115A.1450 NEEDS ASSESSMENTS.

Subdivision 1. **Needs assessments required.** (a) By December 31, 2025, the commissioner must complete a preliminary assessment according to this section.

(b) By December 31, 2026, and every five years thereafter, the commissioner must complete a needs assessment according to this section. The commissioner may adjust the required content in a specific needs assessment to inform the next stewardship plan.

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

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

(2) contract with a third party who is not a producer, a producer responsibility organization, or a member of the advisory board to conduct the needs assessment; and

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

Subd. 3. **Content of preliminary assessment.** A preliminary assessment must be completed for a preceding period of no less than 12 months and no more than 36 months, that includes:

(1) identification of currently or recently introduced covered materials and covered materials types;

(2) tons of collected covered materials;

(3) the characteristics of recycling and composting programs, including a description of single-stream and dual-stream recycling systems offered in the state and prevalence of their use, average frequency of collection of covered materials for recycling and composting, types of collection containers used, commonly accepted materials for recycling and composting, and total costs by type of covered entity;

(4) processing capacity at recycling facilities, including total tons processed and sold, composition of tons processed and sold, current technologies utilized, and facility processing fees charged to collectors delivering covered materials for recycling;

(5) capacity of, technology used by, and characteristics of compost facilities to process and recover compostable covered materials;

(6) capacity and number of drop-off collection sites;

(7) capacity and number of transfer stations and transfer locations;

(8) average term length of residential recycling and composting collection contracts issued by political subdivisions and an assessment of contract cost structures;

(9) an estimate of total annual collection and processing service costs based on registered service provider costs;

(10) available markets in the state for covered materials and the capacity of those markets; and

(11) covered materials sales by volume, weight, and covered materials types introduced by producers.

Subd. 4. **Content of needs assessment.** A needs assessment must include at least the following:

(1) an evaluation of:

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

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

(iii) the extent to which postconsumer recycled content, by the best estimate, is or could be incorporated into each covered materials type, as applicable, including a review of market and technical barriers to incorporating postconsumer materials into covered materials;

(2) an evaluation of covered materials in the disposal, recycling, and composting streams to determine the covered materials types and amounts within each stream, using new studies conducted by the commissioner or publicly available and applicable studies;

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

(i) waste reduction;

(ii) reuse rate and return rates;

(iii) recycling rates;

(iv) composting rates; and

(v) postconsumer recycled content, if applicable;

(4) proposals for a range of outcomes for the categories established in section 115A.1451, subdivision 7, that consider:

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

(ii) goals and requirements of the Waste Management Act;

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

(iv) the need for continuous progress toward overall reduction in the generation of covered materials waste and the complete reuse, recycling, or composting of covered materials to reduce environmental impacts and human health impacts;

(v) a preference for statewide requirements that accomplish and further the goals and requirements in items (ii) to (iv) as soon as practicable and to the maximum extent achievable; and

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

(5) an evaluation of the factors for each covered material collected for recycling or composting as established in section 115A.1453, subdivision 4;

(6) recommended collection methods by covered materials type to maximize collection efficiency, maximize feedstock quality, and optimize service and convenience for collection of covered materials to be considered or that are included on lists established in section 115A.1453;

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

(8) an evaluation of options for third-party certification of activities to meet obligations of sections 115A.144 to 115A.1463;

(9) an inventory of the current system, including:

(i) infrastructure, capacity, performance, funding level, and method and sources of financing for the existing covered services for covered materials operating in the state;

(ii) an estimate of total annual costs of covered services based on registered service provider costs; and

(iii) availability and cost of covered services for covered materials to covered entities and any other location where covered materials are introduced, including identification of disparities in the availability of these services in environmental justice areas compared with other areas and proposals for reducing or eliminating those disparities;

(10) an evaluation of investments needed to increase waste reduction, reuse, recycling, and composting rates of covered materials according to the range of proposed performance targets and statewide requirements, including investments in existing and new infrastructure that would also:

(i) maintain or improve operations of existing infrastructure and accounts for waste reduction, reuse, recycling, and composting of covered materials statewide;

(ii) expand the availability and accessibility of recycling collection services for recyclable covered materials to all covered entities to optimize service and convenience; and

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

(11) a recommended methodology for applying criteria and formulas to establish reimbursement rates as described in section 115A.1455;

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

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

(14) an assessment of toxic substances intentionally added to covered materials, whether this limits one or more covered materials types from being used as a marketable feedstock, and best practices producers can implement to reduce intentionally added toxic substances in covered materials that could be verified through suppliers certificates of compliance, testing, or other analytical and scientifically demonstrated methodology;

(15) an assessment of current best practices to increase public awareness, educate, and complete outreach activities accounting for culturally responsive materials and methods and an evaluation of the efficacy of these efforts, including assessments and evaluations of current best practices and efforts on:

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

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

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

(16) identification of the covered materials with the most significant environmental impact, including assessing each covered material's generation of hazardous waste, generation of greenhouse gases, environmental justice impacts, public health impacts, and other impacts;

(17) recommendations for meeting the criteria for an alternative collection program as established in section 115A.1451, subdivision 8; and

(18) other items identified by the commissioner that would aid the creation of the stewardship plan, its administration, and the enforcement of sections 115A.144 to 115A.1463.

Subd. 5. **Needs assessment as baseline.** When determining the extent to which any statewide requirement or performance target under sections 115A.144 to 115A.1463 has been achieved, information contained in a needs assessment must serve as the baseline for that determination, when applicable.

Subd. 6. **Participation required; not public data.** (a) A service provider or other person with data or information necessary to complete a needs assessment must provide the data or information to the commissioner upon request.

(b) A service provider or other person providing the data or information may submit a written request to the commissioner that the data or information be classified as not public data. The request must set forth the statutory grounds and the reasons that justify the classification of the data or information as not public data. The commissioner must approve the request if the commissioner determines:

(1) the data or information constitutes trade secret information as defined in section 13.37, subdivision 1, paragraph (b), or sales information;

(2) disclosure of the data or information would tend to adversely affect the competitive position of the service provider or other person, including but not limited to data related to profits, service rates, fees, or business expenses; or

(3) the data or information is otherwise nonpublic data with regard to data not on individuals, pursuant to section 13.02, subdivision 9, or private data on individuals, pursuant to section 13.02, subdivision 12.

(c) The contractor conducting the needs assessment must aggregate and anonymize the not public data or information, excluding location data necessary to assess needs, received from all parties under this subdivision and must then include the aggregated anonymized data in the needs assessment.

(d) The commissioner, any employee of the agency, or any agent thereof, when authorized by the commissioner, may enter upon any property, public or private, for the purpose of obtaining information necessary for completing the evaluation in subdivision 4, clause (2), provided that the entrance and activity is undertaken after reasonable notice and during normal business hours and provided that compensation is made for any damage to the property caused by the entrance and activity.

History: *2024 c 116 art 5 s 11*