible for reviewing the conflict of interest policies and procedures. An advisory board
13.19 member must disclose any instance of actual or perceived conflicts of interest at each meeting
13.20 of the advisory board at which recommendations regarding stewardship plans, programs,
13.21 operations, or activities are made by the advisory board.

13.22 Sec. 6. **[115A.1445] COMMISSIONER RESPONSIBILITIES.**

13.23 The commissioner must:

13.24 (1) appoint the initial membership of the advisory board by January 1, 2025, according
13.25 to section 115A.1444;

13.26 (2) provide administrative and operating support to the advisory board, as required by
13.27 section 115A.1444, subdivision 10;

13.28 (3) complete an initial needs assessment by December 31, 2026, and update the needs
13.29 assessment every five years thereafter, according to section 115A.1450;

13.30 (4) approve stewardship plans and amendments to stewardship plans according to section
13.31 115A.1451;

14.1 (5) provide a list of covered materials determined to be recyclable or compostable to all
14.2 producer responsibility organizations by March 1, 2027, and at least every three years
14.3 thereafter, according to the requirements of section 115A.1453;

14.4 (6) post on the agency's website:

14.5 (i) the most recent registration materials submitted by producer responsibility
14.6 organizations, including all information submitted under section 115A.1443, subdivision
14.7 1;

14.8 (ii) the most recent needs assessment;

14.9 (iii) any stewardship plan or amendment submitted by a producer responsibility
14.10 organization under section 115A.1451 that is in draft form during the public comment
14.11 period;

14.12 (iv) the most recent list of recyclable or compostable covered materials developed by
14.13 the commissioner under section 115A.1453;

14.14 (v) links to producer responsibility organization websites;

14.15 (vi) comments of the public, advisory board, and producer responsibility organizations
14.16 on the documents listed in items (ii), (iii), (iv), and (vii), and the responses of the
14.17 commissioner to those comments; and

14.18 (vii) links to adopted rules implementing this act;

14.19 (7) require and approve independent auditors to perform an annual financial audit of
14.20 program operations of each producer responsibility organization; and

14.21 (8) consider and respond in writing to all written comments received from the advisory
14.22 board.

14.23 **Sec. 7. [115A.1446] PRODUCER RESPONSIBILITY ADVISORY BOARD**
14.24 **RESPONSIBILITIES.**

14.25 The Producer Responsibility Advisory Board must:

14.26 (1) convene its initial meeting by March 1, 2025;

14.27 (2) consult with the commissioner regarding the scope of the needs assessment and to
14.28 provide written comments on needs assessments, according to section 115A.1450, subdivision
14.29 2;

14.30 (3) advise on the development of stewardship plans and amendments to stewardship
14.31 plans under section 115A.1451;

15.1 (4) submit comments to producer responsibility organizations and to the commissioner
15.2 on any matter relevant to the administration of this act; and

15.3 (5) provide written comments to the commissioner during any rulemaking process
15.4 undertaken by the commissioner under section 115A.1459.

15.5 Sec. 8. **[115A.1447] PRODUCER RESPONSIBILITY ORGANIZATION**
15.6 **RESPONSIBILITIES.**

15.7 A producer responsibility organization must:

15.8 (1) annually register with the commissioner, according to section 115A.1443;

15.9 (2) submit a stewardship plan to the commissioner by March 1, 2028, and every five
15.10 years thereafter, according to section 115A.1451;

15.11 (3) implement stewardship plans approved by the commissioner under section 115A.1451
15.12 and to comply with the requirements of this act;

15.13 (4) forward upon receipt from the commissioner the list of covered materials that are
15.14 deemed recyclable or compostable to all service providers that participate in a stewardship
15.15 plan administered by the producer responsibility organization;

15.16 (5) collect producer fees according to section 115A.1454;

15.17 (6) submit the reports required by section 115A.1456;

15.18 (7) ensure that producers operating under a stewardship plan administered by the producer
15.19 responsibility organization comply with the requirements of the stewardship plan and with
15.20 this act;

15.21 (8) expel a producer from the producer responsibility organization if efforts to return
15.22 the producer to compliance with the plan or with the requirements of this act are unsuccessful.
15.23 The producer responsibility organization must notify the commissioner when a producer
15.24 has been expelled under this clause;

15.25 (9) consider and respond in writing to comments received from the advisory board,
15.26 including justifications for not incorporating any recommendations;

15.27 (10) provide producers with information regarding state and federal laws that prohibit
15.28 substances in covered materials, including sections 115A.965, 116.943, 325F.075, 325F.172
15.29 to 325F.179, and all laws prohibiting toxic substances in covered materials;

15.30 (11) maintain a website according to section 115A.1457;

(12) notify the commissioner within 30 days if a change is made to the contact information for a person responsible for implementing the stewardship plan, a change to the board members, or a change to the executive director; and

(13) assist service providers in identifying and using responsible markets.

Sec. 9. **[115A.1448] PRODUCER RESPONSIBILITIES.**

Subdivision 1. Registration required; prohibition of sale. (a) After January 1, 2025, a producer must be a member of a producer responsibility organization registered in this state.

(b) After January 1, 2029, no producer may introduce covered materials, either separately or when used to package another product, unless the producer operates under a written agreement with a producer responsibility organization to operate under an approved stewardship plan.

(c) After January 1, 2032, no producer may introduce covered materials unless the covered materials are:

(1) reusable and included in an established reuse system that meets the reuse rate and return rate required under this act;

(2) included on the recyclables or compostables list established under section 115A.1453; or

(3) included in an alternative collection system approved as part of a stewardship plan under section 115A.1451.

Subd. 2. Duties. A producer must:

(1) implement the requirements of the stewardship plan under which the producer operates and to comply with the requirements of this act; and

(2) pay producer fees according to section 115A.1454.

