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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3577

02/12/2024 Authored by Jordan; Hansen, R.; Hollins; Kraft; Pursell and others
02/22/2024 The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy
Adoption of Report: Amended and re-referred to the Committee on Commerce Finance and Policy

1.1 A bill for an act
1.2 relating to solid waste; establishing Packaging Waste and Cost Reduction Act;
1.3 authorizing rulemaking; proposing coding for new law in Minnesota Statutes,
chapter 115A.

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

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

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

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

1.10 Subdivision 1. Scope. For the purposes of sections 115A.144 to 115A.1462, the terms
1.11 in this section have the meanings given.

1.12 Subd. 2. Advisory board. "Advisory board" or "board" means the Producer
1.13 Responsibility Advisory Board established under section 115A.1444.

1.14 Subd. 3. Brand. "Brand" means a name, symbol, word, or mark that identifies a product
1.15 and attributes the product and its components, including packaging, to the brand owner.

1.16 Subd. 4. Brand owner. "Brand owner" means a person that owns or licenses a brand or
1.17 that otherwise has rights to market a product under the brand, whether or not the brand's
1.18 trademark is registered.

1.19 Subd. 5. Collection rate. "Collection rate" means the amount of a covered material by
1.20 covered materials type collected by service providers and transported for reuse, recycling,
1.21 or composting divided by the total amount of the type of a covered material by covered

2.1 materials type sold, offered for sale, or distributed into the state by the relevant unit of
2.2 measurement established in section 115A.1451.

2.3 Subd. 6. **Compostable material.** "Compostable material" means a covered material
2.4 that:

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

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

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

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

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

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

2.20 Subd. 9. **Covered material.** "Covered material" means packaging and paper products
2.21 introduced into the state.

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

2.27 Subd. 11. **Environmental impact.** "Environmental impact" means the environmental
2.28 impact of a covered material from extraction and processing of the raw materials composing
2.29 the material through manufacturing; distribution; use; recovery for reuse, recycling, or
2.30 composting; and final disposal.

2.31 Subd. 12. **Food packaging.** "Food packaging" has the meaning given in section 325F.075.

3.1 Subd. 13. **Independent auditor.** "Independent auditor" means an independent and
3.2 actively licensed certified public accountant who is:

3.3 (1) retained by a producer responsibility organization;

3.4 (2) not otherwise employed by or affiliated with a producer responsibility organization;
3.5 and

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

3.7 Subd. 14. **Infrastructure investment.** "Infrastructure investment" means an investment
3.8 by a producer responsibility organization that funds:

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

3.11 (2) equipment or facilities used for reuse, recycling, or composting of covered materials;
3.12 or

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

3.15 Subd. 15. **Introduce.** "Introduce" means to sell, offer for sale, distribute, or use to ship
3.16 a product within or into this state.

3.17 Subd. 16. **Living wage.** "Living wage" means the minimum hourly wage necessary to
3.18 allow a person working 40 hours per week to afford basic needs.

3.19 Subd. 17. **Needs assessment.** "Needs assessment" means an assessment conducted
3.20 according to section 115A.1450. Except where the context requires otherwise, needs
3.21 assessment means the most recently completed needs assessment.

3.22 Subd. 18. **Nondisclosure agreement.** "Nondisclosure agreement" means an agreement
3.23 that requires the parties to the agreement to treat data or information submitted to facilitate
3.24 the completion of a needs assessment as proprietary commercial or financial information
3.25 that may be used exclusively to complete the needs assessment and for no other purpose
3.26 and that must not be disclosed by any party to any person or entity except as provided in
3.27 this act.

3.28 Subd. 19. **Packaging.** "Packaging" has the meaning given in section 115A.03 and
3.29 includes food packaging.

3.30 Subd. 20. **Paper product.** "Paper product" means a product made primarily from wood
3.31 pulp or other cellulosic fibers, except that paper product does not include bound books or

4.1 products that recycling or composting facilities will not accept because of the unsafe or
4.2 unsanitary nature of the paper product.

4.3 Subd. 21. **Postconsumer recycled content.** "Postconsumer recycled content" means
4.4 the portion of a product composed of postconsumer material, expressed as a percentage of
4.5 the total weight of the product.

