



April 16, 2024

WM (Waste Management of Minnesota, Inc.) Written Testimony to Senate Finance SF 3561 Packaging Waste Cost and Reduction Act

WM would like to thank Senator Morrison for her work on SF 3561, the proposed Extended Producer Responsibility legislation (EPR). We are grateful for Senator Morrison's leadership on the legislation and her willingness to listen to us. Without her work to include the waste and recycling industry, none of our issues would have been addressed. However, despite these efforts there are some overarching and specific concerns that remain:

The Process: The proponents of the legislation worked for over 2 years without including many of the stakeholders affected by this legislation. Discussions were held by a small, isolated group of individuals primarily representing metro area local government and one non-profit recycler. There are nearly 350 private recycling collectors in Minnesota, none of whom were involved in developing the legislation until 2 weeks prior to the 2024 legislative session. This group did not include other key stakeholders such as our local paper, retail, and significant environmental organizations.

We have seen a sea change in support for the legislation since the bill was amended in Senate Environment on April 11. Once supporters of the bill now have major concerns over loopholes potentially allowing materials that are collected for recycling, to be otherwise managed (See definition of "Responsible End Markets"; and Eureka Testimony 4/11/24, Testimony submitted by 24 environmental organizations 4/12/24). Incineration and other disposal technologies are not considered recycling in Minnesota (Minn. Stat. 115A.03), but would be options under this definition. Others' testimony points to additional loopholes in the legislation.

Further, the extensive amendments to the legislation, the scramble to understand their impact, and the 180 degree changes in position on the legislation should give legislators pause to consider whether this legislation is ready to move forward in the process. **Legislative oversight is also needed throughout the development of the Minnesota EPR program, especially for approval of the Needs Assessment and Stewardship Plan.**

Alternative SF 4982 More SCORE Funding, More Education: If we want to increase Minnesota's recycling rate we need to provide more SCORE funding (SF 4982, Dibble) to local governments and we need to do a better job educating and truly engaging the public to recycle more and to do it correctly. With SF 3561, we will be setting up separate recycling streams for additional materials that currently have no end markets. We are still working to get residents to get it right for traditional curbside recycling and with this legislation we are adding new, separate streams that will increase the cost of recycling due to contamination of the various recycling streams. This will incur additional disposal costs for our industry when these materials have no end markets.

Remaining Concerns:

- 1) Reimbursement for MRFs (Section 15):** New language resulting from the 4/11/24 amendment lists service providers that should be reimbursed on line 34.13 and replaces "recycling" with "management". We believe this is a drafting error. As written, the language provides another loophole for managing materials that are

collected for recycling that have to be disposed of due to no end markets for these materials. **We request that this language be amended to replace “management” with “recycling”.**

- 2) **Proprietary Information (Sections 12 and 15) :** WM has significant concerns with providing any and all data requested in the “Participation Required” (Section 11, subd. 6) and with new language that allows the Commissioner to enter onto our property at any time for this purpose (lines 24.12-24.14) Further, the new amended language in the Stewardship Plan indicates that this proprietary information would be shared with brand owner members of the Producer Responsibility Organization (PRO) (See Section 12, Stewardship Plan, lines 27.5-27.6). We question whether Minnesota law allows for the sharing of data submitted to the state and protected under a Non-Disclosure Agreement (NDA). **We request that a statement be included in the legislation regarding sharing of proprietary information covered by an NDA not be shared with the PRO.**
- 3) **Weekly Recycling (“equivalent to”):** Increased frequency of recycling will undermine the environmental benefit of recycling the material. WM provides weekly recycling where it makes sense from a fuel use, Greenhouse Gas (GHG) emissions, and population density standpoint. Requiring recycling collection to be “equivalent to” the weekly collection of MSW, when these factors are not taken into consideration will drive up the cost of recycling, increase emissions impacts, and will not increase the amount of material collected. WM offers a second cart to those avid recyclers requiring more capacity. Even in the densely populated metro area, there are rural areas where weekly recycling, due to fuel use and environmental impacts, do not make sense.

Instituting weekly/“equivalent to” recycling in outstate, rural Minnesota will drive up costs by requiring rapid acceleration of capital costs for trucks that manufacturers will not be able to meet due to supply chain issues and will rapidly ramp up the hiring of CDL drivers, especially for large companies like WM. Most collectors will not be able to meet this requirement. **This requirement needs to be deleted from the legislation.**
- 4) **Continuing Legal Concerns:** Legal concerns with the bill remain as stated in the NWRA memo to the House and Senate Judiciary Committees. These legal issues were not properly vetted in legislative hearings and remain a concern. Some interstate commerce issues have disproportionate impacts on Minnesota based businesses, including paper and corrugated cardboard (OCC) end markets, and anti-trust concerns related to the PRO and the Advisory Group.
- 5) **Legislative Oversight:** The legislature has historically established goals for recycling, not MPCA. This should allow for a more thoughtful approach, proper vetting of recycling goals. Further, the Needs Assessment will determine future costs and impacts to Minnesota residents and businesses and the Stewardship Plan will identify where investments in future infrastructure need to be made. The legislature needs to approve these important steps in the process.

Concluding Statement: WM appreciates the genuine engagement shown by Senator Morrison and respectfully submits these comments for consideration. Thank you for the opportunity to comment on this very important matter.

Julie Ketchum, Director of Government Affairs
WM, Upper Midwest Area