Sec. 10. **[115A.1449] SERVICE PROVIDER RESPONSIBILITIES.**

A service provider participating in an approved stewardship plan must:

(1) provide for the collection and management of covered materials generated in the state pursuant to contractual agreements with a producer responsibility organization or arrangements with other service providers that are entered into under an approved stewardship plan; and

17.1 (2) if the service provider is a political subdivision, provide at least a one-year advance
17.2 notice to the producer responsibility organization if the political subdivision plans to cease
17.3 acting as a service provider.

17.4 Sec. 11. **[115A.1450] NEEDS ASSESSMENT.**

17.5 Subdivision 1. **Needs assessment required.** By December 31, 2026, and every five
17.6 years thereafter, the commissioner must complete a statewide needs assessment according
17.7 to this section.

17.8 Subd. 2. **Input from interested parties.** In conducting a needs assessment, the
17.9 commissioner must:

17.10 (1) initiate a consultation process to obtain recommendations from the advisory board,
17.11 political subdivisions, service providers, producer responsibility organizations, and other
17.12 interested parties regarding the type and scope of information that should be collected and
17.13 analyzed in the statewide needs assessment required by this section;

17.14 (2) contract with a third party who is not a producer or a producer responsibility
17.15 organization to conduct the needs assessment; and

17.16 (3) prior to finalizing the needs assessment, make the draft needs assessment available
17.17 for comment by the advisory board, producer responsibility organizations, and the public.
17.18 The commissioner must respond in writing to the comments and recommendations of the
17.19 advisory board and producer responsibility organizations.

17.20 Subd. 3. **Content of needs assessment.** A needs assessment must include at least the
17.21 following:

17.22 (1) an evaluation of the performance of:

17.23 (i) existing waste reduction, reuse, recycling, and composting efforts for each covered
17.24 materials type, as applicable, including collection rates, recycling rates, composting rates,
17.25 reuse rates, and return rates for each covered materials type;

17.26 (ii) overall recycling rate, composting rate, reuse rate, and return rate for all covered
17.27 materials; and

17.28 (iii) the extent to which postconsumer recycled content is incorporated into each covered
17.29 materials type, as applicable;

17.30 (2) an evaluation of a representative sample of management of covered materials with
17.31 mixed municipal solid waste, as source-separated recyclable materials, and as
17.32 source-separated compostable materials as received by waste management, recycling, and

18.1 composting facilities in the state, and relevant findings from any publicly available waste
18.2 stream evaluations conducted within the previous year, to evaluate the amount and portion
18.3 of covered materials being disposed of that would otherwise be recyclable or compostable;

18.4 (3) proposals for a range of outcomes for each covered materials type to be accomplished
18.5 within a five-year time frame in multiple units of measurement, including but not limited
18.6 to unit-based, weight-based, and volume-based, for each of the following:

18.7 (i) waste reduction;

18.8 (ii) reuse rate and return rates;

18.9 (iii) recycling rates;

18.10 (iv) composting rates; and

18.11 (v) postconsumer recycled content;

18.12 (4) proposals for a range of outcomes for the categories described in clause (3), that
18.13 consider:

18.14 (i) information contained in or used to prepare a needs assessment according to this
18.15 subdivision;

18.16 (ii) goals and requirements of the Waste Management Act under this chapter;

18.17 (iii) statewide goals for greenhouse gas emission reductions under section 216H.02;

18.18 (iv) need for continuous progress toward generating less waste from covered materials
18.19 and the complete reuse, recycling, or composting of the covered materials that are generated,
18.20 in doing so reducing impacts to human health and the environment;

18.21 (v) a preference for statewide requirements that accomplish and further the goals and
18.22 requirements in clauses (2) to (4) as soon as practicable and to the maximum extent
18.23 achievable; and

18.24 (vi) information from packaging and paper producer responsibility programs operating
18.25 in other jurisdictions;

18.26 (5) information to be considered in determining whether a covered materials type is
18.27 reusable, recyclable, or compostable, including its potential use as a marketable feedstock
18.28 and recommendations for collection methods by covered materials type to maximize
18.29 efficiency and quality of feedstock;

18.30 (6) proposed plans and metrics for how to measure progress in achieving performance
18.31 targets and statewide requirements;

- 19.1 (7) an evaluation of options for third-party certification of activities to meet obligations
19.2 of this act;
- 19.3 (8) an inventory of the current system including:
- 19.4 (i) infrastructure, capacity, performance, funding level, and method and sources of
19.5 financing for the existing waste reduction, reuse, collection, transportation, processing,
19.6 recycling, and composting systems for covered materials operating in the state; and
- 19.7 (ii) availability and cost of waste reduction, reuse, recycling, and composting services
19.8 for covered materials at single-family residences, multifamily residences, commercial
19.9 facilities, industrial facilities, institutional facilities, and public places, including identification
19.10 of disparities in the availability of these services in environmental justice areas compared
19.11 with other areas and proposals for reducing or eliminating those disparities;
- 19.12 (9) an evaluation of investments needed to increase waste reduction, reuse, recycling,
19.13 and composting rates of covered materials according to the range of proposed performance
19.14 targets and statewide requirements including investments that would:
- 19.15 (i) maintain or improve operations of existing infrastructure and accounts for reuse,
19.16 recycling, and composting of covered materials;
- 19.17 (ii) expand the availability and accessibility of recycling collection services for recyclable
19.18 covered materials to all residents of the state at the same or comparable level of convenience
19.19 as collection services for mixed municipal solid waste; and
- 19.20 (iii) establish and expand the availability and accessibility of reuse services for reusable
19.21 covered materials;
- 19.22 (10) an assessment of the viability and robustness of markets for recyclable covered
19.23 materials and the degree to which these markets can be considered responsible markets;
- 19.24 (11) an assessment of the level and causes of contamination of source-separated recyclable
19.25 materials, source-separated compostable materials and collected reusables, and the impacts
19.26 of contamination on service providers, including the cost to manage this contamination;
- 19.27 (12) an assessment of toxic substances intentionally added to covered materials, their
19.28 potential environmental impacts and human health impacts, and whether this limits one or
19.29 more covered materials types from being used as a marketable feedstock;
- 19.30 (13) an assessment of current best practices to increase public awareness, educate, and
19.31 complete outreach activities accounting for culturally responsive materials and methods

