CHAPTER 115A

WASTE MANAGEMENT

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CITATION, PURPOSE, AND DEFINITIONS

115A.01 CITATION.

Chapter 115A shall be known as the "Waste Management Act."

History: *1980 c 564 art 1 s 1; 1989 c 325 s 1*

115A.02 LEGISLATIVE DECLARATION OF POLICY; PURPOSES.

(a) It is the goal of this chapter to protect the state's land, air, water, and other natural resources and the public health by improving waste management in the state to serve the following purposes:

(1) reduction in the amount and toxicity of waste generated;

(2) separation and recovery of materials and energy from waste;

(3) reduction in indiscriminate dependence on disposal of waste;

(4) coordination of solid waste management among political subdivisions; and

(5) orderly and deliberate development and financial security of waste facilities including disposal facilities.

(b) The waste management goal of the state is to foster an integrated waste management system in a manner appropriate to the characteristics of the waste stream and thereby protect the state's land, air, water,

and other natural resources and the public health. The following waste management practices are in order of preference:

(1) waste reduction and reuse;

(2) waste recycling;

(3) composting of source-separated compostable materials, including but not limited to, yard waste and food waste;

(4) resource recovery through mixed municipal solid waste composting or incineration;

(5) land disposal which produces no measurable methane gas or which involves the retrieval of methane gas as a fuel for the production of energy to be used on site or for sale; and

(6) land disposal which produces measurable methane and which does not involve the retrieval of methane gas as a fuel for the production of energy to be used on site or for sale.

(c) As a means of accomplishing state waste management goals with respect to surplus food and food waste, the following waste management practices are in order of preference:

(1) reducing the amount generated at the source;

(2) upcycling or donating for human consumption;

(3) diversion for animal consumption or leaving crops unharvested;

(4) composting or anaerobic digestion when the biogas and digestate are not disposed of but are used as a salable product; and

(5) either using anaerobic digestion, when the biogas is used as a salable product but the digestate is disposed of, or land application of food waste.

(d) For the purposes of this section, the following terms have the meanings given:

(1) "anaerobic digestion" means a process through which microorganisms break down organic material in the absence of oxygen and generate biogas and digestate;

(2) "biogas" means a gas that is produced when organic materials decompose and is primarily composed of methane and carbon dioxide;

(3) "composting" means controlled, aerobic biological decomposition of organic material to produce a nutrient-rich material;

(4) "digestate" means the solid or liquid residual material remaining after the anaerobic digestion process has been completed;

(5) "diversion for animal consumption" means diverting food, food scraps, food waste, or surplus food not fitting the conditions of adulteration under section 25.37 or 34A.02;

(6) "food" means a raw, cooked, processed, or prepared substance, beverage, or ingredient used for, entering into the consumption of, or used or intended for use in the preparation of a food, drink, confectionery, or condiment for humans or animals;

(7) "food scraps" means inedible food, trimmings from preparing food, and food-processing by-products. Food scraps does not include used cooking oil, grease, any material fitting the conditions of adulteration under section 25.37 or 34A.02, or food that is subject to a governmental or producer recall and that cannot be made to be safe for human or animal consumption;

(8) "food waste" means all discarded food, surplus food that is not donated, food scraps, food fitting the conditions of adulteration under section 25.37 or 34A.02, and food subject to governmental or producer recall and that cannot be made to be safe for human or animal consumption;

(9) "land application of food waste" means the direct application of food waste from food manufacturing or processing activities onto or below the surface of the land to enhance soil health;

(10) "leaving crops unharvested" means not harvesting crops that are otherwise ready for harvesting and instead leaving them in the field or tilling them into the soil;

(11) "surplus food" means food that is not sold or used and that is still safe to be consumed by humans or animals. Surplus food does not include food damaged by pests, mold, bacteria, or other contamination; food that is subject to governmental or producer recall due to food safety and that cannot be made to be safe for human or animal consumption; or any material fitting the conditions of adulteration under section 25.37 or 34A.02; and

(12) "upcycling" means capturing, processing, and remaking parts of food and food scraps into new food products for human or animal consumption when the parts of food and food scraps do not fit the conditions of adulteration under section 25.37 or 34A.02.

History: *1980 c 564 art 1 s 2; 1989 c 325 s 2; 1991 c 337 s 5; 1992 c 593 art 1 s 4; 1994 c 585 s 2; 1999 c 231 s 131; 2010 c 272 s 1; 2024 c 116 art 2 s 7*

115A.03 DEFINITIONS.

Subdivision 1. **Applicability.** For the purposes of this chapter, the terms defined in this section have the meanings given them, unless the context requires otherwise.

Subd. 2. **Agency.** "Agency" means the Pollution Control Agency.

Subd. 3. MS 1988 [Repealed, 1989 c 335 art 1 s 270]

Subd. 3a. **Arrange for management.** "Arrange for management" means an activity undertaken by a person that determines the ultimate disposition of solid waste that is under the control of the person, including delivery of the waste to a transfer station for transport to another solid waste management facility. Knowledge of the destination of waste by a generator is by itself insufficient for arranging for management unless the generator knows that the destination is an environmentally inferior facility as defined in this section, has the ability to redirect the waste to an environmentally superior facility and ensure its delivery to that facility, and chooses not to redirect the waste.

Subd. 4. **Cities.** "Cities" means statutory and home rule charter cities and towns authorized to plan under sections 462.351 to 462.364.

Subd. 5. **Collection.** "Collection" means the aggregation of waste from the place at which it is generated and includes all activities up to the time the waste is delivered to a waste facility.

Subd. 6. **Commercial waste facility.** "Commercial waste facility" means a waste facility established and permitted to sell waste processing or disposal services to generators other than the owner and operator of the facility.

Subd. 6a. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subd. 7. **Construction debris.** "Construction debris" means waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of buildings and roads.

Subd. 7a. **Containment.** "Containment" means isolating, controlling, and monitoring waste in a waste facility in order to prevent a release of waste from the facility that would have an adverse impact upon human health and the environment.

Subd. 8. **Development region.** "Development region" means a region designated pursuant to sections 462.381 to 462.397.

Subd. 8a. MS 2004 [Repealed, 1Sp2005 c 1 art 2 s 162]

Subd. 9. **Disposal or dispose.** "Disposal" or "dispose" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including groundwaters.

Subd. 10. **Disposal facility.** "Disposal facility" means a waste facility permitted by the agency that is designed or operated for the purpose of disposing of waste on or in the land, together with any appurtenant facilities needed to process waste for disposal or transfer to another waste facility.

Subd. 10a. MS 2022 [Renumbered subd 10c]

Subd. 10b. **Environmental justice area.** "Environmental justice area" means one or more census tracts in Minnesota:

(1) in which, based on the most recent decennial census data published by the United States Census Bureau:

(i) 40 percent or more of the population is nonwhite;

(ii) 35 percent or more of the households have an income at or below 200 percent of the federal poverty level; or

(iii) 40 percent or more of the population over the age of five has limited English proficiency; or

(2) located within Indian Country, as defined under United States Code, title 18, section 1151.

Subd. 10c. **Environmentally inferior.** "Environmentally inferior" means a solid waste management method that is lower on the list of preferred waste management methods in section 115A.02 than a solid waste management method chosen by a county or, as applied to a facility, means a waste management facility that utilizes a waste management method that is lower on the list of preferred waste management methods than the waste management method chosen by a county. In addition, as applied to disposal facilities, a facility that does not meet the standards for new facilities in Code of Federal Regulations, title 40, chapters 257 and 258, is environmentally inferior to a facility that does meet these standards.

Subd. 11. **Generation.** "Generation" means the act or process of producing waste.

Subd. 12. **Generator.** "Generator" means any person who generates waste.

Subd. 13. **Hazardous waste.** "Hazardous waste" has the meaning given it in section 116.06, subdivision 11.

Subd. 13a. **Industrial waste.** "Industrial waste" means solid waste resulting from an industrial, manufacturing, service, or commercial activity that is managed as a separate waste stream.

Subd. 14. **Intrinsic hazard.** "Intrinsic hazard" of a waste means the propensity of the waste to migrate in the environment, and thereby to become exposed to the public, and the significance of the harm or damage likely to result from exposure of natural resources or the public to the waste, as a result of such inherent or induced attributes of the waste as its chemical and physical stability, solubility, bioconcentratability, toxicity, flammability, and corrosivity.

Subd. 15. **Intrinsic suitability.** (a) "Intrinsic suitability" of a land area or site means that, based on existing data on the inherent and natural attributes, physical features, and location of the land area or site, there is no known reason why the waste facility proposed to be located in the area or site cannot reasonably be expected to qualify for permits in accordance with agency rules. Agency certification of intrinsic suitability shall be based on data submitted to the agency by the proposing entity and data included by the administrative law judge in the record of any public hearing on recommended certification, and applied against criteria in agency rules and any additional criteria developed by the agency in effect at the time the proposing entity submits the site for certification.

(b) In the event that all candidate sites selected by the board before May 3, 1984, are eliminated from further consideration and a new search for candidate sites is commenced, "intrinsic suitability" of a land area or site shall mean that, because of the inherent and natural attributes, physical features, and location of the land area or site, the waste facility proposed to be located in the area or site would not be likely to result in material harm to the public health and safety and natural resources and that therefore the proposed facility can reasonably be expected to qualify for permits in accordance with agency rules.

Subd. 16. MS 1996 [Repealed, 1997 c 7 art 1 s 26]

Subd. 17. **Local government unit.** "Local government unit" means cities, towns, and counties.

Subd. 17a. **Major appliances.** "Major appliances" means clothes washers and dryers, dishwashers, hot water heaters, heat pumps, furnaces, garbage disposals, trash compactors, conventional and microwave ovens, ranges and stoves, air conditioners, dehumidifiers, refrigerators, and freezers.

Subd. 18. **Metropolitan area.** "Metropolitan area" has the meaning given it in section 473.121.

Subd. 19. **Metropolitan Council.** "Metropolitan Council" means the council established in chapter 473.

Subd. 20. MS 1992 [Repealed, 1994 c 628 art 3 s 209]

Subd. 21. **Mixed municipal solid waste.** (a) "Mixed municipal solid waste" means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection, except as provided in paragraph (b).

(b) Mixed municipal solid waste does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams.

Subd. 22. **Natural resources.** "Natural resources" has the meaning given it in chapter 116B.

Subd. 22a. MS 2004 [Repealed, 1Sp2005 c 1 art 2 s 162]

Subd. 22b. **Packaging.** "Packaging" means a container and any appurtenant material that provide a means of transporting, marketing, protecting, or handling a product. "Packaging" includes pallets and packing such as blocking, bracing, cushioning, weatherproofing, strapping, coatings, closures, inks, dyes, pigments, and labels.

Subd. 23. **Person.** "Person" has the meaning given it in section 116.06, but does not include the Pollution Control Agency.

Subd. 24. **Political subdivision.** "Political subdivision" means any municipal corporation, governmental subdivision of the state, local government unit, special district, or local or regional board, commission, or authority authorized by law to plan or provide for waste management.

Subd. 24a. MS 2022 [Renumbered subd 24c]

Subd. 24b. **Postconsumer material.** "Postconsumer material" means a finished material that would normally be discarded as a solid waste having completed its life cycle as a consumer item.

Subd. 24c. [Renumbered subd 24e]

Subd. 24d. **Prepared sewage sludge.** "Prepared sewage sludge" means exceptional quality sewage sludge, as defined in Minnesota Rules, part 7041.0100, subpart 20, applied to a lawn or home garden and sold or given away in a bag or other container that:

(1) meets low limits on metal concentrations;

(2) has been treated to ensure pathogens, pollutants, and vectors that can transport disease have been carefully managed; and

(3) is labeled with the nutrient content.

Subd. 24e. **Problem material.** "Problem material" means a material that, when it is processed or disposed of with mixed municipal solid waste, contributes to one or more of the following results:

(1) the release of a hazardous substance, or pollutant or contaminant, as defined in section 115B.02, subdivisions 8, 13, and 15;

(2) pollution of water as defined in section 115.01, subdivision 13;

(3) air pollution as defined in section 116.06, subdivision 4; or

(4) a significant threat to the safe or efficient operation of a solid waste facility.

Subd. 25. **Processing.** "Processing" means the treatment of waste after collection and before disposal. Processing includes but is not limited to reduction, storage, separation, exchange, resource recovery, physical, chemical, or biological modification, and transfer from one waste facility to another.

Subd. 25a. **Recyclable materials.** "Recyclable materials" means materials that are separated from mixed municipal solid waste for the purpose of recycling or composting, including paper, glass, plastics, metals, automobile oil, batteries, source-separated compostable materials, and sole source food waste streams that are managed through biodegradative processes. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material.

Subd. 25b. **Recycling.** "Recycling" means the process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

Subd. 25c. **Recycling facility.** "Recycling facility" means a facility at which materials are prepared for reuse in their original form or for use in manufacturing processes that do not cause the destruction of the materials in a manner that precludes further use.

Subd. 25d. **Refuse-derived fuel.** "Refuse-derived fuel" means a product resulting from the processing of mixed municipal solid waste in a manner that reduces the quantity of noncombustible material present in the waste, reduces the size of waste components through shredding or other mechanical means, and produces a fuel suitable for combustion in existing or new solid fuel-fired boilers.

Subd. 26. **Regional development commission.** "Regional development commission" means a commission established pursuant to sections 462.381 to 462.397.

Subd. 26a. **Resource conservation.** "Resource conservation" means the reduction in the use of water, energy, and raw materials.

Subd. 27. **Resource recovery.** "Resource recovery" means the reclamation for sale, use, or reuse of materials, substances, energy, or other products contained within or derived from waste.

Subd. 28. **Resource recovery facility.** "Resource recovery facility" means a waste facility established and used primarily for resource recovery, including related and appurtenant facilities such as transmission facilities and transfer stations primarily serving the resource recovery facility.

Subd. 28a. **Retrievable storage.** "Retrievable storage" means a method of disposal whereby wastes are placed in a facility established pursuant to sections 115A.18 to 115A.30 for an indeterminate period in a manner designed to allow the removal of the waste at a later time.

Subd. 28b. **Sanitary district.** "Sanitary district" means a sanitary district with the authority to regulate solid waste.

Subd. 29. **Sewage sludge.** "Sewage sludge" means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. It includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works. Sewage sludge that is acceptable and beneficial for recycling on land as a soil conditioner and nutrient source is also known as biosolids.

Subd. 30. **Sewage sludge disposal facility.** "Sewage sludge disposal facility" means property owned or leased by a political subdivision and used for interim or final disposal or land spreading of sewage sludge.

Subd. 31. **Solid waste.** "Solid waste" has the meaning given it in section 116.06, subdivision 22.

Subd. 32. **Solid waste management district or waste district.** "Solid waste management district" or "waste district" means a geographic area extending into two or more counties in which the management of solid waste is vested in a special district established pursuant to sections 115A.62 to 115A.72.

Subd. 32a. MS 1994 [Renumbered subd 32c]

Subd. 32a. **Source-separated compostable materials.** "Source-separated compostable materials" means materials that:

(1) are separated at the source by waste generators for the purpose of preparing them for use as compost;

(2) are collected separately from mixed municipal solid waste, and are governed by the licensing provisions of section 115A.93;

(3) are comprised of food wastes, fish and animal waste, plant materials, diapers, sanitary products, and paper that is not recyclable because the commissioner has determined that no other person is willing to accept the paper for recycling;

(4) are delivered to a facility to undergo controlled microbial degradation to yield a humus-like product meeting the agency's class I or class II, or equivalent, compost standards and where process rejects do not exceed 15 percent by weight of the total material delivered to the facility; and

(5) may be delivered to a transfer station, mixed municipal solid waste processing facility, or recycling facility only for the purposes of composting or transfer to a composting facility, unless the commissioner determines that no other person is willing to accept the materials.

Subd. 32b. MS 1994 [Renumbered subd 32d]

Subd. 32b. **Source-separated recyclable materials.** "Source-separated recyclable materials" means recyclable materials, including commingled recyclable materials, that are separated by the generator.

Subd. 32c. **Stabilization.** "Stabilization" means a chemical or thermal process in which materials or energy are added to waste in order to reduce the possibility of migration of any hazardous constituents of the resulting stabilized waste in preparation for placement of the waste in a stabilization and containment facility.

Subd. 32d. **Stabilization and containment facility.** "Stabilization and containment facility" means a waste facility that is designed for stabilization and containment of waste, together with other appurtenant facilities needed to process waste for stabilization, containment, or transfer to another facility.

Subd. 33. **Transfer station.** "Transfer station" means an intermediate waste facility in which waste collected from any source is temporarily deposited to await transportation to another waste facility.

Subd. 34. **Waste.** "Waste" means solid waste, sewage sludge, and hazardous waste.

Subd. 35. **Waste facility.** "Waste facility" means all property, real or personal, including negative and positive easements and water and air rights, which is or may be needed or useful for the processing or disposal of waste, except property for the collection of the waste and property used primarily for the manufacture of scrap metal or paper. Waste facility includes but is not limited to transfer stations, processing facilities, and disposal sites and facilities.

Subd. 36. **Waste management.** "Waste management" means activities which are intended to affect or control the generation of waste and activities which provide for or control the collection, processing and disposal of waste.

Subd. 36a. **Waste management method chosen by a county.** "Waste management method chosen by a county" means:

(1) a waste management method that is mandated for waste generated in the county by section 115A.415, 473.848, 473.849, or other state law, or by county ordinance based on the county solid waste management plan developed, adopted, and approved under section 115A.46 or 458D.05 or the county solid waste management master plan developed, adopted, and approved under section 473.803; or

(2) a waste management facility or facilities, developed under the county solid waste management plan or master plan, to which solid waste generated in a county is directed by an ordinance developed, adopted, and approved under sections 115A.80 to 115A.893.

Subd. 36b. **Waste reduction or source reduction.** "Waste reduction" or "source reduction" means an activity that prevents generation of waste or the inclusion of toxic materials in waste, including:

(1) reusing a product in its original form;

(2) increasing the life span of a product;

(3) reducing material or the toxicity of material used in production or packaging; or

(4) changing procurement, consumption, or waste generation habits to result in smaller quantities or lower toxicity of waste generated.

Subd. 37. **Waste rendered nonhazardous.** "Waste rendered nonhazardous" means (1) waste excluded from regulation as a hazardous waste under the delisting requirements of United States Code, title 42, section 6921, and any federal and state delisting rules, and (2) other nonhazardous residual waste from the processing of hazardous waste.

Subd. 37a. **Waste treated seed.** "Waste treated seed" means seed that is treated, as defined in section 21.81, subdivision 28, and that is withdrawn from sale or that the end user considers unusable or otherwise a waste.

Subd. 38. **Yard waste.** "Yard waste" means garden wastes, leaves, lawn cuttings, weeds, shrub and tree waste, and prunings.

History: *1980 c 564 art 1 s 3; 1981 c 352 s 1,2; 1983 c 373 s 5,6; 1984 c 640 s 32; 1984 c 644 s 1,2; 1985 c 274 s 1-3; 1986 c 425 s 12-17; 1987 c 348 s 1,2; 1988 c 524 s 1; 1988 c 685 s 3,4,21; 1989 c 325 s 3; 1989 c 335 art 1 s 128,129,269; 1Sp1989 c 1 art 18 s 3; art 20 s 1,2; 1991 c 303 s 1; 1991 c 337 s 6,7,44; 1992 c 593 art 1 s 5-7,28; 1993 c 249 s 7,8,61; 1994 c 548 s 1; 1994 c 585 s 3; 1994 c 639 art 5 s 3; 1995 c 220 s 96; 1995 c 247 art 1 s 66; 1996 c 470 s 2-5; 1Sp2005 c 1 art 2 s 161; 2008 c 357 s 32,33; 2011 c 107 s 81; 2014 c 248 s 14; 1Sp2015 c 4 art 4 s 104,105; 2023 c 60 art 3 s 6,7; 2024 c 116 art 2 s 8,34; 2025 c 20 s 82*

ENFORCEMENT

115A.034 ENFORCEMENT.

This chapter may be enforced under sections 115.071 and 116.072.

History: *1992 c 593 art 1 s 8; 1993 c 249 s 9*

115A.04 MS 1988 [Repealed, 1989 c 335 art 1 s 270]

115A.05 MS 1988 [Repealed, 1989 c 335 art 1 s 270]

115A.055 Subdivision 1. MS 2004 [Repealed, 1Sp2005 c 1 art 2 s 162]

Subd. 2. MS 2006 [Repealed, 2007 c 13 art 2 s 5]

POLLUTION CONTROL AGENCY

115A.06 POWERS OF POLLUTION CONTROL AGENCY.

Subdivision 1. MS 1988 [Repealed, 1989 c 335 art 1 s 270]

Subd. 2. **Rules.** Unless otherwise provided, the commissioner shall promulgate rules in accordance with chapter 14 to govern the agency's activities and implement this chapter.

Subd. 3. MS 1988 [Repealed, 1989 c 335 art 1 s 270]

Subd. 4. MS 1994 [Repealed, 1996 c 310 s 1]

Subd. 5. **Right of access.** Whenever the agency or the commissioner acting on behalf of the agency deems it necessary to the accomplishment of its purposes, the agency or any member, employee, or agent thereof, when authorized by it or the commissioner, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations, provided that the entrance and activity is undertaken after reasonable notice and during normal business hours and provided that compensation is made for any damages to the property caused by the entrance and activity. The agency may pay a reasonable estimate of the damages it believes will be caused by the entrance and activity before entering any property.

Subd. 5a. **Acquiring easements.** If the agency determines that any activity deemed necessary to accomplish its purposes under subdivision 5 constitutes a substantial interference with the possession, enjoyment, or value of the property where the activity will take place, the agency may acquire a temporary easement interest in the property that permits the agency to carry out the activity and other activities incidental to the accomplishment of the same purposes. The agency may acquire temporary easement interests under this subdivision by purchase, gift, or condemnation. The right of the agency to acquire a temporary easement is subject to the same requirements and may be exercised with the same authority as provided for acquisition of property interests by the commissioner of administration under Minnesota Statutes 1994, section 115A.06, subdivision 4.

Subd. 6. **Gifts and grants.** The agency, or the commissioner of the Pollution Control Agency or commissioner of administration on behalf of the agency, may apply for and accept gifts, loans, or other property from the United States, the state, or any person for any of the purposes of the agency, may enter into any agreement required in connection therewith, and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan or agreement.

Subd. 7. **Property exempt from taxation.** Any real or personal property owned, used, or occupied by the agency or the commissioner of administration for any purpose referred to in sections 115A.01 to 115A.72 is declared to be acquired, owned, used, and occupied for public and governmental purposes, and shall be exempt from taxation by the state or any political subdivision of or other governmental unit of or within the state, provided that those properties shall be subject to special assessments levied for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from the improvement. No possible use of the properties in any manner different from their use for hazardous waste management at the time shall be considered in determining the special benefit received by the properties.

Subd. 8. **Contracts.** The commissioner may enter into any contract necessary or proper for the exercise of the commissioner's powers or the accomplishment of the agency's purposes.

Subd. 9. **Joint powers.** The commissioner may act under the provisions of section 471.59, or any other law providing for joint or cooperative action.

Subd. 10. **Research.** The commissioner may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and order all necessary hearings and investigations in connection with the commissioner's work and may advise and assist other government units on planning matters within the scope of the commissioner's powers, duties, and objectives.

Subd. 11. **Employees; contracts for services.** The commissioner may employ persons and contract for services to perform research, engineering, legal, or other services necessary to carry out the commissioner's functions.

Subd. 12. **Insurance.** The commissioner may procure insurance in amounts the commissioner deems necessary to insure against liability of the agency and employees or both, for personal injury or death and property damage or destruction, with the force and effect stated in chapter 466, and against risks of damage to or destruction of any of the agency's property as the commissioner deems necessary.

Subd. 13. **Private and nonpublic data.** (a) Any data held by the commissioner which consists of trade secret information as defined by section 13.37, subdivision 1, clause (b), or sales information, shall be classified as private or nonpublic data as defined in section 13.02, subdivisions 9 and 12. When data is classified private or nonpublic pursuant to this subdivision the commissioner may:

(1) use the data to compile and publish analyses or summaries and to carry out the commissioner's statutory responsibilities in a manner which does not identify the subject of the data; or

(2) disclose the data when the commissioner is obligated to disclose it to comply with federal law or regulation but only to the extent required by the federal law or regulation.

(b) The subject of data classified as private or nonpublic pursuant to this subdivision may authorize the disclosure of some or all of that data by the commissioner.

Subd. 14. **Waste rendered nonhazardous and industrial waste.** The commissioner shall encourage improved management of waste rendered nonhazardous and industrial waste that should be managed separately from mixed municipal solid waste, and may provide technical and planning assistance to political subdivisions, waste generators, and others for the purpose of identifying, developing, and implementing alternative management methods for those wastes.

History: *1980 c 564 art 2 s 3; 1981 c 311 s 39; 1981 c 352 s 4-6; 1982 c 545 s 24; 1982 c 569 s 1,2; 1983 c 373 s 9; 1984 c 644 s 3; 1986 c 425 s 19; 1986 c 444; 1987 c 348 s 3; 1989 c 335 art 1 s 269; 1991 c 199 art 2 s 7; 1991 c 326 s 5; 1991 c 337 s 8; 1994 c 639 art 5 s 3; 2002 c 379 art 1 s 29; 1Sp2005 c 1 art 2 s 161*

115A.07 DUTIES; GENERAL.

Subdivision 1. **Interagency coordination.** The commissioner of the Pollution Control Agency shall inform the commissioner of employment and economic development of the agency's activities.

Subd. 2. MS 2010 [Repealed, 2012 c 272 s 98]

Subd. 3. **Uniform waste statistics; rules.** The commissioner, after consulting with local government units and other interested persons, may adopt rules to establish uniform methods for collecting and reporting waste reduction, generation, collection, transportation, storage, recycling, processing, and disposal statistics necessary for proper waste management and for reporting required by law. Prior to publishing proposed rules, the commissioner shall submit draft rules to the senate and house committees having jurisdiction over environment and natural resources and environment and natural resources finance for review and comment. Rules adopted under this subdivision apply to all persons and units of government in the state for the purpose of collecting and reporting waste-related statistics requested under or required by law.

History: *1980 c 564 art 2 s 4; 1981 c 356 s 119,248; 1983 c 289 s 115 subd 1; 1986 c 444; 1987 c 312 art 1 s 26 subd 2; 1987 c 384 art 2 s 18; 1989 c 335 art 1 s 269; 1992 c 593 art 1 s 9; 1995 c 247 art 2 s 2; 1996 c 470 s 27; 1Sp2003 c 4 s 1; 1Sp2005 c 1 art 2 s 161*

115A.071 MS 1982 [Repealed, 1984 c 644 s 82]

115A.0715 MS 1996 [Repealed, 1996 c 470 s 28]

115A.0716 ENVIRONMENTAL ASSISTANCE GRANT AND LOAN PROGRAM.

Subdivision 1. **Grants.** (a) The commissioner may make grants to any person for the purpose of researching, developing, and implementing projects or practices related to collection, processing, recycling, reuse, resource recovery, source reduction, and prevention of waste, hazardous substances, toxic pollutants, and problem materials; the development or implementation of pollution prevention projects or practices; the collection, recovery, processing, purchasing, or market development of recyclable materials or compost; resource conservation; and for environmental education.

(b) In making grants, the agency may give priority to projects or practices that have broad application in the state and are consistent with the policies established under sections 115A.02 and 115D.02.

(c) The commissioner shall adopt rules to administer the grant program.

(d) For the purposes of this section:

(1) "pollution prevention" has the meaning given it in section 115D.03;

(2) "toxic pollutant" has the meaning given it in section 115D.03; and

(3) "hazardous substance" has the meaning given it in section 115D.03.

Subd. 2. **Loans.** (a) The commissioner may make loans, or participate in loans, for capital costs or improvements related to any of the activities listed in subdivision 1.

(b) The commissioner may work with financial institutions or other financial assistance providers in participating in loans under this section. The commissioner may contract with financial institutions or other financial assistance providers for loan processing and/or administration.

(c) The commissioner may also make grants, as authorized in subdivision 1, to enable persons to receive loans from financial institutions or to reduce interest payments for those loans.

(d) In making loans, the agency may give priority to projects or practices that have broad application in the state and are consistent with the policies established under sections 115A.02 and 115D.02.

(e) The commissioner shall adopt rules to administer the loan program.

Subd. 3. **Revolving account.** All repayments of loans awarded under this section, including principal and interest, must be credited to the environmental fund. Money deposited in the fund under this section is annually appropriated to the commissioner for loans for purposes identified in subdivisions 1 and 2.

History: *1996 c 470 s 6; 1Sp2001 c 2 s 122; 2003 c 128 art 2 s 5; 1Sp2005 c 1 art 2 s 161; 2006 c 212 art 3 s 8*

115A.072 PUBLIC EDUCATION.

Subdivision 1. **Environmental education programs.** The commissioner shall provide for the development and implementation of environmental education programs that are designed to meet the goals listed in section 115A.073.

Subd. 2. **Waste management education.** In addition to the commissioner's general duties established in subdivision 1, the commissioner shall:

(1) develop a statewide waste management public education campaign with materials that may be easily adapted by political subdivisions to meet their program needs; and

(2) develop and make available to schools educational curricula on waste education for grades kindergarten to 12 to address at least waste reduction, recycling, litter, and proper management and disposal of problem materials.

Subd. 3. MS 1996 [Repealed, 1996 c 470 s 28]

Subd. 4. **Waste reduction and reuse program; procurement.** The commissioner shall include: (1) waste reduction and reuse, including packaging reduction and reuse; and (2) the hazards of open burning, as defined in section 88.01, of mixed municipal solid waste, especially the hazards of dioxin emissions to children, as elements of the commissioner's program of public education on waste management required under this section. The waste reduction and reuse education program must include dissemination of information and may include an award program for model waste reduction and reuse efforts. Waste reduction and reuse educational efforts must also include provision of information about and promotion of the model procurement program developed by the commissioner of administration under section 115A.15, subdivision 7, or any other model procurement program that results in significant waste reduction and reuse.

History: *1987 c 348 s 4; 1Sp1989 c 1 art 21 s 1; 1991 c 345 art 2 s 19; 1994 c 480 s 7; 1994 c 585 s 4; 1994 c 639 art 5 s 3; 1995 c 247 art 1 s 4,5; art 2 s 3; 1Sp1995 c 3 art 16 s 13; 1996 c 412 art 9 s 1; 1998 c 397 art 11 s 3; 2003 c 130 s 12; 1Sp2005 c 1 art 2 s 128,161; 2011 c 76 art 1 s 6*

115A.073 ENVIRONMENTAL EDUCATION GOALS AND PLAN.

The environmental education program described in this section and section 115A.074 has these goals for the pupils and other citizens of this state:

(a) Pupils and citizens should be able to apply informed decision-making processes to maintain a sustainable lifestyle. In order to do so, citizens should:

(1) understand ecological systems;

(2) understand the cause and effect relationship between human attitudes and behavior and the environment;

(3) be able to evaluate alternative responses to environmental issues before deciding on alternative courses of action; and

(4) understand the effects of multiple uses of the environment.

(b) Pupils and citizens shall have access to information and experiences needed to make informed decisions about actions to take on environmental issues.

(c) For the purposes of this section and section 115A.074, "state plan" means "Greenprint for Minnesota: A State Plan for Environmental Education."

History: *1990 c 595 s 1; 1993 c 224 art 12 s 32; 1993 c 374 s 22; 1Sp1995 c 3 art 11 s 3,20; 1998 c 397 art 3 s 98,103; art 11 s 3*

115A.074 ENVIRONMENTAL EDUCATION RESOURCE CENTERS.

Subdivision 1. **Establishment.** The commissioner may establish environmental education resource centers throughout the state as needed. The environmental education resource centers shall serve as a source of information and programs for citizens, provide ongoing contact with the public for feedback to the commissioner on regional environmental education issues and priorities, and serve as distribution centers for environmental education programs.

Subd. 2. **Duties.** The resource centers shall:

(1) implement the programs and priorities of the agency as defined in the plan;

(2) convey regional program priorities to the commissioner;

(3) evaluate regional implementation of environmental education programs and report to the commissioner on the evaluations;

(4) provide regional liaison and coordination for organizations, agencies, and individuals providing environmental education programs on particular issues;

(5) be a distribution and publicity center for agencies, environmental organizations, environmental learning center publications, programs, and services;

(6) be a central source of information for citizens interested in issues that are the responsibility of many agencies, boards, task forces, and organizations;

(7) provide technical assistance to local and state organizations and agencies on program design, promotion, and publicity to reach the chosen target audiences; and

(8) assist the service cooperatives by collecting and distributing environmental education teaching materials, displays, computer programs, resource person lists, and audio-visual aids, and provide assistance with teacher training workshops and programs on request.

History: *1990 c 595 s 6; 1996 c 305 art 1 s 138; 1998 c 397 art 3 s 103; 1Sp2005 c 1 art 2 s 161*

115A.075 LEGISLATIVE POLICY AGAINST DISPOSAL OF HAZARDOUS WASTE.

(a) The legislature finds that hazardous waste must be managed in a manner that protects the health, safety, and welfare of the citizens of the state and protects and conserves the state's natural resources and environment; that reduction of the amount of waste generated and processing, treatment, separation, and resource recovery are the preferred methods to manage hazardous waste; and that disposal of hazardous

waste should be used only as a last resort when all other management methods are ineffective, and then only if an environmentally suitable site can be identified in the state.

(b) The agency, in its planning, facility approval, and other activities related to hazardous waste shall give first priority to eliminating the generation of hazardous waste and eliminating or reducing the hazardous character of the waste generated in the state through processing, treatment, separation, and resource recovery.

History: *1984 c 644 s 4; 1989 c 335 art 1 s 269; 1Sp2005 c 1 art 2 s 161*

115A.08 MS 1994 [Repealed, 1996 c 310 s 1]

115A.09 MS 1994 [Repealed, 1996 c 310 s 1]

115A.10 DUTIES OF POLLUTION CONTROL AGENCY; HAZARDOUS WASTE FACILITIES; ENCOURAGING PRIVATE ENTERPRISE.