4.6 Subd. 22. **Producer.** (a) "Producer" means the following:

4.7 (1) for paper products:

4.8 (i) that are magazines, newspapers, catalogs, telephone directories, or similar publications,
4.9 the producer is the publisher; and

4.10 (ii) that are other paper products, the producer is:

4.11 (A) the person that manufactures the paper product under the manufacturer's own brand;

4.12 (B) if the paper product is manufactured by a person other than the brand owner, the
4.13 licensee of a brand or trademark under which the paper product is introduced into the state,
4.14 whether or not the trademark is registered in the state; or

4.15 (C) if there is no person described in subitem (A) or (B) located in the United States,
4.16 the person that imports the paper product into the United States for use in a commercial
4.17 enterprise that introduces the item into the state;

4.18 (2) for products other than paper products that are sold or offered for sale in packaging
4.19 at a physical retail location in this state:

4.20 (i) if the product is sold in packaging under the manufacturer's own brand, or is sold in
4.21 packaging that lacks identification of a brand for the product, the producer is the person
4.22 that manufactures the product;

4.23 (ii) if the product is manufactured by a person other than the product's brand owner, the
4.24 producer is the licensee of a brand or trademark under which a packaged product is used in
4.25 a commercial enterprise, sold, offered for sale, or distributed in the state, whether or not the
4.26 trademark is registered in the state; or

4.27 (iii) if there is no person described in item (i) or (ii) located in the United States, the
4.28 producer is the person that imports the packaged product into the United States for use in
4.29 a commercial enterprise that introduces the product into the state;

4.30 (3) for products other than paper products that are sold, offered for sale, or distributed
4.31 in packaging in the state via remote sale or distribution:

5.1 (i) if the packaging is used to directly protect or to indirectly contain the product, the
5.2 producer is the person that manufactures the packaged product;

5.3 (ii) if the packaging is used to ship the product or a group of products, the producer is
5.4 the person that packages and ships the product or group of products; and

5.5 (iii) if the packaging is used to directly protect or to contain the product and no additional
5.6 packaging is used to ship the product, the producer is the person that manufactures the
5.7 packaged product; and

5.8 (4) for all other packaging, the producer is the person that first distributes the packaged
5.9 product in the state.

5.10 (b) Producer does not include a person that:

5.11 (1) annually introduces less than one ton of covered material into the state; and

5.12 (2) has a global gross revenue of less than \$2,000,000 for the person's most recent fiscal
5.13 year.

5.14 Subd. 23. **Producer responsibility organization.** "Producer responsibility organization"
5.15 means a nonprofit corporation that is tax exempt under chapter 501(c)(3) of the federal
5.16 Internal Revenue Code and that is created by a group of producers to implement activities
5.17 under this act.

5.18 Subd. 24. **Recycling.** "Recycling" has the meaning given in section 115A.03 except that
5.19 recycling does not include reuse or composting.

5.20 Subd. 25. **Recycling rate.** "Recycling rate" means the amount of covered material, in
5.21 aggregate or by individual covered materials type, managed through recycling in a calendar
5.22 year divided by the total amount of covered materials sold, offered for sale, or distributed
5.23 into the state by the relevant unit of measurement established in section 115A.1451.

5.24 Subd. 26. **Responsible market.** "Responsible market" means a materials market that:

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

5.28 (2) complies with all applicable federal, state, and local statutes and rules governing
5.29 environmental, health, safety, and financial responsibility;

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

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

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

6.4 Subd. 27. **Reusable.** "Reusable" means capable of reuse.

6.5 Subd. 28. **Reuse.** "Reuse" means the return of a covered material to the marketplace and
6.6 the refilling or continued use of the covered material in the marketplace for its original
6.7 intended purpose without a change in form when the covered material is:

6.8 (1) intentionally designed and marketed to be used multiple times;

6.9 (2) designed for durability and maintenance to extend its useful life and reduce demand
6.10 for new production;

6.11 (3) supported by adequate logistics and infrastructure at a retail location, by a service
6.12 provider, or on behalf of or by a producer, that provides convenient access for return for
6.13 the purpose of refilling or continued use; and

6.14 (4) compliant with all applicable state and local statutes and rules governing health and
6.15 safety.

6.16 Subd. 29. **Reuse rate.** "Reuse rate" means the share of units of a covered material sold,
6.17 offered for sale, or distributed into the state in a calendar year that are deemed reusable by
6.18 the commissioner according to section 115A.1451.

6.19 Subd. 30. **Service provider.** "Service provider" means an entity that collects, transfers,
6.20 sorts, processes, or otherwise prepares covered materials for reuse, recycling, or composting.
6.21 A political subdivision that provides or that contracts or otherwise arranges with another
6.22 party to provide reuse, collection, recycling, or composting services for covered materials
6.23 within its jurisdiction may be a service provider regardless of whether it provided similar
6.24 services before the approval of the applicable stewardship plan.