20.1 and an evaluation of the efficacy of these efforts including assessments and evaluations of
20.2 current best practices and efforts on:

20.3 (i) using product labels as a means of informing consumers about environmentally sound
20.4 use and management of covered materials;

20.5 (ii) increasing public awareness of how to use and manage covered materials in an
20.6 environmentally sound manner and how to access waste reduction, reuse, recycling, and
20.7 composting services; and

20.8 (iii) encouraging behavior change to increase participation in waste reduction, reuse,
20.9 recycling, and composting programs;

20.10 (14) identification of the covered materials with the most significant environmental
20.11 impact; and

20.12 (15) other items identified by the commissioner that would aid the creation of the
20.13 stewardship plan, its administration, and the enforcement of this act.

20.14 Subd. 4. **Needs assessment as baseline.** When determining the extent to which any
20.15 statewide requirement or performance target under this act has been achieved, information
20.16 contained in a needs assessment must serve as the baseline for that determination, when
20.17 applicable.

20.18 Subd. 5. **Participation required.** A service provider or other person with data or
20.19 information necessary to complete a needs assessment must provide the data or information
20.20 to the commissioner upon request. A service provider or other person who does not want
20.21 to be identified with information submitted to the commissioner under this subdivision may
20.22 request to proceed under a nondisclosure agreement. A nondisclosure agreement is limited
20.23 to the items under section 115A.06, subdivision 13. Once a request is made, the requestor,
20.24 the commissioner, and all third parties participating in the completion of the needs assessment
20.25 in whatever capacity must enter into a nondisclosure agreement. Once these parties have
20.26 entered into a nondisclosure agreement, the requestor must submit the necessary data or
20.27 information to the contractor selected by the commissioner according to subdivision 2, who
20.28 must aggregate and anonymize the data or information received from all parties proceeding
20.29 under a nondisclosure agreement under this subdivision and must then submit the aggregated
20.30 anonymized information to the commissioner or to the party or parties contracted to complete
20.31 the needs assessment.

21.1 Sec. 12. [115A.1451] STEWARDSHIP PLAN.

21.2 Subdivision 1. Stewardship plan required. By March 1, 2028, and every five years
21.3 thereafter, a producer responsibility organization must submit a stewardship plan to the
21.4 commissioner that describes the proposed operation by the organization of programs to
21.5 fulfill the requirements of this act and that incorporates the findings and results of needs
21.6 assessments. Once approved, a stewardship plan remains in effect for five years, as amended,
21.7 or until a subsequent stewardship plan is approved.

21.8 Subd. 2. Advisory board review of draft plan and amendments. A producer
21.9 responsibility organization must submit a draft stewardship plan or draft amendment to the
21.10 advisory board at least 60 days prior to submitting the draft plan or draft amendment to the
21.11 commissioner to allow the advisory board to submit comments and must address advisory
21.12 board comments and recommendations prior to submission of the draft plan or draft
21.13 amendment to the commissioner.

21.14 Subd. 3. Content of stewardship plans. A proposed stewardship plan must include at
21.15 least the following:

21.16 (1) performance targets as applicable to each covered materials type to be accomplished
21.17 within a five-year period, established in subdivision 5, paragraph (a);

21.18 (2) a description of the method of collection to be used for each covered materials type,
21.19 including proposals for reusable covered materials managed through a reuse system and
21.20 alternative collection programs for covered materials not included in the list established by
21.21 the commissioner under section 115A.1453;

21.22 (3) proposals for exemptions from performance targets and statewide requirements for
21.23 covered materials that cannot be waste reduced or made reusable, recyclable, or compostable
21.24 due to federal or state health and safety requirements. The producer responsibility
21.25 organization must identify the specific requirements and the impact on the covered materials;

21.26 (4) a plan for how the producer responsibility organization will measure recycling, waste
21.27 reduction, and reuse according to subdivision 6, and a description of how the organization
21.28 will measure composting and inclusion of postconsumer recycled content;

21.29 (5) third-party certifications as required by the commissioner or voluntarily undertaken;

21.30 (6) a budget and identification of funding needs for each of the five calendar years
21.31 covered by the plan, including:

21.32 (i) producer fees and a description of the process used to calculate the fees, including
21.33 an explanation of how the fees meet the requirements of section 115A.1454; and

22.1 (ii) a plan for infrastructure investments, including a description of how the process to
22.2 offer and select opportunities will be conducted in an open, competitive, and fair manner;
22.3 how it will address gaps in the system not met by service providers; and the financial and
22.4 legal instruments to be used;

22.5 (7) an explanation of how the program will be fully paid for by producers, without any
22.6 fee, charge, surcharge, or other cost to members of the public, businesses, service providers,
22.7 the state or any political subdivision, or any other person who is not a producer. For purposes
22.8 of this requirement, a deposit made in connection with a product's refill, reuse, or recycling
22.9 that can be redeemed by a consumer is not a fee, charge, surcharge, or other cost;

22.10 (8) a description of activities to be undertaken during the next five calendar years, which
22.11 must at a minimum describe how the producer responsibility organization, acting on behalf
22.12 of producers, will:

22.13 (i) minimize the environmental impacts and human health impacts of covered materials;

22.14 (ii) incorporate as program objectives the improved design of covered materials according
22.15 to section 115A.1454, subdivision 1, clause (2);

22.16 (iii) expand and increase the convenience of waste reduction, reuse, collection, recycling,
22.17 and composting services according to the order of the waste management hierarchy under
22.18 section 115A.02;

