**115A.1451 STEWARDSHIP PLAN.**

Subdivision 1. **Stewardship plan required.** By October 1, 2028, and every five years thereafter, a producer responsibility organization must submit a stewardship plan to the commissioner that describes the proposed operation by the organization of programs to fulfill the requirements of sections 115A.144 to 115A.1463 and that incorporates the findings and results of needs assessments. Once approved, a stewardship plan remains in effect for five years, as amended, or until a subsequent stewardship plan is approved.

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

Subd. 3. **Content of stewardship plans.** A draft stewardship plan must include at a minimum:

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

(2) a description of the methods of collection, how collection service convenience metrics will be met, and processing infrastructure and covered services to be used for each covered materials type at covered entities, at a minimum, and how these will meet the statewide requirements established in subdivision 7 for covered materials:

(i) included on the list established in section 115A.1453, subdivision 1;

(ii) included on the list established in section 115A.1453, subdivision 2;

(iii) that are reusable covered materials managed through a reuse system; and

(iv) that are capable of refill and managed through a refill system;

(3) proposals for exemptions from performance targets and statewide requirements for covered materials that cannot be waste reduced or made reusable, recyclable, or compostable due to federal or state health and safety requirements, identifying the specific federal or state requirements and their impact on the covered materials;

(4) a description of how, for each covered materials type, the producer responsibility organization will measure recycling, waste reduction, reuse, composting, and the inclusion of postconsumer recycled content, in accordance with subdivision 6;

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

(6) a budget identifying funding needs for each of the plan's five calendar years, producer fees, a description of the process used to calculate the fees, and an explanation of how the fees meet the requirements of section 115A.1454;

(7) a description of infrastructure investments, including goals and outcomes and a description of how the process to offer and select opportunities will be conducted in an open, competitive, and fair manner; how it will address gaps in the system not met by service providers; and potential financial and legal instruments to be used;

(8) an explanation of how the program will be paid for by the producer responsibility organization through fees from producers, without any new or additional consumer-facing fee to members of the public, businesses, service providers, the state or any political subdivisions, or any other person who is not a producer, unless the fee is:

(i) a deposit made in connection with a product's refill, reuse, or recycling that can be redeemed by a consumer; or

(ii) a charge for service by a service provider, regardless of whether registered;

(9) a description of activities to be undertaken by the producer responsibility organization during each year to:

(i) minimize the environmental impacts and human health impacts of covered materials, including assessing each covered material's generation of hazardous waste, generation of greenhouse gases, environmental justice impacts, public health impacts, and other impacts;

(ii) foster the improved design of covered materials, as under section 115A.1454, subdivision 1, clause (3);

(iii) provide funding to expand and increase the convenience of waste reduction, reuse, collection, recycling, and composting services to covered entities, at a minimum according to the order of the waste management hierarchy under section 115A.02;

(iv) provide for reimbursement rates under section 115A.1455 to service providers for statewide coverage of covered services at an optimal level of convenience and service for covered materials on the list established in section 115A.1453, subdivision 1, to covered entities, at a minimum; and

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

(10) a description of how the producer responsibility organization will promote the opportunity for all service providers to register with the commissioner and to submit invoices for reimbursement with the producer responsibility organization;

(11) a description of how the program will reimburse service providers under an approved stewardship plan, including but not limited to a description of how the program will establish:

(i) a methodology to calculate differentiated reimbursement rates as provided in section 115A.1455, subdivision 4;

(ii) a process for service providers to submit invoices and be reimbursed for covered services provided to covered entities;

(iii) clear and reasonable timelines for reimbursement, at intervals no longer than monthly unless agreed to by a service provider and a producer responsibility organization; and

(iv) a process that utilizes a third-party mediator to resolve disputes that arise between the producer responsibility organization and a service provider regarding the determination of reimbursement rates and payment of reimbursements;

(12) performance standards for service providers as applicable to the service provided, including but not limited to:

(i) requirements that service providers must accept all covered materials on the list established by the commissioner under section 115A.1453, subdivision 1; and

(ii) labor standards and safety practices, including but not limited to safety programs, health benefits, and living wages;

(13) a description of how the producer responsibility organization will treat and protect nonpublic data submitted by service providers;

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

(i) service providers in order to assist them in delivering covered materials to responsible markets;

(ii) producers regarding toxic substances in covered materials; best practices identified in the needs assessment that producers can take to reduce intentionally added toxic substances in covered materials; and best practices for verifying reduction through suppliers certificates of compliance, testing, or other analytical and scientifically demonstrated methodology; and

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

(15) a description of how the producer responsibility organization will increase public awareness, educate, and complete outreach activities that include culturally responsive materials and methods and evaluate the efficacy of these efforts, including how the producer responsibility organization will:

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

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

(16) proposed alternative collection programs as required under subdivision 8;

(17) a description of how producers can purchase postconsumer materials from service providers at market prices if the producer is interested in obtaining recycled feedstock to achieve minimum postconsumer recycled content performance targets and statewide requirements;

(18) a summary of consultations held with the advisory board and other interested parties to provide input to the stewardship plan, a list of recommendations that were incorporated into the stewardship plan as a result, and a list of rejected recommendations and the reasons for rejection; and

(19) strategies to incorporate findings from any relevant studies required by the legislature.