The agency and the commissioner on behalf of the agency shall encourage the development and operation of hazardous waste facilities by private enterprise to the extent practicable and consistent with the purposes of sections 115A.01 to 115A.72 and the agency's hazardous waste management plan adopted pursuant to section 115A.11. In adopting the management plan, and in its actions and decisions under sections 115A.18 to 115A.30 and 115A.32 to 115A.39, the agency and the commissioner on behalf of the agency shall solicit the active participation of private waste management firms and shall so conduct its activities as to encourage private permit applications for facilities needed in the state.

History: *1980 c 564 art 2 s 7; 1983 c 373 s 14; 1986 c 444; 1989 c 335 art 1 s 269; 1997 c 7 art 1 s 27; 1Sp2005 c 1 art 2 s 161*

115A.11 HAZARDOUS WASTE MANAGEMENT PLAN.

Subdivision 1. **Requirement.** The agency shall adopt, amend as appropriate, and implement a hazardous waste management plan.

Subd. 1a. **Policy.** In developing and implementing the plan, the highest priority of the agency must be placed upon alternatives to land disposal of hazardous wastes including: technologies to modify industrial processes or introduce new processes that will reduce or eliminate hazardous waste generation; recycling, reuse, and recovery methods to reduce or eliminate hazardous waste disposal; and conversion and treatment technologies to reduce the degree of environmental risk from hazardous waste. The agency shall also consider technologies for retrievable storage of hazardous wastes for later recycling, reuse, recovery, conversion, or treatment.

Subd. 1b. **Contents.** The plan must include at least the elements prescribed in this subdivision.

(a) The plan must estimate the types and quantities of hazardous waste that will be generated in the state through the year 2000.

(b) The plan must set out specific and quantifiable objectives for reducing to the greatest feasible and prudent extent the need for and use of disposal facilities located within the state, through waste reduction, pretreatment, retrievable storage, processing, and resource recovery.

(c) The plan must estimate the minimum disposal capacity and capability required by generators in the state for use through the year 2000. The estimate must be based on the achievement of the objectives under paragraph (b).

(d) The plan must describe and recommend the implementation strategies required to assure availability of disposal capacity for the types and quantities of waste estimated under paragraph (c) and to achieve the objectives required by paragraph (b). The recommendations must address at least the following: the necessary private and government actions; the types of facilities and programs required; the availability and use of specific facilities outside of the state; development schedules for facilities, services, and rules that should be established in the state; revenue-raising and financing measures; levels of public and private effort and expenditure; legal and institutional changes; and other similar matters.

(e) The plan must provide for the orderly development of hazardous waste management sites and facilities to protect the health and safety of rural and urban communities. In preparing the plan the agency shall consider its impact upon agriculture and natural resources.

(f) The plan must include methods and procedures that will encourage the establishment of programs, services, and facilities that the agency recommends for development in the state for the recycling, reuse, recovery, conversion, treatment, destruction, transfer, storage, or disposal, including retrievable storage, of hazardous waste.

(g) The plan must be consistent with the estimate of need and feasibility analysis prepared under section 115A.24 and the decisions made by the agency under section 115A.28.

(h) The agency may make the implementation of elements of the plan contingent on actions of the legislature that have been recommended in the draft plan.

Subd. 2. **Procedure.** The plan and the procedures for hearings on the plan are not subject to the contested case provisions of chapter 14. Before revising the draft plan or amending its adopted plan, the agency shall provide notice and hold a public meeting.

Subd. 3. MS 1988 [Repealed, 1989 c 335 art 1 s 270]

History: *1980 c 564 art 2 s 8; 1980 c 615 s 60; 1981 c 352 s 11; 1982 c 424 s 130; 1982 c 569 s 5; 1983 c 373 s 15,16; 1984 c 644 s 8; 1986 c 444; 1987 c 348 s 5; 1989 c 335 art 1 s 269; 1997 c 7 art 1 s 28; 1997 c 187 art 1 s 9; 1Sp2005 c 1 art 2 s 161*

115A.12 MS 2008 [Expired, 1Sp2005 c 1 art 2 s 129]

115A.121 TOXICS AND POLLUTION PREVENTION EVALUATION; CONSOLIDATED REPORT.

The commissioner shall prepare and adopt a report on pollution prevention activities required in chapters 115A, 115D, and 325E. The report must include activities required under section 115A.1320. The commissioner must submit the report to the senate and house of representatives committees having jurisdiction over environment and natural resources by December 31, 2013, and every four years thereafter.

History: *2012 c 272 s 63*

115A.13 MS 1986 [Repealed, 1987 c 348 s 52]

VIDEO DISPLAYS AND ELECTRONIC DEVICES; COLLECTION AND RECYCLING

115A.1310 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 115A.1310 to 115A.1330, the following terms have the meanings given.

Subd. 2. **Cathode-ray tube or CRT.** "Cathode-ray tube" or "CRT" means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

Subd. 3. **Collection.** "Collection" means the aggregation of covered electronic devices from households and includes all the activities up to the time the covered electronic devices are delivered to a recycler.

Subd. 4. **Collector.** "Collector" means a public or private entity that receives covered electronic devices from households and arranges for the delivery of the devices to a recycler.

Subd. 5. **Computer.** "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, but does not include an automated typewriter or typesetter, a portable handheld calculator or device, or other similar device.

Subd. 6. **Computer monitor.** "Computer monitor" means an electronic device that is a cathode-ray tube or flat panel display primarily intended to display information from a central processing unit or the Internet.

Subd. 7. **Covered electronic device.** "Covered electronic device" means computers, including tablet computers and laptop computers, peripherals, facsimile machines, DVD players, video cassette recorders, and video display devices that are sold to a household by means of retail, wholesale, or electronic commerce.

Subd. 8. **Department.** "Department" means the Department of Revenue.

Subd. 9. **Dwelling unit.** "Dwelling unit" has the meaning given in section 238.02, subdivision 21a.

Subd. 10. **Household.** "Household" means an occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit located in this state who has used a video display device at a dwelling unit primarily for personal use.

Subd. 11. **Manufacturer.** "Manufacturer" means a person who:

(1) manufactures video display devices to be sold under its own brand as identified by its own brand label; or

(2) sells video display devices manufactured by others under its own brand as identified by its own brand label.

Subd. 12. **Peripheral.** "Peripheral" means a keyboard, printer, or any other device sold exclusively for external use with a computer that provides input or output into or from a computer.

Subd. 12a. **Phase I recycling credits.** "Phase I recycling credits" means the number of pounds of covered electronic devices recycled by a manufacturer from households during program years one through nine, less the product of the number of pounds of video display devices sold to households during the same program year, multiplied by the proportion of sales a manufacturer is required to recycle.

Subd. 12b. **Phase II recycling credits.** "Phase II recycling credits" means an amount calculated in a program year beginning July 1, 2019, and in each program year thereafter, according to the formula (1.5 x A) - (B - C), where:

A = the number of pounds of covered electronic devices a manufacturer recycled or arranged to have collected and recycled during a program year from households located outside the 11-county metropolitan area, as defined in section 115A.1314, subdivision 2;

B = the manufacturer's recycling obligation calculated for the same program year in section 115A.1320, subdivision 1, paragraph (g); and

C = the number of pounds of covered electronic devices a manufacturer recycled or arranged to have collected and recycled, up to but not exceeding B, during the same program year from households in the 11-county metropolitan area.

Subd. 12c. **Portable battery.** "Portable battery" means a rechargeable battery as defined in section 115A.9157.

Subd. 13. **Program year.** "Program year" means the period from July 1 through June 30.

Subd. 14. **Recycler.** "Recycler" means a public or private individual or entity who accepts covered electronic devices from households and collectors for the purpose of recycling. A manufacturer who takes products for refurbishment or repair is not a recycler.

Subd. 15. **Recycling.** "Recycling" means the process of collecting and preparing video display devices or covered electronic devices for use in manufacturing processes or for recovery of usable materials followed by delivery of such materials for use. Recycling does not include the destruction by incineration or other process or land disposal of recyclable materials nor reuse, repair, or any other process through which video display devices or covered electronic devices are returned to use for households in their original form.

Subd. 16. MS 2014 [Repealed, 2016 c 166 s 18]

Subd. 17. **Retailer.** "Retailer" means a person who sells, rents, or leases, through sales outlets, catalogs, or the Internet, a video display device to a household and not for resale in any form.

Subd. 18. **Sell or sale.** "Sell" or "sale" means any transfer for consideration of title or of the right to use, by lease or sales contract, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means either inside or outside of the state, by a person who conducts the transaction and controls the delivery of a video display device to a consumer in the state, but does not include a manufacturer's or distributor's wholesale transaction with a distributor or a retailer.

Subd. 19. **Television.** "Television" means an electronic device that is a cathode-ray tube or flat panel display primarily intended to receive video programming via broadcast, cable, or satellite transmission or video from surveillance or other similar cameras.

Subd. 20. **Video display device.** "Video display device" means a television or computer monitor that contains a cathode-ray tube or a flat panel screen that is marketed by manufacturers for use by households. Video display device does not include any of the following:

(1) a video display device that is part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

(2) a video display device, including a touch-screen display, that is functionally or physically part of a larger piece of equipment or is designed and intended for use in an industrial; commercial, including retail; library checkout; traffic control; kiosk; security, other than household security; border control; or medical setting, including diagnostic, monitoring, or control equipment;

(3) a video display device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or

(4) a telephone of any type.

History: *2007 c 48 s 1; 2016 c 166 s 1-6; 1Sp2021 c 6 art 2 s 85*

115A.1312 REGISTRATION PROGRAM.

Subdivision 1. **Requirements for sale.** (a) On or after September 1, 2007, a manufacturer must not sell or offer for sale or deliver to retailers for subsequent sale a new video display device unless:

(1) the video display device is labeled with the manufacturer's brand, which label is permanently affixed and readily visible; and

(2) the manufacturer has filed a registration with the agency, as specified in subdivision 2.

(b) A retailer must not sell, offer for sale, rent, or lease a video display device unless the video display device is labeled according to this subdivision and listed as registered on the agency website according to subdivision 2.

(c) A retailer is not responsible for an unlawful sale under this subdivision if the manufacturer's registration expired or was revoked and the retailer took possession of the video display device prior to the expiration or revocation of the manufacturer's registration and the unlawful sale occurred within six months after the expiration or revocation.

Subd. 2. **Manufacturer registration.** (a) By August 15 each year, a manufacturer of video display devices sold or offered for sale to households in the state must submit a registration to the agency that includes:

(1) a list of the manufacturer's brands of video display devices offered for sale in this state;

(2) the name, address, and contact information of a person responsible for ensuring compliance with this chapter; and

(3) a certification that the manufacturer has complied and will continue to comply with the requirements of sections 115A.1312 to 115A.1318.

(b) A manufacturer of video display devices sold or offered for sale to a household must include in the registration submitted under paragraph (a), a statement disclosing whether:

(1) any video display devices sold to households exceed the maximum concentration values established for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB's), and polybrominated diphenyl ethers (PBDE's) under the RoHS (restricting the use of certain hazardous substances in electrical and electronic equipment) Directive 2002/95/EC of the European Parliament and Council and any amendments thereto; or

(2) the manufacturer has received an exemption from one or more of those maximum concentration values under the RoHS Directive that has been approved and published by the European Commission.

(c) A manufacturer who begins to sell or offer for sale video display devices to households after August 15, 2016, and has not filed a registration under this subdivision must submit a registration to the agency within ten days of beginning to sell or offer for sale video display devices to households.

(d) A registration must be updated within ten days after a change in the manufacturer's brands of video display devices sold or offered for sale to households.

(e) A registration is effective upon receipt by the agency and is valid until August 15 each year.

(f) The agency must review each registration and notify the manufacturer of any information required by this section that is omitted from the registration. Within 30 days of receipt of a notification from the agency, the manufacturer must submit a revised registration providing the information noted by the agency.

(g) The agency must maintain on its website the names of manufacturers and the manufacturers' brands listed in registrations filed with the agency. The agency must update the website information promptly upon receipt of a new or updated registration. The website must contain prominent language stating, in effect, that sections 115A.1310 to 115A.1330 are directed at household equipment and the manufacturers' brands list is, therefore, not a list of manufacturers qualified to sell to industrial, commercial, or other markets identified as exempt from the requirements of sections 115A.1310 to 115A.1330.

Subd. 3. **Collector registration.** No person may operate as a collector of covered electronic devices from households unless that person has submitted a registration with the agency by July 15 each year on a form prescribed by the commissioner. Registration information must include the name, address, telephone number, and location of the business and a certification that the collector has complied and will continue to comply with the requirements of sections 115A.1312 to 115A.1318 and any regulations adopted by a local government unit for the jurisdiction in which the collector operates. A collector must indicate any end-of-life fees that will be charged at the collection point. A registration is effective upon receipt by the agency and is valid until July 15 each year.

Subd. 4. **Recycler registration.** No person may recycle video display devices generated by households unless that person has submitted a registration with the agency by July 15 each year on a form prescribed by the commissioner. Registration information must include the name, address, telephone number, and location of all recycling facilities under the direct control of the recycler that may receive covered electronic devices from households and a certification that the recycler has complied and will continue to comply with the requirements of sections 115A.1312 to 115A.1318. A registered recycler must conduct recycling activities that are consistent with this chapter. A registration is effective upon receipt by the agency and is valid until July 15 each year.

History: *2007 c 48 s 2; 2016 c 166 s 7-9; 1Sp2021 c 6 art 2 s 86*

115A.1314 MANUFACTURER REGISTRATION FEE.

Subdivision 1. **Registration fee.** (a) Each manufacturer who registers under section 115A.1312 must, by August 15 each year, pay to the commissioner of revenue an annual registration fee, on a form and in a manner prescribed by the commissioner of revenue. The commissioner of revenue must deposit the fee in the state treasury and credit the fee to the environmental fund.

(b) The registration fee for manufacturers that sell 100 or more video display devices to households in the state during the previous calendar year is $2,500, plus a variable recycling fee. The registration fee for manufacturers that sell fewer than 100 video display devices in the state during the previous calendar year is a variable recycling fee. The variable recycling fee is calculated according to the formula:

[A - (B + C)] x D, where:

A = the manufacturer's recycling obligation as determined under section 115A.1320;

B = the number of pounds of covered electronic devices that a manufacturer recycled or arranged to have collected and recycled from households during the immediately preceding program year, as reported under section 115A.1316, subdivision 1;

C = the number of phase I or phase II recycling credits a manufacturer elects to use to calculate the variable recycling fee; and

D = the estimated per-pound cost of recycling, initially set at $0.50 per pound for manufacturers who recycle less than 50 percent of the manufacturer's recycling obligation; $0.40 per pound for manufacturers who recycle at least 50 percent but less than 90 percent of the manufacturer's recycling obligation; $0.30 per pound for manufacturers who recycle at least 90 percent but less than 100 percent of the manufacturer's recycling obligation; and $0.00 per pound for manufacturers who recycle 100 percent or more of the manufacturer's recycling obligation.

(c) A manufacturer may petition the agency to waive the per-pound cost of recycling fee, element D in the formula in paragraph (b), required under this section. The agency shall direct the commissioner of revenue to waive the per-pound cost of recycling fee if the manufacturer demonstrates to the agency's satisfaction a good faith effort to meet its recycling obligation as determined under section 115A.1320. The petition must include:

(1) documentation that the manufacturer has met at least 75 percent of its recycling obligation as determined under section 115A.1320;

(2) a list of political subdivisions and public and private collectors with whom the manufacturer had a formal contract or agreement in effect during the previous program year to recycle or collect covered electronic devices;

(3) the total amounts of covered electronic devices collected from both within and outside of the 11-county metropolitan area, as defined in subdivision 2;

(4) a description of the manufacturer's best efforts to meet its recycling obligation as determined under section 115A.1320; and

(5) any other information requested by the agency.

(d) A manufacturer may retain phase I and phase II recycling credits to be added, in whole or in part, to the actual value of C, as reported under section 115A.1316, subdivision 2, during any succeeding program year, provided that no more than 25 percent of a manufacturer's recycling obligation A for any program year may be met with phase I and phase II recycling credits, separately or in combination, generated in a prior program year. A manufacturer may sell any portion or all of its phase I and phase II recycling credits to another manufacturer, at a price negotiated by the parties, who may use the credits in the same manner.

(e) For the purpose of determining B in calculating a manufacturer's variable recycling fee using the formula under paragraph (b), starting with the program year beginning July 1, 2019, and continuing each year thereafter, the weight of covered electronic devices that a manufacturer recycled or arranged to have collected and recycled from households located outside the 11-county metropolitan area, as defined in subdivision 2, paragraph (b), is calculated at 1.5 times their actual weight.

Subd. 2. **Use of registration fees.** (a) Registration fees may be used by the commissioner for:

(1) implementing sections 115A.1312 to 115A.1330, including transfer to the commissioner of revenue to carry out the department's duties under section 115A.1320, subdivision 2, and transfer to the commissioner of administration for responsibilities under section 115A.1324; and

(2) grants to counties outside the 11-county metropolitan area, as defined in paragraph (b), and to private entities that collect for recycling covered electronic devices in counties outside the 11-county metropolitan

area, where the collection and recycling is consistent with the respective county's solid waste plan, for the purpose of carrying out the activities under sections 115A.1312 to 115A.1330. In awarding competitive grants under this clause, the commissioner must give preference to counties and private entities that are working cooperatively with manufacturers to help them meet their recycling obligations under section 115A.1318, subdivision 1.

(b) The 11-county metropolitan area consists of the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright.

History: *2007 c 48 s 3; 2008 c 366 art 14 s 1; 2009 c 37 art 1 s 41; 2009 c 42 s 1; 1Sp2011 c 2 art 4 s 17; 1Sp2015 c 4 art 4 s 106; 2016 c 166 s 10; 1Sp2021 c 6 art 2 s 87*

115A.1316 REPORTING REQUIREMENTS.

Subdivision 1. **Manufacturer reporting requirements.** (a) By March 1 each year, each manufacturer must report to the agency using the form prescribed:

(1) the total weight of each specific model of its video display devices sold to households during the previous calendar year; and

(2) either:

(i) the total weight of its video display devices sold to households during the previous calendar year; or

(ii) an estimate of the total weight of its video display devices sold to households during the previous calendar year, calculated by multiplying the weight of its video display devices sold nationally times the quotient of Minnesota's population divided by the national population. All manufacturers with sales of 99 or fewer video display devices to households in the state during the previous calendar year must report using the method under this item for calculating sales.

A manufacturer must submit with the report required under this paragraph a description of how the information or estimate was calculated.

(b) By August 15 each year, each manufacturer must report to the agency:

(1) the total weight of covered electronic devices the manufacturer collected from households and recycled or arranged to have collected and recycled during the preceding program year;

(2) the number of phase I and phase II recycling credits the manufacturer has purchased and sold during the preceding program year;

(3) the number of phase I and phase II recycling credits possessed by the manufacturer that the manufacturer elects to use in the calculation of its variable recycling fee under section 115A.1314, subdivision 1; and

(4) the number of phase I and phase II recycling credits the manufacturer retains at the beginning of the current program year.

(c) Upon request of the commissioner of revenue, the agency shall provide a copy of each report to the commissioner of revenue.

Subd. 2. **Recycler reporting requirements.** (a) By July 15 each year, a recycler of covered electronic devices must report to the agency:

(1) the total weight of covered electronic devices recycled during the preceding program year and must certify that the recycler has complied with section 115A.1318, subdivision 2;

(2) the weight of video display devices recycled as part of covered electronic devices recycled during the previous program year; and

(3) an estimate of the weight of portable batteries and any mercury-containing lamps that are associated with the covered electronic devices managed.

(b) Upon request of the commissioner of revenue, the agency shall provide a copy of each report to the commissioner of revenue.

Subd. 3. **Collector reporting requirements.** By July 15 each year, a collector must report separately to the agency using the form prescribed by the commissioner:

(1) the total pounds of covered electronic devices collected in the state;

(2) a list of all recyclers to whom collectors delivered covered electronic devices; and

(3) whether the collector had a contract with a recycler or manufacturer to provide pounds toward meeting a manufacturer's obligation.

History: *2007 c 48 s 4; 2009 c 42 s 2; 2016 c 166 s 11; 1Sp2021 c 6 art 2 s 88*

115A.1318 RESPONSIBILITIES.

Subdivision 1. **Manufacturer responsibilities.** (a) In addition to fulfilling the requirements of sections 115A.1310 to 115A.1330, a manufacturer must comply with paragraphs (b) to (f).

(b) A manufacturer must annually recycle or arrange for the collection and recycling of an amount of video display devices as determined by the agency in section 115A.1320, subdivision 1. A manufacturer must assume all financial responsibility associated with transporting and recycling covered electronic devices that are used to meet the manufacturer's recycling obligation determined under section 115A.1320 or that are counted as phase I or II recycling credits, including any necessary supplies. This excludes costs that are associated with receiving and aggregating covered electronic devices from households and all the activities up to the time that covered electronic devices are loaded for transport to a recycler or arranged for transportation to a recycler.

(c) The obligations of a manufacturer apply only to video display devices received from households and do not apply to video display devices received from sources other than households.

(d) A manufacturer must conduct and document due diligence assessments of collectors and recyclers it contracts with, including an assessment of items specified under subdivision 2. A manufacturer is responsible for maintaining, for a period of three years, documentation that all covered electronic devices recycled, partially recycled, or sent to downstream recycling operations comply with the requirements of subdivision 2.

(e) A manufacturer must provide the agency with contact information for a person who can be contacted regarding the manufacturer's activities under sections 115A.1310 to 115A.1320.

(f) Only the covered electronic devices that are recycled by a registered recycler that is certified by an ANSI-ASQ National Accreditation Board-accredited third-party certification body to an environmentally sound management standard are eligible to meet the manufacturer's obligation.

Subd. 1a. **Collector responsibilities.** (a) Collection sites must be:

(1) staffed; and

(2) open to the public at a frequency adequate to meet the needs of the area being served.

(b) A collector may limit the number of covered electronic devices or covered electronic devices by product type accepted per customer per day or per delivery at a collection site or service.

(c) A collector must use only registered recyclers.

Subd. 2. **Recycler responsibilities.** (a) As part of the report submitted under section 115A.1316, subdivision 2, a recycler must certify, except as provided in paragraph (b), that facilities that recycle covered electronic devices, including all downstream recycling operations:

(1) use only registered collectors;

(2) comply with all applicable health, environmental, safety, and financial responsibility regulations;

(3) are licensed by all applicable governmental authorities;

(4) use no prison labor to recycle video display devices;

(5) possess liability insurance of not less than $1,000,000 for environmental releases, accidents, and other emergencies;

(6) provide a report annually to each registered collector regarding the video display devices received from that entity; and

(7) do not charge collectors for transporting, recycling, or any necessary supplies related to transporting or recycling covered electronic devices that meet a manufacturer's recycling obligation as determined under section 115A.1320, unless otherwise mutually agreed upon.

(b) A nonprofit corporation that contracts with a correctional institution to refurbish and reuse donated computers in schools is exempt from paragraph (a), clauses (4) and (5).

(c) Except to the extent otherwise required by law and unless agreed upon otherwise by the recycler or manufacturer, a recycler has no responsibility for any data that may be contained in a covered electronic device if an information storage device is included in the covered electronic device.

Subd. 3. **Retailer responsibilities.** A retailer who sells new video display devices shall provide information to households describing where and how they may recycle video display devices and advising them of opportunities and locations for the convenient collection of video display devices for the purpose of recycling. This requirement may be met by providing to households the agency's toll-free number and website address. Retailers selling through catalogs or the Internet may meet this requirement by including the information in a prominent location on the retailer's website.

History: *2007 c 48 s 5; 2009 c 42 s 3; 2016 c 166 s 12-14; 1Sp2021 c 6 art 2 s 89*

115A.1320 AGENCY AND DEPARTMENT DUTIES.

Subdivision 1. **Duties of agency.** (a) The agency shall administer sections 115A.1310 to 115A.1330.

(b) The agency shall establish procedures for:

(1) receipt and maintenance of the registration statements and certifications filed with the agency under section 115A.1312; and

(2) making the statements and certifications easily available to manufacturers, retailers, and members of the public.

(c) The agency shall annually review the following variables that are used to calculate a manufacturer's annual registration fee under section 115A.1314, subdivision 1:

(1) the obligation-setting mechanism for manufacturers as specified under paragraph (g);

(2) the estimated per-pound price of recycling covered electronic devices sold to households; and

(3) the base registration fee.

(d) If the agency determines that any of these values must be changed in order to improve the efficiency or effectiveness of the activities regulated under sections 115A.1312 to 115A.1330, or if the revenues exceed the amount that the agency determines is necessary, the agency shall submit recommended changes and the reasons for them to the chairs of the senate and house of representatives committees with jurisdiction over solid waste policy.

(e) By May 1 each year, the agency shall publish a statewide recycling goal for all video display device waste that is the weight of all video display devices collected for recycling during each of the three most recently completed program years, excluding the most recently concluded program year, divided by two.

(f) By May 1 each year, the agency shall determine each registered manufacturer's market share of video display devices to be collected and recycled based on the manufacturer's percentage share of the total weight of video display devices sold as reported to the agency under section 115A.1316, subdivision 1.

(g) By May 1 each year, the agency shall provide each manufacturer with a determination of the manufacturer's share of video display devices to be collected and recycled. A manufacturer's market share of video display devices as specified in paragraph (f) is applied proportionally to the statewide recycling goal as specified in paragraph (e) to determine an individual manufacturer's recycling obligation. Upon request by the commissioner of revenue, the agency must provide the information submitted to manufacturers under this paragraph to the commissioner of revenue.

(h) The agency shall provide a report to the governor and the legislature on the implementation of sections 115A.1310 to 115A.1330. For each program year, the report must discuss the total weight of covered electronic devices recycled and a summary of information in the reports submitted by manufacturers and recyclers under section 115A.1316. The report must also discuss the various collection programs used by manufacturers to collect covered electronic devices; information regarding covered electronic devices that are being collected by persons other than registered manufacturers, collectors, and recyclers; and information about covered electronic devices, if any, being disposed of in landfills in this state. The report must examine which covered electronic devices, based on economic and environmental considerations, should be subject to the obligation-setting mechanism under paragraph (g). The report must include a description of enforcement actions under sections 115A.1310 to 115A.1330. The agency may include in its report other information received by the agency regarding the implementation of sections 115A.1312 to 115A.1330. The report must be done in conjunction with the report required under section 115A.121.

(i) The agency shall promote public participation in the activities regulated under sections 115A.1312 to 115A.1330 through public education and outreach efforts.

(j) The agency shall enforce sections 115A.1310 to 115A.1330 in the manner provided by sections 115.071, subdivisions 1, 3, 4, 5, and 6; and 116.072, except for those provisions enforced by the department, as provided in subdivision 2. The agency may revoke a registration of a collector or recycler found to have violated sections 115A.1310 to 115A.1330.

(k) The agency shall facilitate communication between counties, collection and recycling centers, and manufacturers to ensure that manufacturers are aware of video display devices available for recycling.

(l) The agency shall post on its website the contact information provided by each manufacturer under section 115A.1318, subdivision 1, paragraph (e).

Subd. 2. **Additional duties.** (a) The agency must collect the data submitted to it annually by each manufacturer on the total weight of each specific model of video display device sold to households, if provided; the total weight of video display devices sold to households; the total weight of covered electronic devices collected from households that are recycled; and data on phase I and phase II recycling credits, as required under section 115A.1316. The department must use this data to review each manufacturer's annual registration fee submitted to the department to ensure that the fee was calculated accurately.

(b) The agency must estimate, for each registered manufacturer, the sales of video display devices to households during the previous program year, based on:

(1) data provided by a manufacturer on sales of video display devices to households, including documentation describing how that amount was calculated and certification that the amount is accurate; or

(2) if a manufacturer does not provide the data specified in clause (1), national data on sales of video display devices.

The department must use the data specified in this subdivision to review each manufacturer's annual registration fee submitted to the department to ensure that the fee was calculated accurately according to the formula in section 115A.1314, subdivision 1.

(c) The department must enforce section 115A.1314, subdivision 1. The audit, assessment, appeal, collection, enforcement, disclosure, and other administrative provisions of chapters 270B, 270C, and 289A that apply to the taxes imposed under chapter 297A apply to the fee imposed under section 115A.1314, subdivision 1. To enforce section 115A.1314, subdivision 1, the commissioner of revenue may grant extensions to pay, and impose and abate penalties and interest on, the fee due under section 115A.1314, subdivision 1, in the manner provided in chapters 270C and 289A as if the fee were a tax imposed under chapter 297A.

(d) The department may disclose nonpublic data to the agency only when necessary for the efficient and effective administration of the activities regulated under sections 115A.1310 to 115A.1330. Any data disclosed by the department to the agency retains the classification it had when in the possession of the department.

History: *2007 c 48 s 6; 1Sp2011 c 2 art 4 s 18; 2012 c 272 s 64; 2013 c 114 art 4 s 77; 2016 c 166 s 15; 1Sp2021 c 6 art 2 s 90*

115A.1322 OTHER RECYCLING PROGRAMS.

A city, county, or other public agency may not require households to use public facilities to recycle their covered electronic devices to the exclusion of other lawful programs available. Cities, counties, and other public agencies, including those awarded contracts by the agency under section 115A.1314, subdivision 2,

are encouraged to work with manufacturers to assist them in meeting their recycling obligations under section 115A.1318, subdivision 1. Nothing in sections 115A.1310 to 115A.1330 prohibits or restricts the operation of any program recycling covered electronic devices in addition to those provided by manufacturers or prohibits or restricts any persons from receiving, collecting, transporting, or recycling covered electronic devices, provided that those persons are registered under section 115A.1312.

History: *2007 c 48 s 7*

115A.1323 ANTICOMPETITIVE CONDUCT.

(a) A manufacturer that organizes collection or recycling under sections 115A.1310 to 115A.1322 is authorized to engage in anticompetitive conduct to the extent necessary to plan and implement its chosen organized collection or recycling system and is immune from liability under state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

(b) An organization of manufacturers, an individual manufacturer, and its officers, members, employees, and agents who cooperate with a political subdivision that organizes collection or recycling under this section are authorized to engage in anticompetitive conduct to the extent necessary to plan and implement the organized collection or recycling system, provided that the political subdivision actively supervises the participation of each entity. An organization, entity, or person covered by this paragraph is immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

History: *2007 c 48 s 8; 2016 c 166 s 16*

115A.1324 REQUIREMENTS FOR PURCHASES BY STATE AGENCIES.

(a) The Department of Administration must ensure that acquisitions of video display devices under chapter 16C are in compliance with or not subject to sections 115A.1310 to 115A.1318.

(b) The solicitation documents must specify that the prospective responder is required to cooperate fully in providing reasonable access to its records and documents that evidence compliance with paragraph (a) and sections 115A.1310 to 115A.1318.

(c) Any person awarded a contract under chapter 16C for purchase or lease of video display devices that is found to be in violation of paragraph (a) or sections 115A.1310 to 115A.1318 is subject to the following sanctions:

(1) the contract must be voided if the commissioner of administration determines that the potential adverse impact to the state is exceeded by the benefit obtained from voiding the contract;

(2) the contractor is subject to suspension and disbarment under Minnesota Rules, part 1230.1150; and

(3) if the attorney general establishes that any money, property, or benefit was obtained by a contractor as a result of violating paragraph (a) or sections 115A.1310 to 115A.1318, the court may, in addition to any other remedy, order the disgorgement of the unlawfully obtained money, property, or benefit.

History: *2007 c 48 s 9*

115A.1326 REGULATING VIDEO DISPLAY DEVICES.

If the United States Environmental Protection Agency adopts regulations under the Resource Conservation and Recovery Act regarding the handling, storage, or treatment of any type of video display device being

recycled, those regulations are automatically effective in this state on the same date and supersede any rules previously adopted by the agency regarding the handling, storage, or treatment of all video display devices being recycled.

History: *2007 c 48 s 10*

115A.1328 MULTISTATE IMPLEMENTATION.

The agency and department are authorized to participate in the establishment of a regional multistate organization or compact to assist in carrying out the requirements of this chapter.

History: *2007 c 48 s 11*

115A.1330 LIMITATIONS.

Sections 115A.1310 to 115A.1330 expire if a federal law, or combination of federal laws, take effect that is applicable to all video display devices sold in the United States and establish a program for the collection and recycling or reuse of video display devices that is applicable to all video display devices discarded by households.

History: *2007 c 48 s 12*

115A.14 MS 1994 [Repealed, 1996 c 310 s 1]

PRODUCT STEWARDSHIP AND PRODUCER RESPONSIBILITY PROGRAMS

115A.1415 ARCHITECTURAL PAINT; PRODUCT STEWARDSHIP PROGRAM; STEWARDSHIP PLAN.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given:

(1) "annual operating expenses" means the total amount of a producer's or stewardship organization's expenses in a calendar year for developing a stewardship plan, operating and administering the program in accordance with the stewardship plan, and meeting the requirements of this section, determined at the time the annual report required under subdivision 12 is submitted;

(2) "architectural paint" means interior and exterior architectural coatings sold in containers of five gallons or less. Architectural paint does not include industrial coatings, original equipment coatings, or specialty coatings;

(3) "brand" means a name, symbol, word, or mark that identifies architectural paint, rather than its components, and attributes the paint to the owner or licensee of the brand as the producer;

(4) "discarded paint" means architectural paint that is no longer used for its manufactured purpose;

(5) "producer" means a person that:

(i) has legal ownership of the brand, brand name, or cobrand of architectural paint sold in the state;

(ii) imports architectural paint branded by a producer that meets item (i) when the producer has no physical presence in the United States;

(iii) if items (i) and (ii) do not apply, makes unbranded architectural paint that is sold in the state; or

(iv) sells architectural paint at wholesale or retail, does not have legal ownership of the brand, and elects to fulfill the responsibilities of the producer for the architectural paint by certifying that election in writing to the commissioner;

(6) "recycling" means the process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use;

(7) "retailer" means any person who offers architectural paint for sale at retail in the state;

(8) "reuse" means donating or selling collected architectural paint back into the market for its original intended use, when the architectural paint retains its original purpose and performance characteristics;

(9) "sale" or "sell" means transfer of title of architectural paint for consideration, including a remote sale conducted through a sales outlet, catalog, website, or similar electronic means. Sale or sell includes a lease through which architectural paint is provided to a consumer by a producer, wholesaler, or retailer;

(10) "stewardship assessment" means the amount added to the purchase price of architectural paint sold in the state to implement a product stewardship program according to an approved stewardship plan;

(11) "stewardship organization" means an organization appointed by one or more producers to act as an agent on behalf of the producer to design, submit, and administer a product stewardship program under this section; and

(12) "stewardship plan" means a detailed plan describing the manner in which a product stewardship program under subdivision 2 will be implemented.