6.25 Subd. 31. **Third-party certification.** "Third-party certification" means certification by
6.26 an independent organization that a standard or process required by this act, or a stewardship
6.27 plan approved under this act, has been achieved.

6.28 Subd. 32. **This act.** "This act" means sections 115A.144 to 115A.1462.

6.29 Subd. 33. **Toxic substance.** "Toxic substance" means hazardous waste; a problem
6.30 material; a chemical or chemical class regulated under section 115A.965, 116.943, 325F.075,
6.31 or 325F.172 to 325F.179; or a chemical of high concern identified under section 116.9402.

7.1 Subd. 34. **Waste reduction or source reduction.** "Waste reduction" or "source reduction"
7.2 has the meaning given in section 115A.03, except that waste reduction or source reduction
7.3 does not include reuse.

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

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

7.11 Sec. 4. **[115A.1443] REGISTRATION OF PRODUCER RESPONSIBILITY**
7.12 **ORGANIZATIONS.**

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

7.16 (1) contact information for a person responsible for implementing an approved
7.17 stewardship plan;

7.18 (2) a list of all member producers that will operate under the stewardship plan
7.19 administered by the producer responsibility organization and, for each producer, a list of
7.20 all brands of the producer's covered materials introduced in this state;

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

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

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

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

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

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

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

8.19 Subd. 3. **Initial producer responsibility organization registration; implementation**
8.20 fee. (a) Notwithstanding the other provisions of this section, the commissioner may not
8.21 allow registration of more than one producer responsibility organization under this section
8.22 before the first stewardship plan approved by the commissioner expires. If more than one
8.23 producer responsibility organization applies to register under this section before the first
8.24 stewardship plan is approved by the commissioner, the commissioner must establish a
8.25 process to select the producer responsibility organization that will represent producers until
8.26 the first stewardship plan expires and must return the registration fee paid by applicants
8.27 who are not selected.

8.28 (b) By October 1, 2025, and annually until the first stewardship plan is approved, the
8.29 commissioner must provide written notice to the initial producer responsibility organization
8.30 registered under this section of the commissioner's estimate of the cost of conducting the
8.31 initial needs assessment and the commissioner's costs to administer this act during the period
8.32 prior to plan approval. The producer responsibility organization must remit payment in full
8.33 for these costs to the commissioner within 45 days of receipt of this notice. The producer
8.34 responsibility organization may charge each member producer to cover the cost of its
8.35 implementation fee according to each producer's unit-, weight-, volume-, or sales-based

9.1 market share or by another method it determines to be an equitable determination of each
9.2 producer's payment obligation.

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

9.6 (1) producers of a covered materials type or a specific covered material appoint a producer
9.7 responsibility organization. The producer responsibility organization must agree to cover
9.8 the costs of all requirements of this act on behalf of its member producers; or

9.9 (2) producers organize under additional producer responsibility organizations that meet
9.10 the criteria established in subdivision 3.

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

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

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

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

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

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

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

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

9.27 (6) one member representing a community-based nonprofit environmental justice
9.28 organization;

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

10.1 (8) one member representing a waste facility that receives source-separated compostable
10.2 materials for composting or a statewide trade association that represents such facilities;

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

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

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

10.9 (12) one member representing the commissioner.

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

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

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

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

10.15 Subd. 3. **Terms; removal.** A member of the advisory board appointed under subdivision
10.16 2, paragraph (a), clause (12), serves at the pleasure of the commissioner. All other members
10.17 serve for a term of four years, except that the initial term for nine of the initial appointees
10.18 must be two years so that membership terms are staggered. Members may be reappointed
10.19 but may not serve more than eight consecutive years. Removing members and filling of
10.20 vacancies is governed by section 15.059, subdivision 4. Except as otherwise provided,
10.21 chapter 15 does not apply to the board.

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

10.24 Subd. 5. **Quorum.** A majority of the voting board members constitutes a quorum. If
10.25 there is a vacancy in the membership of the board, a majority of the remaining voting
10.26 members of the board constitutes a quorum.