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

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

(c) A producer responsibility organization may resubmit a draft plan or draft amendment to the commissioner on not more than two occasions. If after the second resubmission, the commissioner determines that the draft plan or draft amendment does not meet the plan requirements of sections 115A.144 to 115A.1463, the commissioner must modify the draft plan or draft amendment as necessary for it to meet the requirements of sections 115A.144 to 115A.1463 and approve it.

(d) Upon recommendation by the advisory board, or upon the commissioner's own initiative, the commissioner may require an amendment to a stewardship plan if the commissioner determines that an amendment is necessary to ensure that the producer responsibility organization maintains compliance with the requirements of sections 115A.144 to 115A.1463.

Subd. 5. **Performance targets.** (a) The producer responsibility organization must propose performance targets based on the needs assessment that meet the statewide requirements in subdivision 7 that must be included in a stewardship plan approved under this section. Performance targets must include reuse rates, return rates, recycling rates, and composting rates and targets for waste reduction and postconsumer recycled content by covered materials type, as applicable, that are to be achieved by the end of the stewardship plan's term. The producer responsibility organization must select the unit that is most appropriate to measure each performance target as informed by the needs assessment.

(b) The commissioner, in consultation with the advisory board, may require that a producer responsibility organization obtain third-party certification of any activity or achievement of any standard required by sections 115A.144 to 115A.1463 if a third-party certification is readily available, deemed applicable, and of reasonable cost. The commissioner must provide a producer responsibility organization with notice of at least one year prior to requiring use of third-party certification under this paragraph.

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

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

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

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

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

(b) For purposes of determining whether waste reduction performance targets are being met, a stewardship plan must provide a methodology for measuring the amount of waste reduction of covered materials in a manner that can be used to determine the extent to which the amount of material used for a covered material can be reduced to what is necessary to efficiently deliver a product without damage or spoilage, or other

means of covered material redesign to reduce overall use and environmental impacts and maintain recyclability, compostability, or reusability.

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

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

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

(d) For purposes of determining whether postconsumer recycled content performance targets are being met, a stewardship plan must provide a methodology for measuring postconsumer recycled content across all producers for a covered materials type where producers may determine their postconsumer recycled content based on their United States market territory if state-specific postconsumer recycled content is impractical to determine. Producers must demonstrate that the postconsumer recycled content reported to meet the performance targets is additional to amounts utilized to meet mandates in other states.

(e) For other performance targets, the producer responsibility organization must propose methodologies for review and approval as part of the stewardship plan based on findings from the needs assessment.

Subd. 7. **Statewide requirements.** (a) The commissioner must establish statewide requirements and the date by which they must be met for the following categories:

(1) recycling rate;

(2) composting rate;

(3) reuse rate;

(4) return rate;

(5) the percentage of covered materials introduced that must be waste reduced; and

(6) the percentage of postconsumer recycled content that covered materials must contain, including an overall percentage for all covered materials, as applicable, excluding compostable materials that cannot include postconsumer recycled content due to unique chemical or physical properties or health and safety requirements that prohibit introduction of postconsumer recycled content.

(b) The commissioner may use the following information and criteria when establishing statewide requirements under paragraph (a):

(1) needs assessments under section 115A.1450;

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

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

(4) 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;

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

(6) information from packaging and paper product producer responsibility programs operating in other jurisdictions.

(c) The commissioner must consult with the producer responsibility organization on establishing statewide requirements, submit proposed statewide requirements for review by the board, and consider the board's recommendations before finalizing the statewide requirements.

(d) Every five years, the commissioner must review the statewide requirements established under paragraph (a). If the commissioner decides an update is not warranted at that time, the commissioner must submit the reasoning to the advisory board and consider the board's recommendations before making a final decision. If the commissioner decides an update is warranted, the process in paragraphs (b) and (c) must be utilized.

(e) The producer responsibility organization must ensure the statewide requirements are met.

Subd. 8. **Alternative collection programs.** (a) A producer responsibility organization must implement an alternative collection program for covered materials included on an alternative collection list established under section 115A.1453, subdivision 2, that:

(1) provides year-round, convenient, statewide collection opportunities, including at least one drop-off collection site located in each county;

(2) provides tiers of service for collection, convenience, number of drop-off collection sites, and additional collection systems based on:

(i) county population size;

(ii) county population density; and

(iii) each class of city according to section 410.01;

(3) ensures materials are sent to responsible markets;

(4) uses education and outreach strategies that can be expected to significantly increase consumer awareness of the program throughout the state; and

(5) accurately measures the amount of each covered material collected and the applicable performance target and statewide requirement.

(b) A proposal for an alternative collection program must include:

(1) the type, number, and location of each collection opportunity;

(2) a description of how each of the program requirements established in paragraph (a) will be met; and

(3) performance targets for each covered material, as applicable, to be managed through an alternative collection program.

(c) Every subsequent needs assessment after the initial needs assessment must include a review of existing alternative collection programs for each covered material listed under section 115A.1453, subdivision 2, to determine if the program is meeting the criteria established in paragraph (a).

**History:** *2024 c 116 art 5 s 12*