Subd. 2. **Product stewardship program.** For architectural paint sold in the state, producers must, individually or through a stewardship organization, implement and finance a statewide product stewardship program that manages the architectural paint by reducing the paint's waste generation, promoting its reuse and recycling, and providing for negotiation and execution of agreements to collect, transport, and process the architectural paint for end-of-life recycling and reuse.

Subd. 3. **Participation required to sell.** (a) No producer, wholesaler, or retailer may sell or offer for sale in the state architectural paint unless the paint's producer participates in an approved stewardship plan, either individually or through a stewardship organization.

(b) Each producer must operate a product stewardship program approved by the commissioner or enter into an agreement with a stewardship organization to operate, on the producer's behalf, a product stewardship program approved by the commissioner.

Subd. 4. **Stewardship plan required.** (a) Before offering architectural paint for sale in the state, a producer must submit a stewardship plan to the commissioner and receive approval of the plan or must submit documentation to the commissioner that demonstrates the producer has entered into an agreement with a stewardship organization to be an active participant in an approved product stewardship program as described in subdivision 2. A stewardship plan must include all elements required under subdivision 5.

(b) A proposed amendment to the plan, if determined necessary by the commissioner, must be submitted to the commissioner for review and approval or rejection every five years.

(c) The entities responsible for each stewardship plan must notify the commissioner within 30 days of any significant proposed changes to the plan or its implementation. Within 30 days of the notification, a

written proposed plan amendment must be submitted to the commissioner for review and approval or rejection.

Subd. 5. **Plan content.** A stewardship plan must contain:

(1) certification that the product stewardship program will accept all discarded paint regardless of which producer produced the architectural paint and its individual components;

(2) contact information for the individual and the entity submitting the stewardship plan, a list of all producers participating in the product stewardship program, and the brands covered by the product stewardship program;

(3) a description of the methods by which the discarded paint will be collected in all areas in the state without relying on end-of-life fees, including an explanation of how the collection system will be convenient and adequate to serve the needs of small businesses and residents in both urban and rural areas on an ongoing basis and a discussion of how the existing household hazardous waste infrastructure will be considered when selecting collection sites;

(4) a description of how the adequacy of the collection program will be monitored and maintained;

(5) the names and locations of collectors, transporters, and recyclers that will manage discarded paint;

(6) a description of how the discarded paint and the paint's components will be safely and securely transported, tracked, and handled from collection through final recycling and processing;

(7) a description of the method that will be used to reuse, deconstruct, or recycle the discarded paint to ensure that the paint's components, to the extent feasible, are transformed or remanufactured into finished products for use;

(8) a description of the promotion and outreach activities that will be used to encourage participation in the collection and recycling programs and how the activities' effectiveness will be evaluated and the program modified, if necessary;

(9) the proposed stewardship assessment established according to subdivision 5a;

(10) evidence of adequate insurance and financial assurance that may be required for collection, handling, and disposal operations;

(11) five-year performance goals, including an estimate of the percentage of discarded paint that will be collected, reused, and recycled during each of the first five years of the stewardship plan. The performance goals must include a specific goal for the amount of discarded paint that will be collected and recycled and reused during each year of the plan. The performance goals must be based on:

(i) the most recent collection data available for the state;

(ii) the estimated amount of architectural paint disposed of annually;

(iii) the weight of the architectural paint that is expected to be available for collection annually; and

(iv) actual collection data from other existing stewardship programs.

The stewardship plan must state the methodology used to determine these goals; and

(12) a discussion of the status of end markets for collected architectural paint and what, if any, additional end markets are needed to improve the functioning of the program.

Subd. 5a. **Stewardship assessment.** (a) The producer or stewardship organization must propose a uniform stewardship assessment for any architectural paint sold in the state that covers but does not exceed the costs of developing the stewardship plan, operating and administering the program in accordance with the stewardship plan and the requirements of this section, and maintaining a financial reserve.

(b) The producer or stewardship organization must retain an independent auditor to review the proposed stewardship assessment to ensure that the assessment meets the requirements of this section. The independent auditor must recommend an amount for the stewardship assessment.

(c) A stewardship organization's or producer's product stewardship program must not maintain a financial reserve in excess of 75 percent of its annual operating expenses.

(d) If the financial reserve exceeds 75 percent of the producer's or stewardship organization's annual operating expenses, the producer or stewardship organization must submit a proposed plan amendment according to subdivision 4, paragraph (c), to comply with this subdivision.

(e) A producer or stewardship organization may submit a written request to the commissioner for an extension of the time to comply with paragraphs (c) and (d). The commissioner must review and approve or reject the request. If the commissioner approves a request, the commissioner must determine the length of the extension, which must not exceed two consecutive years. The request must demonstrate that the financial reserve is projected to fall below 75 percent of the producer's or stewardship organization's annual operating expenses without a plan amendment within two years of the request.

(f) If the financial reserve falls below 60 percent of the producer's or stewardship organization's annual operating expenses, the producer or stewardship organization may submit a proposed plan amendment according to subdivision 4, paragraph (c), to comply with this subdivision.

(g) The commissioner must review and approve or reject the stewardship assessment according to subdivision 7.

(h) A producer or stewardship organization may not use any money collected through a stewardship assessment to pay for litigation against the state related to this section or to pay penalties imposed according to section 115.071 or 116.072.

Subd. 6. **Consultation required.** Each stewardship organization or individual producer submitting a stewardship plan or plan amendment must consult with stakeholders including retailers, contractors, collectors, recyclers, local government, and customers during the development of the plan or plan amendment.

Subd. 7. **Commissioner review and approval.** (a) Within 90 days after receiving a proposed stewardship plan, the commissioner must determine whether the plan complies with this section. If the commissioner approves a plan, the commissioner must notify the applicant of the plan approval in writing. If the commissioner rejects a plan, the commissioner must notify the applicant in writing of the reasons for rejecting the plan.

(b) An applicant whose plan is rejected by the commissioner must submit a revised stewardship plan to the commissioner within 60 days after receiving notice of rejection.

(c) Any proposed amendment to a stewardship plan must be reviewed and approved or rejected by the commissioner in writing according to this subdivision.

Subd. 8. **Plan availability.** All proposed stewardship plans and amendments and approved stewardship plans and amendments must be placed on the agency's website for at least 30 days and made available at the agency's headquarters for public review and comment.

Subd. 9. **Conduct authorized.** A producer or stewardship organization that organizes collection, transport, and processing of architectural paint under this section is immune from liability for the conduct under state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce only to the extent that the conduct is necessary to plan and implement the producer's or organization's chosen organized collection or recycling system.

Subd. 10. **Producer responsibilities.** (a) On and after the date of implementation of a product stewardship program according to this section, a producer of architectural paint must add the stewardship assessment, as established under subdivision 5a, to the cost of architectural paint sold to retailers and distributors in the state by the producer.

(b) Producers of architectural paint or the stewardship organization must provide consumers with educational materials regarding the stewardship assessment and product stewardship program. The materials must include, but are not limited to, information regarding available end-of-life management options for architectural paint offered through the product stewardship program and information that notifies consumers that a charge for the operation of the product stewardship program is included in the purchase price of architectural paint sold in the state.

Subd. 11. **Retailer responsibilities.** (a) No architectural paint may be sold in the state unless the paint's producer is participating in an approved stewardship plan.

(b) On and after the implementation date of a product stewardship program according to this section, each retailer or distributor, as applicable, must ensure that the full amount of the stewardship assessment added to the cost of architectural paint by producers under subdivision 10 is included in the purchase price of all architectural paint sold in the state.

(c) Any retailer may participate, on a voluntary basis, as a designated collection point pursuant to a product stewardship program under this section and in accordance with applicable law.

(d) No retailer or distributor shall be found to be in violation of this subdivision if, on the date the architectural paint was ordered from the producer or its agent, the producer was listed as compliant on the agency's website according to subdivision 14.

Subd. 12. **Stewardship reports.** By April 1 each year, producers of architectural paint sold in the state must individually or through a stewardship organization submit an annual report to the commissioner describing the product stewardship program for the preceding calendar year. At a minimum, the report must contain:

(1) a description of the methods used to collect, transport, and process architectural paint in all regions of the state;

(2) the weight of all architectural paint collected in all regions of the state and a comparison to the performance goals and recycling rates established in the stewardship plan;

(3) the amount of unwanted architectural paint collected in the state by method of disposition, including reuse, recycling, and other methods of processing;

(4) samples of educational materials provided to consumers and an evaluation of the effectiveness of the materials and the methods used to disseminate the materials; and

(5) an independent financial audit.

Subd. 13. **Data classification.** Trade secret and sales information, as defined under section 13.37, submitted to the commissioner under this section are private or nonpublic data under section 13.37.

Subd. 14. **Commissioner responsibilities.** The commissioner must provide, on the agency's website, a list of all compliant producers and brands participating in stewardship plans that the commissioner has approved and a list of all producers and brands the commissioner has identified as noncompliant with this section.

Subd. 15. **Local government responsibilities.** (a) A city, county, or other public agency may choose to participate voluntarily in a product stewardship program.

(b) Cities, counties, and other public agencies are encouraged to work with producers and stewardship organizations to assist in meeting product stewardship program reuse and recycling obligations, by providing education and outreach or using other strategies.

(c) A city, county, or other public agency that participates in a product stewardship program must report for the first year of the program to the commissioner using the reporting form provided by the commissioner on the cost savings as a result of participation and must describe how the savings were used.

Subd. 16. **Administrative fee.** (a) The stewardship organization or individual producer submitting a stewardship plan must pay an annual administrative fee to the commissioner. The commissioner may establish a variable fee based on relevant factors, including but not limited to the portion of architectural paint sold in the state by members of the organization compared to the total amount of architectural paint sold in the state by all organizations submitting a stewardship plan.

(b) Before July 1 each year, the commissioner must identify the costs the agency incurs under this section. The commissioner must set the fee at an amount that, when paid by every stewardship organization or individual producer that submits a stewardship plan, is adequate to reimburse the agency's full costs of administering this section. The total amount of annual fees collected under this subdivision must not exceed the amount necessary to reimburse costs incurred by the agency to administer this section.

(c) A stewardship organization or individual producer subject to this subdivision must pay the commissioner's administrative fee under paragraph (a) on or before July 1 each year. Each year after the initial payment, the annual administrative fee may not exceed five percent of the aggregate stewardship assessment added to the cost of all architectural paint sold by producers in the state for the preceding calendar year.

(d) All fees received under this section must be deposited in the state treasury and credited to a product stewardship account in the special revenue fund. The amount collected under this section is annually appropriated to the commissioner to implement and enforce this section.

Subd. 17. **Duty to provide information.** Upon request of the commissioner for purposes of determining compliance with this section, a person must furnish to the commissioner any information that the person has or may reasonably obtain.

History: *2013 c 114 art 4 s 78; 1Sp2015 c 4 art 4 s 107; 2023 c 60 art 3 s 8*

115A.1416 BOAT WRAP PRODUCT STEWARDSHIP PROGRAM.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Boat" has the meaning given to watercraft under section 86B.005, subdivision 18.

(c) "Boat wrap" means plastic that is used, intended for use, designed, or marketed for the purposes of wrapping a boat to protect it against moisture and damage from other potentially harmful elements during storage.

(d) "Brand" means a name, symbol, word, or mark that identifies boat wrap and attributes it to the boat wrap producer.

(e) "Independent auditor" means an independent and actively licensed certified public accountant that is:

(1) retained by a stewardship organization;

(2) not otherwise employed by or affiliated with the stewardship organization; and

(3) qualified to conduct the audit required under subdivision 16.

(f) "Producer" means, with respect to boat wrap that is sold, offered for sale, imported, or distributed in the state by any means, a person that:

(1) manufactured the boat wrap under a brand that the person owns or controls;

(2) owns or controls or is licensed to use a brand for boat wrap;

(3) imported or imports the boat wrap into the United States; or

(4) distributed or distributes boat wrap in or into the state.

(g) "Recycle" or "recycling" means the process of transforming boat wrap through mechanical processes into a finished product for use or into a new material capable of being processed into a finished product. Recycle or recycling does not include:

(1) altering the chemical structure of boat wrap;

(2) using boat wrap as or processing boat wrap into a feedstock to produce transportation fuels; or

(3) destroying boat wrap by incineration or other processes.

(h) "Retailer" means a person that sells or offers boat wrap for sale in or into this state by any means.

(i) "Stewardship organization" means an organization designated by one or more producers to act on their behalf as an agent to design, submit, and implement a product stewardship plan under this section.

Subd. 2. **Product stewardship program.** A producer selling or offering boat wrap for sale in or into this state must, through membership in a stewardship organization, implement and finance a statewide product stewardship program according to a stewardship plan approved by the commissioner to reduce the volume of boat wrap disposed of in landfills by promoting and providing for the negotiation and execution of agreements to collect, transport, reuse, and recycle boat wrap.

Subd. 3. **Participation required to sell.** (a) On and after September 1, 2025, no person may use boat wrap, sell boat wrap, or offer boat wrap for sale in or into this state unless the producer participates in an approved stewardship plan through a stewardship organization.

(b) Each producer must enter into an agreement with a stewardship organization to operate, on the producer's behalf, a product stewardship program approved by the commissioner.

(c) All producers offering boat wrap for sale in or into this state must become a member of a single stewardship organization implementing a single stewardship plan.

Subd. 4. **Stewardship plan required.** On or before March 1, 2025, a stewardship organization, on behalf of member producers, must submit a stewardship plan to the commissioner for review and approval or rejection. A stewardship plan must include all elements required under subdivision 5.

Subd. 5. **Plan content.** A stewardship plan must contain:

(1) contact information for the individual and the entity submitting the plan, a list of all producers participating in the product stewardship program, and the brands of boat wrap included in the product stewardship program;

(2) certification that the product stewardship program will accept all discarded boat wrap regardless of who produced it;

(3) a description of methods by which boat wrap will be collected in all areas of the state in compliance with subdivision 14, including:

(i) an explanation of how the collection system will be convenient and adequate to serve the needs of boat owners, marinas, and boat storage establishments in both urban and rural areas on an ongoing basis; and

(ii) a discussion of how existing marinas, boat storage establishments, and sites designated as recycling centers under section 115A.555 will be considered when selecting collection sites;

(4) a description of how the performance of the collection and recycling program will be measured, monitored, and maintained;

(5) the names and locations of collectors, transporters, reuse facilities, and recyclers that will manage discarded boat wrap;

(6) a description of how discarded boat wrap will be safely and securely transported, tracked, and handled from collection through final recycling and disposal of residuals;

(7) a description of the methods that will be used to separate and manage nonrecyclable materials attached to boat wrap and to recycle discarded boat wrap;

(8) a description of the promotion and outreach activities that will be undertaken to encourage participation in the boat wrap collection and recycling programs and how their effectiveness will be evaluated;

(9) the annual performance goals established by the commissioner under subdivision 12;

(10) evidence of adequate insurance and financial assurance that may be required for collection, transport, reuse, recycling, and disposal operations; and

(11) a discussion of the status of end markets for collected boat wrap and what, if any, additional end markets are needed to improve the functioning of the program.

Subd. 6. **Consultation required.** In developing a stewardship plan, a stewardship organization must consult with stakeholders, including boat owners, owners of marinas and boat storage establishments, contractors, collectors, recyclers, Tribes, and local government units.

Subd. 7. **Agency review and approval or rejection.** (a) Within 120 days after receiving a proposed stewardship plan, the commissioner must determine whether the plan complies with subdivision 5. If the commissioner approves a plan, the commissioner must notify the applicant of the plan approval in writing. If the commissioner rejects a plan, the commissioner must notify the applicant in writing of the reasons for rejection. An applicant whose plan is rejected by the commissioner must submit a revised plan to the commissioner within 60 days after receiving notice of rejection. If a revised plan is rejected by the commissioner, the commissioner may elect to write a plan that the applicant must implement.

(b) Commissioner approval of a written plan amendment is required before a stewardship organization may make any change to an approved plan or its implementation. A proposed plan amendment must be submitted to the commissioner for review and approval or rejection according to paragraph (a) and subdivision 8.

(c) A stewardship organization may operate under an approved stewardship plan for five years after the date the plan is approved by the commissioner, at which time the plan expires.

(d) Six months before an approved stewardship plan expires, a stewardship organization must submit a new proposed stewardship plan to the commissioner that meets the requirements of this section. The commissioner must review and approve or reject the new proposed stewardship plan according to this subdivision and subdivision 8.

Subd. 8. **Plan availability.** The commissioner must make a proposed stewardship plan or proposed plan amendment available on the agency website for public review and comment at least 45 days before the commissioner's decision regarding plan approval or rejection. The commissioner must make an approved stewardship plan available on the agency website.

Subd. 9. **Conduct authorized.** A stewardship organization that organizes collection, transport, reuse, and recycling of boat wrap under this section is immune from liability for conduct under state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce only to the extent that the conduct is necessary to plan and implement the producer's or organization's chosen collection, transportation, reuse, or recycling program.

Subd. 10. **Stewardship organization responsibilities.** A stewardship organization must provide boat wrap purchasers with educational materials regarding the product stewardship program. The materials must include, but are not limited to, information regarding available collection, transportation, reuse, and recycling options for boat wrap offered through the product stewardship program.

Subd. 11. **Retailer responsibilities.** (a) A retailer and a wholesaler are responsible for reviewing the list of compliant producers on the agency website, maintained under subdivision 12, to determine whether a producer is compliant with this section.

(b) A retailer or wholesaler of boat wrap is not in violation of this subdivision if, on the date the boat wrap was ordered from a producer or wholesaler, the producer was listed as compliant on the agency website.

(c) A retailer may elect to participate as a designated point where boat wrap is collected as part of a product stewardship program approved under this section and in accordance with applicable law.

Subd. 12. **Agency responsibilities.** (a) The commissioner must maintain on the agency website a list of all compliant producers and brands participating in a stewardship plan that the commissioner has approved and a list of all producers and brands the commissioner has identified as noncompliant with this section.

(b) The commissioner must, in consultation with the stewardship organization, establish annual performance goals regarding the percentage and weight of boat wrap collected and recycled that the stewardship organization must incorporate into its stewardship plan and meet annually. The performance goals must increase each year and be based on:

(1) the most recent collection data available for the state;

(2) the estimated weight of boat wrap sold and discarded annually;

(3) actual collection data from boat wrap recycling or stewardship programs operating in other states; and

(4) continuous progress necessary to meet the requirements in paragraph (c).

(c) By June 1, 2030, no less than 50 percent of the total weight of boat wrap sold in this state must be collected and recycled. By June 1, 2035, no less than 80 percent of the total weight of boat wrap sold in this state must be collected and recycled.

(d) After June 1, 2035, the commissioner may establish additional requirements for the percentage of boat wrap sold in the state that must be collected and recycled. The requirements must not be less than those listed in this subdivision and must be based on the factors in paragraph (b), clauses (1) to (3).

Subd. 13. **Administrative fee.** (a) A stewardship organization must pay an annual administrative fee to the commissioner. Before June 1, 2025, and before each June 1 thereafter, the commissioner must identify the costs the agency incurs to administer and enforce this section. The commissioner must set the fee at an amount that, when paid by the stewardship organization, is sufficient to reimburse the agency's full costs of administering and enforcing this section but does not exceed those costs.

(b) A stewardship organization must pay the administrative fee required under this subdivision on or before July 1, 2025, and annually thereafter, on a schedule and in a manner prescribed by the commissioner.

(c) The commissioner must deposit all fees received under this subdivision in the account established in subdivision 15.

Subd. 14. **User fees prohibited.** The stewardship program must be fully paid for by producers, without any fee, charge, surcharge, or any other cost to members of the public, businesses other than a producer, persons managing boat wrap, the state or any political subdivision, or any other person who is not a producer.

Subd. 15. **Account established.** (a) A boat wrap stewardship account is established in the special revenue fund in the state treasury. The account consists of money received from the administrative fee established in subdivision 13. The commissioner must manage the account.

(b) Money in the account is appropriated annually to the commissioner for administering and enforcing this section.

Subd. 16. **Stewardship reports.** Beginning March 1, 2026, and each March 1 thereafter, a stewardship organization operating under this section must submit an annual report to the commissioner describing the program operations of the stewardship plan during the previous calendar year. At a minimum, the report must contain:

(1) a description of the methods used to collect, transport, reuse, and recycle discarded boat wrap in all regions of the state;

(2) the weight of all boat wrap collected and recycled in each separate region of the state;

(3) the weight of all boat wrap sold in the state;

(4) the weight of discarded boat wrap collected in the state by method of disposition, including recycling, reuse, disposal of residuals, and other methods of processing;

(5) a comparison of the amount of boat wrap collected and recycled with the performance goals established according to subdivision 12 and, if the goals have not been met, a discussion of why the performance goals were not met and proposed modifications to the collection program the stewardship organization will implement to ensure that future performance goals will be met;

(6) samples of educational materials provided to boat wrap consumers, marinas, and boat storage establishments and an evaluation of the effectiveness of the materials and the methods used to disseminate the materials; and

(7) an independent financial audit of stewardship organization activities performed by an independent auditor. The independent auditor must be selected by the stewardship organization and approved or rejected by the commissioner. If the commissioner rejects an independent auditor, the operator must select a different independent auditor for approval or rejection by the commissioner. The independent audit must meet the requirements of Accounting Standards Update 2018-08, Not-for-Profit Entities (Topic 958), Financial Accounting Standards Board, as amended.

Subd. 17. **Data classification.** Trade secret and sales information, as defined under section 13.37, submitted to the commissioner under this section are private or nonpublic data under section 13.37.

Subd. 18. **Duty to provide information.** Upon request of the commissioner for purposes of determining compliance with this section, a person must furnish to the commissioner any information that the person has or may reasonably obtain.

History: *2024 c 116 art 2 s 9*

115A.142 REPORT TO LEGISLATURE AND GOVERNOR.

As part of the report required under section 115A.121, the commissioner of the Pollution Control Agency shall provide a report to the governor and the legislature on the implementation of section 115A.1415.

History: *2013 c 114 art 4 s 79*

PACKAGING WASTE AND PRODUCER RESPONSIBILITY

115A.144 SHORT TITLE.

Sections 115A.144 to 115A.1463 may be cited as the "Packaging Waste and Cost Reduction Act."

History: *2024 c 116 art 5 s 1*

115A.1441 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 115A.144 to 115A.1463, the terms in this section have the meanings given.

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

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

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

Subd. 5. **Collection rate.** "Collection rate" means the amount of a covered material by covered materials type collected by service providers and transported for recycling or composting divided by the total amount of the type of a covered material by covered materials type sold or distributed into the state by the relevant unit of measurement established in section 115A.1451.

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

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

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

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

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

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

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

Subd. 9. **Covered entity.** "Covered entity" means a person or location that receives covered services for covered materials in accordance with the requirements of sections 115A.144 to 115A.1463, including:

(1) a single-family residence;

(2) a multifamily residence;

(3) a school as defined in sections 120A.22, subdivision 4, and 136A.62, subdivision 3, clauses (1) and (2); a nonpublic school as defined in section 123B.41, subdivision 9; postsecondary educational systems as defined in section 142E.01, subdivision 20; a provider as defined in section 142E.01, subdivision 20; and any other location where education or child care is provided;

(4) a nonprofit corporation with annual revenue of less than $35,000,000; and

(5) a state agency, political subdivision, public area, public entity as defined in section 115A.151, or other governmental unit.

Subd. 10. **Covered material.** "Covered material" means packaging and paper products introduced. Covered material does not include exempt materials.

Subd. 11. **Covered materials type.** "Covered materials type" means a singular and specific type of covered material, such as paper, plastic, metal, or glass, that:

(1) can be categorized based on distinguishing chemical or physical properties, including properties that allow a covered materials type to be aggregated into a discrete commodity category for purposes of reuse, recycling, or composting; and

(2) is based on similar uses in the form of a product or package.

Subd. 12. **Covered services.** "Covered services" means collecting, transferring, transporting, sorting, processing, recovering, preparing, or otherwise managing for purposes of waste reduction, reuse, recycling, or composting. Covered services does not mean any management method according to section 115A.02, paragraph (b), clauses (4) to (6).

Subd. 13. **De minimis producer.** "De minimis producer" means a person that in their most recent fiscal year:

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

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

Subd. 14. **Drop-off collection site.** "Drop-off collection site" means a physical location where covered materials are accepted from the public and that is open a minimum of 12 hours weekly throughout the year.

Subd. 15. **Environmental impact.** "Environmental impact" means the impact of a covered material on human health and the environment from extraction and processing of the raw materials composing the material through manufacturing; distribution; use; recovery for reuse, recycling, or composting; and final disposal.

Subd. 16. **Exempt materials.** "Exempt materials" means materials, or any portion of materials, that:

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

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

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

(4) are packaging for a product regulated as a drug or medical device by the United States Food and Drug Administration, including associated components and consumable medical equipment;

(5) are packaging for a medical equipment or product used in medical settings that is regulated by the United States Food and Drug Administration, including associated components and consumable medical equipment;

(6) are drugs, biological products, parasiticides, medical devices, or in vitro diagnostics that are used to treat, or that are administered to, animals and are regulated by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 301 et seq., by the United States Department of Agriculture under the federal Virus-Serum-Toxin Act, United States Code, title 21, section 151 et seq.;

(7) are packaging for products regulated by the United States Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, United States Code, title 7, section 136 et seq.;

(8) are packaging used to contain liquefied petroleum gas and are designed to be refilled;

(9) are paper products used for a newspaper's print publications, including supplements or enclosures, that include content derived from primary sources related to news and current events;

(10) are paper products used for a magazine's print publication that has a circulation of less than 95,000 and that primarily includes content derived from primary sources related to news and current events;

(11) are packaging used to contain hazardous or flammable products regulated by the 2012 federal Occupational Safety and Health Administration Hazard Communication Standard, Code of Federal Regulations, title 29, section 1910.1200, that prevent the packaging from being waste reduced or made reusable, recyclable, or compostable, as determined by the commissioner;

(12) are packaging that is being collected and properly managed through a paint stewardship plan approved under section 115A.1415;

(13) are exempt materials, as determined by the commissioner under section 115A.1453, subdivision 6; or

(14) are covered materials that:

(i) a producer distributes to another producer;

(ii) are subsequently used to contain a product, and the product is distributed to a commercial or business entity for the production of another product; and

(iii) are not introduced to a person other than the commercial or business entity that first received the product used for the production of another product.

Subd. 17. **Food packaging.** "Food packaging" has the meaning given in section 325F.075.

Subd. 18. **Independent auditor.** "Independent auditor" means an independent and actively licensed certified public accountant that is:

(1) retained by a producer responsibility organization;

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

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

Subd. 19. **Infrastructure investment.** "Infrastructure investment" means an investment by a producer responsibility organization that funds or reimburses a person for:

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

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

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

Subd. 20. **Introduce.** "Introduce" means to sell, offer for sale, distribute, or use to ship a product within or into this state.

Subd. 21. **Living wage.** "Living wage" means the minimum hourly wage necessary to allow a person working 40 hours per week to afford basic needs.

Subd. 22. **Needs assessment.** "Needs assessment" means an assessment conducted according to section 115A.1450, subdivision 4. Except where the context requires otherwise, needs assessment means the most recently completed needs assessment.

Subd. 23. **Packaging.** "Packaging" has the meaning given in section 115A.03 and includes food packaging. Packaging does not include exempt materials.

Subd. 24. **Paper product.** "Paper product" means a product made primarily from wood pulp or other cellulosic fibers but does not include bound books or products that recycling or composting facilities will not accept because of the unsafe or unsanitary nature of the paper product. Paper product does not include exempt materials.

Subd. 25. **Postconsumer recycled content.** "Postconsumer recycled content" means the amount of postconsumer material used by a producer in the production of a covered materials type, divided by the total amount of that covered materials type used for products sold or distributed by the producer in that same calendar year.

Subd. 26. **Producer.** (a) "Producer" means the following person responsible for compliance with requirements under sections 115A.144 to 115A.1463 for a covered material introduced:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) where another person has mutually signed an agreement with a producer as defined in clauses (1) to (5) that contractually assigns responsibility to the person as the producer, and the person has joined a registered producer responsibility organization as the responsible producer for that covered material under sections 115A.144 to 115A.1463. In the event that another person is assigned responsibility as the producer under this subdivision, the producer under clauses (1) to (5) must provide written certification of that contractual agreement to the producer responsibility organization; and

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

(b) "Producer" does not include:

(1) a state, a federal or state agency, a political subdivision, or other governmental unit;

(2) a registered 501(c)(3) charitable organization or 501(c)(4) social welfare organization;

(3) a de minimis producer;

(4) a mill that uses any virgin wood fiber in the products it produces; or

(5) a paper mill that produces container board derived from 100 percent postconsumer recycled content and nonpostconsumer recycled content.

Subd. 27. **Producer responsibility organization.** "Producer responsibility organization" means a nonprofit corporation that is tax exempt under chapter 501(c)(3) of the federal Internal Revenue Code and that is created by a group of producers to implement activities under sections 115A.144 to 115A.1463.

Subd. 28. **Recycling.** "Recycling" has the meaning given in section 115A.03 except that recycling does not include reuse or composting, as defined in sections 115A.144 to 115A.1463.

Subd. 29. **Recycling rate.** "Recycling rate" means the amount of recyclable covered material, in aggregate or by individual covered materials type, recycled in a calendar year divided by the total amount of recyclable covered materials sold or distributed into the state by the relevant unit of measurement established in section 115A.1451.

Subd. 30. **Refill.** "Refill" means the continued use of a covered material by a consumer through a system that is:

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

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

(3) compliant with all applicable federal, state, and local statutes, rules, ordinances, and other laws governing health and safety.

Subd. 31. **Responsible market.** "Responsible market" means a materials market that:

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

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

(3) possesses all requisite licenses and permits required by a federal or state agency or political subdivision;

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

(5) minimizes adverse impacts to environmental justice areas, as defined in section 115A.03.

Subd. 32. **Return rate.** "Return rate" means the amount of reusable covered material in aggregate or by individual covered materials type, collected for reuse by a producer or service provider in a calendar year, divided by the total amount of reusable covered materials sold or distributed into the state by the relevant unit of measurement established in section 115A.1451.

Subd. 33. **Reusable.** "Reusable" means capable of reuse.

Subd. 34. **Reuse.** "Reuse" means the return of a covered material to the marketplace and the continued use of the covered material by a producer or service provider when the covered material is:

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

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

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

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

Subd. 35. **Reuse rate.** "Reuse rate" means the share of units of a reusable covered material sold or distributed into the state in a calendar year that are demonstrated and deemed reusable in accordance with an approved stewardship plan under section 115A.1451.

Subd. 36. **Service provider.** "Service provider" means an entity that provides covered services for covered materials. A political subdivision that provides or that contracts or otherwise arranges with another party to provide covered services for covered materials within its jurisdiction may be a service provider regardless of whether it provided, contracted for, or otherwise arranged for similar services before the approval of the applicable stewardship plan.

Subd. 37. **Third-party certification.** "Third-party certification" means certification by an accredited independent organization that a standard or process required by sections 115A.144 to 115A.1463, or by a stewardship plan approved under sections 115A.144 to 115A.1463, has been achieved.

Subd. 38. MS 2024 [Repealed, 2025 c 20 s 294]

Subd. 39. **Toxic substance.** "Toxic substance" means hazardous waste, a problem material, a chemical or chemical class regulated under section 115A.965, 116.943, 325F.075, or 325F.172 to 325F.179, or a chemical of high concern identified under section 116.9402.

Subd. 40. **Waste reduction or source reduction.** "Waste reduction" or "source reduction" has the meaning given in section 115A.03, except that waste reduction or source reduction does not include reuse, but does include refill, as defined in sections 115A.144 to 115A.1463.

History: *2024 c 80 art 5 s 7; 2024 c 116 art 5 s 2*

115A.1442 ESTABLISHMENT OF PROGRAM.

Producers must implement and finance a statewide program for packaging and paper products in accordance with sections 115A.144 to 115A.1463 that encourages redesign to reduce the environmental impacts and human health impacts and that reduces generation of covered materials waste through waste reduction, reuse, recycling, and composting and by providing for the collection, transportation, and processing of used covered materials for reuse, recycling, and composting.

History: *2024 c 116 art 5 s 3*

115A.1443 REGISTRATION OF PRODUCER RESPONSIBILITY ORGANIZATIONS AND SERVICE PROVIDERS.

Subdivision 1. **Annual registration.** (a) By January 1, 2025, producers must appoint a producer responsibility organization. The producer responsibility organization must register with the commissioner by July 1, 2026, and each January 1 thereafter by submitting the following:

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

(2) a list of all member producers that have entered into written agreements to operate under an approved stewardship plan administered by the producer responsibility organization and, for each producer, a list of all brands of the producer's covered materials introduced;

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

(4) a list of current board members and the executive director if different from the person responsible for implementing an approved stewardship plan; and

(5) documentation demonstrating adequate financial responsibility and financial controls to ensure proper management of funds and payment of the registration fee required under subdivision 2.

(b) Following the approval of the initial producer responsibility organization and the initial stewardship plan, if more than a single producer responsibility organization is established, the producers and producer responsibility organizations must establish a coordinating body and process to prevent redundancy. The coordinating body must integrate:

(1) stewardship plans of all producer responsibility organizations into a single stewardship plan that implements all requirements of sections 115A.144 to 115A.1463 and encompasses all producers when submitted to the commissioner for approval; and

(2) annual reports of all producer responsibility organizations into a single annual report that covers all requirements of sections 115A.144 to 115A.1463 and encompasses all producers when submitted to the commissioner.