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

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

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

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

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

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

11.16 Sec. 6. [115A.1445] COMMISSIONER RESPONSIBILITIES.

11.17 The commissioner must:

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

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

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

11.24 (4) approve stewardship plans and amendments to stewardship plans according to section
11.25 115A.1451;

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

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

11.30 (i) the most recent registration materials submitted by producer responsibility
11.31 organizations, including all information submitted under section 115A.1443, subdivision
11.32 1;

- 12.1 (ii) the most recent needs assessment;
- 12.2 (iii) any stewardship plan or amendment submitted by a producer responsibility
 12.3 organization under section 115A.1451 that is in draft form during the public comment
 12.4 period;
- 12.5 (iv) the most recent list of recyclable or compostable covered materials developed by
 12.6 the commissioner under section 115A.1453;
- 12.7 (v) links to producer responsibility organization websites;
- 12.8 (vi) comments of the public, advisory board, and producer responsibility organizations
 12.9 on the documents listed in items (ii), (iii), (iv), and (vii), and the responses of the
 12.10 commissioner to those comments; and
- 12.11 (vii) links to adopted rules implementing this act;
- 12.12 (7) require and approve independent auditors to perform an annual financial audit of
 12.13 program operations of each producer responsibility organization; and
- 12.14 (8) consider and respond in writing to all written comments received from the advisory
 12.15 board.

12.16 **Sec. 7. [115A.1446] PRODUCER RESPONSIBILITY ADVISORY BOARD**
 12.17 **RESPONSIBILITIES.**

12.18 The Producer Responsibility Advisory Board must:

- 12.19 (1) convene its initial meeting by March 1, 2025;
- 12.20 (2) consult with the commissioner regarding the scope of the needs assessment and to
 12.21 provide written comments on needs assessments, according to section 115A.1450, subdivision
 12.22 2;
- 12.23 (3) advise on the development of stewardship plans and amendments to stewardship
 12.24 plans under section 115A.1451;
- 12.25 (4) submit comments to producer responsibility organizations and to the commissioner
 12.26 on any matter relevant to the administration of this act; and
- 12.27 (5) provide written comments to the commissioner during any rulemaking process
 12.28 undertaken by the commissioner under section 115A.1459.

13.1 Sec. 8. [115A.1447] PRODUCER RESPONSIBILITY ORGANIZATION
13.2 RESPONSIBILITIES.

13.3 A producer responsibility organization must:

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

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

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

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

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

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

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

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

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

13.23 (10) provide producers with information regarding state and federal laws that prohibit
13.24 substances in covered materials, including sections 115A.965, 116.943, 325F.075, and
13.25 325F.172 to 325F.179 and all laws prohibiting toxic substances in covered materials;

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

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

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

14.1 (14) ensure statewide coverage of and access to the program operated under this act,
14.2 including access to collection services for covered materials on the recyclable materials list
14.3 established according to section 115A.1453, at no cost to all single-family residences,
14.4 multifamily residences, and political subdivisions arranging for collection of recyclable
14.5 materials from public places in a comparable level of convenience as collection services
14.6 for mixed municipal solid waste; and

14.7 (15) reimburse service providers for the costs of:

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

14.10 (ii) processing covered materials generated from all single-family residences, multifamily
14.11 residences, public places, and commercial, industrial, and institutional facilities in the state.

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

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

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

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

14.22 (1) reusable;

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

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

14.27 **Subd. 2. Duties.** A producer must:

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

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

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

15.2 A service provider must:

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

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

15.10 Sec. 11. [115A.1450] NEEDS ASSESSMENT.

15.11 Subdivision 1. Needs assessment required. By December 31, 2026, and every five
15.12 years thereafter, the commissioner must complete a statewide needs assessment according
15.13 to this section.

15.14 Subd. 2. Input from interested parties. In conducting a needs assessment, the
15.15 commissioner must:

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

15.20 (2) contract with an independent third party who is not a producer or a producer
15.21 responsibility organization to conduct the needs assessment; and

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

15.26 Subd. 3. Content of needs assessment. A needs assessment must include at least the
15.27 following:

15.28 (1) an evaluation of the performance of:

15.29 (i) existing waste reduction, reuse, recycling, and composting efforts for each covered
15.30 materials type, as applicable, including collection rates, recycling rates, composting rates,
15.31 and reuse rates for each covered materials type;