22.19 (iv) ensure statewide coverage of collection services for covered materials on the
22.20 recyclable materials list established according to section 115A.1453, at no cost to all
22.21 single-family residences, multifamily residences, and political subdivisions arranging for
22.22 collection of recyclable materials from public places in a comparable level of convenience
22.23 as collection services for mixed municipal solid waste; and

22.24 (v) ensure that postconsumer recycled materials are delivered to responsible markets;

22.25 (9) a description of how the program uses and interacts with existing collection, waste
22.26 reduction, reuse, recycling, and composting efforts and service providers and how the
22.27 producer responsibility organization will reimburse service providers for the costs of:

22.28 (i) collecting covered materials generated from all single-family residences, multifamily
22.29 residences, and public places in the state; and

22.30 (ii) managing covered materials generated from all single-family residences, multifamily
22.31 residences, public places, and commercial, industrial, and institutional facilities in the state;

23.1 (10) reimbursement formulas and schedules of reimbursement rates for service providers
23.2 that elect to participate in the program and a description of how the formulas and schedules
23.3 were developed according to section 115A.1455;

23.4 (11) terms and conditions for service agreements, including:

23.5 (i) an agreement that the producer responsibility organization will treat nonpublic data
23.6 submitted by service providers electing to participate in the program as nonpublic data;

23.7 (ii) a requirement that service providers accept all covered materials on the recyclable
23.8 or compostable materials lists established by the commissioner under section 115A.1453;
23.9 and

23.10 (iii) performance standards for service providers that include a requirement that service
23.11 providers sorting commingled recyclable materials meet minimum material standards and
23.12 bale quality standards, minimum capture rates, maximum processing residual rates, and
23.13 demonstrate materials have been sent to a responsible market;

23.14 (12) a description of how the producer responsibility organization will provide technical
23.15 assistance to:

23.16 (i) service providers in order to deliver covered materials to responsible markets;

23.17 (ii) producers regarding toxic substances in covered materials and actions producers can
23.18 take to reduce intentionally added toxic substances in covered materials through proof of
23.19 testing or an analytical and scientifically demonstrated methodology; and

23.20 (iii) producers to make changes in product design that reduce the environmental impact
23.21 of covered materials or that increase the recoverability or marketability of covered materials
23.22 for reuse, recycling, or composting;

23.23 (13) a description of how the producer responsibility organization will increase public
23.24 awareness, educate, and complete outreach activities accounting for culturally responsive
23.25 materials and methods and evaluate the efficacy of these efforts including how the producer
23.26 responsibility organization will:

23.27 (i) assist producers in improving product labels as a means of informing consumers
23.28 about refilling, reusing, recycling, composting, and other environmentally sound methods
23.29 of managing covered materials;

23.30 (ii) increase public awareness of how to use and manage covered materials in an
23.31 environmentally sound manner and how to access waste reduction, reuse, recycling, and
23.32 composting services; and

24.1 (iii) encourage behavior change to increase participation in waste reduction, reuse,
24.2 recycling, and composting programs;

24.3 (14) a summary of consultations held with the advisory board and other stakeholders to
24.4 provide input to the stewardship plan, a list of recommendations that were incorporated into
24.5 the stewardship plan as a result, and a list of rejected recommendations and the reasons for
24.6 rejection; and

24.7 (15) strategies to incorporate findings from any relevant studies required by the
24.8 legislature.

24.9 Subd. 4. **Plan and amendment review and approval procedure.** (a) The commissioner
24.10 must review and approve, deny, or request additional information for a draft stewardship
24.11 plan or a draft plan amendment no later than 120 days after the date the commissioner
24.12 receives it from a producer responsibility organization. The commissioner must post the
24.13 draft plan or draft amendment on the agency's website and allow public comment for no
24.14 less than 45 days before approving, denying, or requesting additional information on the
24.15 draft plan or draft amendment.

24.16 (b) If the commissioner denies, or requests additional information for, a draft plan or
24.17 draft amendment, the commissioner must provide the producer responsibility organization
24.18 with the reasons, in writing, that the plan or plan amendment does not meet the plan
24.19 requirements of subdivision 3. The producer responsibility organization shall have 60 days
24.20 from the date that the rejection or request for additional information is received to submit
24.21 to the commissioner any additional information necessary for the approval of the draft plan
24.22 or draft amendment. The commissioner shall review and approve or disapprove the revised
24.23 draft plan or draft amendment no later than 60 days after the date the commissioner receives
24.24 it.

24.25 (c) A producer responsibility organization may resubmit a draft plan or draft amendment
24.26 to the commissioner on not more than two occasions. If after the second resubmission, the
24.27 commissioner determines that the draft plan or draft amendment does not meet the plan
24.28 requirements of this act, the commissioner must modify the draft plan or draft amendment
24.29 as necessary for it to meet the requirements of this act and approve it.

24.30 (d) Upon recommendation by the advisory board, or upon the commissioner's own
24.31 initiative, the commissioner may require an amendment to a stewardship plan if the
24.32 commissioner determines that an amendment is necessary to ensure that the producer
24.33 responsibility organization maintains compliance with the requirements of this act.

25.1 Subd. 5. **Performance targets.** (a) The producer responsibility organization must propose
25.2 performance targets based on the needs assessment that meet the statewide requirements in
25.3 subdivision 7 that must be included in a stewardship plan approved under this section.

25.4 Performance targets must include reuse rates, return rates, recycling rates, composting rates,
25.5 and targets for waste reduction, and postconsumer recycled content by covered materials
25.6 type that are to be achieved by the end of the stewardship plan's term. The producer
25.7 responsibility organization must select the unit that is most appropriate to measure each
25.8 performance target as informed by the needs assessment.

25.9 (b) The commissioner may require that a producer responsibility organization obtain
25.10 third-party certification of any activity or achievement of any standard required by this act.
25.11 The commissioner must provide a producer responsibility organization with notice of at
25.12 least one year prior to requiring use of third-party certification under this paragraph.