Subd. 2. **Registration fee.** (a) Beginning January 1, 2029, as part of its annual registration with the commissioner, a producer responsibility organization must submit to the commissioner a registration fee, as determined by the commissioner. By October 1, 2028, and annually thereafter, the commissioner must provide written notice to registered producer responsibility organizations in writing of the amount of the registration fee. If there is more than one registered producer responsibility organization, the coordinating body described in subdivision 1, paragraph (b), must equitably apportion payment of the registration fee between all registered producer responsibility organizations. The registration fee must be set at an amount anticipated to in the aggregate meet but not exceed the commissioner's estimate of the costs required to perform the commissioner's duties as described in section 115A.1445 and to otherwise administer, implement, and enforce sections 115A.144 to 115A.1463.

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

Subd. 3. **Initial producer responsibility organization registration; implementation fee.** (a) By January 1, 2025, producers must appoint a producer responsibility organization. The producer responsibility organization must register by January 1, 2025, with the commissioner by submitting the following:

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

(2) a list of current member producers that have entered into written agreements to operate under an approved stewardship plan administered by the producer responsibility organization;

(3) a plan for recruiting additional member producers and executing written agreements confirming producers will operate under an approved stewardship plan administered by the producer responsibility organization;

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

(5) documentation demonstrating adequate financial responsibility and financial controls to ensure proper management of funds and payment of the implementation fee required under paragraph (c).

(b) Notwithstanding the other provisions of this section, the commissioner may not allow registration of more than one producer responsibility organization under this section before the first stewardship plan approved by the commissioner expires. If more than one producer responsibility organization applies to register under this section before the first stewardship plan is approved by the commissioner, the commissioner must select the producer responsibility organization that will represent producers until the first stewardship plan expires and, if applicable, must return the fee paid by applicants who are not selected. When selecting a producer responsibility organization, the commissioner must consider whether the producer responsibility organization:

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

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

(c) By February 15, 2025, and annually until February 15, 2028, the commissioner must provide written notice to the producer responsibility organization of the commissioner's estimates of the cost required to perform the commissioner's duties as described in section 115A.1445. The producer responsibility organization must remit payment in full for these costs to the commissioner within 45 days of receipt of this notice. The producer responsibility organization may charge each member producer a fee according to each producer's unit-, weight-, volume-, or sales-based market share or by another method it determines to be an equitable determination of each producer's payment obligation, so that the aggregate fees charged to member producers is sufficient to pay the commissioner's estimated costs in full.

Subd. 4. **Requirement for additional producer responsibility organizations.** After the first stewardship plan approved by the commissioner expires, the commissioner may allow registration of more than one producer responsibility organization if:

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

(2) producers organize under additional producer responsibility organizations.

Subd. 5. **Registration of service providers.** By January 1, 2025, and annually thereafter, a service provider seeking reimbursement for services provided under an approved stewardship plan according to section 115A.1451 must register with the commissioner by submitting the following information:

(1) the contact information for a person representing the service provider;

(2) the address of the service provider; and

(3) if applicable to services provided, a report of the total amount billed for collection for covered entities, processing services, and transfer station operations provided during the preceding calendar year and, when possible, values must be separated for collection, transfer, and processing.

Subd. 6. **Disposition of fees.** All fees received under this section must be deposited in the state treasury and credited to the product stewardship account under section 115A.1463.

History: *2024 c 116 art 5 s 4*

115A.1444 ESTABLISHMENT OF PRODUCER RESPONSIBILITY ADVISORY BOARD.

Subdivision 1. **Establishment.** The Producer Responsibility Advisory Board is established to review all activities conducted by producer responsibility organizations under sections 115A.144 to 115A.1463 and to advise the commissioner and producer responsibility organizations regarding the implementation of sections 115A.144 to 115A.1463.

Subd. 2. **Membership.** (a) By January 1, 2025, the commissioner must establish and appoint the initial membership of the advisory board. The membership of the board must consist of the following:

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

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

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

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

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

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

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

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

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

(10) three members representing organizations of political subdivisions, with at least one member representing a political subdivision outside the metropolitan area;

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

(12) one member representing the commissioner.

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

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

(2) may not appoint members who are employees of a producer required to be members of a producer responsibility organization in this state under sections 115A.144 to 115A.1463; and

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

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

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

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

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

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

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

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

Subd. 10. **Administrative and operating support.** The commissioner must provide administrative and operating support to the advisory board, including compensation in accordance with subdivision 4, and may contract with a third-party facilitator to assist in administering the activities of the advisory board, including establishing a website or landing page on the agency website.

Subd. 11. **Conflict of interest policies.** The commissioner must assist the advisory board in developing policies and procedures governing the disclosure of actual or perceived conflicts of interest that advisory board members may have as a result of their employment or financial holdings with respect to themselves or family members. Each advisory board member is responsible for reviewing the conflict of interest policies and procedures. An advisory board member must disclose any instance of actual or perceived conflicts of

interest at each meeting of the advisory board at which recommendations regarding stewardship plans, programs, operations, or activities are made by the advisory board.

History: *2024 c 116 art 5 s 5*

115A.1445 COMMISSIONER RESPONSIBILITIES.

The commissioner must:

(1) appoint the initial membership of the advisory board by January 1, 2025, as required under section 115A.1444;

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

(3) complete a preliminary assessment by December 31, 2025, and complete an initial needs assessment by December 31, 2026, and update the needs assessment every five years thereafter, as required under section 115A.1450;

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

(5) provide lists established according to the requirements of section 115A.1453 to all producer responsibility organizations by July 1, 2028;

(6) establish statewide requirements as required under section 115A.1451, subdivision 7;

(7) post on the agency's website:

(i) the most recent registration materials submitted by producer responsibility organizations, including all information submitted under section 115A.1443, subdivision 1, paragraph (a), clauses (1), (2), and (4);

(ii) a list of registered service providers;

(iii) the most recent needs assessments;

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

(v) the most recent lists established as required under section 115A.1453;

(vi) the list of exempt materials and covered materials exempt from performance targets and statewide requirements as approved in the stewardship plan;

(vii) links to producer responsibility organization websites;

(viii) comments of the public, advisory board, and producer responsibility organizations on the documents listed in items (iii) to (vi), and, if any, the responses of the commissioner to those comments; and

(ix) links to adopted rules implementing sections 115A.144 to 115A.1463;

(8) provide producer responsibility organizations with information regarding Minnesota and federal laws that prohibit toxic substances in covered materials, toxic substances' potential environmental impacts and human health impacts, and best practices to reduce intentionally added toxic substances as identified in the needs assessment;

(9) approve the selection of independent auditors to perform an annual financial audit of each producer responsibility organization; and

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

History: *2024 c 116 art 5 s 6*

115A.1446 PRODUCER RESPONSIBILITY ADVISORY BOARD RESPONSIBILITIES.

The Producer Responsibility Advisory Board must:

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

(2) consult with the commissioner regarding the scope of the needs assessments and provide written comments on needs assessments, as required under section 115A.1450, subdivision 2;

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

(4) submit comments to producer responsibility organizations and to the commissioner on any matter relevant to the administration of sections 115A.144 to 115A.1463;

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

(6) comply with all other applicable requirements of sections 115A.144 to 115A.1463.

History: *2024 c 116 art 5 s 7*

115A.1447 PRODUCER RESPONSIBILITY ORGANIZATION RESPONSIBILITIES.

A producer responsibility organization must:

(1) register with the commissioner, as required under section 115A.1443;

(2) submit a stewardship plan to the commissioner by October 1, 2028, and every five years thereafter, as required under section 115A.1451;

(3) implement stewardship plans approved by the commissioner under section 115A.1451;

(4) forward upon receipt from the commissioner the lists established under section 115A.1453 to all service providers that participate in a stewardship plan administered by the producer responsibility organization;

(5) collect producer fees as required under section 115A.1454;

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

(7) ensure that producers operating under a stewardship plan administered by the producer responsibility organization comply with the requirements of the stewardship plan and with sections 115A.144 to 115A.1463;

(8) expel a producer from the producer responsibility organization if efforts to return the producer to compliance with the plan or with the requirements of sections 115A.144 to 115A.1463 are unsuccessful;

(9) notify the commissioner when a producer has been expelled;

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

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

(12) maintain a website under section 115A.1457;

(13) notify the commissioner within 30 days of a change made to the contact information for a person responsible for implementing the stewardship plan, to board membership, or to the executive director;

(14) assist service providers to identify and use responsible markets;

(15) reimburse service providers in a timely manner using applicable reimbursement rates; and

(16) comply with all other applicable requirements of sections 115A.144 to 115A.1463.

History: *2024 c 116 art 5 s 8*

115A.1448 PRODUCER RESPONSIBILITIES.

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

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

(c) After January 1, 2032, no producer may introduce covered materials unless covered services are provided for the covered materials through a program in a stewardship plan approved by the commissioner and the covered materials are:

(1) reusable and capable of being managed through a reuse system that meets the reuse rate and return rate required under section 115A.1451, subdivision 7;

(2) capable of refill and supported by a refill system;

(3) included on the list established under section 115A.1453, subdivision 1; or

(4) included on the list established under section 115A.1453, subdivision 2.

(d) A producer responsibility organization may petition the commissioner for a two-year extension to comply with the requirements of paragraph (c). The commissioner may approve the extension if the petition demonstrates that market or technical issues prevent a specific covered material from being considered reusable or included on the lists established under section 115A.1453. The producer responsibility organization may petition the commissioner for additional annual extensions until January 1, 2040, if the producer responsibility organization demonstrates that market or technical issues preventing compliance persist.

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

(1) implement the requirements of the stewardship plan under which the producer operates;

(2) pay producer fees under section 115A.1454; and

(3) comply with all other applicable requirements of sections 115A.144 to 115A.1463.

History: *2024 c 116 art 5 s 9*

115A.1449 SERVICE PROVIDER RESPONSIBILITIES.

A service provider receiving reimbursement or funding under an approved stewardship plan must:

(1) provide covered services for covered materials included on the lists established under section 115A.1453, covered services for a refill system, or covered services for reusable covered materials, as applicable to the services offered by and service area of the service provider;

(2) register with the commissioner under section 115A.1443;

(3) submit invoices to the producer responsibility organization for reimbursement for services rendered as provided in sections 115A.1451 and 115A.1455;

(4) meet performance standards established in an approved stewardship plan under section 115A.1451;

(5) ensure that covered materials are sent to responsible markets;

(6) provide documentation to the producer responsibility organization on the amounts, covered materials types, and volumes of covered materials by covered service method;

(7) display the service provider's price, minus the reimbursement from the producer responsibility organization as determined in section 115A.1455, subdivision 4, when invoicing customers. The balance is what the service provider may charge the customer; and

(8) comply with all other applicable requirements of sections 115A.144 to 115A.1463.

History: *2024 c 116 art 5 s 10*

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*

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*

115A.1453 RECYCLABLE OR COMPOSTABLE COVERED MATERIALS LISTS; EXEMPT MATERIALS LIST.

Subdivision 1. **List required.** By July 1, 2028, the commissioner must develop a list of covered materials determined to be recyclable or compostable statewide through systems where covered materials are commingled into a recyclables stream and a separate compostables stream. These covered materials must be collected at an optimal level of service and convenience for covered entities, at a minimum, wherever collection services for mixed municipal solid waste are available.

Subd. 2. **Alternative collection list required.** By July 1, 2028, the commissioner must complete a list of covered materials determined to be recyclable or compostable and collected statewide through systems other than the system required for covered materials on the list established in subdivision 1.

Subd. 3. **Input from interested parties.** The commissioner must consult with the advisory board, producer responsibility organizations, service providers, political subdivisions, and other interested parties

to develop or amend the recyclable or compostable covered materials lists and must review any requests by interested parties for addition or removal of covered materials from the lists created under this section.

Subd. 4. **Criteria.** In developing the lists under subdivisions 1 and 2, the commissioner may consider the following criteria:

(1) current availability of recycling and composting collection services;

(2) recycling and composting processing infrastructure;

(3) capacity and technology for sorting covered materials;

(4) whether a covered material is of a type and form that is regularly sorted and aggregated into defined streams for recycling processes or is included in a relevant Institute of Scrap Recycling Industries specification or its successors;

(5) availability of responsible markets;

(6) presence and amount of processing residuals, contamination, and toxic substances;

(7) quantity of covered material estimated to be available and recoverable;

(8) projected future conditions for the criteria in clauses (1) to (7); and

(9) other criteria or factors, as determined by the commissioner.

Subd. 5. **Amendment.** The commissioner may amend a list completed under this section at any time and must provide amended lists to producer responsibility organizations within a reasonable amount of time after adopting an amendment. Producer responsibility organizations must provide amended lists to service providers as soon as possible after receiving the amendment and work to incorporate changes in relevant service provider reimbursement rates within a year.

Subd. 6. **Exempt materials list.** (a) A producer may request the commissioner, on a form prescribed by the commissioner, to classify as an exempt material one or more types of packaging. The commissioner must submit the request to the advisory board for review and comment before approving or denying the request.

(b) The commissioner may approve the request only if the commissioner determines that a specific federal or state health and safety requirement prevents the packaging from being waste reduced or made reusable, recyclable, or compostable.

(c) The commissioner must review and approve, deny, or request additional information for a request to classify packaging as an exempt material no later than 120 days after the date the commissioner receives the request.

(d) The commissioner must post on the agency website a list of materials exempted under this subdivision.

(e) An exemption granted under this subdivision expires two years after the date a request was approved by the commissioner. A material classified as exempt under this subdivision becomes a covered material immediately upon expiration of the exemption. A producer may reapply according to this subdivision.

History: *2024 c 116 art 5 s 13*

115A.1454 PRODUCER FEES.

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

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

(2) reflect the program costs for each covered materials type, net of commodity value for that covered materials type, as well as allocated fixed costs that do not vary based on covered materials type;

(3) incentivize using materials and design attributes that reduce the environmental impacts and human health impacts of covered materials by:

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

(ii) reducing the amount of:

(A) packaging per individual covered material that is necessary to efficiently deliver a product without damage or spoilage and without reducing its ability to be recycled; and

(B) paper used to manufacture individual paper products;

(iii) increasing the amount of covered materials managed in a reuse system;

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

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

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

(4) discourage using materials and design attributes in covered materials whose environmental impacts and human health impacts can be reduced by the methods listed under clause (3);

(5) prioritize reuse by charging covered materials that are managed through a reuse system only once, upon initial entry into the marketplace; and

(6) generate revenue sufficient to pay in full:

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

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

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

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

Subd. 2. **Overcollections.** Revenue collected under this section that exceeds the amount needed to pay the costs described in subdivision 1, clause (6), must be used to improve or enhance program outcomes or to reduce producer fees according to provisions of an approved stewardship plan.

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

History: *2024 c 116 art 5 s 14*

115A.1455 SERVICE PROVIDER; REIMBURSEMENT.

Subdivision 1. **Service provider reimbursement required.** The reimbursements provided for covered services to covered entities, at a minimum, under an approved stewardship plan must only be provided to service providers that meet the performance standards established under an approved stewardship plan.

Subd. 2. **Collection of recyclables.** If a covered entity does not have access to collection services for covered materials on the list established under section 115A.1453, subdivision 1, where collection services for mixed municipal solid waste are being provided, the producer responsibility organization must ensure that collection services are available to the covered entity through a service provider at an optimal level of service and convenience.

Subd. 3. **Bidding processes.** (a) For infrastructure investments included in an approved stewardship plan, a producer responsibility organization must use the competitive bidding processes established in section 16C.28, subdivision 1, and publicly post bid opportunities, except that preference must be given to existing facilities, providers of services, and holders of service accounts in the state for waste reduction, reuse, collection, recycling, and composting of covered materials.

(b) No producer or producer responsibility organization may own or partially own infrastructure that is used to fulfill obligations under sections 115A.144 to 115A.1463, except in the following circumstances:

(1) a producer may hold an ownership stake in infrastructure used to fulfill obligations under sections 115A.144 to 115A.1463 so long as the stake was held before July 1, 2024, and the ownership stake is fully disclosed by the producer to the producer responsibility organization; or

(2) after a bidding process described in paragraph (a) under which no service provider bids on the contract, the producer responsibility organization may make infrastructure investments identified under an approved stewardship plan to implement the requirements in sections 115A.144 to 115A.1463.

Subd. 4. **Reimbursement rates.** (a) An approved stewardship plan must provide a methodology for reimbursement rates for covered services for covered materials, exclusive of exempt materials. The methodology for reimbursement rates must consider estimated revenue received by service providers from the sale of covered materials based upon relevant material indices and incorporate relevant cost information identified by the needs assessment. Reimbursement rates must be annually updated and reflect the net costs for covered services for covered materials from covered entities, at a minimum. Reimbursement rates must be established equivalent to net costs as established by a methodology in an approved plan as follows:

(1) no less than 50 percent of the net cost by February 1, 2029;

(2) no less than 75 percent of the net cost by February 1, 2030; and

(3) no less than 90 percent of the net cost by February 1, 2031, and each year thereafter.

(b) Reimbursement rates must be based on the following, as applicable by the service provided:

(1) the cost to collect covered material for recycling, a proportional share of composting, or reuse adjusted to reflect conditions that affect those costs, varied by region or jurisdiction in which the covered services are provided, including but not limited to:

(i) the number and type of covered entities;

(ii) population density;

(iii) collections methods employed;

(iv) distance traveled by collection vehicles to consolidation or transfer facilities; to reuse, recycling, or composting facilities; and to responsible markets;

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

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

(vii) the general quality of covered materials collected by service providers;

(2) the cost to transfer collected covered materials from consolidation or transfer facilities to reuse, processing, recycling, or composting facilities or to responsible markets;

(3) the cost to:

(i) sort and process covered materials for sale or use and remove contamination from covered materials by a recycling or composting facility, less the average fair market value for that covered material based on market indices for the region; and

(ii) manage contamination removed from collected covered material;

(4) administrative costs of service providers, including education, public awareness campaigns, and outreach program costs as applicable; and

(5) the costs of covered services for a refill system or covered services provided for reusable covered materials and management of contamination.

(c) A service provider retains all revenue from the sale of covered materials. Nothing in sections 115A.144 to 115A.1463 may restrict a service provider from charging a fee for covered services of covered materials to the extent that reimbursement from a producer responsibility organization does not cover all costs of services, including continued investment and innovation in operations, operating profits, and returns on investments required by a service provider to provide sustainability of the services.

(d) Reimbursement rates may be calculated per ton, by household, or by another unit of measurement under an approved stewardship plan.

Subd. 5. **Local government authority.** (a) Nothing in this section shall be construed to require a political subdivision to agree to operate under a stewardship plan, nor does it restrict the authority of a political subdivision to provide waste management services to residents or to contract with any entity to provide waste management services. Any political subdivision that is also a service provider is eligible to be registered with the commissioner and reimbursed per the rates and schedule established in accordance with subdivision 4.

(b) Nothing in sections 115A.144 to 115A.1463 restricts the authority of a political subdivision to provide waste management services to residents, to contract with any entity to provide waste management services, or to exercise its authority granted under section 115A.94. A producer responsibility organization may not restrict or otherwise interfere with a political subdivision exercising its authority under section 115A.94 to organize collection of solid waste, including materials collected for recycling or composting, or to extend,

renew, or otherwise manage any contracts entered into as a result of exercising such authority or otherwise resulting from a competitive procurement process.

Subd. 6. **Dispute resolution.** A producer responsibility organization must establish a dispute resolution process utilizing third-party mediators for disputes related to reimbursements.

History: *2024 c 116 art 5 s 15*

115A.1456 REPORTING.

Subdivision 1. **Producer responsibility organization annual report.** (a) By April 1, 2029, and annually thereafter, a producer responsibility organization must submit a written report to the commissioner that contains, at a minimum, the following information for the previous calendar year:

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

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

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

(ii) information about third-party certifications obtained;

(3) the total cost to implement the program and a detailed description of program expenditures by category, including:

(i) the total amount of producer fees collected;

(ii) a description of infrastructure investments made; and

(iii) a breakdown of reimbursements by covered services, covered entities, and regions of the state;

(4) a copy of a financial audit of program operations conducted by an independent auditor approved by the commissioner that meets the requirements of the Financial Accounting Standards Board's Accounting Standards Update 2016-14, Not-for-Profit Entities (Topic 958), as amended;

(5) a description of program performance problems that emerged in specific locations and efforts taken or proposed by the producer responsibility organization to address them;

(6) a discussion of technical assistance provided to producers regarding toxic substances in covered materials and actions taken by producers to reduce intentionally added toxic substances in covered materials beyond compliance with prohibitions already established in law;

(7) a description of public awareness, education, and outreach activities undertaken, including any evaluations conducted of their efficacy, plans for next calendar year's activities, and an evaluation of the process established by the producer responsibility organization to answer questions from consumers regarding collection, recycling, composting, waste reduction, and reuse activities;

(8) a summary of consultations held with the advisory board and how any feedback was incorporated into the report as a result, together with a list of rejected recommendations and the reasons for rejection;

(9) a list of producers found to be out of compliance with sections 115A.144 to 115A.1463 and actions taken by the producer responsibility organization to return producers to compliance, and notification of any

producers that are no longer participating in the producer responsibility organization or have been expelled due to their lack of compliance;

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

(11) recommendations for additions or removal of covered materials to or from the recyclable or compostable covered materials lists developed under section 115A.1453; and

(12) information requested by the commissioner to evaluate the effectiveness of the program as it is described in the stewardship plan and to assist with determining compliance with sections 115A.144 to 115A.1463.

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

Subd. 2. **Report following unmet target.** A producer responsibility organization that fails to meet a performance target approved in a stewardship plan must, within 90 days of filing an annual report under this section, file with the commissioner an explanation of the factors contributing to the failure and propose an amendment to the stewardship plan specifying changes in operations that the producer responsibility organization will make that are designed to achieve the performance targets. If a performance target is unmet due to lack of political subdivision participation in the program, the commissioner may revise the statewide requirements developed under section 115A.1451, subdivision 7. If a revision to the statewide requirements is completed by the commissioner, the producer responsibility organization may revise the performance targets at the same time. An amendment filed under this subdivision must be reviewed by the advisory board and reviewed and approved by the commissioner in the manner specified in section 115A.1451, subdivisions 2 and 4.

Subd. 3. **Commissioner's report.** By October 15, 2031, and every two years thereafter, the commissioner must submit a report to the governor and to the chairs and ranking minority members of the legislative committees with jurisdiction over solid waste. The report must contain:

(1) a summary of the operations of sections 115A.144 to 115A.1463 during the previous years;

(2) a summary of the needs assessment;

(3) a link to reports filed under subdivisions 1 and 2;

(4) recommendations for policy, statutory, or regulatory changes to the program;

(5) an analysis of the impacts of exempting certain materials from the definition of covered materials and of exempting certain persons from the definition of producer;

(6) a list of efforts undertaken by the commissioner to enforce and secure compliance with sections 115A.144 to 115A.1463; and

(7) any other information the commissioner deems to be relevant.

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

History: *2024 c 116 art 5 s 16*

115A.1457 PRODUCER RESPONSIBILITY ORGANIZATION WEBSITES.

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

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

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

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

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

(5) information on how to manage materials included in lists established under section 115A.1453;

(6) the list of exempt materials as defined in sections 115A.144 to 115A.1463 and covered materials exempt from performance targets and statewide requirements as approved in the stewardship plan;

(7) current and all past needs assessments;

(8) annual reports submitted to the commissioner by the producer responsibility organization;

(9) a link to administrative rules implementing sections 115A.144 to 115A.1463;

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

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

(12) a list, updated at least monthly, of all member producers that will operate under the stewardship plan administered by the producer responsibility organization and, for each producer, a list of all brands of the producer's covered materials; and

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

History: *2024 c 116 art 5 s 17*

115A.1458 ANTICOMPETITIVE CONDUCT.

A producer responsibility organization that arranges collection, recycling, composting, waste reduction, or reuse services under sections 115A.144 to 115A.1463 may engage in anticompetitive conduct to the extent necessary to plan and implement collection, recycling, composting, waste reduction, or reuse systems to meet the obligations under sections 115A.144 to 115A.1463, and is immune from liability under state laws relating to antitrust, restraint of trade, and unfair trade practices.

History: *2024 c 116 art 5 s 18*

115A.1459 RULEMAKING.

The commissioner may adopt rules to implement sections 115A.144 to 115A.1463. The 18-month time limit under section 14.125 does not apply to the commissioner's rulemaking authority under this section.

History: *2024 c 116 art 5 s 19*

115A.1460 PROVIDING INFORMATION.

Upon request of the commissioner for purposes of determining compliance with sections 115A.144 to 115A.1463, or for purposes of implementing sections 115A.144 to 115A.1463, a person must furnish to the commissioner any information that the person has or may reasonably obtain.

History: *2024 c 116 art 5 s 20*

115A.1461 DEPOSIT RETURN SYSTEM.

(a) It is the intent of the legislature that if a bottle deposit return system is enacted in the future, it will be harmonized with sections 115A.144 to 115A.1463 in a manner that ensures that:

(1) materials covered in that system are exempt from sections 115A.144 to 115A.1463 or related financial obligations are reduced;

(2) colocation of drop-off collection sites is maximized;

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

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

(b) Any implementation of a deposit return system must include a two-year transition period before the expiration of the currently approved stewardship plan and be conducted in a manner that does not create sudden and significant operational or financial disruption to the implementation of a stewardship plan under section 115A.1451, including provisions of recycling or reuse services contained in the plan.

History: *2024 c 116 art 5 s 21*

115A.1462 ENFORCEMENT.

(a) The commissioner must enforce sections 115A.144 to 115A.1463 as provided under this section and sections 115.071 and 116.072. The commissioner may revoke a registration of a producer responsibility organization or service provider found to have violated sections 115A.144 to 115A.1463.

(b) Notwithstanding the penalty limits contained in section 115.071, subdivision 3, and except as otherwise provided in paragraph (c), a person that violates or fails to perform a duty imposed by sections 115A.144 to 115A.1463 or any rule adopted thereunder is liable for a civil penalty not to exceed $25,000 per day of violation.

(c) Notwithstanding the penalty limits contained in section 115.071, subdivision 3, a producer responsibility organization or producer that violates a provision of or fails to perform a duty imposed by sections 115A.144 to 115A.1463, a rule adopted thereunder, or requirements of a stewardship plan approved by the commissioner, is liable for a civil penalty not to exceed $25,000 per day of violation. For a second violation occurring within five years after the approval of a stewardship plan, a producer responsibility organization or producer is liable for a civil penalty not to exceed $50,000 per day of violation. For a third

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

History: *2024 c 116 art 5 s 22*

115A.1463 PACKAGING PRODUCT STEWARDSHIP ACCOUNT.

(a) The packaging product stewardship account is established as a separate account in the special revenue fund in the state treasury. Appropriations and transfers to the account and fees collected under section 115A.1443 must be credited to the account. Earnings, such as interest, dividends, and any other earnings arising from assets of the account, must be credited to the account. Money remaining in the account at the end of a fiscal year does not cancel to the general fund but remains in the account until expended.

(b) Money from the account is appropriated to the commissioner to pay the reasonable costs of the agency to administer sections 115A.144 to 115A.1462.

History: *2024 c 116 art 5 s 23*

STATE RESOURCE RECOVERY PROGRAM

115A.15 STATE GOVERNMENT RESOURCE RECOVERY.

Subdivision 1. **Program established.** There is established within state government a resource recovery program to promote the reduction of waste generated by state agencies, the separation and recovery of recyclable and reusable commodities, the procurement of recyclable commodities and commodities containing recycled materials, and the uniform disposition of recovered materials and surplus property. The program shall be administered by the commissioner of administration.

Subd. 1a. **Definitions.** For the purposes of this section, the following terms have the meanings given them.

(a) "Recyclable commodities" means materials, pieces of equipment, and parts which are not reusable but which contain recoverable resources.

(b) "Reusable commodities" means materials, pieces of equipment, parts, and used supplies which can be reused for their original purpose in their existing condition.

Subd. 2. **Duties of commissioner of administration.** The commissioner of administration shall develop policies to require state agencies and the state legislature to separate all recyclable and reusable commodities wherever feasible. The commissioner shall issue guidelines for the procurement of recyclable commodities and commodities containing recycled materials that include definitions of recycled materials, the percentage of recycled materials to be contained in each commodity and performance specifications. To the extent practicable, the guidelines shall be written so as to give preference to recyclable commodities and commodities containing recycled materials. The commissioner shall inform state agencies whenever recycled commodities are available for purchase. The commissioner shall investigate opportunities for the inclusion of and may include local governments and regional agencies in administrative state programs to reduce waste, and to separate and recover recyclable and reusable commodities.

Subd. 3. **Powers of commissioner of administration.** The commissioner of administration shall have such powers as are necessary to implement and operate the program. All state agencies shall comply with the policies, guidelines, and procedures established by the commissioner pursuant to this section. The commissioner shall have the power to issue orders to compel compliance.

Subd. 4. **Staff.** The commissioner of administration shall employ an administrator to manage the resource recovery program and other staff and consultants as are necessary to carry out the program.

Subd. 5. **Reports.** By January 1 of each odd-numbered year, the commissioner of administration shall submit a report to the governor and to the senate and house of representatives committees having jurisdiction over environment and natural resources and environment and natural resources finance summarizing past activities and proposed goals of the program for the following biennium. The report shall include at least:

(1) a summary list of product and commodity purchases that contain recycled materials;

(2) the results of any performance tests conducted on recycled products and agencies' experience with recycled products used;

(3) a list of all organizations participating in and using the cooperative purchasing program; and

(4) a list of products and commodities purchased for their recyclability and of recycled products reviewed for purchase.

Subd. 6. **Use of funds.** All revenues resulting from the sale of recyclable and reusable commodities made available for sale as a result of the resource recovery program will be used by the service provider to offset the cost of the recycling.

Subd. 7. **Waste reduction procurement model.** To reduce the amount of solid waste generated by the state and to provide a model for other public and private procurement systems, the commissioner, in cooperation with the commissioner of the Pollution Control Agency, shall develop waste reduction procurement programs, including an expanded life-cycle costing system for procurement of durable and repairable items by November 1, 1991. On implementation of the model procurement system, the commissioner, in cooperation with the commissioner of the Pollution Control Agency, shall develop and distribute informational materials for the purpose of promoting the procurement model to other public and private entities under section 115A.072, subdivision 4.

Subd. 8. **Purchasing recycled materials.** The commissioner of administration shall develop and implement a cooperative purchasing program under section 471.59 to include state agencies, local governmental units, and, where feasible, other state governments and the federal government, for the purpose of purchasing materials made from recycled materials. By July 1, 1991, the commissioner shall develop a program to promote the cooperative purchasing program to those units of government and other persons.

Subd. 9. **Recycling goal.** (a) Each state agency shall recycle the solid waste generated by its offices and other operations located in the metropolitan area at a rate that is the highest of: (1) 60 percent by weight; (2) the recycling rate required of a metropolitan county under section 115A.551, subdivision 2a; or (3) the recycling rate in compliance with the solid waste management policy plan goals under section 473.149. Each state agency shall recycle at least 60 percent by weight of the solid waste generated by its offices and other operations located outside of the metropolitan area. By March 1 of each year, each state agency shall report to the Pollution Control Agency the estimated recycling rates from the previous calendar year. State agencies shall report progress in achieving the recycling goal in the format specified by the Pollution Control Agency. The Pollution Control Agency shall incorporate these figures into the reports submitted by the counties under section 115A.557, subdivision 3, to determine each county's progress toward the goal in section 115A.551, subdivision 2a.

(b) Each state agency shall work to meet the recycling goal individually. If the recycling goal is not met by a state agency, that agency shall provide information to all employees in the agency regarding recycling

opportunities and expectations, and notify the Pollution Control Agency of the action that has been taken to meet the recycling goal.

Subd. 10. **Collecting recyclable materials.** (a) The commissioner shall establish a recyclable materials collection and transportation system for state offices and other state operations in the metropolitan area that will maximize the types and amount of materials collected and the number of state offices and other state operations served, and will minimize barriers to effective and efficient collection, transportation, and marketing of recyclable materials.

(b) The commissioner may contract with private entities for the activities required in this subdivision if the commissioner determines that it would be cost-effective to do so.

History: *1980 c 564 art 2 s 12; 1981 c 356 s 121; 1982 c 569 s 6-8; 1983 c 289 s 115 subd 1; 1985 c 274 s 4; 1986 c 425 s 22; 1986 c 444; 1987 c 186 s 15; 1987 c 312 art 1 s 10 subd 2; 1987 c 348 s 6; 1988 c 613 s 20; 1Sp1989 c 1 art 18 s 5-8; 1990 c 594 art 3 s 5; 1991 c 304 s 1,2; 1991 c 337 s 10,11; 1992 c 514 s 15; 1992 c 593 art 1 s 10; 1995 c 247 art 2 s 6; 1996 c 457 s 9; 1996 c 470 s 27; 1999 c 73 s 1; 1Sp2001 c 4 art 6 s 17; 1Sp2005 c 1 art 2 s 161; 2010 c 215 art 12 s 27; 2012 c 272 s 65; 2014 c 225 s 1-3*

115A.151 RECYCLING REQUIREMENTS; PUBLIC ENTITIES; COMMERCIAL BUILDINGS; SPORTS FACILITIES.

(a) A public entity, the owner of a sports facility, and an owner of a commercial building shall:

(1) ensure that facilities under its control, from which mixed municipal solid waste is collected, also collect at least three recyclable materials, such as, but not limited to, paper, glass, plastic, and metal; and

(2) transfer all recyclable materials collected to a recycler.