- 16.1 (ii) overall rates of recycling and composting for all covered materials; and
- 16.2 (iii) the extent to which postconsumer recycled content is incorporated into each covered
- 16.3 materials type, as applicable;
- 16.4 (2) an evaluation of a representative sample of management of covered materials with
- 16.5 mixed municipal solid waste, as source-separated recyclable materials, and as
- 16.6 source-separated compostable materials as received by waste management, recycling, and
- 16.7 composting facilities in the state, and relevant findings from any publicly available waste
- 16.8 stream evaluations conducted within the previous year, to evaluate the amount and portion
- 16.9 of covered materials being disposed of that would otherwise be recyclable or compostable;
- 16.10 (3) proposals for a range of potential performance targets to meet statewide requirements
- 16.11 as applicable to each covered materials type to be accomplished within a five-year time
- 16.12 frame in multiple units of measurement, including but not limited to unit-based, weight-based,
- 16.13 and volume-based, for each of the following:
- 16.14 (i) waste reduction;
- 16.15 (ii) reuse;
- 16.16 (iii) recycling;
- 16.17 (iv) composting; and
- 16.18 (v) postconsumer recycled content;
- 16.19 (4) information to be considered in determining whether a covered materials type is
- 16.20 reusable, recyclable, or compostable, including its potential use as a marketable feedstock;
- 16.21 (5) proposed plans and metrics for how to measure progress in achieving performance
- 16.22 targets and statewide requirements;
- 16.23 (6) an evaluation of options for third-party certification of activities to meet obligations
- 16.24 of this act;
- 16.25 (7) an inventory of the current system, including:
- 16.26 (i) infrastructure, capacity, performance, funding level, and method and sources of
- 16.27 financing for the existing reuse, collection, transportation, processing, recycling, and
- 16.28 composting systems for covered materials operating in the state; and
- 16.29 (ii) availability and cost of reuse, recycling, and composting services for covered materials
- 16.30 at single-family residences, multifamily residences, commercial facilities, industrial facilities,
- 16.31 institutional facilities, and public places, including identification of disparities in the

17.1 availability of these services in environmental justice areas compared with other areas and
17.2 proposals for reducing or eliminating those disparities;

17.3 (8) an evaluation of investments needed to increase waste reduction, reuse, recycling,
17.4 and composting rates of covered materials according to proposals for performance targets
17.5 in clause (3) and statewide requirements, including:

17.6 (i) to maintain or improve operations of existing infrastructure and accounts for reuse,
17.7 recycling, and composting of covered materials;

17.8 (ii) to expand the availability and accessibility of recycling collection services for
17.9 recyclable covered materials to all residents of the state at the same or comparable level of
17.10 convenience as collection services for mixed municipal solid waste; and

17.11 (iii) to establish and expand the availability and accessibility of reuse services for reusable
17.12 covered materials;

17.13 (9) an assessment of the viability and robustness of markets for recyclable covered
17.14 materials and the degree to which these markets can be considered responsible markets;

17.15 (10) an assessment of the level and causes of contamination of source-separated recyclable
17.16 materials, source-separated compostable materials and collected reusables, and the impacts
17.17 of contamination on service providers, including the cost to manage this contamination;

17.18 (11) an assessment of toxic substances intentionally added to covered materials, their
17.19 potential environmental impacts and human health impacts, and whether this limits one or
17.20 more covered materials types from being used as a marketable feedstock;

17.21 (12) an assessment of current best practices to increase public awareness, educate, and
17.22 complete outreach activities accounting for culturally responsive materials and methods
17.23 and an evaluation of the efficacy of these efforts, including:

17.24 (i) product labels as a means of informing consumers about environmentally sound
17.25 management of covered materials;

17.26 (ii) how to manage covered materials in an environmentally sound manner and how to
17.27 access reuse, recycling, and composting services; and

17.28 (iii) encouraging behavior change to increase participation in reuse, recycling, and
17.29 composting programs;

17.30 (13) identification of the covered materials with the most significant environmental
17.31 impact; and

18.1 (14) other items identified by the commissioner that would aid the creation of the
18.2 stewardship plan, its administration, and the enforcement of this act.

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

18.7 Subd. 5. **Participation required.** A service provider or other person with data or
18.8 information necessary to complete a needs assessment must provide the data or information
18.9 to the commissioner in a timely fashion upon request. A service provider or other person
18.10 who does not want to be identified with information submitted to the commissioner under
18.11 this subdivision may request to proceed under a nondisclosure agreement. Once a request
18.12 is made, the requestor, the commissioner, and all third parties participating in the completion
18.13 of the needs assessment in whatever capacity must enter into a nondisclosure agreement.
18.14 Once these parties have entered into a nondisclosure agreement, the requestor must submit
18.15 the necessary data or information to an independent auditor selected by the commissioner.
18.16 The independent auditor must aggregate and anonymize the data or information received
18.17 from all parties proceeding under a nondisclosure agreement under this subdivision and
18.18 must then submit the aggregated anonymized information to the commissioner or to the
18.19 party or parties contracted to complete the needs assessment. Data or information submitted
18.20 to an independent auditor under this subdivision constitutes trade secret information for
18.21 purposes of section 13.37. A service provider or other person aggrieved by a violation of
18.22 the terms of a nondisclosure agreement may institute a civil action to recover damages.