25.13 (c) Proposed performance targets must demonstrate continuous improvement in reducing
25.14 environmental impacts and human health impacts of covered materials over time.

25.15 Subd. 6. **Measurement criteria for performance targets.** (a) For purposes of
25.16 determining whether recycling performance targets are being met, except as modified by
25.17 the commissioner, a stewardship plan must provide for the measurement of the amount of
25.18 recycled material to be at the point at which material leaves a recycling facility and must
25.19 account for:

25.20 (1) levels of estimated contamination documented by the facility;

25.21 (2) any exclusions for fuel or energy capture; and

25.22 (3) compliance with sections 115A.965, 116.943, 325F.075, and 325F.172 to 325F.179,
25.23 and all other laws pertaining to toxic substances in covered materials.

25.24 (b) For purposes of determining whether waste reduction performance targets are being
25.25 met, a stewardship plan must provide for the measurement of the amount of waste reduction
25.26 of covered materials in a manner that can determine the extent to which the amount of
25.27 material used for a covered material is eliminated beyond what is necessary to efficiently
25.28 deliver a product without damage or spoilage, or other means of covered material redesign
25.29 to reduce overall use and environmental impacts.

25.30 (c) For purposes of determining whether reuse targets are being met, a stewardship plan
25.31 must provide for the measurement of the amount of reusable covered materials to be at the
25.32 point at which reusable covered materials meet the following criteria as demonstrated by
25.33 the producer and approved by the commissioner:

26.1 (1) whether the average minimum number of cycles of reuses within a recognized reuse
26.2 system has been met based on the number of times an item must be reused for it to have
26.3 lower environmental impacts than the single-use versions of those items; and

26.4 (2) whether the demonstrated or research-based anticipated return rate of the covered
26.5 material to the reuse system has been met.

26.6 (d) For other targets, the producer responsibility organization must propose a calculation
26.7 point for review and approval as part of the stewardship plan based on findings from the
26.8 needs assessment.

26.9 Subd. 7. **Statewide requirements.** (a) The producer responsibility organization must
26.10 ensure the following requirements are met by the end of the year indicated:

26.11 (1) by 2033:

26.12 (i) 65 percent of covered materials by weight sold into the state must be recycled or
26.13 composted;

26.14 (ii) ten percent of the number of units of packaging sold into the state must be returned
26.15 to an established reuse system;

26.16 (iii) the weight of covered materials introduced in the state must be source reduced by
26.17 15 percent, compared to levels identified in the initial needs estimate; and

26.18 (iv) all covered materials sold, offered for sale, or distributed for sale in this state must
26.19 contain at least ten percent postconsumer recycled content, with all covered materials
26.20 containing an overall average of at least 30 percent; and

26.21 (2) by 2038:

26.22 (i) 75 percent of covered materials by weight sold into the state must be recycled or
26.23 composted;

26.24 (ii) 20 percent of the number of units of packaging sold into the state must be returned
26.25 to an established reuse system;

26.26 (iii) the weight of covered materials introduced in the state must be source reduced by
26.27 25 percent, compared to levels identified in the initial needs estimate; and

26.28 (iv) all covered materials sold, offered for sale, or distributed for sale in this state must
26.29 contain at least 30 percent postconsumer recycled content, with all covered products
26.30 containing an overall average of at least 50 percent.

(b) The commissioner may adjust any requirement established in paragraph (a) by no more than five percent but must submit the proposed adjustment to the advisory board and consider the board's recommendations before making the adjustment.

(c) After 2038, the commissioner may establish additional statewide requirements for the amount of covered materials that must be recycled or composted, the number of units of packaging sold into the state that must be returned to an established reuse system, the weight of covered materials sold into the state that must be source reduced, and the percent of postconsumer recycled content that must be used in covered materials introduced into this state. These statewide requirements must not be less than those listed in this subdivision.

Sec. 13. [115A.1453] RECYCLABLE OR COMPOSTABLE COVERED MATERIALS LISTS.

Subdivision 1. **List required.** By March 1, 2027, and at least every three years thereafter, the commissioner must complete a list of covered materials determined to be recyclable or compostable statewide through systems where covered materials are commingled into a recyclables stream and a separate compostables stream.

Subd. 2. **Input from interested parties.** The commissioner must consult with the advisory board, producer responsibility organizations, service providers, political subdivisions, and other interested parties to develop the recyclable or compostable covered materials lists.

Subd. 3. **Requirements.** To be included on the recyclable or compostable covered materials lists:

(1) recycling or composting of the covered material type must be available to no less than 60 percent of the population in the metropolitan area and no less than 60 percent of the population outside the metropolitan area;

(2) if collected for recycling, the covered material type and form must be one that is regularly sorted and aggregated into defined streams for recycling processes, or the packaging format must fall into a relevant Institution of Scrap Recycling Industries specification;

(3) at least 75 percent of that covered material type by unit must be in a similar format as other covered materials in that type and must be either able to be managed by recycling or managed by composting;

(4) the covered material must not include any components or features, inks, adhesives, or labels that are detrimental to the recycling or composting process;

28.1 (5) the covered material must comply with sections 115A.965, 116.943, 325F.075, and
28.2 325F.172 to 325F.179, and all other laws pertaining to toxic substances in covered materials;
28.3 and

28.4 (6) the covered material must satisfy any other requirements determined by the
28.5 commissioner.

28.6 Subd. 4. **Amendment.** The commissioner may amend a list completed under this section
28.7 at any time and must provide amended lists to producer responsibility organizations as soon
28.8 as possible after adopting an amendment. Producer responsibility organizations must provide
28.9 amended lists to service providers as soon as possible after receiving the amendment and
28.10 work to incorporate changes in relevant service provider agreements and operations within
28.11 a year.