(b) For the purposes of this section:

(1) "public entity" means the state, an office, agency, or institution of the state, the Metropolitan Council, a metropolitan agency, the Metropolitan Mosquito Control Commission, the legislature, the courts, a county, a statutory or home rule charter city, a town, a school district, a special taxing district, or any entity that receives an appropriation from the state for a capital improvement project after August 1, 2002;

(2) "metropolitan agency" and "Metropolitan Council" have the meanings given them in section 473.121;

(3) "Metropolitan Mosquito Control Commission" means the commission created in section 473.702;

(4) "commercial building" means a building that:

(i) is located in a metropolitan county, as defined in section 473.121;

(ii) contains a business classified in sectors 42 to 81 under the North American Industrial Classification System; and

(iii) contracts for four cubic yards or more per week of solid waste collection; and

(5) "sports facility" means a professional or collegiate sports facility at which competitions take place before a public audience.

History: *1Sp1989 c 1 art 18 s 9; 1991 c 337 s 12; 1996 c 457 s 10; 2002 c 312 s 2; 2014 c 225 s 4; 2014 c 312 art 13 s 24*

HAZARDOUS AND INDUSTRIAL WASTE

115A.152 TECHNICAL AND RESEARCH ASSISTANCE TO GENERATORS.

Subdivision 1. **Purposes.** The commissioner shall provide for the establishment of a technical and research assistance program for generators of hazardous and industrial waste in the state. The program must be designed to assist generators in the state to obtain information about management of hazardous and industrial wastes, to identify and apply methods of reducing the generation of hazardous and industrial wastes, to facilitate improved management of hazardous and industrial waste and compliance with hazardous and industrial waste rules, and for other similar purposes. The program must emphasize assistance to smaller businesses that have inadequate technical and financial resources for obtaining information, assessing waste management methods, and developing and applying waste reduction techniques. Information and techniques developed under this program must be made available through the program to all generators in the state.

Subd. 2. **Assistance.** The assistance program must include at least the following elements:

(1) outreach programs including on-site consultation at locations where hazardous and industrial waste is generated, seminars, workshops, training programs, and other similar activities designed to assist generators to evaluate their hazardous and industrial waste generation and management practices, identify opportunities for waste reduction and improved management, and identify subjects that require additional information and research;

(2) a program to assemble, catalog, and disseminate information about hazardous and industrial waste reduction and management methods, available commercial waste management facilities and consultant services, and regulatory programs (provided that specific questions by generators about interpretation or application of waste management rules should be referred to appropriate regulatory agencies);

(3) evaluation and interpretation of information needed by generators to improve their management of hazardous and industrial waste; and

(4) informational and technical research to identify alternative technical solutions that can be applied by specific generators to reduce the generation of hazardous and industrial waste.

Subd. 3. **Administration; evaluation.** The assistance program must be coordinated with other public and private programs that provide management and technical assistance to smaller businesses and generators of small quantities of hazardous and industrial waste, including programs operated by public and private educational institutions. The commissioner may make grants to a public or private person or association that will establish and operate the elements of the program, but the grants must require that the assistance be provided at no cost to the generators and that the grantees provide periodic reports on the improvements in waste management, waste reduction, and regulatory compliance achieved by generators through the assistance provided.

History: *1984 c 644 s 9; 1985 c 248 s 70; 1987 c 348 s 7; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161*

115A.154 MS 1996 [Repealed, 1996 c 470 s 28]

115A.156 MS 1996 [Repealed, 1996 c 470 s 28]

115A.158 REQUESTS FOR PROPOSALS; PROCESSING AND COLLECTION FACILITIES AND SERVICES.

Subdivision 1. **Request for and contents of proposal.** (a) The commissioner shall request proposals for the development and operation of specific types of commercial hazardous waste processing and collection facilities and services, and improved management of waste rendered nonhazardous and industrial waste, that offer the greatest possibility of achieving the policies and objectives of the waste management plan including the goal of reducing to the greatest extent feasible and prudent the need for and practice of disposal. The proposals must contain at least the following information:

(1) the technical, managerial, and financial qualifications and experience of the proposer in developing and operating facilities and services of the type proposed;

(2) the technical specifications of the proposed facility or service including the process that will be used, the amount and types of hazardous or industrial waste that can be handled, the types, volume, and proposed disposition of any residuals, and a description of anticipated adverse environmental effects;

(3) the requirements of the site or sites needed to develop and operate the facility or service and the likelihood that a suitable site or sites will be available for the facility or service;

(4) projections of the costs and revenues of the facility or service, the types and numbers of generators who will use it, and the fee structure and estimated user charges necessary to make the facility or services economically viable;

(5) the schedule for developing and commencing operation of the facility or service; and

(6) the financial, technical, institutional, legal, regulatory, and other constraints that may hinder or prevent the development or operation of the facility or service and the actions that could be taken by state and local governments or by the private sector to overcome those constraints.

(b) The information provided in the proposal must be based on current and projected market conditions, hazardous or industrial waste streams, legal and institutional arrangements, and other circumstances specific to the state.

Subd. 2. **Procedure; evaluation; report.** (a) In requesting proposals, the agency shall inform potential developers of the assistance available to them in siting and establishing hazardous waste processing and collection facilities and services in the state and improved industrial waste management in the state, including the availability of sites listed on the agency's inventory of preferred areas for hazardous waste processing facilities, the authority of the agency to acquire sites and order the establishment of facilities in those areas, the policies and objectives of the hazardous waste management plan, and the availability of information developed by the agency on hazardous or industrial waste generation and management in the state.

(b) The agency shall evaluate the proposals received in response to its request and determine the extent to which the proposals demonstrate the qualifications of the developers, the technical and economic feasibility of the proposed facility or service, and the extent to which the proposed facility or service will contribute in a significant way to the achievement of the policies and objectives of the hazardous waste management plan.

(c) The agency shall report to the senate and house of representatives committees having jurisdiction over environment and natural resources and environment and natural resources finance on the proposals that it has received and evaluated, and on the legislative, regulatory, and other actions needed to develop and operate the proposed facilities or services.

Subd. 3. **Time for proposals.** The agency shall issue the first round of requests under this section by June 1, 1984. The first round proposals must be returned to the agency by November 1, 1984. The agency shall submit its report on these proposals to the legislative commission by January 1, 1985. The agency may issue additional requests in 1985 and in future years.

History: *1984 c 644 s 12; 1986 c 444; 1987 c 348 s 12,13; 1989 c 335 art 1 s 269; 1996 c 470 s 27; 1Sp2005 c 1 art 2 s 161*

115A.159 MS 1998 [Repealed, 1999 c 86 art 1 s 83]

115A.162 MS 1988 [Repealed, 1989 c 335 art 1 s 270]

115A.165 MS 1994 [Repealed, 1995 c 247 art 1 s 67]

115A.17 MS 1984 [Repealed, 1986 c 425 s 46]

115A.175 SITING AND FACILITY DEVELOPMENT AUTHORITY; LIMITATIONS.

Subdivision 1. **Siting activity.** The agency shall terminate all activity under sections 115A.18 to 115A.30 relating to the selection and evaluation of sites for hazardous waste facilities, except as provided in this section.

Subd. 2. **Dismissing candidate sites.** All candidate sites remaining under Minnesota Statutes 1996, section 115A.21, subdivision 1, are dismissed from further consideration as candidate sites for hazardous waste facilities.

Subd. 3. **Alternative siting procedure.** The agency shall proceed with site evaluation and selection in accordance with sections 115A.191 to 115A.194. In evaluating and selecting sites under sections 115A.191 to 115A.194, the agency shall act in accordance with sections 115A.18 to 115A.20, except as otherwise provided in sections 115A.191 to 115A.194.

Subd. 4. **Stabilization and containment facility; restrictions; containment standards to protect human health and environment.** (a) No facility may be sited under sections 115A.18 to 115A.30 except a stabilization and containment facility. The facility must be above grade unless the agency determines, after environmental review under section 115A.194, subdivision 2, that an alternative design would provide greater protection for human health and the environment. No waste may be accepted for containment at the facility except the following:

(1) waste rendered nonhazardous;

(2) industrial waste; and

(3) waste that is not eligible for acceptance under clause (1) or (2), if the agency determines that all of the following requirements are met:

(i) there is no feasible and prudent alternative to containment of the waste that would minimize adverse impact upon human health and the environment;

(ii) the waste has been treated using feasible and prudent technology that minimizes the possibility of migration of any hazardous constituents of the waste; and

(iii) the waste meets the standards adopted to protect human health and the environment under the authority of United States Code, title 42, section 6924(m), and any additional protective standards adopted by the agency under section 116.07, subdivision 4.

(b) If no federal or state standards have been adopted for a waste as provided in paragraph (a), clause (3), item (iii), the waste may not be accepted for containment.

(c) A person proposing a waste for containment at the facility has the burden of demonstrating that the waste may be accepted under the requirements of this subdivision. The demonstration under paragraph (a), clause (3), must document in a form satisfactory to the agency the manner in which the person has attempted to meet the standard for acceptance of the waste under paragraph (a), clause (1), and the characteristics of the waste that prevent compliance with that standard.

Subd. 5. **Adopting rules.** The agency shall adopt rules under chapter 14 establishing procedures by which a person must demonstrate that a hazardous waste can be accepted by the facility as provided in subdivision 4. The agency shall adopt all rules necessary to implement the provisions of subdivision 4 and this subdivision before granting any permit for operation of the facility.

History: *1986 c 425 s 23; 1989 c 335 art 1 s 269; 1999 c 86 art 1 s 20; 1Sp2005 c 1 art 2 s 161*

115A.18 LEGISLATIVE FINDINGS; PURPOSE.

The legislature finds that proper management of hazardous waste generated in the state is needed to conserve and protect the natural resources in the state and the health, safety, and welfare of its citizens, that the establishment of safe commercial disposal facilities in the state may be necessary and practicable to properly manage the waste, that this cannot be accomplished solely by the activities of private persons and political subdivisions acting alone or jointly, and that therefore it is necessary to provide a procedure for making final determinations on whether commercial stabilization and containment facilities should be established in the state and on the locations, sizes, types, and functions of any such facilities.

History: *1980 c 564 art 3 s 1; 1984 c 644 s 17; 1986 c 425 s 47*

115A.19 PROCEDURE NOT EXCLUSIVE.

Except as provided in Minnesota Statutes 1980, section 115A.21, subdivision 1, the procedure established by sections 115A.18 to 115A.30 for the permitting of hazardous waste stabilization and containment facilities shall not preclude the issuance of permits by the agency pursuant to section 116.07 for stabilization and containment facilities at sites not reviewed under sections 115A.18 to 115A.30.

History: *1980 c 564 art 3 s 2; 1981 c 352 s 12; 1986 c 425 s 47*

115A.191 VOLUNTARY CONTRACTS WITH COUNTIES.

Subdivision 1. **Agency to seek contracts.** The agency and any eligible county board may enter a contract as provided in this section expressing their voluntary and mutually satisfactory agreement concerning the location and development of a stabilization and containment facility. The commissioner shall negotiate contracts with eligible counties and shall present drafts of the negotiated contracts to the agency for its approval. The commissioner shall actively solicit, encourage, and assist counties, together with developers, landowners, the local business community, and other interested parties, in developing resolutions of interest. The county shall provide affected political subdivisions and other interested persons with an opportunity to suggest contract terms.

Subd. 2. **Resolution of interest in negotiating; eligibility.** A county is eligible to negotiate a contract under this section if the county board files with the agency and the agency accepts a resolution adopted by the county board that expresses the county board's interest in negotiations and its willingness to accept the preliminary evaluation of one or more study areas in the county for consideration as a location of a stabilization

and containment facility. The county board resolution expressing interest in negotiations must provide for county cooperation with the agency, as necessary to facilitate the evaluation of study areas in the county, and for the appointment of a member of the county board or an officer or employee of the county as official liaison with the agency with respect to the matters provided in the resolution and future negotiations with the agency. A county board by resolution may withdraw a resolution of interest, and the agency may withdraw its acceptance of such a resolution, at any time before the parties execute a contract under this section.

Subd. 3. **Evaluating study areas.** The commissioner, in cooperation with the county board, may engage in activities necessary for the evaluation of study areas in any county that is eligible to negotiate a contract under this section. The determination of whether any study area may be considered or excluded from consideration under sections 115A.18 to 115A.20 and sections 115A.191 to 115A.194 is exclusively the authority of the agency. Before entering a contract under this section, the agency shall determine whether the study area identified in the contract is appropriate for preparation of an environmental impact statement.

Subd. 4. **Requirements of contract.** (a) A contract between the agency and a county must include provisions by which:

(1) the state, acting through the agency, agrees to implement the terms of the contract and provide the benefits and implement the procedures and practices agreed upon pursuant to subdivision 5; and

(2) the county agrees that the study area or areas in the county that have been determined by the agency to be appropriate for preparation of an environmental impact statement are subject to evaluation and selection by the agency as provided in section 115A.194.

(b) After executing the contract, the study areas identified in the contract remain subject to the provisions of section 115A.194 until the study areas are dismissed from further consideration by the agency.

Subd. 5. **Negotiated terms.** (a) A contract executed under subdivision 4 may contain any terms agreed upon by the state and the county, including:

(1) procedures relating to the evaluation and selection of a site and the construction, operation, and maintenance of a proposed facility, including procedures for cooperation, consultation, and coordination between the agency and the county or political subdivisions in the county on those matters;

(2) practices and procedures necessary to assure and demonstrate safe operation of a proposed facility;

(3) services, compensation, or benefits to be provided by the state to the county or political subdivisions in the county, including:

(i) payments in lieu of taxes on a publicly owned site;

(ii) compensation for property owners adjoining or in close proximity to the facility through property tax relief or assurance of property value;

(iii) compensation for local public expenditures necessitated by the facility;

(iv) compensation for demonstrable private and community impacts from the facility;

(v) monetary compensation to the county and other parties affected by the facility, in addition to compensation for necessary expenditures and demonstrable impacts;

(vi) provision of services or benefits to promote the health, safety, comfort, and economic development and well-being of the county and its citizens;

(4) provision for amendment of the contract; and

(5) provisions for resolutions of disputes under the contract.

(b) Terms of the contract requiring enactment of additional state law, including an appropriation law, are contingent on that enactment. The contract may provide for implementation of its terms during evaluation of a study area in the county under section 115A.194 and in the event that a study area in the county is selected as the site for a facility under that section.

Subd. 6. **Referendum contract.** (a) **Requirement.** If a county board enters into negotiations for a contract, makes a binding offer to enter a contract, or enters a contract under this section, the county board shall submit the question of whether to proceed with the contract to a vote of the eligible voters of the county at the general election to be held on November 6, 1990. The election may be held before a final determination has been made on the acceptability of a site in the county.

(b) **Election procedure.** The election shall be held in the manner provided for a state general election under Minnesota election law as far as practicable. The question on the ballot shall be "Shall the county proceed with the terms and conditions of its contract with the state of Minnesota for siting and operating a hazardous waste stabilization and containment facility in the county?" The question is approved if a majority of those voting on the question vote "Yes." The result of the election shall be certified to the county board of commissioners and is binding upon the county and the state as set forth in paragraph (c).

(c) **Effect of referendum.** If the question is approved, the county and the state may proceed to implement the terms and conditions of the binding offer or of the contract. If the question is not approved, the stabilization and containment facility authorized under sections 115A.175 to 115A.194, shall not be located in the county.

History: *1986 c 425 s 24; 1989 c 335 art 1 s 269; 1990 c 359 s 1; 1995 c 247 art 2 s 7,8; 1998 c 254 art 1 s 24,25; 1Sp2005 c 1 art 2 s 161*

115A.192 REQUEST FOR PROPOSALS; STABILIZATION AND CONTAINMENT FACILITY.

Subdivision 1. **Request for proposals.** The commissioner shall issue requests for proposals for the development and operation of a stabilization and containment facility. The request must be designed to obtain detailed information about the qualifications of a respondent to develop and operate the facility; the capital and operating costs of the facility and the sources and methods by which the respondent plans to finance the facility; the technical specifications of the proposed facility and the technologies to be employed for processing, stabilization, containment, and monitoring; the requirements of the site for the proposed facility; the schedule for developing and commencing operation of the facility; and other matters which the commissioner deems necessary for the agency to evaluate and select a developer and operator for the facility. Before issuing the requests, the commissioner shall prepare a draft of clauses (1) to (5) of the report required by section 115A.193, paragraph (a). The draft must accompany the requests for proposals.

Subd. 2. **Selection of developer; procedure.** After evaluating responses to the request for proposals and before selecting a site as provided in section 115A.194, the agency shall decide whether to select a developer for a stabilization and containment facility. If the agency selects a developer it shall proceed as provided in section 115A.194 to select a site for the development of a facility. If the agency decides not to select a developer, the agency shall proceed as provided in section 115A.194 to select and acquire a site for potential future development of a facility.

History: *1986 c 425 s 25; 1989 c 335 art 1 s 269; 1Sp2005 c 1 art 2 s 161; 2023 c 25 s 30*

115A.193 REPORT ON FACILITY DEVELOPMENT.

(a) The commissioner shall prepare a report concerning the development of a stabilization and containment facility. The report must include:

(1) a conceptual plan that describes and evaluates the proposed design and operation of the facility, including an evaluation of technical feasibility, a description and evaluation of the types and quantities of hazardous waste and nonhazardous residual waste from hazardous waste processing that the facility would be designed to accept, and a description and evaluation of technologies needed or desired at the facility for processing, stabilization, and containment, including above grade containment;

(2) procedures and standards for the operation of the facility that require the use of reduction, recycling, and recovery of any hazardous waste before the waste is accepted for stabilization when the alternative or additional management method is feasible and prudent and would materially reduce adverse impact on human health and the environment;

(3) evaluation of the design and use of the facility for processing, stabilization, or containment of industrial waste, including technical and regulatory issues and alternative management methods;

(4) evaluation of feasible and prudent technologies that may substantially reduce the possibility of migration of any hazardous constituents of wastes that the facility would be designed to accept;

(5) a general analysis of the necessary and desirable physical, locational, and other characteristics of a site for the facility;

(6) an evaluation of the prospects of and conditions required for the regulatory delisting of residual waste from hazardous waste processing;

(7) an evaluation of the feasibility of an interstate, regional approach to the management of hazardous waste; and

(8) an economic feasibility analysis of the development and operation of the facility, including the anticipated use of the facility by Minnesota generators from within and outside the state, and sources of private and public financing that may be available or necessary for development or operation.

(b) The commissioner shall submit a draft of the report to the agency before executing contracts under section 115A.191.

History: *1986 c 425 s 26; 1989 c 335 art 1 s 269; 1Sp2005 c 1 art 2 s 161; 2007 c 13 art 1 s 7*

115A.194 EVALUATING AND SELECTING SITES; PERMITS.

Subdivision 1. **Procedure.** The agency shall proceed to take the actions provided in subdivisions 2 and 4 pursuant to any contracts executed under section 115A.191.

Subd. 2. **Requirements before decisions.** Before the agency makes decisions under subdivision 4:

(1) the agency shall complete environmental impact statements on the environmental effects of the decisions, in the manner provided in chapter 116D and the rules issued under that chapter; and

(2) the commissioner shall present to the agency the report on facility development prepared as provided in section 115A.193.

Subd. 3. **Agencies; report on permit conditions and application requirements.** Within 30 days following the determination of the adequacy of the environmental impact statements and the presentation of the report on facility development, after consulting with the agency, facility developers, and affected local government units, the chief executive officer of each permitting state agency shall issue to the agency reports on permit conditions and permit application requirements at each location. The reports must indicate, to the extent possible based on existing information, the probable terms, conditions, and requirements of permits, and the probable supplementary documentation that will be required for the environmental impact statement and permit applications under subdivision 5. If the agency has selected a developer, the report of the agency must include a description of the rules necessary to implement the provisions of section 115A.175, subdivision 4.

Subd. 4. **Decisions.** (a) Within 90 days after the agency has determined the adequacy of the environmental impact statement, the agency shall:

(1) specify the type, capacity, and function of the stabilization and containment facility, including operating and design standards for the facility; and

(2) select one of the study areas evaluated under this section as the site for the facility, unless the agency determines, based upon potential significant adverse effects on the environment, that none of the study areas should be selected as the site consistent with the reasonable requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its air, water, land, and other natural resources from pollution, impairment, or destruction.

(b) The provisions of sections 115A.28, subdivisions 2 and 3, and 115A.30 apply to any agency decision to select a study area as a site under this subdivision.

(c) If the agency selects a study area as a site under this subdivision, the agency shall dismiss all other study areas from further consideration. If the agency does not select a study area as a site under this subdivision, the agency shall dismiss all study areas from further consideration.

Subd. 5. **Permits; environmental review.** Before the agency issues permits for the facility, the agency shall complete an environmental impact statement specifically on the environmental effects of permitting decisions required to be made by permitting agencies. The statement must be completed in the manner provided in chapter 116D and the rules issued under that chapter.

History: *1986 c 425 s 27; 1989 c 335 art 1 s 269; 1Sp2005 c 1 art 2 s 161*

115A.195 OWNERSHIP; AGREEMENTS TO MANAGE FACILITY.

The stabilization and containment facility developed under sections 115A.18 to 115A.30 may be wholly owned by the state or jointly owned by the state and a developer selected by the agency under section 115A.192. The commissioner may negotiate and the agency may enter agreements with a selected developer providing terms and conditions for the development and operation of the facility. If the agreements provide for capital improvements or equipment, or for payment of state money, the agreements may be implemented only if funds are appropriated and available to the agency for those purposes.

History: *1988 c 683 s 1; 1989 c 209 art 1 s 9; 1989 c 339 art 1 s 269; 1Sp2005 c 1 art 2 s 161*

115A.20 EVALUATING SITES.

(a) The agency shall not be required to promulgate rules pursuant to chapter 14 to govern its evaluation and selection of sites for commercial stabilization and containment facilities under sections 115A.18 to

115A.30, nor shall the agency be required to promulgate rules pursuant to chapter 14 on criteria and standards to govern its certification of intrinsic suitability of sites for commercial stabilization and containment facilities under sections 115A.18 to 115A.30. In evaluating and selecting sites for stabilization and containment facilities, the agency shall consider at least the following factors:

(1) economic feasibility, including proximity to concentrations of generators of the types of hazardous wastes likely to be proposed and permitted for stabilization and containment;

(2) intrinsic suitability of the sites;

(3) federal and state pollution control and environmental protection rules;

(4) the risk and effect for local residents, units of government, and the local public health, safety, and welfare, including such dangers as an accidental release of wastes during transportation to a facility or at a facility, water, air, and land pollution, and fire or explosion;

(5) the consistency of a facility with, and its effect on, existing and planned local land use and development; local laws, ordinances, and permits; and local public facilities and services;

(6) the adverse effects of a facility at the site on agriculture and natural resources and opportunities to mitigate or eliminate such adverse effects by stipulations, conditions, and requirements respecting the design and operation of a disposal facility at the proposed site.

(b) No land shall be excluded from consideration except land determined by the agency to be intrinsically unsuitable for the use intended.

(c) Nothing in this section shall be construed as granting the agency an exemption from the rulemaking requirements of chapter 14 if the agency adopts statements of general applicability and future effect, including amendments, suspensions, and repeals of rules, adopted to implement or make specific the law enforced or administered by the agency or to govern the organization and procedure.

History: *1980 c 564 art 3 s 3; 1981 c 352 s 13; 1982 c 424 s 130; 1986 c 425 s 47; 1989 c 335 art 1 s 269; 1997 c 187 art 1 s 10; 1Sp2005 c 1 art 2 s 161*

115A.201 MS 1994 [Repealed, 1996 c 310 s 1]

115A.21 MS 1994 [Repealed, 1996 c 310 s 1]

115A.22 MS 1994 [Repealed, 1996 c 310 s 1]

115A.23 MS 1982 [Repealed, 1983 c 373 s 72]

115A.24 STABILIZATION AND CONTAINMENT FACILITIES; ESTIMATE OF NEED; ANALYSIS OF ECONOMIC FEASIBILITY.

Subdivision 1. **Estimating need for facilities.** (a) The agency shall develop an estimate of the number, types, capacity, and function or use of any hazardous waste stabilization and containment facilities needed in the state.

(b) In developing its estimate the agency shall:

(1) prepare a preliminary estimate of the types and quantities of waste generated in the state for which stabilization and containment will be needed through the year 2000 based to the extent practical on data obtained from generators who are likely to use the facility;

(2) estimate the disposal capacity located outside of the state, taking into account the status of facility permits, current and planned capacity, and prospective restrictions on expansion of capacity;

(3) estimate the prospects for the continued availability of capacity outside of the state for disposal of waste generated in the state;

(4) estimate the types and quantities of waste likely to be generated as residuals of the commercial hazardous waste processing facilities recommended by the agency for development in the state and for which stabilization and containment will be needed, taking into account the likely users of the facilities; and

(5) compare the indirect costs and benefits of developing stabilization and containment facilities in the state or relying on facilities outside the state to dispose of hazardous waste generated in the state, taking into account the effects on business, employment, economic development, public health and safety, the environment, and the development of collection and processing facilities and services in the state.

(c) In preparing the estimate, the agency may identify need for stabilization and containment only to the extent that the agency has determined that there are no feasible and prudent alternatives, including waste reduction, separation, pretreatment, processing, and resource recovery, which would minimize adverse impact upon air, water, land and all other natural resources. Economic considerations alone may not justify an estimate of need for stabilization and containment nor the rejection of alternatives. Alternatives that are speculative and conjectural are not feasible and prudent. The agency shall consider all technologies being developed in other countries as well as in the United States when it considers the alternatives to hazardous waste stabilization and containment.

Subd. 2. MS 1982 [Repealed, 1983 c 121 s 33]

Subd. 3. **Radioactive waste.** The agency's estimate of need shall not allow the use of a facility for stabilization and containment of radioactive waste, as defined by section 116C.71, subdivision 6.

Subd. 4. **Economic feasibility analysis.** The agency shall prepare an economic feasibility analysis for stabilization and containment facilities of the type, capacity, and function or use estimated by the agency to be needed in the state under subdivision 1. The analysis must be specific to the sites where the facilities are proposed to be located. The analysis must include at least the following elements:

(1) an estimate of the capital, operating, and other direct costs of the facilities and the fee schedules and user charges necessary to make the facilities economically viable;

(2) an assessment of the other costs of using the stabilization and containment facilities, such as transportation costs and stabilization and containment surcharges;

(3) an assessment of the market for the facility for waste generated in the state, that identifies the generators that would use the facility under existing and likely future market conditions, describes the methods otherwise available to those generators to manage their wastes and the costs of using those methods, and establishes the level at which the cost of using the proposed facilities would be competitive with the cost of using other available methods of waste management;

(4) an estimate of the subsidy, if any, needed to make the facility competitive for Minnesota generators under existing market conditions and the changes in market conditions that would increase or lower any subsidy.

History: *1980 c 564 art 3 s 7; 1981 c 352 s 20; 1982 c 424 s 130; 1982 c 569 s 10,11; 1983 c 121 s 26; 1983 c 373 s 24; 1984 c 644 s 22; 1986 c 425 s 47; 1989 c 335 art 1 s 269; 1Sp2005 c 1 art 2 s 161*

115A.241 MS 1994 [Repealed, 1996 c 310 s 1]

115A.25 MS 1994 [Repealed, 1996 c 310 s 1]

115A.26 MS 1994 [Repealed, 1996 c 310 s 1]

115A.27 MS 1994 [Repealed, 1996 c 310 s 1]

115A.28 FINAL DECISION.

Subdivision 1. MS 1994 [Repealed, 1996 c 310 s 1]

Subd. 2. **Decision paramount.** The agency's decision shall be final and shall supersede and preempt requirements of state agencies and political subdivisions and the requirements of sections 473H.02 to 473H.17; except that a facility established pursuant to the decision shall be subject to terms, conditions, and requirements in permits of state or federal permitting agencies, the terms of lease determined by the agency under Minnesota Statutes 1994, section 115A.06, subdivision 4, and any requirements imposed pursuant to subdivision 3. Except as otherwise provided in this section, no charter provision, ordinance, rule, permit, or other requirement of any state agency or political subdivision shall prevent or restrict the establishment, operation, expansion, continuance, or closure of a facility in accordance with the final decision and leases of the agency and permits issued by state or federal permitting agencies.

Subd. 3. **Local requirements.** A political subdivision may impose reasonable requirements respecting the construction, inspection, operation, monitoring, and maintenance of a facility. Any such requirements shall be subject to review by the agency to determine their reasonableness and consistency with the establishment and use of a facility in accordance with the final decision and lease of the agency and to determine their reasonableness and consistency with permits of state and federal permitting agencies. The agency may approve, disapprove, suspend, modify, or reverse any such requirements. The decision of the agency shall be final.

History: *1980 c 564 art 3 s 11; 1981 c 352 s 22; 1983 c 373 s 33-35; 1984 c 644 s 29; 1985 c 248 s 70; 1986 c 425 s 47; 1986 c 444; 1989 c 335 art 1 s 269; 1Sp2005 c 1 art 2 s 161; 2007 c 13 art 3 s 9; 2026 c 88 art 1 s 19*

115A.29 MS 1994 [Repealed, 1996 c 310 s 1]

115A.291 MS 1994 [Repealed, 1996 c 310 s 1]

115A.30 JUDICIAL REVIEW.

Any civil action maintained by or against the Pollution Control Agency under sections 115A.18 to 115A.30 shall be brought in the county where the Pollution Control Agency is located and shall take precedence over all other matters of a civil nature and be expedited to the maximum extent possible. Any person aggrieved by a decision of the Pollution Control Agency or an agency under sections 115A.18 to 115A.30 may appeal therefrom within 30 days following all final decisions on the issuance of permits. Any appeal shall be conducted as a review of the administrative record as provided in sections 14.63 to 14.69. No civil action shall be maintained pursuant to section 116B.03 with respect to conduct taken by a person pursuant to any environmental quality standard, limitation, rule, order, license, stipulation agreement or permit issued by the Pollution Control Agency under sections 115A.18 to 115A.30. Notwithstanding any provision of chapter 116B to the contrary, in any action brought under that chapter with respect to any decision or conduct undertaken by any person or the Pollution Control Agency pursuant to sections 115A.18 to 115A.30 after the period for appeal under this section has lapsed, the plaintiff shall have the burden of

proving that the evidence required under section 116B.10 was not reasonably available within the time provided for appeal. The trial court shall, upon motion of any prevailing nongovernmental party, award costs, disbursements, reasonable attorney's fees, and reasonable expert witness fees, if the court finds the action hereunder was commenced or defended in bad faith or was frivolous.

History: *1980 c 564 art 3 s 13; 1982 c 424 s 130; 1983 c 373 s 37; 1985 c 248 s 70; 1987 c 384 art 2 s 1; 1989 c 335 art 1 s 269; 1Sp2005 c 1 art 2 s 161*

115A.301 INDEMNIFYING CERTAIN DAMAGES ARISING FROM STABILIZATION AND CONTAINMENT FACILITY.

Subdivision 1. **Operator to indemnify; exceptions.** (a) As a condition of obtaining an agency permit and except as provided in paragraph (b), the operator of a hazardous waste stabilization and containment facility established under sections 115A.18 to 115A.30, upon the acceptance of any hazardous waste for stabilization and containment, shall agree to indemnify any other person for any liability the person may have under chapter 115B as a result of a release or threatened release of hazardous waste from the stabilization and containment facility to the extent of the financial responsibility requirement established in subdivision 2.

(b) The operator is not required to indemnify any person for liability to the extent that:

(1) the liability is the result of a violation by that person of state or federal law that governs the handling, transportation, or disposal of hazardous substances;

(2) the liability is the result of a negligent act or omission of that person with respect to the handling, transportation, or disposal of hazardous substances; or

(3) the liability is one for which a claim has been or may be paid by the Federal Postclosure Liability Fund under United States Code, title 42, section 9607(k).

(c) The operator is not required to indemnify any person for any claim filed more than 30 years after closure of the stabilization and containment facility in accordance with agency rules.

(d) The operator may intervene as of right in any action that may result in a claim for indemnification under this subdivision.

Subd. 2. **Financial responsibility.** (a) As a condition of obtaining a permit to operate a hazardous waste stabilization and containment facility established under sections 115A.18 to 115A.30, the operator shall demonstrate financial responsibility to pay claims of liability for personal injury, economic loss, response costs, and natural resources damage that the operator may incur as a result of a release or threatened release of a hazardous waste from the facility, including liability for which the operator is required to indemnify other persons under subdivision 1. The amount of the operator's financial responsibility must be at least $40,000,000.

(b) The agency may require a higher level of financial responsibility as a condition of a permit for a stabilization and containment facility depending upon the size of the facility, the location of the facility, the types of waste that will be accepted at the facility, and other factors affecting the risk of a release and potential liability. The operator may demonstrate financial responsibility by any mechanism approved by the agency's hazardous waste rules. The operator shall maintain financial responsibility as provided in this subdivision during operation of the facility and until 30 years after facility closure in accordance with agency rules, provided that the operator shall maintain financial responsibility after 30 years in the amount and for the time necessary to satisfy any outstanding claims filed within 30 years after facility closure.

Subd. 3. **Liability trust fund.** (a) A state facility liability trust fund is established as an account in the state treasury. Money in the fund shall be held in trust by the state to pay claims of liability resulting from the release or threatened release of hazardous waste from a disposal facility established under sections 115A.18 to 115A.30, and to purchase insurance to pay the claims. Subject to the limitations provided in paragraph (b), the fund and insurance purchased by the fund shall pay claims to the extent that the claims are not satisfied by the operator of the facility under subdivision 1, by the Federal Postclosure Liability Fund under United States Code, title 42, section 9607(k), or by any person, including the operator, who is liable for the claim as a result of violation of a state or federal law or a negligent act or omission.

(b) The state is not obligated to pay any claims in excess of the amount of money in the fund and the limits of any insurance purchased by the fund.

(c) Interest earned by the money in the fund must be credited to the fund.

Subd. 4. **Determining amounts in fund.** The agency shall determine the amount of money that will be needed in the state facility liability trust fund to maintain insurance coverage for each facility of at least $10,000,000 during the operating life of the facility and to accumulate a balance of at least $10,000,000 within 20 years after the facility begins operation. The agency may require insurance coverage and accumulation of a fund balance in amounts greater than those provided in this subdivision based upon the factors that the agency must consider in establishing the level of financial responsibility under subdivision 2 and the amount of claims for which the fund is likely to be liable under subdivision 3. Based on the amounts required to purchase insurance and accumulate the fund balance, the agency shall establish a surcharge amount to be collected under subdivision 5. The agency may adjust the amount of the surcharge based on the actual quantities of waste received at the facility. Determinations by the agency under this subdivision are subject to the rulemaking provisions of chapter 14.