18.23 Sec. 12. **[115A.1451] STEWARDSHIP PLAN.**

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

18.30 Subd. 2. **Advisory board review of draft plan and amendments.** A producer
18.31 responsibility organization must submit a draft stewardship plan or draft amendment to the
18.32 advisory board at least 60 days before submitting the draft plan or draft amendment to the
18.33 commissioner to allow the advisory board to submit comments and must address advisory

19.1 board comments and recommendations before submitting the draft plan or draft amendment
19.2 to the commissioner.

19.3 Subd. 3. **Content of stewardship plans.** A proposed stewardship plan must include at
19.4 least the following:

19.5 (1) performance targets as applicable to each covered materials type to be accomplished
19.6 within a five-year period, established by the commissioner in subdivision 5, paragraph (a);

19.7 (2) a description of the method of collection to be used for each covered materials type,
19.8 including proposals for alternative collection programs for covered materials not included
19.9 in the list established by the commissioner under section 115A.1453;

19.10 (3) proposals for exemptions from performance targets for covered materials that cannot
19.11 be waste reduced or made reusable, recyclable, or compostable due to health and safety
19.12 concerns;

19.13 (4) a plan for how the producer responsibility organization will measure recycling, source
19.14 reduction, and reuse according to subdivision 6 and a description of how the organization
19.15 will measure composting and inclusion of postconsumer recycled content;

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

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

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

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

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

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

- 20.1 (i) minimize the environmental impacts and human health impacts of covered materials;
- 20.2 (ii) incorporate as program objectives the improved design of covered materials according
20.3 to section 115A.1454, subdivision 1, clause (2);
- 20.4 (iii) expand and increase the convenience of reuse, collection, recycling, and composting
20.5 services with a preference given to the top of the waste management hierarchy under section
20.6 115A.02;
- 20.7 (iv) provide collection of source-separated recyclable materials to single-family and
20.8 multifamily residences and public places in the state in jurisdictions where political
20.9 subdivisions do not provide these services; and
- 20.10 (v) ensure that postconsumer recycled materials are delivered to responsible markets;
- 20.11 (9) a description of how the program uses and interacts with existing collection, reuse,
20.12 recycling, and composting efforts and service providers;
- 20.13 (10) reimbursement formulas and schedules of reimbursement rates for service providers
20.14 that elect to participate in the program and a description of how the formulas and schedules
20.15 were developed according to section 115A.1455;
- 20.16 (11) terms and conditions for service agreements, including:
- 20.17 (i) an agreement that the producer responsibility organization will treat data and
20.18 information submitted by service providers electing to participate in the program as nonpublic
20.19 data;
- 20.20 (ii) a requirement that service providers accept all covered materials on the recyclable
20.21 or compostable materials lists established by the commissioner under section 115A.1453;
20.22 and
- 20.23 (iii) performance standards for service providers that include a requirement that service
20.24 providers sorting commingled recyclable materials meet minimum material standards and
20.25 bale quality standards, minimum capture rates, and maximum processing residual rates and
20.26 demonstrate materials have been sent to a responsible market;
- 20.27 (12) a description of how the producer responsibility organization will provide technical
20.28 assistance to:
- 20.29 (i) service providers in order to deliver covered materials to responsible markets;
- 20.30 (ii) producers regarding toxic substances in covered materials and actions producers can
20.31 take to reduce intentionally added toxic substances in covered materials through proof of
20.32 testing or an analytical and scientifically demonstrated methodology; and

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

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

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

21.10 (ii) how to manage covered materials in an environmentally sound manner and how to
21.11 access reuse, recycling, and composting services; and

21.12 (iii) encourage behavior change to increase participation in reuse, recycling, and
21.13 composting programs;

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

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

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

21.27 (b) If the commissioner denies or requests additional information for a draft plan or draft
21.28 amendment, the commissioner must provide the producer responsibility organization with
21.29 the reasons, in writing, that the plan or plan amendment does not meet the plan requirements
21.30 of subdivision 3. The producer responsibility organization has 60 days from the date that
21.31 the rejection or request for additional information is received to submit to the commissioner
21.32 any additional information necessary for the approval of the draft plan or draft amendment.

22.1 The commissioner must review and approve or disapprove the revised draft plan or draft
22.2 amendment no later than 60 days after the date the commissioner receives it.