28.12 Sec. 14. **[115A.1454] PRODUCER FEES.**

28.13 Subdivision 1. **Annual fee.** A producer responsibility organization must annually collect
28.14 a fee from each producer that must:

28.15 (1) be based on the total amount of covered materials each producer introduces in the
28.16 prior year calculated on a per-unit basis, such as per ton, per item, or another unit of
28.17 measurement;

28.18 (2) incentivize using materials and design attributes that reduce the environmental impacts
28.19 and human health impacts, as determined by the commissioner, of covered materials by the
28.20 following methods:

28.21 (i) eliminating intentionally added toxic substances in covered materials;

28.22 (ii) reducing the amount of packaging per individual covered material that is necessary
28.23 to efficiently deliver a product without damage or spoilage without reducing its ability to
28.24 be recycled or reducing the amount of paper used to manufacture individual paper products;

28.25 (iii) increasing covered materials managed in a reuse system;

28.26 (iv) increasing the proportion of postconsumer material in covered materials;

28.27 (v) enhancing recyclability or compostability of a covered material; and

28.28 (vi) increasing the amount of inputs derived from renewable and sustainable sources;

28.29 (3) discourage using materials and design attributes in a producer's covered materials
28.30 whose environmental impacts and human health impacts, as determined by the commissioner,
28.31 can be reduced by the methods listed under clause (2);

(4) prioritize reuse by charging covered materials that are managed through a reuse system only once, upon initial entry into the marketplace, and by applying the lowest fee to these covered materials; and

(5) generate revenue sufficient to pay in full:

(i) the annual registration fee required under section 115A.1443;

(ii) financial obligations to complete activities described in an approved stewardship plan and to reimburse service providers under agreements in section 115A.1455;

(iii) the operating costs of the producer responsibility organization; and

(iv) for the establishment and maintenance of a financial reserve that is sufficient to operate the program in a fiscally prudent and responsible manner.

Subd. 2. **Overcollections.** Revenue collected under this section that exceeds the amount needed to pay the costs described in subdivision 1, clause (5), must be used to improve or enhance program outcomes or to reduce producer fees according to provisions of an approved stewardship plan.

Subd. 3. **Prohibited conduct.** Fees collected under this section may not be used for lobbying, as defined in section 3.084, subdivision 1.

Sec. 15. **[115A.1455] SERVICE PROVIDER AGREEMENTS; REIMBURSEMENT RATES.**

Subdivision 1. **Service provider agreements and reimbursement required.** The terms and conditions of the provision of waste reduction, reuse, collection, recycling, or composting services under an approved stewardship plan must be established under a service agreement between a producer responsibility organization and a service provider. In addition to the terms and conditions established in an approved stewardship plan, each agreement must:

(1) establish strong labor standards and work safety practices, including but not limited to safety programs, health benefits, and living wages;

(2) require the service provider to meet established performance standards;

(3) prohibit the service provider from charging a fee to any person for the services provided under the service agreement; and

(4) establish clear and reasonable timelines for reimbursement.

Subd. 2. **Collection of recyclables.** If a household does not have access to collection services at a comparable level of convenience as collection services for mixed municipal

30.1 solid waste for covered materials on the recyclable covered materials list established under
30.2 section 115A.1453, the producer responsibility organization must ensure that collection
30.3 service is available to the household through a service provider.

30.4 Subd. 3. **Bidding processes.** (a) For procurement of services for management of covered
30.5 materials and for infrastructure investments included under an approved stewardship plan,
30.6 a producer responsibility organization must use the competitive bidding processes established
30.7 in section 16C.28, subdivision 1, and publicly post bid opportunities when entering into
30.8 agreements with service providers that are not political subdivisions, except that preference
30.9 must be given to existing facilities, providers of services, and accounts in the state for waste
30.10 reduction, reuse, collection, recycling, and composting of covered materials.

30.11 (b) No producer or producer responsibility organization may own or partially own
30.12 infrastructure except that if, after a bidding process described in paragraph (a), no service
30.13 provider bids on the contract, the producer responsibility organization may make
30.14 infrastructure investments identified under an approved stewardship plan to implement the
30.15 requirements in this act.

30.16 Subd. 4. **Reimbursement rates.** (a) Each service agreement must include reimbursement
30.17 rates for services that are based on formulas that:

30.18 (1) incorporate relevant cost information identified by the needs assessment;

30.19 (2) reflect conditions that affect waste reduction, reuse, collection, recycling, and
30.20 composting costs in the region or jurisdiction in which the services are provided, including
30.21 but not limited to:

30.22 (i) the number and size of households;

30.23 (ii) population density;

30.24 (iii) collections methods employed;

30.25 (iv) distance to consolidation or transfer facilities, reuse, recycling, or composting
30.26 facilities, or to responsible markets; and

30.27 (v) other factors that may contribute to regional or jurisdictional cost differences;

30.28 (3) reflect administrative costs of service providers, including education, public awareness
30.29 campaigns, and outreach program costs as applicable;

30.30 (4) reflect planned capital improvements to facilities and equipment costs;

(5) reflect the cost of managing contamination present in source-separated recyclable materials and source-separated compostable materials, including disposal of contamination and residuals;

(6) reflect the proportion of covered compostable materials within all source-separated compostable materials collected or managed through composting; and

(7) reflect the cost of managing contamination and cleaning or sanitation needed for reuse systems.

(b) Each service agreement with a service provider who is also a political subdivision must include reimbursement rates that use a rate established in a contract between a political subdivision and one or more service providers in place of paragraph (a), clauses (1) and (2), as established in subdivision 4.

Subd. 5. **Local government authority.** (a) Nothing in this section shall be construed to require a political subdivision to agree to operate under a stewardship plan, nor does it restrict the authority of a political subdivision to provide waste management services to residents or to contract with any entity to provide waste management services.