Subd. 5. **Stabilization and containment surcharge.** A surcharge must be paid for every ton or part of a ton of hazardous waste accepted for stabilization and containment at a facility. The operator shall collect and hold the surcharge in a separate account. By the first day of each month, the operator shall pay any money in this account to the commissioner of management and budget for credit to the state facility liability trust fund.

Subd. 6. **Administration.** (a) The commissioner of management and budget shall administer the state facility liability trust fund. Money in the fund is appropriated to the commissioner of management and budget for expenditure as provided in subdivision 3. The commissioner shall establish separate accounts in the fund for purchase of insurance and for accumulation of a fund balance as required by the Pollution Control Agency under subdivision 4. After closure of the facility in accordance with agency rules, the commissioner shall consolidate the two accounts and may use any interest income from the fund to purchase insurance to pay claims for which the fund may be liable.

(b) The commissioner, in consultation with the attorney general, may settle any claims that the fund may be required to pay. If two or more claims are made against the fund, the amount of which would exceed the amount in the fund, the commissioner shall pay any valid claims on a pro rata basis. The commissioner, on behalf of the fund, may intervene as of right in an action that may result in a claim against the fund.

Subd. 7. **Rights preserved.** Nothing in this section affects the right of any person to bring an action under any law to recover costs or damages arising out of the release or threatened release of a hazardous substance from a disposal facility established under sections 115A.18 to 115A.30. Any costs or damages

recoverable in such an action shall be reduced to the extent that the costs or damages have been paid under subdivisions 1 to 3.

History: *1984 c 644 s 31; 1986 c 425 s 47; 1989 c 335 art 1 s 269; 1Sp2005 c 1 art 2 s 161; 2009 c 101 art 2 s 109*

115A.31 LOCAL GOVERNMENT DECISIONS; TIMELINES.

(a) If a county applies for or requests approval of establishment of a solid waste facility within the boundaries of a local government unit, the local government unit shall approve or disapprove the application or request within 120 days following the delivery by the county to the local government unit of the application or request completed in accordance with the requirements of applicable local ordinances.

(b) If the proposed facility is one for which an environmental impact statement or environmental assessment worksheet is required under section 116D.04, the local government unit shall approve or disapprove the application or request within 90 days after the final determination of adequacy of the environmental impact statement or environmental assessment worksheet.

History: *1991 c 337 s 13*

SUPPLEMENTARY REVIEW OF CERTAIN WASTE FACILITIES

115A.32 RULES.

The board shall promulgate rules pursuant to chapter 14 to govern its activities under sections 115A.32 to 115A.39. For the purposes of sections 115A.32 to 115A.39, "board" means the Environmental Quality Board established in section 116C.03. In all of its activities and deliberations under sections 115A.32 to 115A.39, the board shall consult with the commissioner of the Pollution Control Agency.

History: *1980 c 564 art 4 s 1; 1982 c 424 s 130; 1989 c 335 art 1 s 269; 1992 c 593 art 1 s 11; 1995 c 247 art 2 s 9; 1Sp2005 c 1 art 2 s 161*

115A.33 MS 1992 [Repealed, 1994 c 628 art 3 s 209]

115A.33 ELIGIBILITY; REQUEST FOR REVIEW.

(a) The following persons are eligible to request supplementary review by the board pursuant to sections 115A.32 to 115A.39:

(1) a generator of sewage sludge within the state who has been issued permits by the agency for a facility to dispose of sewage sludge or solid waste resulting from sewage treatment;

(2) a political subdivision that has been issued permits by the agency, or a political subdivision acting on behalf of a person who has been issued permits by the agency, for a solid waste facility that is no larger than 250 acres, not including any proposed buffer area, and located outside the metropolitan area;

(3) a generator of hazardous waste within the state who has been issued permits by the agency for a hazardous waste facility to be owned and operated by the generator, on property owned by the generator, and to be used by the generator for managing the hazardous wastes produced by the generator only;

(4) a person who has been issued permits by the agency for a commercial hazardous waste processing facility at a site included in the board's inventory of preferred sites for such facilities adopted pursuant to Minnesota Statutes 1996, section 115A.09; and

(5) a person who has been issued permits by the agency for a disposal facility for the nonhazardous sludge, ash, or other solid waste generated by a permitted hazardous waste processing facility operated by the person.

(b) The board may require completion of a plan conforming to the requirements of section 115A.46, before granting review under paragraph (a), clause (2). A request for supplementary review must show that the required permits for the facility have been issued by the agency and that a political subdivision has refused to approve the establishment or operation of the facility.

History: *1980 c 564 art 4 s 2; 1981 c 352 s 23; 1989 c 335 art 1 s 269; 1992 c 593 art 1 s 54; 1994 c 628 art 3 s 209; 1995 c 247 art 1 s 6,60,64; 1999 c 86 art 1 s 21; 2023 c 25 s 31*

115A.34 APPOINTING TEMPORARY BOARD MEMBERS.

Within 45 days of the submission of a request determined by the board to satisfy the requirements for review under sections 115A.32 to 115A.39, temporary members shall be added to the board for the purpose of the supplementary review. Three members shall be selected by the governing body of the city or town in which the chair of the board determines the facility would be principally located, and three members shall be selected by the governing body of the county in which the chair of the board determines the proposed facility would be principally located. If the proposed facility is located in unorganized territory, all six members shall be selected by the governing board of the county. Temporary members shall be residents of the county in which the proposed facility would be located and shall be selected to represent broadly the local interests that would be directly affected by the proposed facility. At least one member appointed by the city or town shall live within one mile of the proposed facility, and at least one member appointed by the county shall be a resident of a city or town in which the proposed facility would be located. If the appointing authority fails to appoint temporary members in the period allowed, the governor shall appoint the temporary members to represent the local interests in accordance with this section. Temporary members shall serve for terms lasting until the board has taken final action on the facility.

History: *1980 c 564 art 4 s 3; 1981 c 352 s 24; 1986 c 444; 1989 c 335 art 1 s 269; 1992 c 593 art 1 s 54*

115A.35 REVIEW PROCEDURE.

(a) The board shall meet to commence the supplementary review within 90 days of the submission of a request determined by the board to satisfy the requirements for review under this section. At the meeting commencing the review, the chair shall recommend and the board establish a scope and procedure, in accordance with the rules of the board, for review and final decision on the proposed facility.

(b) The procedure shall require the board to make a final decision on the proposed facility within 90 days following the commencement of review. The procedure shall require the board to hold, at the call of the chair, at least one public hearing in the county within which the proposed facility would be located.

(c) A majority of permanent members of the board shall be present at the hearing. The hearing shall be conducted for the board by the state Court of Administrative Hearings in a manner determined by the administrative law judge to be consistent with the expeditious completion of the proceedings as required by sections 115A.32 to 115A.39. The hearing shall not be deemed a contested case under chapter 14.

(d) Notice of the hearing shall be published in a newspaper or newspapers of general circulation in the area for two successive weeks ending at least 15 days before the date of the meeting. The notice shall describe the proposed facility, its location, the permits, and the board's scope and procedure for review. The notice shall identify a location or locations within the city or town and county where the permit applications, the

agency permits, and the board's scope and procedure for review are available for review and where copies may be obtained.

History: *1980 c 564 art 4 s 4; 1980 c 615 s 60; 1982 c 424 s 130; 1984 c 640 s 32; 1986 c 444; 1989 c 335 art 1 s 269; 1992 c 593 art 1 s 54; 2025 c 39 art 2 s 68*

115A.36 SCOPE AND CONTENT OF REVIEW.

In its review and final decision on the proposed facility, the board shall consider at least the following matters:

(1) the risk and effect of the proposed facility on local residents, units of government, and the local public health, safety, and welfare, including such dangers as an accidental release of wastes during transportation to the facility, water, air, and land pollution, and fire or explosion where appropriate, and the degree to which the risk or effect may be alleviated;

(2) the consistency of the proposed facility with, and its effect on, existing and planned local land use and development; local laws, ordinances, and permits; and local public facilities and services;

(3) the adverse effects of the facility on agriculture and natural resources and opportunities to mitigate or eliminate the adverse effects by additional stipulations, conditions, and requirements respecting the proposed facility at the proposed site;

(4) the need for the proposed facility, especially its contribution to abating solid and hazardous waste disposal, the availability of alternative sites, and opportunities to mitigate or eliminate need by additional and alternative waste management strategies or actions of a significantly different nature;

(5) whether, in the case of solid waste resource recovery facilities, the applicant has considered the feasible and prudent waste processing alternatives for accomplishing the purposes of the proposed project and has compared and evaluated the costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators.

History: *1980 c 564 art 4 s 5; 1989 c 335 art 1 s 269; 1992 c 593 art 1 s 54*

115A.37 FINAL DECISION OF BOARD.

Subdivision 1. **Approval or disapproval.** In its final decision on the proposed facility, the board may either approve or disapprove the proposed facility at the proposed site. The board's approval shall embody all terms, conditions, and requirements of the permitting agencies, provided that the board may: (a) finally resolve any conflicts between state agencies regarding permit terms, conditions, and requirements, and (b) require more stringent permit terms, conditions, and requirements respecting the design, construction, operation, inspection, monitoring, and maintenance of the proposed facility at the proposed site. The board's resolution of conflicts under clause (a) shall be in favor of the more stringent terms, conditions, and requirements.

Subd. 2. **Decision paramount.** The decision of the board to approve a facility shall be final and shall supersede and preempt requirements of state agencies and political subdivisions and the requirements of sections 473H.02 to 473H.17; except that the facility shall be subject to those terms, conditions, and requirements of permitting agencies embodied in the board's approval and any requirements imposed pursuant to subdivision 3. The permitting agencies shall issue or amend the permits for the facility within 60 days following and in accordance with the final decision of the board, and all permits shall conform to the terms, conditions, and requirements of the board's decision. No charter provision, ordinance, rule, permit, or other

requirement of any state agency or political subdivision shall prevent or restrict the establishment, operation, expansion, continuance, or closure of the facility in accordance with the final decision of the board and permits issued pursuant thereto.

Subd. 3. **Local requirements.** A political subdivision may impose reasonable requirements respecting the construction, inspection, operation, monitoring, and maintenance of a facility. Any such requirements shall be subject to review by the agency to determine their reasonableness and consistency with the establishment and use of a facility in accordance with the final decision of the board and permits issued pursuant thereto. The agency may approve, disapprove, suspend, modify, or reverse any such requirements. The decision of the agency shall be final.

History: *1980 c 564 art 4 s 6; 1981 c 352 s 25; 1985 c 248 s 70; 1989 c 335 art 1 s 269; 1992 c 593 art 1 s 54*

115A.38 RECONCILIATION PROCEDURES.

Subdivision 1. **Reports to legislative commission.** At least 30 days before making a final decision under section 115A.37 in a review brought pursuant to section 115A.33, paragraph (a), clause (4), the chair of the board may report to the legislative commission describing permit conditions or requirements being considered that are not within the existing authority of the agency or the board or that would require legislation or public financial assistance. In any such report, the chair of the board may request intervention in the review pursuant to subdivisions 2 and 3.

Subd. 2. **Preintervention assessment.** If the legislative commission determines that intervention might be warranted under the terms of subdivision 1, the commission may suspend the review process for up to 60 days to allow a preintervention assessment. The preintervention assessment shall be conducted by an independent, impartial, and qualified public intervenor appointed by the commission with the advice and consent of the parties to the dispute. The intervenor shall report to the commission. The report shall include:

(1) an assessment of whether the dispute is ripe for mediation and whether the parties are willing to mediate;

(2) an assessment of whether, within the terms of subdivision 1, substantive issues exist which cannot be resolved effectively through normal administrative and judicial procedures;

(3) a preliminary definition of the facts and issues in dispute and actions and decisions being considered;

(4) a description of the diverse parties having a legitimate and direct interest in the outcome of the dispute.

Subd. 3. **Suspending review process; intervention proceeding.** Following the report of the intervenor, the legislative commission may suspend the review process for an additional period not to exceed 90 days for an intervention proceeding. The intervenor shall be in charge of the intervention proceeding and may call for such participation and establish such procedures as the intervenor deems necessary and appropriate to facilitate agreement. The intervenor shall keep the chair of the legislative commission informed on the progress of the intervention proceeding, particularly with respect to agreements or proposed agreements which may require action or decisions not within the authority of the agency or board, legislative action, or public financial assistance. The intervenor shall make recommendations to the commission respecting any such agreements or proposed agreements. The commission may make recommendations to the intervenor respecting any such agreement or proposed agreement. If the commission approves of an agreement, or a decision based upon an agreement, which requires action or decisions not within the authority of the agency

or board, legislative action, or public financial assistance, the commission shall cause the matter and recommendations to be submitted to the legislature for consideration.

History: *1980 c 564 art 4 s 7; 1986 c 444; 1989 c 335 art 1 s 269; 1992 c 593 art 1 s 54; 2023 c 25 s 32*

115A.39 JUDICIAL REVIEW.

Judicial review with respect to conduct or decisions in supplementary reviews brought pursuant to section 115A.33, paragraph (a), clause (3) or (4), is as provided in section 115A.30.

History: *1980 c 564 art 4 s 8; 2023 c 25 s 33*

SOLID WASTE MANAGEMENT POLICY AND PROGRAMS

115A.41 MS 1987 Supp [Repealed, 1988 c 685 s 44]

115A.411 SOLID WASTE MANAGEMENT POLICY; CONSOLIDATED REPORT.

Subdivision 1. **Authority; purpose.** The commissioner shall prepare and adopt a report on solid waste management policy and activities under this chapter. The report must be submitted by the commissioner to the senate and house of representatives committees having jurisdiction over environment and natural resources by December 31, 2015, and every four years thereafter and shall include reports required under sections 115A.551, subdivision 4; 115A.557, subdivision 4; 473.149, subdivision 6; 473.846; and 473.848, subdivision 4.

Subd. 2. **Contents.** (a) The report may also include:

(1) a summary of the current status of solid waste management, including the amount of solid waste generated and reduced, the manner in which it is collected, processed, and disposed, the extent of separation, recycling, reuse, and recovery of solid waste, and the facilities available or under development to manage the waste;

(2) an evaluation of the extent and effectiveness of implementation of section 115A.02, including an assessment of progress in accomplishing state policies, goals, and objectives, including those listed in paragraph (b);

(3) identification of issues requiring further research, study, and action, the appropriate scope of the research, study, or action, the state agency or political subdivision that should implement the research, study, or action, and a schedule for completion of the activity;

(4) recommendations for establishing or modifying state solid waste management policies, authorities, responsibilities, and programs; and

(5) a report on progress made toward implementation of the objectives of the metropolitan area solid waste policy plan as required in section 473.149, subdivision 6.

(b) The report must include strategies for:

(1) achieving the maximum feasible reduction in waste generation;

(2) encouraging manufacturers to design products that eliminate or reduce the adverse environmental impacts of resource extraction, manufacturing, use, and waste processing and disposal;

(3) educating businesses, public entities, and other consumers about the need to consider the potential environmental and financial impacts of purchasing products that may create a liability or that may be expensive to recycle or manage as waste, due to the presence of toxic or hazardous components;

(4) eliminating or reducing toxic or hazardous components in compost from municipal solid waste composting facilities, in ash from municipal solid waste incinerators, and in leachate and air emissions from municipal solid waste landfills, in order to reduce the potential liability of waste generators, facility owners and operators, and taxpayers;

(5) encouraging the source separation of materials to the extent practicable, so that the materials are most appropriately managed and to ensure that resources that can be reused or recycled are not disposed of or destroyed; and

(6) maximizing the efficiency of the waste management system by managing waste and recyclables close to the point of generation, taking into account the characteristics of the resources to be recovered from the waste and the type and capacity of local facilities.

History: *1987 c 348 s 14; 1989 c 335 art 1 s 269; 1991 c 337 s 14; 1992 c 593 art 1 s 12; 1995 c 247 art 1 s 7; 1996 c 470 s 27; 1999 c 73 s 2; 1Sp2005 c 1 art 2 s 161; 2012 c 272 s 66*

115A.412 WASTE COMPOSITION; INFORMATION REQUIRED.

Subdivision 1. **Study required.** (a) Every three years, beginning in 2029, the commissioner must direct the owners and operators at 20 percent of each of the following facility types to perform a waste composition study:

(1) mixed municipal solid waste land disposal facilities;

(2) industrial solid waste land disposal facilities;

(3) demolition debris land disposal facilities;

(4) transfer stations that annually transfer more than 5,000 tons of waste to a facility outside Minnesota; and

(5) other facilities identified by the commissioner.

(b) The waste composition study must be performed at the sole expense of each owner or operator as directed by the commissioner.

(c) When selecting facilities for waste composition studies, the commissioner must rotate the participants so that, over time, the studies cover the entirety of the facilities identified under paragraph (a). The commissioner must determine the time frame for each study in the three-year cycle. The owner or operator of each selected facility must complete the study within one year of being notified by the commissioner of selection to perform a waste composition study.

Subd. 2. **Study requirements.** (a) The commissioner must:

(1) determine the sampling methods to be used and the categories of materials to be sampled for waste composition studies; and

(2) provide the sampling methods and any additional requirements identified by the commissioner to each owner or operator directed to perform a study.

(b) The sampling methods must include the number of samples to be taken, the size or weight of each sample, the duration of a sampling event, the sampling interval, and any additional methods identified by the commissioner. The categories of materials to be sampled must include categories and subcategories identified by the commissioner to represent the materials present at each facility.

(c) Resource recovery facilities required to do waste sorts required under air rules adopted under section 116.07 must use the study requirements developed under this section when conducting waste composition analysis to meet the rule requirements.

(d) The commissioner must obtain input from counties, cities, and owners or operators of waste facilities before finalizing the sampling methods and requirements. The commissioner must consider cost effectiveness and data quality when determining the sampling methods.

Subd. 3. **Report.** Within six months after completing a waste composition study required under this section, the owner or operator of a facility must submit the raw data and results of the study to the commissioner in a form and manner prescribed by the commissioner.

Subd. 4. **Compilation.** After each three-year cycle, the commissioner must compile and summarize the waste composition data received under subdivision 3. The commissioner must make the summary information available to the public.

Subd. 5. **Additional studies; information.** (a) The commissioner may conduct additional waste composition studies at facilities described in subdivision 1.

(b) Upon request of the commissioner for purposes of determining compliance with this section, a person must furnish to the commissioner any information that the person has or may reasonably obtain.

(c) The owner or operator of a facility shall allow access upon reasonable notice to authorized agency staff for the purpose of conducting waste composition studies.

History: *2024 c 116 art 2 s 10*

115A.415 SUBSTANDARD DISPOSAL FACILITIES.

(a) Beginning July 1, 1995:

(1) a person may not deliver unprocessed mixed municipal solid waste to a substandard disposal facility; and

(2) an operator of a substandard disposal facility may not accept unprocessed mixed municipal solid waste for deposit in the disposal facility.

(b) For the purpose of this section, "substandard disposal facility" means a disposal facility that does not meet the design, construction, and operation requirements for a new mixed municipal solid waste facility contained in state rules in effect as of January 1, 1993.

(c) For the purpose of this section, waste is "unprocessed" if it has not, after collection and before disposal, undergone at least one process, as defined in section 115A.03, subdivision 25, excluding storage, exchange, and transfer of the waste.

History: *1993 c 249 s 10*

115A.42 REGIONAL AND LOCAL SOLID WASTE MANAGEMENT PLANNING.

There is established a program to encourage and improve regional and local solid waste management planning activities and efforts and to further the state policies and purposes expressed in section 115A.02. The program under sections 115A.42 to 115A.46 is administered by the commissioner pursuant to rules promulgated under chapter 14, except in the metropolitan area where the program is administered by the commissioner pursuant to section 473.149. The commissioner shall ensure conformance with federal requirements and programs established pursuant to the Resource Conservation and Recovery Act of 1976 and amendments thereto.

History: *1980 c 564 art 5 s 1; 1982 c 424 s 130; 1982 c 569 s 12; 1987 c 348 s 15; 1987 c 404 s 137; 1989 c 335 art 1 s 269; 1995 c 247 art 2 s 10; 1Sp2005 c 1 art 2 s 161*

115A.43 MS 1986 [Repealed, 1987 c 348 s 52]

115A.44 MS 1986 [Repealed, 1987 c 348 s 52]

115A.45 TECHNICAL ASSISTANCE.

The commissioner shall provide for technical assistance to encourage and improve solid waste management and to assist political subdivisions in preparing the plans described in section 115A.46. The commissioner shall provide model plans for regional and local solid waste management. The commissioner may contract for the delivery of technical assistance by a regional development commission, any state or federal agency, private consultants, or other persons. The commissioner shall prepare and publish an inventory of sources of technical assistance for solid waste planning, including studies, publications, agencies, and persons available.

History: *1980 c 564 art 5 s 4; 1987 c 348 s 16; 1987 c 404 s 139; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3; 1995 c 247 art 2 s 11; 1Sp2005 c 1 art 2 s 161*

115A.46 REGIONAL AND LOCAL SOLID WASTE MANAGEMENT PLAN; REQUIREMENTS.

Subdivision 1. **General.** (a) Plans shall address the state policies and purposes expressed in section 115A.02 and may not be inconsistent with state law.

(b) Plans for the location, establishment, operation, maintenance, and postclosure use of facilities and facility sites, for ordinances, and for licensing, permit, and enforcement activities shall be consistent with the rules adopted by the agency pursuant to chapter 116.

(c) Plans shall address:

(1) the resolution of conflicting, duplicative, or overlapping local management efforts;

(2) the establishment of joint powers management programs or waste management districts where appropriate; and

(3) other matters as the rules of the agency may require consistent with the purposes of sections 115A.42 to 115A.46.

(d) Political subdivisions preparing plans under sections 115A.42 to 115A.46 shall consult with persons presently providing solid waste collection, processing, and disposal services.

(e) Plans must be submitted to the commissioner for approval. When a county board is ready to have a final plan approved, the county board shall submit a resolution requesting review and approval by the

commissioner. After receiving the resolution, the commissioner shall notify the county within 45 days whether the plan as submitted is complete and, if not complete, the specific items that need to be submitted to make the plan complete. Within 90 days after a complete plan has been submitted, the commissioner shall approve or disapprove the plan. If the plan is disapproved, reasons for the disapproval must be provided.

(f) After initial approval, each plan must be updated and submitted for approval at least every ten years. The plan must be revised as necessary so that it is not inconsistent with state law.

(g) Rules that regulate plan content under subdivision 2 must reflect demographic, geographic, regional, and solid waste system differences that exist among the counties.

Subd. 2. **Contents.** (a) The plans shall describe existing collection, processing, and disposal systems, including schedules of rates and charges, financing methods, environmental acceptability, and opportunities for improvements in the systems.

(b) The plans shall include an estimate of the land disposal capacity in acre-feet which will be needed through the year 2000, on the basis of current and projected waste generation practices. In assessing the need for additional capacity for resource recovery or land disposal, the plans shall take into account the characteristics of waste stream components and shall give priority to waste reduction, separation, and recycling.

(c) The plans shall require the most feasible and prudent reduction of the need for and practice of land disposal of mixed municipal solid waste.

(d) The plans shall address at least waste reduction, separation, recycling, and other resource recovery options, and shall include specific and quantifiable objectives, immediately and over specified time periods, for reducing the land disposal of mixed municipal solid waste and for the implementation of feasible and prudent reduction, separation, recycling, and other resource recovery options. These objectives shall be consistent with statewide objectives as identified in statute. The plans shall describe methods for identifying the portions of the waste stream such as leaves, grass, clippings, tree and plant residue, and paper for application and mixing into the soil and use in agricultural practices. The plans shall describe specific functions to be performed and activities to be undertaken to achieve the abatement, reduction, separation, recycling, and other resource recovery objectives and shall describe the estimated cost, proposed manner of financing, and timing of the functions and activities. The plans shall describe proposed mechanisms for complying with the recycling requirements of section 115A.551, and the household hazardous waste management requirements of section 115A.96, subdivision 6.

(e) The plans shall include a comparison of the costs of the activities to be undertaken, including capital and operating costs, and the effects of the activities on the cost to generators and on persons currently providing solid waste collection, processing, and disposal services. The plans shall include alternatives which could be used to achieve the abatement objectives if the proposed functions and activities are not established.

(f) The plans shall designate how public education shall be accomplished. The plans shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plans shall include criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan.

(g) The plans shall establish a siting procedure and development program to assure the orderly location, development, and financing of new or expanded solid waste facilities and services sufficient for a prospective ten-year period, including estimated costs and implementation schedules, proposed procedures for operation and maintenance, estimated annual costs and gross revenues, and proposals for the use of facilities after they are no longer needed or usable.

(h) The plans shall describe existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste management and shall describe existing and proposed regulation and enforcement procedures.

Subd. 3. MS 1982 [Repealed, 1984 c 644 s 82]

Subd. 4. **Delegating solid waste responsibilities.** A county or a solid waste management district established under sections 115A.62 to 115A.72 may not delegate to another governmental unit or other person any portion of its responsibility for solid waste management unless it establishes a funding mechanism to assure the ability of the entity to which it delegates responsibility to adequately carry out the responsibility delegated.

Subd. 5. **Jurisdiction of plan.** (a) After a county plan has been submitted for approval under subdivision 1, a public entity, as defined in section 16C.073, subdivision 1, within the county may not enter into a binding agreement governing a solid waste management activity that is inconsistent with the county plan without the consent of the county.

(b) After a county plan has been approved under subdivision 1, the plan governs all solid waste management in the county and a public entity, as defined in section 16C.073, subdivision 1, within the county may not develop or implement a solid waste management activity, other than an activity to reduce waste generation or reuse waste materials, that is inconsistent with the county plan that the county is actively implementing without the consent of the county.

History: *1980 c 564 art 5 s 5; 1982 c 569 s 13; 1984 c 644 s 32,33; 1987 c 404 s 140; 1989 c 131 s 3; 1989 c 325 s 6; 1989 c 335 art 1 s 269; 1Sp1989 c 1 art 20 s 3,4; 1991 c 337 s 15,16; 1995 c 247 art 1 s 8; art 2 s 12; 2003 c 13 s 1; 1Sp2005 c 1 art 2 s 161; 2014 c 196 art 1 s 5*

115A.47 MS 1994 [Repealed, 1995 c 247 art 2 s 55]

115A.471 PUBLIC ENTITIES; MANAGING SOLID WASTE.

(a) Prior to entering into or approving a contract for the management of mixed municipal solid waste which would manage the waste using a waste management practice that is ranked lower on the list of preferred waste management practices in section 115A.02, paragraph (b), than the waste management practice selected for such waste in the county plan for the county in which the waste was generated, a public entity must:

(1) determine the potential liability to the public entity and its taxpayers for managing the waste in this manner;

(2) develop and implement a plan for managing the potential liability; and

(3) submit the information from clauses (1) and (2) to the agency.

(b) For the purpose of this subdivision, "public entity" means the state; an office, agency, or institution of the state; the Metropolitan Council; a metropolitan agency; the Metropolitan Mosquito Control District;

the legislature; the courts; a county; a statutory or home rule charter city; a town; a school district; another special taxing district; or any other general or special purpose unit of government in the state.

History: *1995 c 247 art 1 s 9*

115A.48 MARKET DEVELOPMENT FOR RECYCLABLE MATERIALS AND COMPOST.

Subdivision 1. **Authority.** The commissioner shall assist and encourage the development of specific facilities, services, and uses needed to provide adequate, stable, and reliable markets for recyclable materials, solid waste suitable for land application, and compost generated in the state. In carrying out this duty, the commissioner shall coordinate and cooperate with the solid waste management efforts of other public agencies and political subdivisions.

Subd. 2. MS 1996 [Repealed, 1996 c 470 s 28]

Subd. 3. **Public procurement.** The commissioner shall provide technical assistance and advice to political subdivisions and other public agencies to encourage solid waste reduction and development of markets for recyclable materials and compost through procurement policies and practices. Political subdivisions, educational institutions, and other public agencies shall aggressively pursue procurement practices that encourage solid waste reduction, recycling, and development of markets for recyclable materials and compost and shall, whenever practical, procure products containing recycled materials.

Subd. 4. **Land application of solid waste.** The commissioner shall provide technical assistance and advice to political subdivisions on separating portions of the waste stream such as leaves, grass, clippings, tree and plant residue, and paper for application and mixing into the soil and for use in agricultural practices.

Subd. 5. MS 1996 [Repealed, 1996 c 470 s 28]

History: *1987 c 348 s 17; 1988 c 685 s 11; 1989 c 131 s 4-6; 1989 c 335 art 1 s 269; 1Sp1989 c 1 art 18 s 10,11; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161*

115A.49 WASTE MANAGEMENT CAPITAL ASSISTANCE PROGRAM.

(a) There is established a program to encourage and assist cities, counties, solid waste management districts, and sanitary districts in the development and implementation of solid waste management projects and to transfer the knowledge and experience gained from such projects to other communities in the state.

(b) The program must be administered to encourage local communities to develop feasible and prudent alternatives to disposal, including:

(1) waste reduction;

(2) reuse;

(3) recycling;

(4) composting source-separated compostable materials or yard waste;

(5) resource recovery;

(6) waste separation by generators, collectors, and other persons; and

(7) waste processing.

(c) The commissioner shall administer the program according to sections 115A.49 to 115A.54 and rules adopted under chapter 14. In administering the program, the commissioner shall give priority to projects in the order of preference of the waste management practices listed in section 115A.02. The commissioner shall give special consideration to areas where natural geologic and soil conditions are especially unsuitable for land disposal of solid waste; areas where the capacity of existing solid waste disposal facilities is determined by the commissioner to be less than five years; and projects serving more than one local government unit.

History: *1980 c 564 art 6 s 1; 1982 c 424 s 130; 1Sp1985 c 15 s 32; 1987 c 348 s 18; 1987 c 404 s 141; 1988 c 524 s 2; 1989 c 335 art 1 s 269; 1991 c 337 s 17; 1Sp2005 c 1 art 2 s 161; 2023 c 60 art 3 s 9*

115A.50 ELIGIBLE RECIPIENTS.

Eligible recipients for assistance under the program shall be limited to cities, counties, solid waste management districts established pursuant to sections 115A.62 to 115A.72, and sanitary districts. Eligible recipients may apply for assistance under sections 115A.0716 and 115A.52 on behalf of other persons.

History: *1980 c 564 art 6 s 2; 1988 c 524 s 3; 1996 c 470 s 7*

115A.51 APPLICATION REQUIREMENTS.

(a) Applications for assistance under the program must demonstrate:

(1) that the project is conceptually and technically feasible;

(2) that affected political subdivisions are committed to implement the project, to provide necessary local financing, and to accept and exercise the government powers necessary to the project;

(3) that operating revenues from the project, considering the availability and security of sources of solid waste and of markets for recovered resources or the availability of materials for waste reduction or reuse, together with any proposed federal, state, or local financial assistance, will be sufficient to pay all costs over the projected life of the project;

(4) that the applicant has evaluated the feasible and prudent alternatives to disposal, including using existing solid waste management facilities and facilities conducting waste reduction or reuse with reasonably available capacity sufficient to accomplish the goals of the proposed project, and has compared and evaluated the costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators;

(5) that the applicant has identified:

(i) waste management objectives in applicable county and regional solid waste management plans consistent with section 115A.46, subdivision 2, paragraphs (e) and (f), or 473.149, subdivision 1; and

(ii) other solid waste management facilities and facilities conducting waste reduction or reuse identified in the county and regional plans;

(6) that the applicant has conducted a comparative analysis of the project against existing public and private solid waste management facilities and facilities conducting waste reduction or reuse, including an analysis of potential displacement of those facilities, to determine whether the project is the most appropriate alternative to achieve the identified waste management objectives that considers:

(i) conformity with approved county or regional solid waste management plans;

(ii) consistency with the state's solid waste hierarchy and section 115A.46, subdivision 2, paragraphs (e) and (f), or 473.149, subdivision 1; and

(iii) environmental standards related to public health, air, surface water, and groundwater;

(7) that the applicant has evaluated the project's environmental impact on climate change, including greenhouse gas emissions; and

(8) that the applicant has reviewed the project's impact on environmental justice areas, conducted stakeholder engagement, and assessed community input.

(b) The commissioner must require completion of a comprehensive solid waste management plan conforming to the requirements of section 115A.46, before accepting an application. Within five days of filing an application with the agency, the applicant must submit a copy of the application to each solid waste management facility, including each facility used for waste reduction or reuse, mentioned in the portion of the application addressing the requirements of paragraph (a), clauses (5) and (6).

History: *1980 c 564 art 6 s 3; 1987 c 348 s 19; 1987 c 404 s 142; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161; 1Sp2019 c 4 art 3 s 98; 2023 c 60 art 3 s 10*

115A.52 TECHNICAL ASSISTANCE FOR PROJECTS.

The commissioner shall ensure the delivery of technical assistance for projects eligible under the program. The commissioner may contract or issue grants for the delivery of technical assistance by any state or federal agency, a regional development commission, the Metropolitan Council, or private consultants and may use program funds to reimburse the agency, commission, council, or consultants. The commissioner shall prepare and publish an inventory of sources of technical assistance, including studies, publications, agencies, and persons available. The commissioner shall ensure statewide benefit from projects assisted under the program by developing exchange and training programs for local officials and employees and by using the experience gained in projects to provide technical assistance and education for other solid waste management projects in the state.

History: *1980 c 564 art 6 s 4; 1Sp1985 c 15 s 33; 1987 c 348 s 20; 1987 c 404 s 143; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3; 1999 c 73 s 3; 1Sp2005 c 1 art 2 s 161*

115A.53 MS 1996 [Repealed, 1996 c 470 s 28]

115A.54 WASTE MANAGEMENT CAPITAL ASSISTANCE PROJECTS.