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

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

22.12 Subd. 5. **Performance targets.** (a) The commissioner must establish performance targets
22.13 based on the needs assessment that meet the statewide requirements in subdivision 6 that
22.14 must be included in a stewardship plan approved under this section. Performance targets
22.15 must include targets for waste reduction, reuse, recycling, composting, and postconsumer
22.16 recycled content by covered materials type that are to be achieved by the end of the
22.17 stewardship plan's term. The commissioner must select the unit that is most appropriate to
22.18 measure each performance target as informed by the needs assessment.

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

22.23 Subd. 6. **Measurement criteria for performance targets.** (a) For purposes of
22.24 determining whether recycling performance targets are being met, except as modified by
22.25 the commissioner, a stewardship plan must provide for measuring the amount of recycled
22.26 material to be at the point at which material leaves a recycling facility and must account
22.27 for:

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

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

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

22.32 (b) For purposes of determining whether source reduction performance targets are being
22.33 met, a stewardship plan must provide for measuring the amount of source reduction of

23.1 covered materials in a manner that can determine the extent to which the amount of material
23.2 used for a covered material is eliminated beyond what is necessary to efficiently deliver a
23.3 product without damage or spoilage or other means of covered material redesign to reduce
23.4 overall use and environmental impacts.

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

23.9 (1) whether the average minimum number of cycles of reuses within a recognized reuse
23.10 system has been met based on the number of times an item must be reused for it to have
23.11 lower environmental impacts; and

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

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

23.17 Subd. 7. **Statewide goals.** (a) The commissioner must ensure that performance targets
23.18 incorporated into stewardship plans approved under subdivision 6 will, in the aggregate,
23.19 result in achievement of the following goals by the end of the year indicated:

23.20 (1) by 2033:

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

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

23.25 (iii) the weight of covered materials introduced in the state must be source reduced by
23.26 15 percent, compared to levels identified in the initial needs estimate; and

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

23.30 (2) by 2038:

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

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

24.3 (iii) the weight of covered materials introduced in the state must be source reduced by
24.4 25 percent, compared to levels identified in the initial needs estimate; and

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

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

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

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

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

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

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

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

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

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

25.3 (5) the covered material must comply with sections 115A.965, 116.943, 325F.075, and
25.4 325F.172 to 325F.179 and all other laws pertaining to toxic substances in covered materials;
25.5 and

25.6 (6) the covered material must satisfy any other requirements determined by the
25.7 commissioner.

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

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

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

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

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

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

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

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

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

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

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

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

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

26.7 (5) generate revenue sufficient to pay in full:

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

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

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

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

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

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

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

26.22 Subdivision 1. **Service provider agreements and reimbursement required.** A producer
 26.23 responsibility organization must reimburse service providers for services provided to meet
 26.24 the requirements of this act. The terms and conditions of the provision of reuse, collection,
 26.25 recycling, or composting services under an approved stewardship plan must be established
 26.26 under a service agreement between a producer responsibility organization and a service
 26.27 provider. In addition to the terms and conditions established in an approved stewardship
 26.28 plan, each agreement must:

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

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

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

27.3 (4) establish clear and reasonable timelines for reimbursement.

27.4 Subd. 2. **Collection of recyclables.** If a household does not have access to collection
27.5 services at a comparable level of convenience as collection services for mixed municipal
27.6 solid waste for covered materials on the recyclable covered materials list established under
27.7 section 115A.1453, the producer responsibility organization must ensure that collection
27.8 service is available to the household through a service provider.

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

27.16 (b) If no service provider bids on the contract, the producer responsibility organization
27.17 may make infrastructure investments identified under an approved stewardship plan to
27.18 implement the requirements in this act.

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

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

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

27.24 (i) the number and size of households;

27.25 (ii) population density;

27.26 (iii) collections methods employed;

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

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

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

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

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

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

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

28.9 (b) Each service agreement with a service provider that is also a political subdivision
28.10 must include reimbursement rates that use a rate established in a contract between a political
28.11 subdivision and one or more service providers in place of paragraph (a), clauses (1) and
28.12 (2).