(b) Nothing in this act restricts the authority of a political subdivision to provide waste management services to residents, to contract with any entity to provide waste management services, or to exercise its authority granted under section 115A.94. A producer responsibility organization may not conduct activities that would conflict, compete, or otherwise interfere with a political subdivision exercising its authority under section 115A.94 to organize collection of solid waste, including materials collected for recycling or composting, or to extend, renew, or otherwise manage any contracts entered into as a result of exercising such authority or otherwise resulting from a competitive procurement process.

Subd. 6. **Dispute resolution.** There must be a dispute resolution process for disputes related to reimbursements and the service agreements utilizing third-party mediators.

Sec. 16. [115A.1456] REPORTING.

Subdivision 1. **Producer responsibility organization annual report.** (a) By July 1, 2031, and each May 1 thereafter, a producer responsibility organization must submit a written report to the commissioner that contains, at a minimum, the following information for the previous calendar year:

(1) the amount of covered materials introduced by each covered materials type, reported in the same units used to establish fees under section 115A.1454, subdivision 1, clause (1);

- 32.1 (2) progress toward the performance targets reported in the same units used to establish
32.2 producer fees under section 115A.1454, subdivision 1, clause (1), and reported statewide
32.3 and for each county including:
- 32.4 (i) the amount of covered materials successfully waste reduced, reused, recycled, and
32.5 composted by covered materials type and the strategies or collection method used; and
- 32.6 (ii) information about third-party certifications obtained;
- 32.7 (3) the total cost to implement the program and a detailed description of program
32.8 expenditures including:
- 32.9 (i) the total amount of producer fees collected in the current calendar year; and
- 32.10 (ii) a description of infrastructure investments made during the previous year;
- 32.11 (4) a copy of a financial audit of program operations conducted by an independent auditor
32.12 approved by the commissioner;
- 32.13 (5) a description of program performance problems that emerged in specific locations
32.14 and efforts taken or proposed by the producer responsibility organization to address them;
- 32.15 (6) a discussion of technical assistance provided to producers regarding toxic substances
32.16 in covered materials and actions taken by producers to reduce intentionally added toxic
32.17 substances in covered materials beyond compliance with prohibitions already established
32.18 in law through proof of testing or an analytical and scientifically demonstrated methodology;
- 32.19 (7) a description of public awareness, education, and outreach activities undertaken
32.20 including any evaluations conducted of their efficacy, plans for next calendar year's activities,
32.21 and an evaluation of the process established by the producer responsibility organization to
32.22 answer questions from consumers regarding collection, recycling, composting, waste
32.23 reduction, and reuse activities;
- 32.24 (8) a summary of consultations held with the advisory board and how any feedback was
32.25 incorporated into the report as a result of the consultations, together with a list of rejected
32.26 recommendations and the reasons for rejection;
- 32.27 (9) a list of any producers found to be out of compliance with this act, and actions taken
32.28 by the producer responsibility organization to return the producer to compliance, and
32.29 notification of any producers that are no longer participating in the producer responsibility
32.30 organization or have been expelled due to their lack of compliance;

(10) any proposed amendments to the stewardship plan to improve program performance or reduce costs, including changes to producer fees, infrastructure investments, or reimbursement formula and rates; and

(11) any information requested by the commissioner to assist with determining compliance with this act.

(b) Every fourth year after a stewardship plan is approved by the commissioner, a performance audit of the program must be completed. The performance audit must conform to audit standards established by the United States Government Accountability Office; the National Association of State Auditors, Comptrollers, and Treasurers; or another nationally recognized organization approved by the commissioner.

Subd. 2. **Report following unmet target.** A producer responsibility organization that fails to meet a performance target approved in a stewardship plan must, within 90 days of filing an annual report under this section, file with the commissioner an explanation of the factors contributing to the failure and propose an amendment to the stewardship plan specifying changes in operations that the producer responsibility organization will make that are designed to achieve the following year's targets. An amendment filed under this subdivision must be reviewed by the advisory board and reviewed and approved by the commissioner in the manner specified in section 115A.1451, subdivisions 2 and 4.

Subd. 3. **Commissioner's report.** By October 15, 2034, and every five years thereafter, the commissioner must submit a report to the governor and to the chairs and ranking minority members of the legislative committees with jurisdiction over solid waste. The report must contain a summary of the operations of the Packaging Waste and Cost Reduction Act during the previous five years, a summary of the needs assessment, a link to reports filed under subdivisions 1 and 2, recommendations for policy, statutory, or regulatory changes to the program, a list of efforts undertaken by the commissioner to enforce and secure compliance with this act, and any other information the commissioner deems to be relevant.

Subd. 4. **Duty to cooperate.** Service providers must provide producer responsibility organizations with data necessary to complete the reports required by this section upon request.

Sec. 17. [115A.1457] PRODUCER RESPONSIBILITY ORGANIZATION WEBSITES.

A producer responsibility organization must maintain a website that uses best practices for accessibility that contains at least:

34.1 (1) information regarding a process that members of the public can use to contact the
34.2 producer responsibility organization with questions;

34.3 (2) a directory of all service providers operating under the stewardship plan administered
34.4 by the producer responsibility organization, grouped by location or political subdivision,
34.5 and information about how to request service;

34.6 (3) registration materials submitted to the commissioner under section 115A.1443;

34.7 (4) the draft and approved stewardship plan and any draft and approved amendments;

34.8 (5) information on how to manage materials including the list of recyclable and
34.9 compostable materials developed by the commissioner under section 115A.1453 and any
34.10 alternative collection programs;

34.11 (6) the most recent needs assessment and all past needs assessments;

34.12 (7) annual reports filed by the producer responsibility organization;

34.13 (8) a link to administrative rules implementing this act;

34.14 (9) comments of the advisory board on the documents listed in clauses (4) and (7), and
34.15 the responses of the producer responsibility organization to those comments;

34.16 (10) the names of producers and brands that are not in compliance with section
34.17 115A.1448;

34.18 (11) a list, that is updated at least monthly, of all member producers that will operate
34.19 under the stewardship plan administered by the producer responsibility organization and,
34.20 for each producer, a list of all brands of the producer's covered materials introduced in the
34.21 state; and

34.22 (12) education materials on waste reduction, reuse, recycling, and composting for
34.23 producers and the general public.