Subdivision 1. **Purposes; public interest; declaration of policy.** The legislature finds that acquiring, establishing, and improving facilities that conduct waste reduction, reuse, recycling, composting source-separated compostable materials or yard waste, resource recovery, and waste processing and transfer stations serving such facilities is needed to reduce and manage properly the solid waste generated in the state and to conserve and protect the natural resources in the state and the health, safety, and welfare of its citizens; that opportunities to acquire, establish, and improve the facilities and transfer stations are not being fully realized by individual political subdivisions or by agreements among subdivisions; and that therefore it is necessary to provide capital assistance to stimulate and encourage the acquisition, establishment, and improvement of the facilities and transfer stations.

Subd. 2. **Administration; assurance of funds.** The commissioner shall provide technical and financial assistance to acquire, establish, and improve the facilities and transfer stations from revenues derived from issuing bonds authorized by section 115A.58. Facilities for incinerating solid waste without resource recovery

are not eligible for assistance. Money appropriated for the purposes of the program may be distributed as grants or loans. An individual project may receive assistance totaling up to 100 percent of the capital cost of the project and grants up to 75 percent of the capital cost of the project. No grant or loan shall be disbursed to any recipient until the commissioner has determined the total estimated capital cost of the project and ascertained that financing of the cost is assured by funds provided by the state, by an agency of the federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state, by any person, or by the appropriation of proceeds of bonds or other funds of the recipient to a fund for constructing the project.

Subd. 2a. **Solid waste management projects.** (a) The commissioner shall provide technical and financial assistance to acquire, establish, and improve solid waste management projects as provided in this subdivision and section 115A.52. Money appropriated for the purposes of this subdivision must be distributed as grants.

(b) Except as provided in paragraph (c) or (d), a project may receive grant assistance up to 25 percent of the capital cost of the project or $5,000,000, whichever is less, except that projects constructed as a result of intercounty cooperative agreements may receive the lesser of:

(1) grant assistance up to 25 percent of the capital cost of the project; or

(2) $5,000,000 times the number of participating counties.

(c) A recycling project, a project to compost source-separated compostable material or yard waste, or a project to manage household hazardous waste may receive grant assistance up to 50 percent of the capital cost of the project or $5,000,000, whichever is less, except that projects completed as a result of intercounty cooperative agreements may receive the lesser of:

(1) grant assistance up to 50 percent of the capital cost of the project; or

(2) $5,000,000 times the number of participating counties.

(d) The following projects may also receive grant assistance in the amounts specified in paragraph (c):

(1) a project to improve control of or reduce air emissions at an existing resource recovery facility; and

(2) a project to substantially increase the recovery of materials or energy, substantially reduce the amount or toxicity of waste processing residuals, or expand the capacity of an existing resource recovery facility to meet the resource recovery needs of an expanded region if each county from which waste is or would be received has achieved a recycling rate in excess of the goals in section 115A.551, and is implementing aggressive waste reduction and household hazardous waste management programs.

(e) A waste reduction project or reuse project may receive grant assistance up to 75 percent of the capital cost of the project or $5,000,000, whichever is less, except that projects completed as a result of intercounty cooperative agreements may receive the lesser of:

(1) grant assistance up to 75 percent of the capital cost of the project; or

(2) $5,000,000 times the number of participating counties.

(f) Notwithstanding paragraph (g), the commissioner may award grants for transfer stations that will initially transfer waste to landfills if the transfer stations are part of a planned resource recovery project, the county where the planned resource recovery facility will be located has a comprehensive solid waste management plan approved by the commissioner, and the solid waste management plan proposes the development of the resource recovery facility. If the proposed resource recovery facility is not in place and

operating within 16 years of the date of the grant award, the recipient shall repay the grant amount to the state.

(g) Projects without waste reduction, reuse, recycling, composting source-separated compostable material or yard waste, or resource recovery are not eligible for assistance. Solid waste disposal facilities and equipment are not eligible for assistance.

(h) In addition to any assistance received under paragraph (b), (c), (d), or (e), a project may receive grant assistance for the cost of tests necessary to determine the appropriate pollution control equipment for the project or the environmental effects of the use of any product or material produced by the project.

(i) In addition to the application requirements of section 115A.51, an application for a project serving eligible jurisdictions in only a single county must demonstrate that cooperation with jurisdictions in other counties to develop the project is not needed or not feasible. Each application must also demonstrate that the project is not financially prudent without the state assistance, because of the applicant's financial capacity and the problems inherent in the waste management situation in the area, particularly transportation distances and limited waste supply and markets for resources recovered.

(j) For the purposes of this subdivision, "project" means acquisition, establishment, or improvement of a facility that conducts waste reduction, reuse, recycling, composting source-separated compostable materials or yard waste, resource recovery, or waste processing, together with any transfer stations, transmission facilities, and other related and appurtenant facilities primarily serving the facility.

(k) The commissioner shall adopt rules for the program.

(l) Notwithstanding anything in this subdivision to the contrary, a project to construct a new solid waste transfer station that has an enforceable commitment of at least ten years, or of sufficient length to retire bonds sold for the facility, to serve an existing resource recovery facility may receive grant assistance up to 75 percent of the capital cost of the project if addition of the transfer station will increase substantially the geographical area served by the resource recovery facility and the ability of the resource recovery facility to operate more efficiently on a regional basis and the facility meets the criteria in paragraph (d), clause (2). A transfer station eligible for assistance under this paragraph is not eligible for assistance under any other paragraph of this subdivision.

Subd. 3. **Obligations of recipient.** No grant or loan for any project shall be disbursed until the governing body of the recipient has made an irrevocable undertaking, by resolution, to use all funds made available exclusively for the capital cost of the project and to pay any additional amount by which the cost of the project exceeds the estimate by appropriation to the construction fund of additional funds or proceeds of additional bonds of the recipient. The resolution shall also indicate that any subsequent withdrawal of allocated or additional funds of the recipient will impair the obligation of contract between the state of Minnesota, the recipient, and the bondholders. The resolution shall pledge payment to the debt service account of all revenues of the project to the extent that they exceed costs and shall also obligate the recipient to levy a tax sufficient to make timely payments under the loan agreement, if a deficiency occurs in the amount of user charges, taxes, special assessments, or other money pledged for payment under the loan agreement. Each loan made to a recipient shall be secured by resolutions adopted by the commissioner of the Pollution Control Agency and the governing body of the recipient, obligating the recipient to repay the loan to the commissioner of management and budget in annual installments including both principal and interest. Installments shall be in an amount sufficient to pay the principal amount within the period required by the commissioner of the Pollution Control Agency. The interest on the loan shall be calculated on the declining balance at a rate not less than the average annual interest rate on the state bonds of the issue from

which proceeds of the loan were made. The resolution shall obligate the recipient to provide money for the repayment from user charges, taxes, special assessments or any other funds available to it.

Subd. 4. **Terminating obligations; good faith effort.** Notwithstanding the provisions of section 16A.695, the commissioner may terminate the obligations of a grant or loan recipient under this section, if the commissioner finds that the recipient has made a good faith effort to exhaust all options in trying to comply with the terms and conditions of the grant or loan. In lieu of declaring a default on a grant or a loan under this section, the commissioner may identify additional measures a recipient should take in order to meet the good faith test required for terminating the recipient's obligations under this section.

History: *1980 c 564 art 6 s 6; 1981 c 352 s 26; 1983 c 373 s 38; 1985 c 274 s 5; 1Sp1985 c 15 s 34; 1987 c 348 s 22; 1989 c 325 s 7; 1989 c 335 art 1 s 269; 1990 c 594 art 1 s 50; 1993 c 249 s 11; 1994 c 585 s 5; 1994 c 639 art 5 s 3; 1997 c 216 s 95; 1Sp2001 c 2 s 123; 2003 c 112 art 2 s 50; 2003 c 128 art 1 s 125; 1Sp2005 c 1 art 2 s 161; 2009 c 101 art 2 s 109; 2014 c 248 s 15; 2023 c 25 s 34; 2023 c 60 art 3 s 11-13*

115A.541 PLAN; GRANT REQUIREMENT.

The commissioner may approve a plan under section 115A.46 or make a grant for a recycling facility under section 115A.54, subdivision 2a, only if the commissioner finds that the applicant demonstrates a commitment to recycle materials separated by generators to the extent the program is cost-effective in meeting recycling goals.

History: *1988 c 685 s 12; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161*

115A.542 MS 1993 Supp [Repealed, 1994 c 585 s 57]

115A.545 MS 2006 [Repealed, 2007 c 13 art 2 s 6]

115A.55 SOLID WASTE REDUCTION.

Subdivision 1. **Coordination.** The commissioner shall develop and coordinate solid waste reduction programs to include at least public education, promotion of waste reduction, and technical and financial assistance to solid waste generators.

Subd. 2. **Technical assistance.** The commissioner shall provide technical assistance to solid waste generators to enable the waste generators to implement programs or methods to reduce the amount of solid waste generated. The commissioner may use any means specified in section 115A.52 to provide technical assistance.

Subd. 3. MS 1996 [Repealed, 1996 c 470 s 28]

Subd. 4. **Statewide reduction goal.** (a) It is a goal of the state and counties to reduce the generation of municipal solid waste.

(b) As part of the report required under section 115A.411, the commissioner shall submit to the senate and house of representatives committees having jurisdiction over environment and natural resources and environment and natural resources finance a proposed strategy for meeting the goal in paragraph (a). The strategy must include a discussion of the different reduction potentials to be found in various sectors and may include recommended interim goals. The commissioner shall report progress on meeting the goal in

paragraph (a), as well as recommendations and revisions to the proposed strategy, as part of the report required under section 115A.411.

History: *1Sp1989 c 1 art 20 s 5; 1994 c 639 art 5 s 3; 1995 c 247 art 1 s 10,11; 1996 c 470 s 27; 1Sp2005 c 1 art 2 s 161; 2014 c 312 art 13 s 25*

115A.5501 MS 2022 [Repealed, 2024 c 116 art 2 s 35]

115A.5502 PACKAGING PRACTICES; PREFERENCES; GOALS.

Packaging forms a substantial portion of solid waste and contributes to environmental degradation and the costs of managing solid waste. It is imperative to reduce the amount and toxicity of packaging that must be managed as solid waste. In order to achieve significant reduction of packaging in solid waste, the goal of the state is that items be distributed without any packaging where feasible and, only when necessary to protect health and safety or product integrity, with the minimal amount of packaging possible. The following categories of packaging are listed in order of preference for use by all persons who find it necessary to package items for distribution or use in the state:

(1) minimal packaging that contains no intentionally introduced toxic materials and that is designed to be and actually is reused for its original purpose at least five times;

(2) minimal packaging that contains no intentionally introduced toxic materials and consists of a significant percentage of postconsumer material;

(3) minimal packaging that contains no intentionally introduced toxic materials, that is recyclable, and is regularly collected through recycling collection programs available to at least 75 percent of the residents of the state;

(4) minimal packaging that does not comply with clause (1), (2), or (3) because it is required under federal or state law and for which there does not exist a commercially feasible alternative that does comply with clause (1), (2), or (3);

(5) packaging that contains no intentionally introduced toxic materials but does not comply with clauses (1) to (4); and

(6) all other packaging.

History: *1994 c 585 s 11; 1995 c 247 art 1 s 13; 2024 c 116 art 2 s 11*

115A.551 RECYCLING.

Subdivision 1. **Definitions.** (a) For the purposes of this section, "recycling" means, in addition to the meaning given in section 115A.03, subdivision 25b, yard waste and source-separated compostable materials composting and recycling that occurs through mechanical or hand separation of materials that are then delivered for use in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

(b) For the purposes of this section, "total solid waste generation" means the total by weight of:

(1) materials separated for recycling;

(2) materials separated for yard waste and source-separated compostable materials composting;

(3) mixed municipal solid waste plus motor and vehicle fluids and filters, tires, lead acid batteries, and major appliances; and

(4) residential waste materials that would be mixed municipal solid waste but for the fact that they are not collected as such.

Subd. 2. MS 2012 [Repealed, 2014 c 312 art 13 s 48]

Subd. 2a. **County recycling goals.** (a) By December 31, 2030, each county will have as a goal to recycle the following amounts:

(1) for a county outside of the metropolitan area, 35 percent by weight of total solid waste generation; and

(2) for a metropolitan county, 75 percent by weight of total solid waste generation.

(b) Each county will develop and implement or require political subdivisions within the county to develop and implement programs, practices, or methods designed to meet its recycling goal. Nothing in this section or in any other law may be construed to prohibit a county from establishing a higher recycling goal.

(c) Any quantified recyclable materials that meet the definition in subdivision 1, paragraph (a), or section 115A.03, subdivision 25a, are eligible to be counted toward a county's recycling goal under this subdivision.

Subd. 3. **Interim goals; nonmetropolitan counties.** The commissioner shall establish interim recycling goals for the nonmetropolitan counties to assist them in meeting the goals established in subdivision 2a.

Subd. 4. **Interim monitoring.** The commissioner shall monitor the progress of each county toward meeting the recycling goals in subdivision 2a. The commissioner shall report to the senate and house of representatives committees having jurisdiction over environment and natural resources as part of the report required under section 115A.411. If the commissioner finds that a county is not progressing toward the goals in subdivision 2a, the commissioner shall negotiate with the county to develop and implement solid waste management techniques designed to assist the county in meeting the goals, such as organized collection, curbside collection of source-separated materials, and volume-based pricing.

Subd. 5. **Failure to meet goal.** (a) A county failing to meet the interim goals in subdivision 3 shall, as a minimum:

(1) notify county residents of the failure to achieve the goal and why the goal was not achieved; and

(2) provide county residents with information on recycling programs offered by the county.

(b) If, based on the recycling monitoring described in subdivision 4, the commissioner finds that a county will be unable to meet the recycling goals established in subdivision 2a, the commissioner shall, after consideration of the reasons for the county's inability to meet the goals, recommend legislation for consideration by the senate and house of representatives committees having jurisdiction over environment and natural resources and environment and natural resources finance to establish mandatory recycling standards and to authorize the commissioner to mandate appropriate solid waste management techniques designed to meet the standards in those counties that are unable to meet the goals.

Subd. 6. **County solid waste plans.** Each county shall include in its solid waste management plan described in section 115A.46, or its solid waste master plan described in section 473.803, a recycling implementation strategy for meeting the recycling goal established in subdivision 2a along with mechanisms

for providing financial incentives to solid waste generators to reduce the amount of waste generated and to separate recyclable materials from the waste stream.

Subd. 7. **Recycling implementation strategy.** Each county shall submit to the commissioner for approval the recycling implementation strategy required in subdivision 6. The recycling implementation strategy must be submitted by October 31, 1995, and must:

(1) be consistent with the approved county solid waste management plan;

(2) identify the materials that are being and will be recycled in the county to meet the goals under this section and the parties responsible and methods for recycling the material;

(3) provide a budget to ensure adequate funding for needed county and local programs and demonstrate an ongoing commitment to spending the money on recycling programs; and

(4) include a schedule for implementing recycling activities needed to meet the goals in subdivision 2a.

History: *1Sp1989 c 1 art 18 s 12; 1991 c 337 s 19-21; 1992 c 593 art 1 s 14-16,54; 1993 c 249 s 13,14,61; 1994 c 639 art 5 s 3; 1995 c 247 art 1 s 14-17; art 2 s 15; 1996 c 470 s 27; 1999 c 73 s 4; 1Sp2005 c 1 art 2 s 161; 2012 c 272 s 67,68; 2014 c 312 art 13 s 26,27; 1Sp2015 c 4 art 4 s 108; 2016 c 158 art 1 s 26-28*

115A.552 OPPORTUNITY TO RECYCLE.

Subdivision 1. **County requirement.** Counties shall ensure that residents, including residents of single and multifamily dwellings, have an opportunity to recycle. At least one recycling center shall be available in each county. Opportunity to recycle means availability of recycling and curbside pickup or collection centers for recyclable materials at sites that are convenient for persons to use. Counties shall also provide for the recycling of problem materials and major appliances. Counties shall assess the operation of existing and proposed recycling centers and shall give due consideration to those centers in ensuring the opportunity to recycle. To the extent practicable, the costs incurred by a county for collection, storage, transportation, and recycling of major appliances must be collected from persons who discard the major appliances.

Subd. 2. **Recycling opportunities.** An opportunity to recycle must include:

(1) a local recycling center in the county and sites for collecting recyclable materials that are located in areas convenient for persons to use them;

(2) curbside pickup, centralized drop-off, or a local recycling center for at least four broad types of recyclable materials in cities with a population of 5,000 or more persons; and

(3) monthly pickup of at least four broad types of recyclable materials in cities of the first and second class and cities with 5,000 or more population in the metropolitan area.

Subd. 3. **Recycling information, education, and promotion.** (a) Each county shall provide information on how, when, and where materials may be recycled, including a promotional program that publishes notices at least once every three months and encourages source separation of residential, commercial, industrial, and institutional materials.

(b) The commissioner shall develop materials for counties to use in providing information on and promotion of recycling.

(c) The commissioner shall provide technical assistance to counties to help counties implement recycling programs.

Subd. 4. **Nonresidential recycling.** Each county shall encourage building owners and managers, business owners and managers, and collectors of commercial mixed municipal solid waste to provide appropriate recycling services and opportunities to generators of commercial, industrial, and institutional solid waste in the county.

History: *1Sp1989 c 1 art 18 s 13; 1991 c 337 s 22-24; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161*

115A.553 COLLECTING AND TRANSPORTING RECYCLABLE MATERIALS.

Subdivision 1. **Collection centers and transportation required.** Each county must ensure alone or in conjunction with other counties that materials separated for recycling are taken to markets for sale or to recyclable material processing centers. An action may not be taken by a county under this section to preclude a person generating or collecting solid waste from delivering recyclable materials to a recycling facility of the generator's or collector's choice.

Subd. 2. **Licensing recyclable materials collection.** Counties may require county or municipal licenses for collection of recyclable materials.

Subd. 3. **Transportation systems.** The commissioner of the Pollution Control Agency and the commissioner of transportation shall develop an efficient transportation system for recyclable materials to reach markets and processing centers that may be used by counties. The system may include regional collection centers.

History: *1Sp1989 c 1 art 18 s 14; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161*

115A.554 AUTHORITY OF SANITARY DISTRICTS.

A sanitary district has the authorities and duties of counties within the district's boundary for purposes of sections 115A.0716; 115A.46, subdivisions 4 and 5; 115A.48; 115A.551; 115A.552; 115A.553; 115A.919; 115A.929; 115A.93; 115A.96, subdivision 6; 115A.961; 116.072; 375.18, subdivision 14; 400.04; 400.06; 400.07; 400.08; 400.16; and 400.161.

History: *1Sp1989 c 1 art 18 s 15; 1991 c 337 s 25; 1994 c 585 s 12; 1995 c 247 art 1 s 18; 1996 c 470 s 8; 1997 c 231 art 16 s 2; 2002 c 220 art 8 s 14; 1Sp2005 c 1 art 2 s 130; 2008 c 277 art 1 s 8*

115A.555 RECYCLING CENTER DESIGNATION.

The agency shall designate recycling centers for the purpose of section 173.086. To be designated as a recycling center, a recycling facility must be open a minimum of 12 operating hours each week, 12 months each year, and must accept for recycling:

(1) at least four different materials such as paper, glass, plastic, and metal; and

(2) if the recycling center accepts metal, hazard signs, as defined in section 161.242, subdivision 2, paragraph (d), to the same extent that a junk yard dealer must accept hazard signs under section 161.242, subdivision 6a.

History: *1Sp1989 c 1 art 18 s 16; 1991 c 197 s 1*

115A.556 MATERIALS USED FOR RECYCLING.

Materials and products used for recycling such as containers, receptacles, and storage bins with short life cycles must be recyclable and made at least in part from recycled materials from this state, if available.

History: *1989 c 325 s 8*

115A.557 COUNTY WASTE REDUCTION AND RECYCLING FUNDING.

Subdivision 1. **Distribution; formula.** Any funds appropriated to the commissioner for the purpose of distribution to counties under this section must be distributed each fiscal year by the commissioner based on population, except a county may not receive less than $55,000 in a fiscal year. If the amount available for distribution under this section is less or more than the amount available in fiscal year 2001, the minimum county payment under this section is reduced or increased proportionately. For purposes of this subdivision, "population" has the definition given in section 477A.011, subdivision 3. A county that participates in a multicounty district that manages solid waste and that has responsibility for recycling programs as authorized in section 115A.552, must pass through to the districts funds received by the county in excess of the minimum county payment under this section in proportion to the population of the county served by that district.

Subd. 2. **Permissible expenditures.** (a) A county receiving money distributed by the commissioner under this section may use the money only for the development and implementation of programs to:

(1) reduce the amount of solid waste generated;

(2) recycle the maximum amount of solid waste technically feasible;

(3) create and support markets for recycled products;

(4) remove problem materials from the solid waste stream and develop proper disposal options for them;

(5) inform and educate all sectors of the public about proper solid waste management procedures;

(6) provide technical assistance to public and private entities to ensure proper solid waste management;

(7) provide educational, technical, and financial assistance for litter prevention;

(8) process mixed municipal solid waste generated in the county at a resource recovery facility located in Minnesota;

(9) compost source-separated compostable materials, including the provision of receptacles for residential composting;

(10) prevent food waste or collect and transport food donated to humans or to be fed to animals; and

(11) process source-separated compostable materials that are to be used to produce class I or class II compost, as defined in Minnesota Rules, part 7035.2836, after being processed in an anaerobic digester, but not to construct buildings or acquire equipment.

(b) Beginning in fiscal year 2015 and continuing thereafter, of any money distributed by the commissioner under this section to a metropolitan county, as defined in section 473.121, subdivision 4, that exceeds the amount the county was eligible to receive under this section in fiscal year 2014: (1) at least 50 percent must be expended on activities in paragraph (a), clauses (9) to (11); and (2) the remainder must be expended on activities in paragraph (a), clauses (1) to (7) and (9) to (11), that advance the county toward achieving its recycling goal under section 115A.551.

Subd. 3. **Eligibility.** (a) To be eligible to receive money distributed by the commissioner under this section, a county shall within one year of October 4, 1989:

(1) create a separate account in its general fund to credit the money; and

(2) set up accounting procedures to ensure that money in the separate account is spent only for the purposes in subdivision 2.

(b) In each following year, each county shall also:

(1) have in place an approved solid waste management plan or master plan including a recycling implementation strategy under section 115A.551, subdivision 7, and a household hazardous waste management plan under section 115A.96, subdivision 6, by the dates specified in those provisions;

(2) submit a report by April 1 of each year to the commissioner, which may be submitted electronically and must be posted on the agency's website, detailing for the previous calendar year:

(i) how the money was spent including, but not limited to, specific recycling and composting activities undertaken to increase the county's proportion of solid waste recycled in order to achieve its recycling goal established in section 115A.551; specific information on the number of employees performing SCORE planning, oversight, and administration; the percentage of those employees' total work time allocated to SCORE planning, oversight, and administration; the specific duties and responsibilities of those employees; and the amount of staff salary for these SCORE duties and responsibilities of the employees; and

(ii) the resulting gains achieved in solid waste management practices; and

(3) provide evidence to the commissioner that local revenue equal to 25 percent of the money sought for distribution under this section will be spent for the purposes in subdivision 2.

(c) The commissioner shall withhold all or part of the funds to be distributed to a county under this section if the county fails to comply with this subdivision and subdivision 2.

Subd. 4. **Report.** The commissioner shall report on how the money was spent and the resulting statewide improvements in solid waste management to the senate and house of representatives committees having jurisdiction over ways and means, finance, environment and natural resources, and environment and natural resources finance. The report shall be included in the report required under section 115A.411.

History: *1Sp1989 c 1 art 19 s 1; 1991 c 337 s 26; 1992 c 593 art 1 s 17,54; 1994 c 585 s 13; 1994 c 639 art 5 s 3; 1995 c 247 art 1 s 19,20; 1996 c 470 s 27; 2000 c 490 art 10 s 1; 1Sp2001 c 2 s 125; 2002 c 374 art 6 s 2; 2004 c 284 art 2 s 11; 1Sp2005 c 1 art 2 s 161; 2009 c 37 art 1 s 42; 2012 c 272 s 69; 2014 c 312 art 13 s 28,29; 1Sp2015 c 4 art 4 s 109*

115A.558 SAFETY GUIDE.

The Pollution Control Agency shall prepare and distribute to all interested persons a guide for operation of a recycling or yard waste composting facility to protect the environment and public health.

History: *1Sp1989 c 1 art 22 s 2; 1995 c 247 art 2 s 16; 1Sp2005 c 1 art 2 s 161*

115A.559 COMPOSTING; COMPETITIVE GRANT PROGRAM.

Subdivision 1. **Grant program established.** The commissioner shall make competitive grants to political subdivisions to increase composting, reduce the amount of organic wastes entering disposal facilities, and reduce the costs associated with hauling waste by locating the composting site as close as possible to the

site where the waste is generated. To achieve the purpose of the grant program, the commissioner shall actively recruit potential applicants beyond traditional solid waste professionals and organizations, such as soil and water conservation districts and schools. Each grant must include an educational component on the methods and benefits of composting.

Subd. 2. **Application.** (a) The commissioner must develop forms and procedures for soliciting and reviewing applications for grants under this section.

(b) The determination of whether to make a grant under this section is within the discretion of the commissioner, subject to subdivision 4. The commissioner's decisions are not subject to judicial review, except for abuse of discretion.

Subd. 3. **Priorities; eligible projects.** (a) If applications for grants exceed the available appropriations, grants must be made for projects that, in the commissioner's judgment, provide the highest return in public benefits.

(b) To be eligible to receive a grant, a project must:

(1) be locally administered;

(2) have measurable outcomes; and

(3) include at least one of the following elements:

(i) the development of erosion control methods that use compost;

(ii) activities to encourage on-site composting by homeowners; or

(iii) activities to encourage composting by schools or public institutions.

Subd. 4. **Cancellation of grant.** If a grant is awarded under this section and funds are not encumbered for the grant within four years after the award date, the grant must be canceled.

History: *2009 c 37 art 1 s 43*

115A.56 MS 1994 [Repealed, 1996 c 359 s 11]

115A.565 WASTE REDUCTION, REUSE, RECYCLING, AND COMPOSTING; COMPETITIVE GRANT PROGRAM.

Subdivision 1. **Grant program established.** The commissioner must make competitive grants to political subdivisions or federally recognized Tribes for waste reduction, reuse, recycling, and composting of source-separated compostable materials or yard waste. To be eligible for grants under this section, a political subdivision or federally recognized Tribe must be located outside the seven-county metropolitan area and a city must have a population of less than 45,000.

Subd. 2. **Application.** (a) The commissioner must develop forms and procedures for soliciting and reviewing applications for grants under this section.

(b) The determination of whether to make a grant under this section is within the discretion of the commissioner, subject to subdivision 4. The commissioner's decisions are not subject to judicial review, except for abuse of discretion.

Subd. 3. **Priorities; eligible projects.** (a) If applications for grants exceed the available appropriations, grants must be made for projects that, in the commissioner's judgment, provide the highest return in public benefits.

(b) To be eligible to receive a grant, a project must:

(1) be locally administered;

(2) have an educational component and measurable outcomes;

(3) request $250,000 or less;

(4) demonstrate local direct and indirect matching support of at least a quarter amount of the grant request;

(5) include at least one of the following elements:

(i) waste reduction;

(ii) reuse;

(iii) recycling; or

(iv) composting of source-separated compostable materials or yard waste; and

(6) demonstrate that the project will reduce waste generation through waste reduction or reuse or that the project will increase the amount of recyclable materials or source-separated compostable materials diverted from a disposal facility.

Subd. 4. **Cancellation of grant.** If a grant is awarded under this section and funds are not encumbered for the grant within four years after the award date, the grant must be canceled.

History: *1Sp2015 c 4 art 4 s 110; 1Sp2021 c 6 art 2 s 92; 2023 c 60 art 3 s 14,15*

STATE WASTE MANAGEMENT BONDS

115A.57 MS 1988 [Repealed, 1989 c 271 s 36]

115A.58 STATE WASTE MANAGEMENT BONDS.

Subdivision 1. **Authority to issue bonds.** The commissioner of management and budget shall sell bonds of the state of Minnesota for the prompt and full payment of which, together with interest, the full faith, credit, and taxing powers of the state are irrevocably pledged. Bonds shall be sold only upon request of the commissioner of the Pollution Control Agency and in the amount as may otherwise be authorized by this or a subsequently enacted law which authorizes the sale of additional bonds and the deposit of the proceeds in a waste management account in the bond proceeds fund. Any authorized amount of bonds in this law or any subsequently enacted law authorizing the issuance of bonds for the purposes of the waste management account, together with this section, constitute complete authority for the issue. The bonds shall not be subject to restrictions or limitations contained in any other law.

Subd. 2. **Issuing bonds.** Upon request by the commissioner of the Pollution Control Agency and upon authorization as provided in subdivision 1, the commissioner of management and budget shall sell Minnesota state waste management bonds. The bonds shall be in the aggregate amount requested, and sold upon sealed bids upon the notice, at the price in the form and denominations, bearing interest at the rate or rates, maturing

in the amounts and on the dates (with or without option of prepayment upon notice and at specified times and prices), payable at a bank or banks within or outside the state (with provisions, if any, for registration, conversion, and exchange and for the issuance of temporary bonds or notes in anticipation of the sale or delivery of definitive bonds), and in accordance with further provisions as the commissioner of management and budget shall determine, subject to the approval of the attorney general, but not subject to chapter 14, including section 14.386. The bonds shall be executed by the commissioner of management and budget under official seal. The signature on the bonds and any interest coupons and the seal may be printed, lithographed, engraved, stamped, or otherwise reproduced thereon, except that each bond shall be authenticated by the manual signature on its face of the commissioner of management and budget or of an authorized representative of a bank designated by the commissioner of management and budget as registrar or other authenticating agent. The commissioner of management and budget shall ascertain and certify to the purchasers of the bonds the performance and existence of all acts, conditions, and things necessary to make them valid and binding general obligations of the state of Minnesota, subject to the approval of the attorney general.

Subd. 3. **Expenses.** All expenses incidental to the sale, printing, execution, and delivery of bonds pursuant to this section, including but not limited to actual and necessary travel and subsistence expenses of state officers and employees for these purposes, and any expenses of litigation relating to the validity of the bonds, shall be paid from the waste management account, and the amounts necessary are appropriated from that account.

Subd. 4. **Debt service account.** The commissioner of management and budget shall maintain in the state bond fund a separate account to be called the state waste management debt service account. It shall record receipts of premium and accrued interest, loan repayments, project revenue or other money transferred to the fund and income from the investment of the money and record any disbursements to pay the principal and interest on waste management bonds. Income from investment shall be credited to the account in each fiscal year. The amount credited shall be equal to the average return that year on all funds invested by the commissioner of management and budget, as determined by the commissioner of management and budget, times the average balance in the account that year.

Subd. 5. **Debt service account; paying debt service.** The premium and accrued interest received on each issue of Minnesota state waste management bonds, and all payments received in repayment of loans and other revenues received, are appropriated to the debt service account. All income from the investment of the waste management account in the bond proceeds fund is appropriated to the debt service account. In order to reduce the amount of taxes otherwise required to be levied, there is also appropriated to the debt service account from any funds available in the general fund on November 1 in each year, a sum of money sufficient in amount, when added to the balance then on hand, to pay all principal and interest on Minnesota waste management bonds due and to become due before July 1 in the second ensuing year. So much of the debt service account as is necessary to pay principal and interest on waste management bonds is annually appropriated from the debt service account for the payment of principal and interest of the waste management bonds. All funds appropriated by this subdivision shall be available in the debt service account prior to any levy of the tax in any year required by the Minnesota Constitution, article XI, section 7.

Subd. 6. **Security.** On or before December 1 in each year, the state auditor shall levy on all taxable property within the state whatever tax may be necessary to produce an amount sufficient, with all money currently credited to the debt service account, to pay the entire amount of principal and interest currently due and the principal and interest to become due before July 1 in the second year thereafter on Minnesota waste management bonds. This tax shall be subject to no limitation of rate or amount until all the bonds and

interest thereon are fully paid. The proceeds of this tax are appropriated to the debt service account. The principal of and interest on the bonds are payable from the proceeds of this tax.

History: *1980 c 564 art 7 s 2; 1982 c 424 s 130; 1983 c 301 s 110; 1Sp1985 c 14 art 4 s 13; 1989 c 271 s 11-14; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3; 1995 c 233 art 2 s 56; 1997 c 187 art 5 s 13; 2003 c 112 art 2 s 15,50; 1Sp2005 c 1 art 2 s 161; 2009 c 101 art 2 s 109*

115A.59 BOND AUTHORIZATION.

The commissioner of management and budget is authorized, upon request of the commissioner of the Pollution Control Agency, to sell state bonds in the amount of up to $8,800,000 for the purpose of the waste processing facility capital assistance program under section 115A.54. The bonds shall be sold in the manner and upon the conditions prescribed in sections 16A.631 to 16A.675, and in the Minnesota Constitution, article XI, sections 4 to 7. The amount of bonds issued pursuant to this authorization shall not exceed at any time the amount needed to produce a balance in the waste management account equal to the aggregate amount of the loans and grants then approved and not previously disbursed, plus the amount of the loans and grants to be approved in the current and the following fiscal year, as estimated by the commissioner of the Pollution Control Agency.

History: *1980 c 564 art 7 s 3; 1989 c 271 s 15; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3; 2002 c 379 art 1 s 30; 1Sp2005 c 1 art 2 s 161; 2009 c 101 art 2 s 109*

SOLID WASTE MANAGEMENT DISTRICTS

115A.62 PURPOSE; PUBLIC INTEREST; DECLARATION OF POLICY.

The legislature finds that the development of integrated and coordinated solid waste management systems is needed to manage properly the solid waste generated in the state, to conserve and protect the natural resources in the state and the health, safety, and welfare of its citizens, and to further the state policies and purposes expressed in section 115A.02; that this need cannot always be met solely by the activities of individual political subdivisions or by agreements among subdivisions; and that therefore it is necessary to establish a procedure for the creation of solid waste management districts having the powers and performing the functions prescribed in sections 115A.62 to 115A.72.