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

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

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

28.20 Subdivision 1. **Producer responsibility organization annual report.** (a) By July 1,
28.21 2031, and each May 1 thereafter, a producer responsibility organization must submit a
28.22 written report to the commissioner that contains, at a minimum, the following information
28.23 for the previous calendar year:

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

28.26 (2) progress toward the performance targets reported in the same units used to establish
28.27 producer fees under section 115A.1454, subdivision 1, clause (1), and reported statewide
28.28 and for each county, including:

28.29 (i) the amount of covered materials successfully waste reduced, reused, recycled, and
28.30 composted by covered materials type and the strategies or collection method used; and

28.31 (ii) information about third-party certifications obtained;

- 29.1 (3) the total cost to implement the program and a detailed description of program
29.2 expenditures, including:
- 29.3 (i) the total amount of producer fees collected in the current calendar year; and
29.4 (ii) a description of infrastructure investments made during the previous year;
- 29.5 (4) a copy of a financial audit of program operations conducted by an independent auditor
29.6 approved by the commissioner;
- 29.7 (5) a description of program performance problems that emerged in specific locations
29.8 and efforts taken or proposed by the producer responsibility organization to address them;
- 29.9 (6) a discussion of technical assistance provided to producers regarding toxic substances
29.10 in covered materials and actions taken by producers to reduce intentionally added toxic
29.11 substances in covered materials beyond compliance with prohibitions already established
29.12 in law through proof of testing or an analytical and scientifically demonstrated methodology;
- 29.13 (7) a description of public awareness, education, and outreach activities undertaken,
29.14 including any evaluations conducted of their efficacy, plans for next calendar year's activities,
29.15 and an evaluation of the process established by the producer responsibility organization to
29.16 answer questions from consumers regarding collection, recycling, composting, and reuse
29.17 activities;
- 29.18 (8) a summary of consultations held with the advisory board and how any feedback was
29.19 incorporated into the report as a result of the consultations, together with a list of rejected
29.20 recommendations and the reasons for rejection;
- 29.21 (9) a list of any producers found to be out of compliance with this act, and actions taken
29.22 by the producer responsibility organization to return the producer to compliance, and
29.23 notification of any producers that are no longer participating in the producer responsibility
29.24 organization or have been expelled due to their lack of compliance;
- 29.25 (10) any proposed amendments to the stewardship plan to improve program performance
29.26 or reduce costs, including changes to producer fees, infrastructure investments, or
29.27 reimbursement formula and rates; and
- 29.28 (11) any information requested by the commissioner to assist with determining
29.29 compliance with this act.
- 29.30 (b) Every fourth year after a stewardship plan is approved by the commissioner, a
29.31 performance audit of the program must be completed. The performance audit must conform
29.32 to audit standards established by the United States Government Accountability Office; the

30.1 National Association of State Auditors, Comptrollers, and Treasurers; or another nationally
30.2 recognized organization approved by the commissioner.

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

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

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

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

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

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

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

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

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

31.1 (5) the list of recyclable and compostable materials developed by the commissioner
31.2 under section 115A.1453;

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

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

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

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

31.8 (10) the names of producers and brands that are not in compliance with section
31.9 115A.1448;

31.10 (11) a list, that is updated at least monthly, of all member producers that will operate
31.11 under the stewardship plan administered by the producer responsibility organization and,
31.12 for each producer, a list of all brands of the producer's covered materials sold, offered for
31.13 sale, or distributed in the state; and

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

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

31.17 A producer responsibility organization that arranges collection, recycling, composting,
31.18 or reuse services under this act may engage in anticompetitive conduct to the extent necessary
31.19 to plan and implement collection, recycling, composting, or reuse systems to meet the
31.20 obligations under this act, and is immune from liability under state laws relating to antitrust,
31.21 restraint of trade, and unfair trade practices.

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

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

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

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

32.1 Sec. 21. [115A.1461] DEPOSIT RETURN SYSTEM.

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

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

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

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

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

32.9 Sec. 22. [115A.1462] ENFORCEMENT.

32.10 (a) The commissioner must enforce this act as provided under this section and sections
32.11 115.071 and 116.072. The commissioner may revoke a registration of a producer
32.12 responsibility organization or producer found to have violated this act.

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

32.17 (c) Notwithstanding the penalty limits contained in section 115.071, subdivision 3, a
32.18 producer responsibility organization or producer that violates a provision of or fails to
32.19 perform a duty imposed by this act, a rule adopted thereunder, or requirements of a
32.20 stewardship plan approved by the commissioner, is liable for a civil penalty not to exceed
32.21 \$25,000 per day of violation. For a second violation occurring within five years after the
32.22 approval of a stewardship plan, a producer responsibility organization or producer is liable
32.23 for a civil penalty not to exceed \$50,000 per day of violation. For a third or subsequent
32.24 violation occurring within five years after the approval of a stewardship plan, a producer
32.25 responsibility organization or producer is liable for a civil penalty not to exceed \$100,000
32.26 per day of violation.

32.27 Sec. 23. WORKPLACE CONDITIONS AND EQUITY STUDY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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