34.24 **Sec. 18. [115A.1458] ANTICOMPETITIVE CONDUCT.**

34.25 A producer responsibility organization that arranges collection, recycling, composting,
34.26 waste reduction, or reuse services under this act may engage in anticompetitive conduct to
34.27 the extent necessary to plan and implement collection, recycling, composting, waste
34.28 reduction, or reuse systems to meet the obligations under this act, and is immune from
34.29 liability under state laws relating to antitrust, restraint of trade, and unfair trade practices.

35.1 Sec. 19. **[115A.1459] RULEMAKING.**

35.2 The commissioner may adopt rules to implement this act. The 18-month time limit under
35.3 section 14.125 does not apply to the commissioner's rulemaking authority under this section.

35.4 Sec. 20. **[115A.1460] PROVIDING INFORMATION.**

35.5 Upon request of the commissioner for purposes of determining compliance with this
35.6 act, or for purposes of implementing this act, a person must furnish to the commissioner
35.7 any information that the person has or may reasonably obtain.

35.8 Sec. 21. **[115A.1461] DEPOSIT RETURN SYSTEM.**

35.9 It is the intent of the legislature that if a bottle deposit return system is enacted in the
35.10 future, it will be harmonized with this act in a manner that ensures that:

35.11 (1) materials covered in that system are exempt from this act or related financial
35.12 obligations are reduced;

35.13 (2) colocation of drop-off facilities and alternative collection sites is maximized;

35.14 (3) education and outreach is integrated between the two programs; and

35.15 (4) waste reduction and reuse strategies are prioritized between the two programs.

35.16 Sec. 22. **[115A.1462] ENFORCEMENT.**

35.17 (a) The commissioner must enforce this act as provided under this section and sections
35.18 115.071 and 116.072. The commissioner may revoke a registration of a producer
35.19 responsibility organization or producer found to have violated this act.

35.20 (b) Notwithstanding the penalty limits contained in section 115.071, subdivision 3, and
35.21 except as otherwise provided in paragraph (c), a person that violates or fails to perform a
35.22 duty imposed by this act or any rule adopted thereunder is liable for a civil penalty not to
35.23 exceed \$25,000 per day of violation.

35.24 (c) Notwithstanding the penalty limits contained in section 115.071, subdivision 3, a
35.25 producer responsibility organization or producer that violates a provision of or fails to
35.26 perform a duty imposed by this act, a rule adopted thereunder, or requirements of a
35.27 stewardship plan approved by the commissioner, is liable for a civil penalty not to exceed
35.28 \$25,000 per day of violation. For a second violation occurring within five years after the
35.29 approval of a stewardship plan, a producer responsibility organization or producer is liable
35.30 for a civil penalty not to exceed \$50,000 per day of violation. For a third or subsequent

violation occurring within five years after the approval of a stewardship plan, a producer responsibility organization or producer is liable for a civil penalty not to exceed \$100,000 per day of violation.

Sec. 23. **WORKPLACE CONDITIONS AND EQUITY STUDY.**

(a) By January 1, 2032, the commissioner of the Pollution Control Agency must contract with a third party that is not a producer or a producer responsibility organization to conduct a study of the recycling, composting, and reuse facilities operating in the state. The study must analyze, at a minimum information about:

(1) working conditions, wage and benefit levels, and employment levels of minorities and women at those facilities;

(2) barriers to ownership of recycling, composting, and reuse operations faced by women and minorities;

(3) the degree to which residents of multifamily buildings have less convenient access to recycling, composting, and reuse opportunities than those living in single-family homes;

(4) the degree to which environmental justice areas have access to fewer recycling, composting, and reuse opportunities compared to other parts of the state;

(5) the degree to which programs to increase access, convenience, and education are successful in raising reuse, recycling, and composting rates in areas where participation in these activities is low;

(6) strategies to increase participation in reuse, recycling, and composting; and

(7) the degree to which residents and workers in environmental justice areas are impacted by emissions, toxic substances, and other pollutants from solid waste facilities in comparison to other areas of the state and provide recommendations to mitigate those impacts.

(b) The initial producer responsibility organization registered by the commissioner under Minnesota Statutes, sections 115A.144 to 115A.1462, must cover the cost of conducting the study through its annual registration fee and recommended actions identified in the study must be considered as part of future stewardship plans as required under Minnesota Statutes, section 115A.1451, including adjustments to service provider agreements and reimbursements as established under Minnesota Statutes, section 115A.1455.

37.1 Sec. 24. **COVERED MATERIALS POLLUTION AND CLEANUP STUDY.**

37.2 (a) By January 1, 2032, the commissioner of the Pollution Control Agency, in consultation
37.3 with the commissioners of health and natural resources, must contract with a third party
37.4 that is not a producer or a producer responsibility organization to conduct a study to identify
37.5 the contribution of covered products to litter and water pollution in Minnesota. The report
37.6 must at a minimum:

37.7 (1) analyze historical and current environmental and human health impacts of littered
37.8 covered materials and their associated toxic substances in the environment;

37.9 (2) estimate the cost of cleanup and prevention; and

37.10 (3) provide recommendations for how to reduce and mitigate the impacts of litter in the
37.11 state.

37.12 (b) The contracted third party must consult with units of local government, the
37.13 commissioners of health and natural resources, and environmental justice organizations.

37.14 (c) The initial producer responsibility organization registered by the commissioner under
37.15 Minnesota Statutes, sections 115A.144 to 115A.1462, must cover the cost of conducting
37.16 the study through its annual registration fee and recommended actions identified in the study
37.17 must be considered as part of future stewardship plans, as required under Minnesota Statutes,
37.18 section 115A.1451.