History: *1980 c 564 art 8 s 1; 1982 c 569 s 14*

115A.63 SOLID WASTE MANAGEMENT DISTRICTS.

Subdivision 1. **Legal status.** Solid waste management districts established pursuant to sections 115A.62 to 115A.72 shall be public corporations and political subdivisions of the state.

Subd. 2. **Establishment.** The commissioner may establish waste districts as public corporations and political subdivisions of the state, define the powers of such districts in accordance with sections 115A.62 to 115A.72, define and alter the boundaries of the districts as provided in section 115A.64, and terminate districts as provided in section 115A.66. The commissioner shall promulgate rules pursuant to chapter 14 governing the establishment, alteration, and termination of districts.

Subd. 3. **Restrictions.** No waste district shall be established within the boundaries of the Western Lake Superior Sanitary District established under chapter 458D. No waste district shall be established wholly within one county. The commissioner shall not establish a waste district within or extending into the metropolitan area, nor define or alter the powers or boundaries of a district, unless the articles of incorporation of the district require that the district will have the same procedural and substantive responsibilities, duties,

and relationship to the metropolitan agencies as a metropolitan county. The commissioner shall require the completion of a comprehensive solid waste management plan conforming to the requirements of section 115A.46, by petitioners seeking to establish a district.

History: *1980 c 564 art 8 s 2; 1982 c 424 s 130; 1989 c 335 art 1 s 269; 1992 c 464 art 1 s 15; 1992 c 593 art 1 s 19; 1994 c 639 art 5 s 3; 1995 c 247 art 2 s 17; 1Sp2005 c 1 art 2 s 161*

115A.64 PROCEDURE FOR ESTABLISHING AND ALTERING.

Subdivision 1. **Local petition.** Waste districts shall be established and their powers and boundaries defined or altered by the commissioner only after petition requesting the action jointly submitted by the governing bodies of petitioners comprising at least one-half of the counties partly or wholly within the district. A petition for alteration shall include a resolution by the board of directors of the district approving the alteration.

Subd. 2. **Petition contents.** (a) A petition requesting establishment or alteration of a waste district must contain the information the commissioner may require, including at least the following:

(1) the name of the proposed district;

(2) a description of the territory and political subdivisions within and the boundaries of the proposed district or alteration thereto, along with a map showing the district or alteration;

(3) resolutions of support for the district, as proposed to the commissioner, from the governing body of each of the petitioning counties;

(4) a statement of the reason, necessity, and purpose for the district, plus a general description of the solid waste management improvements and facilities contemplated for the district showing how its activities will accomplish the purpose of the district and the purposes for waste resource districts stated in sections 115A.62 to 115A.72;

(5) articles of incorporation stating:

(i) the powers of the district consistent with sections 115A.62 to 115A.72, including a statement of powers proposed pursuant to sections 115A.70, 115A.71, and 115A.715; and

(ii) provisions for representation and election of the board of directors of the district.

(b) After the petition has been filed, no petitioner may withdraw from it except with the written consent of all other petitioners for the district.

Subd. 3. **Local review and comment.** At least 60 days before submitting the petition to the commissioner, the petitioners shall publish notice of the petition in newspapers of general circulation in the proposed district and shall cause a copy of the petition to be served upon the agency, the governing body of each political subdivision which is wholly or partly within the proposed district or is affected by the proposed alteration and each regional development commission affected by the proposed district or alteration. Each entity receiving service shall have 60 days within which to comment to the petitioners on the petition and the proposed district or alteration. Proof of service, along with any comments received, shall be attached to the petition when it is submitted to the commissioner.

Subd. 4. **Review procedures.** (a) Upon receipt of the petition, the commissioner shall determine whether the petition conforms in form and substance to the requirements of law and rule.

(b) If the petition does not conform to the requirements, the commissioner shall return it immediately to the petitioners with a statement describing the deficiencies and the amendments necessary to rectify them.

(c) If the petition does conform to the requirements, and if comments have been received objecting to the establishment or alteration of the district as proposed, the commissioner shall request the Court of Administrative Hearings to conduct a hearing on the petition. The hearing shall be conducted in the proposed district in the manner provided in chapter 14 for contested cases. If no comments have been received objecting to the establishment of the district as proposed, the commissioner may proceed to grant or deny the petition without the necessity of conducting a contested case hearing.

(d) If the petition conforms to the requirements of law and rule, the commissioner shall also immediately submit the petition to the solid waste and the technical advisory councils for review and recommendation and shall prepare a report containing recommendations on the disposition of the petition. The commissioner's report shall contain at least the commissioner's findings and conclusions on whether the proposed boundaries, purposes, powers, and management plans of the district or alteration thereto serve the purposes of waste resource districts, are appropriately related to the waste generation, collection, processing, and disposal patterns in the area, and are generally consistent with the purposes of the agency's regulatory program.

Subd. 5. **Corrections allowed.** No petition submitted by the requisite number of counties shall be void or dismissed on account of defects exposed in the hearing documents or report. The commissioner shall permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the territory or any other defects.

Subd. 6. **Order.** (a) After considering the reports of the administrative law judge, if a contested case hearing has been held, and the recommendations of the advisory councils, the commissioner shall make a final decision on the petition.

(b) If the commissioner finds and determines that the establishment or alteration of a district as proposed in the petition would not be in the public interest and would not serve the purposes of sections 115A.62 to 115A.72, the commissioner shall give notice to the petitioners of intent to deny the petition. If a contested case hearing has not been held, the petitioners may request a hearing within 30 days of the notice of intent to deny the petition. The request shall be granted. Following the hearing and the report of the administrative law judge, the commissioner shall make a final decision on the petition and mail a copy of the decision to the governing body of each affected political subdivision.

(c) If the commissioner finds and determines that the establishment or alteration of a district as proposed in the petition would be in the public interest and would serve the purposes of sections 115A.62 to 115A.72, the commissioner shall, by order, establish the district, define its boundaries, and give it a corporate name by which, in all proceedings, it shall thereafter be known. The order shall include articles of incorporation stating the powers of the district and the location of its registered office.

(d) Upon the filing of a certified copy of the order of the commissioner with the secretary of state, the district shall become a political subdivision of the state and a public corporation, with the authority, power, and duties prescribed in sections 115A.62 to 115A.72 and the order of the commissioner. At the time of filing, a copy of the order shall be mailed by the commissioner to the governing body of each political subdivision wholly or partly within the district or affected by the alteration of the district.

History: *1980 c 564 art 8 s 3; 1980 c 615 s 60; 1982 c 424 s 130; 1984 c 640 s 32; 1986 c 444; 1987 c 186 s 15; 1989 c 335 art 1 s 269; 1991 c 337 s 27; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161; 2025 c 20 s 83,84; 2025 c 39 art 2 s 68*

115A.65 PERPETUAL EXISTENCE.

A waste district created under the provisions of sections 115A.62 to 115A.72 shall have perpetual existence to the extent necessary to perform all acts necessary and proper for carrying out and exercising the powers and duties expressly given in it. A district shall not be terminated except pursuant to section 115A.66.

History: *1980 c 564 art 8 s 4*

115A.66 TERMINATION.

Subdivision 1. **Petition.** Proceedings for the termination of a district shall be initiated by the filing of a petition with the commissioner. The petition shall be submitted by the governing bodies of not less than one-half of the counties which are wholly or partly in the district. The petition shall state that the existence of the district is no longer in the public interest. The petitioners shall publish notice of the petition in newspapers of general circulation in the district and shall cause to be served upon each political subdivision wholly or partly within the district a copy of the petition, and proof of service shall be attached to the petition filed with the commissioner.

Subd. 2. **Bond; payment of costs.** If the petition is dismissed or denied, the petitioners shall be required to pay all costs and expenses of the proceeding for termination. At the time of filing the petition, a bond shall be filed by the petitioners with the commissioner in such sum as the commissioner determines to be necessary to ensure payment of costs.

Subd. 3. **Hearing; decision.** If objection is made to the commissioner against the petition for termination, a contested case hearing on the petition shall be held in the waste district pursuant to chapter 14. If the commissioner determines that the termination of the district as proposed in the petition would not be in the public interest, the commissioner shall give notice to the petitioner of intent to deny the petition. If a contested case hearing has not been held, the petitioner may request a hearing within 30 days of the notice of intent to deny the petition. The request shall be granted. Following the hearing and the report of the administrative law judge, the commissioner shall make a final decision on the petition. If the petition is dismissed, all costs of the proceeding shall be assessed against the petitioner. If the commissioner determines that the existence of the district is no longer in the public interest, the commissioner shall by findings and order terminate the district. Upon the filing of a certified copy of the findings and order with the secretary of state, the district shall cease to be a public corporation and a political subdivision of the state.

Subd. 4. **Limitation.** The commissioner shall not entertain a petition for termination of a district within five years from the date of the formation of the district nor shall the commissioner entertain a petition for termination of the same district more often than once in five years.

History: *1980 c 564 art 8 s 5; 1982 c 424 s 130; 1984 c 640 s 32; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161*

115A.67 ORGANIZATION OF DISTRICT.

Subdivision 1. **Chair; board.** The chair shall be elected from outside the board of directors by majority vote of the board of directors. The first chair shall serve for a term of two years. Members of the board of directors shall be residents of the district.

Subd. 2. **First meeting.** The first meeting of the board of directors shall be held at the call of the chair, after notice, for the purpose of proposing the bylaws, electing officers and for any other business that comes

before the meeting. The bylaws of the district, and amendments thereto, shall be adopted by a majority vote of the board of directors unless the certificate of incorporation requires a greater vote.

Subd. 3. **Bylaws.** The bylaws shall state:

(1) the manner and time of calling regular meetings of the representatives and the board of directors, not less than once annually;

(2) the title, manner of selection, and term of office of officers of the district;

(3) the term of office of members of the board of directors, the manner of their removal, and the manner of filling vacancies on the board of directors;

(4) the powers and duties of the board of directors consistent with the order and articles of incorporation establishing the district;

(5) the definition of a quorum for meetings of the board of directors, which shall be not less than a majority of the members;

(6) the compensation and reimbursement for expenses for members of the board of directors, which shall not exceed that provided for in section 15.0575, subdivision 3; and

(7) such other provisions for regulating the affairs of the district as the board of directors shall determine to be necessary.

History: *1980 c 564 art 8 s 6; 1983 c 373 s 39; 1986 c 444; 1989 c 335 art 1 s 269; 1991 c 337 s 28*

115A.68 REGISTERED OFFICE.

Every district shall maintain an office in this state to be known as its registered office. When a district desires to change the location of its registered office, it shall file with the secretary of state and the commissioner of the agency, a certificate stating the new location by city, town, or other community and the effective date of change. When the certificate has been duly filed, the board of directors may make the change without any further action.

History: *1980 c 564 art 8 s 7; 1987 c 186 s 15; 1989 c 335 art 1 s 269; 1Sp2005 c 1 art 2 s 161*

115A.69 POWERS.

Subdivision 1. **General.** A district shall have all powers necessary or convenient to perform its duties, including the powers provided in this section.

Subd. 2. **Actions.** The district may sue and be sued, and shall be a public body within the meaning of chapter 562.

Subd. 3. **Acquiring property.** The district may acquire by purchase, lease, condemnation, gift, or grant, any right, title, and interest in and to real or personal property deemed necessary for the exercise of its powers or the accomplishment of its purposes, including positive and negative easements and water and air rights. Any local government unit and the commissioners of transportation, natural resources, and administration may convey to or permit the use of any property or facilities by the district, subject to the rights of the holders of any bonds issued with respect thereto, with or without compensation and without an election or approval by any other government agency. The district may hold the property for its purposes, and may lease or rent the property so far as not needed for its purposes, upon the terms and in the manner as it deems advisable. The right to acquire lands and property rights by condemnation shall be exercised in accordance with chapter

117. The district may take possession of any property for which condemnation proceedings have been commenced at any time after the issuance of a court order appointing commissioners for its condemnation.

Subd. 4. **Right of entry.** Whenever the district deems it necessary to the accomplishment of its purposes, the district or any member, employee, or agent thereof, when authorized by it, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations, 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.

Subd. 5. **Gifts and grants.** The district may apply for and accept gifts, loans, or other property from the United States, the state, or any person for any of its purposes, may enter into any agreement required in connection therewith, and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan or agreement.

Subd. 6. **Property exempt from taxation.** Any real or personal property owned, used, or occupied by the district for any authorized purpose is declared to be acquired, owned, used and occupied for public and governmental purposes, and shall be exempted from taxation by the state or any political subdivision of the state, except to the extent that the property is subject to the sales and use tax under chapter 297A, provided that those properties shall be subject to special assessments levied by a political subdivision for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from the improvement. No possible use of the properties in any manner different from their use for solid waste management at the time shall be considered in determining the special benefit received by the properties.

Subd. 7. **Facilities and services.** The district may construct, equip, develop, enlarge, improve, and operate solid waste facilities and services as it deems necessary and may negotiate contracts for the use of public or private facilities and services. The district shall contract with private persons for the construction, maintenance, and operation of facilities and services where the facilities and services are adequate and available for use and competitive with other means of providing the same service.

Subd. 8. **Rates; charges.** The district may establish and collect rates and charges for the facilities and services provided by the district and may negotiate and collect rates and charges for facilities and services contracted for by the district. The board of directors of the district may agree with the holders of district obligations which are secured by revenues of the district as to the maximum or minimum amounts which the district shall charge and collect for services provided by the district. Before establishing or raising any rates and charges, the board of directors shall hold a public hearing regarding the proposed rates and charges. Notice of the hearing shall be published at least once in a legal newspaper of general circulation throughout the area affected by the rates and charges. Publication shall be no more than 45 days and no less than 15 days prior to the date of the hearing.

Subd. 9. **Disposition of property.** The district may sell or otherwise dispose of any real or personal property acquired by it which is no longer required for accomplishment of its purposes. The property shall be sold in the manner provided by section 469.065, insofar as practical. The district shall give notice of sale which it deems appropriate. When the district determines that any property which has been acquired from a government unit without compensation is no longer required, the district shall transfer it to the government unit.

Subd. 10. **Disposition of products and energy.** The district may use, sell, or otherwise dispose of all of the products and energy produced by its facilities. Section 471.345 shall not apply to the sale of products and energy. The district shall give particular consideration to the needs of purchasers in this state and shall actively promote sales to such purchasers so long as this can be done at prices and under conditions that

meet constitutional requirements and that are consistent with the district's object of being financially self supporting to the greatest extent possible.

Subd. 11. **Contracts.** The district may enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

Subd. 12. **Joint powers.** The district may act under the provisions of section 471.59, or any other law providing for joint or cooperative action between government units.

Subd. 13. **Research.** The district may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and conduct all necessary hearings and investigations in connection with its work and may advise and assist other government units on planning matters within the scope of its powers, duties, and objectives.

Subd. 14. **Employees; contracts for services.** The district may employ persons or firms and contract for services to perform engineering, legal, or other services necessary to carry out its functions.

Subd. 15. **Insurance.** The district may require any employee to obtain and file with it an individual bond or fidelity insurance policy. It may procure insurance in amounts it deems necessary to insure against liability of the board of directors and employees or both, for personal injury or death and property damage or destruction, with the force and effect stated in chapter 466, and against risks of damage to or destruction of any of its facilities, equipment, or other property as it deems necessary.

Subd. 16. **Reviewing projects.** The district may require that persons shall not acquire, construct, alter, reconstruct, or operate a solid waste facility within the district without prior consultation with and approval of the district.

History: *1980 c 564 art 8 s 8; 1982 c 569 s 15; 1983 c 213 s 3; 1987 c 291 s 195; 2000 c 418 art 2 s 1*

115A.70 DESIGNATING RESOURCE RECOVERY FACILITIES.

Subdivision 1. MS 1982 [Repealed, 1984 c 644 s 82]

Subd. 2. MS 1982 [Repealed, 1984 c 644 s 82]

Subd. 3. MS 1983 Supp [Repealed, 1984 c 644 s 82]

Subd. 4. MS 1982 [Repealed, 1984 c 644 s 82]

Subd. 5. MS 1982 [Repealed, 1984 c 644 s 82]

Subd. 6. MS 1982 [Repealed, 1984 c 644 s 82]

Subd. 7. MS 1983 Supp [Repealed, 1984 c 644 s 82]

Subd. 8. **Authority.** A waste management district possessing designation authority in its articles of incorporation may be authorized to designate a resource recovery facility under sections 115A.80 to 115A.89.

History: *1980 c 564 art 8 s 9; 1982 c 569 s 16-18; 1983 c 373 s 40,41; 1984 c 644 s 34*

115A.71 BONDING POWERS.

Subdivision 1. **General.** A district may exercise the bonding powers provided in this section to the extent the powers are authorized by the order of the commissioner establishing the district and by its articles of incorporation.

Subd. 2. **Debt.** The district's bonds shall be sold, issued, and secured in the manner provided in chapter 475 for revenue bonds and the district shall have the same powers and duties as a municipality and its governing body in issuing revenue bonds under that chapter. No election shall be required. The bonds may be sold at any price and at public or private sale as determined by the district and shall not be subject to any limitation as to rate.

Subd. 3. **Revenue bonds.** (a) A district may borrow money and incur indebtedness by issuing bonds and obligations which are payable solely:

(1) from revenues, income, receipts, and profits derived by the district from its operation and management of solid waste facilities;

(2) from the proceeds of warrants, notes, revenue bonds, debentures, or other evidences of indebtedness issued and sold by the district which are payable solely from such revenues, income, receipts, and profits;

(3) from federal or state grants, gifts, or other moneys received by the district which are available therefor.

(b) Every issue of revenue bonds by the district shall be payable out of any funds or revenues from any facility of the district, subject only to agreements with the holders of particular bonds or notes pledging particular revenues or funds. If any facility of the district is funded in whole or in part by Minnesota waste management bonds issued under sections 115A.58 and 115A.59, the state bonds shall take priority. The district may provide for priorities of liens in the revenues between the holders of district obligations issued at different times or under different resolutions. The district may provide for the refunding of any district obligation through the issuance of other district obligations entitled to rights and priorities similar in all respects to those held by the obligations that are refunded.

History: *1980 c 564 art 8 s 10; 1989 c 335 art 1 s 269; 1991 c 199 art 2 s 1; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161*

115A.715 SOLID WASTE AUTHORITY.

A district has all the authority of a county for solid waste management purposes that is given to counties under this chapter and chapters 400 and 473, except the authority to issue general obligation bonds or to levy property taxes. A district has the authority of a county to issue general obligation bonds and to levy property taxes only if and only to the extent that the governing body of each county that is a member of the district agrees to delegate the authority to the district. The delegation of the authority is irrevocable unless the governing body of each county that is a member of the district agrees to the revocation.

History: *1991 c 337 s 29*

115A.72 AUDIT.

The board of directors, at the close of each year's business, shall cause an audit of the books, records, and financial affairs of the district to be made by a certified public accountant or the state auditor. Copies of a written report of the audit, certified to by the auditors, shall be placed and kept on file at the principal place of business of the district and shall be filed with the secretary of state and the commissioner.

History: *1980 c 564 art 8 s 11; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161*

DESIGNATING SOLID WASTE MANAGEMENT FACILITIES

115A.80 DESIGNATING SOLID WASTE MANAGEMENT FACILITIES; LEGISLATIVE FINDING.

In order to further the state policies and purposes expressed in section 115A.02, and to advance the public purposes served by effective solid waste management, the legislature finds and declares that it may be necessary pursuant to sections 115A.80 to 115A.89 to authorize a qualifying solid waste management district or county to designate a solid waste processing or disposal facility.

History: *1984 c 644 s 35; 1989 c 325 s 9*

115A.81 DEFINITIONS.

Subdivision 1. **Scope.** The terms used in sections 115A.80 to 115A.893 have the meanings given them in this section.

Subd. 2. **Designation.** "Designation" means a requirement by a waste management district or county that all or any portion of the solid waste that is generated within its boundaries or any service area thereof be delivered to a processing or disposal facility identified by the district or county.

Subd. 3. MS 1994 [Repealed, 1995 c 247 art 2 s 55]

History: *1984 c 644 s 36; 1985 c 274 s 6; 1987 c 348 s 23; 1989 c 325 s 10; 1992 c 593 art 1 s 20*

115A.82 ELIGIBILITY.

Facilities may be designated under sections 115A.80 to 115A.89 by:

(1) a solid waste management district established pursuant to sections 115A.62 to 115A.72 and possessing designation authority in its articles of incorporation; or

(2) a county, but only for waste generated outside of the boundaries of a district qualifying under clause (1) or the Western Lake Superior Sanitary District established under chapter 458D.

History: *1984 c 644 s 37; 1992 c 464 art 1 s 16*

115A.83 WASTES SUBJECT TO DESIGNATION; EXEMPTIONS.

Subdivision 1. **Application.** Designation applies to the following wastes:

(1) mixed municipal solid waste; and

(2) other solid waste that prior to final processing or disposal:

(i) is not managed as a separate waste stream; or

(ii) is managed as a separate waste stream using a waste management practice that is ranked lower on the list of waste management practices in section 115A.02, paragraph (b), than the primary waste management practice that would be used on the waste at the designated facility.

Subd. 2. **Exemption.** (a) The designation may not apply to or include:

(1) materials that are separated from solid waste and recovered for reuse in their original form or for use in manufacturing processes;

(2) materials that are processed at a resource recovery facility at the capacity in operation at the time that the designation plan is approved by the commissioner;

(3) materials that are separated at a permitted transfer station located within the boundaries of the designating authority for the purpose of recycling the materials if:

(i) the transfer station was in operation on January 1, 1991; or

(ii) the materials were not being separated for recycling at the designated facility at the time the transfer station began separation of the materials; or

(4) recyclable materials that are being recycled, and residuals from recycling if there is at least an 85 percent volume reduction in the solid waste processed at the recycling facility and the residuals are managed as separate waste streams.

(b) For the purposes of this section, "manufacturing processes" does not include the treatment of waste after collection for the purpose of composting.

History: *1984 c 644 s 38; 1989 c 325 s 11; 1991 c 337 s 30; 1992 c 593 art 1 s 21; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161*

115A.84 DESIGNATION PLAN.

Subdivision 1. **Requirement.** Before commencing the designation procedure under section 115A.85, the district or county shall adopt a comprehensive solid waste management plan or, under chapter 473, a master plan. The county or district shall then submit a plan for designation to be approved under this section. A county's or district's designation plan must be consistent with its solid waste management plan or master plan and with statewide and regional waste management goals.

Subd. 2. **Designation; plan contents.** (a) The designation plan must evaluate:

(1) the benefits of the designation, including the public purposes achieved by the conservation and recovery of resources, the furtherance of local and any district or regional waste management plans and policies, and the furtherance of the state policies and purposes expressed in section 115A.02; and

(2) the estimated costs of the designation, including the direct capital, operating, and maintenance costs of the facility designated, the indirect costs, and the long-term effects of the designation.

(b) In particular the designation plan must evaluate:

(1) whether the designation will result in the recovery of resources or energy from materials which would otherwise be wasted;

(2) whether the designation will lessen the demand for and use of indiscriminate land disposal;

(3) whether the designation is necessary for the financial support of the facility;

(4) whether less restrictive methods for ensuring an adequate solid waste supply are available;

(5) other feasible and prudent waste management alternatives for accomplishing the purposes of the proposed designation, the direct and indirect costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators; and

(6) whether the designation takes into account and promotes local, regional, and state waste management goals.

(c) When the plan proposes designation to disposal facilities, the designation plan must also evaluate:

(1) whether the disposal facility is part of an integrated waste management system involving a processing facility and the designation is necessary for the financial support of the processing facility;

(2) whether the designation will better serve to protect public health and safety;

(3) the impacts on other disposal facilities inside and outside the area;

(4) whether the designation is necessary to promote regional waste management programs and cooperation; and

(5) the extent to which the design and operation of the disposal facility protects the environment including whether it is permitted under current agency rules and whether any portion of the facility's site is listed under section 115B.17, subdivision 13.

(d) When the plan proposes designation to a disposal facility, mixed municipal solid waste that is subject to a contract between a hauler and a different facility that is in effect on the date notice is given under section 115A.85, subdivision 2, is not subject to the designation during the contract period or for one year after the date notice is given, whichever period is shorter.

Subd. 3. **Plan approval.** (a) A district or county planning a designation shall submit the designation plan to the commissioner for review and approval or disapproval.

(b) The commissioner shall complete the review and make a decision within 120 days following submission of the plan for review. The commissioner shall approve the designation plan if the plan satisfies the requirements of subdivision 2 and, in the case of designation to disposal facilities, if the commissioner finds that the plan has demonstrated that the designation is necessary and is consistent with section 115A.02. The commissioner may attach conditions to the approval that relate to matters required in a designation ordinance under section 115A.86, subdivision 1, paragraph (a), clauses (1) to (4), and paragraph (b). Amendments to plans must be submitted for review in accordance with this subdivision.

Subd. 4. **Excluding certain materials.** (a) When the commissioner approves the designation plan, the commissioner shall exclude from the designation materials that the commissioner determines will be processed at a resource recovery facility separate from the designated facility if:

(1) the resource recovery facility requesting the exclusion is substantially completed or will be substantially completed within 18 months of the time that the designation plan is approved by the commissioner;

(2) the facility requesting the exclusion has or will have contracts for purchases of its product; and

(3) the materials are or will be under contract for delivery to the facility requesting the exclusion at the time that facility is completed.

(b) In order to qualify for the exclusion of materials under this subdivision, the operator or owner of the resource recovery facility requesting the exclusion shall file with the commissioner and the district or county or counties a written description of the facility, its intended location, its waste supply sources, purchasers of its products, its design capacity and other information that the commissioner and the district or county or counties may reasonably require. The information must be filed as soon as it becomes available but not later than 30 days following the date when the county or district submits its designation plan for approval.

(c) The commissioner may revoke the exclusion granted under this subdivision when the commissioner approves the designation ordinance under section 115A.86 if in the commissioner's judgment the excluded materials will not be processed at the other facility.

Subd. 5. **Excluding materials separated at certain facilities.** (a) A county or district shall exclude from the designation, subject to approval by the commissioner, materials that the county or district determines will be separated for recycling at a transfer station located outside of the area subject to designation if:

(1) the residual materials left after separation of the recyclable materials are delivered to a facility designated by the county or district;

(2) each waste collector who would otherwise be subject to the designation ordinance and who delivers waste to the transfer station has not been found in violation of the designation ordinance in the six months prior to filing for an exclusion;

(3) the materials separated at the transfer station are delivered to a recycler and are actually recycled; and

(4) the owner or operator of the transfer station agrees to report and actually reports to the county or district the quantities of materials, by categories to be specified by the county or district, that are recycled by the facility that otherwise would have been subject to designation.

(b) In order to qualify for the exclusion in this subdivision, the owner of a transfer station shall file with the county or district a written description of the transfer station, its operation, location, and waste supply sources, the quantity of waste delivered to the transfer station by the owner of the transfer station, the market for the materials separated for recycling, where the recyclable materials are delivered for recycling, and other information the county or district may reasonably require. Information received by the county or district is nonpublic data as defined in section 13.02, subdivision 9.

(c) A county or district that grants an exclusion under this subdivision may revoke the exclusion if any of the conditions of paragraph (a) are not being met.

History: *1984 c 644 s 39; 1985 c 274 s 7,8; 1989 c 325 s 12; 1989 c 335 art 1 s 269; 1991 c 337 s 31,32; 1994 c 639 art 5 s 3; 1995 c 247 art 2 s 18; 1Sp2005 c 1 art 2 s 161*

115A.85 PROCEDURE.

Subdivision 1. **Requirement.** A district or county with an approved designation plan shall proceed as provided in this section when designating facilities. A district need not repeat the designation procedures in this section to the extent that the procedures have been completed by each county having territory in the district or by a joint powers board composed of each county having territory in the district.

Subd. 2. **Hearing.** (a) The district or county shall hold a public hearing to take testimony on the designation. Notice of the hearing must be:

(1) published in a newspaper of general circulation in the area for two successive weeks ending at least 15 days before the date of the hearing; and

(2) mailed to political subdivisions, processing and disposal facility operators, and licensed solid waste collectors who may be expected to use the facility.

(b) The notification must:

(1) describe the area in which the designation will apply and the plans for the use of the solid waste;

(2) specify the point or points of delivery of the solid waste;

(3) estimate the types and quantities of solid waste subject to the designation; and

(4) estimate the fee to be charged for the use of the facilities and for any products of the facilities.

(c) A designation or contract for use is not invalid by reason of the failure of the district or county to provide written notice to an entity listed in this subdivision.

Subd. 3. **Negotiated contracts for use.** During a period of 90 days following the hearing, the district or county shall negotiate with the persons entitled to written notice under subdivision 2 for the purpose of developing contractual agreements that will require use of the facilities proposed to be designated.

Subd. 4. **Designation decision.** At the end of the 90-day contract negotiation period, the district or county may proceed to secure approval for and implement the designation as provided in section 115A.86.

History: *1984 c 644 s 40; 1989 c 325 s 13*

115A.86 IMPLEMENTING DESIGNATION.

Subdivision 1. **Designation ordinance.** (a) The district or county shall prepare a designation ordinance to implement a designation. The designation ordinance must:

(1) define the geographic area and the types and quantities of solid waste subject to designation;

(2) specify the point or points of delivery of the solid waste;

(3) require that the designated solid waste be delivered to the specified point or points of delivery;

(4) require the designated facility to accept all designated solid waste delivered to the specified point or points of delivery, unless the facility has notified waste collectors in the designated area that the facility is inoperative;

(5) set out the procedures and principles to be followed by the county or district in establishing and amending any rates and charges at the designated facility; and

(6) state any additional regulations governing waste collectors or other matters necessary to implement the designation.

(b) The designation ordinance must provide an exception for:

(1) materials that are exempt or excluded from the designation under section 115A.83 or 115A.84, subdivision 4; and

(2) materials otherwise subject to the designation for which negotiated contractual arrangements exist that will require and effect the delivery of the waste to the facility for the term of the contract.

Subd. 2. **Approval.** A district or county shall submit the designation ordinance, together with any negotiated contracts assuring the delivery of solid waste, to the commissioner for review and approval or disapproval. The commissioner shall complete the review and make a decision within 90 days following submission of the designation for review. The commissioner shall approve the designation if the commissioner determines that the designation procedure specified in section 115A.85 was followed and that the designation is based on a plan approved under section 115A.84. The commissioner may attach conditions to the approval.

Subd. 3. **Implementation.** The designation may not be placed into effect before 60 days after the approval required in subdivision 2. The effective date of the designation must be specified at least 60 days in advance. If the designation is not placed into effect within two years of approval, the designation must be resubmitted to the commissioner for approval or disapproval under subdivision 2, unless bonds have been issued to finance the facility to which the designation applies.

Subd. 4. **Effect.** The designation is binding on all political subdivisions, landfill operators, solid waste generators, and solid waste collectors in the designation area.

Subd. 5. **Amendments.** (a) Except for an amendment authorized under subdivision 6, amendments to a designation ordinance must be submitted to the commissioner for approval. The commissioner shall approve the amendment if the amendment is in the public interest and in furtherance of the state policies and purposes expressed in section 115A.02. If the commissioner finds that the proposed amendment is a substantive change from the existing designation plan, the commissioner may require that the county or solid waste management district submit a revised designation plan to the commissioner for approval. After receiving approval for the designation plan amendment from the commissioner, the county or district shall follow the procedure outlined in section 115A.85 prior to submitting the amended designation ordinance to the commissioner for approval. If the commissioner does not act within 90 days after receiving the proposed amendment to the designation ordinance, the amendment is approved.

(b) Except for an amendment authorized under subdivision 6, prior to amending an ordinance to designate solid waste to a disposal facility, a county or district shall submit an amended designation plan to the commissioner for approval, and shall follow the procedures outlined in section 115A.85.

Subd. 6. **Penalties.** (a) A county may include in its designation ordinance civil and misdemeanor penalties for violation of the ordinance. Subdivision 5 does not govern a designation ordinance amendment adopted under this paragraph.

(b) A county may by ordinance impose civil and misdemeanor penalties for delivery of mixed municipal solid waste to a processing or disposal facility in the county that is not a facility designated to receive the waste under a designation ordinance adopted by another county under this section.

(c) A civil penalty adopted under paragraph (a) or (b) must be payable to the county and may not exceed a fine of $10,000 per day of violation plus the cost of mitigating any damages caused by the violation and the attorney fees and court costs incurred by the county to enforce the ordinance.

History: *1984 c 644 s 41; 1985 c 274 s 9; 1989 c 325 s 14,15; 1989 c 335 art 1 s 269; 1991 c 337 s 33,34; 1994 c 639 art 5 s 3; 1995 c 247 art 2 s 19; 1Sp2005 c 1 art 2 s 161*

115A.87 JUDICIAL REVIEW; ATTORNEY GENERAL TO PROVIDE COUNSEL.

(a) An action challenging a designation must be brought within 60 days of the approval of the designation by the commissioner. The action is subject to section 562.02.

(b) In any action challenging a designation ordinance or the implementation of a designation ordinance, the person bringing the challenge shall notify the attorney general. The attorney general may intervene in any administrative or court action to represent the state's interest in designation of solid waste, and, on request of a county whose designation ordinance has been challenged, provide legal representation for the county in any administrative or court action related to the challenge.

History: *1984 c 644 s 42; 1992 c 593 art 1 s 22; 1994 c 585 s 14; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161*

115A.88 SERVICE GUARANTEE.

The district or county may not arbitrarily terminate, suspend, or curtail services provided to any person required by contract or designation ordinance to use designated facilities without the consent of the person or without just cause.

History: *1984 c 644 s 43*

115A.882 RECORDS; INSPECTION.

Subdivision 1. **Definitions.** For the purposes of this section:

(1) "origin" means a general geographical description that at a minimum names the local governmental unit within a county from which waste was collected; and

(2) "type" means a best estimate of the percentage of each truck load that consists of residential, commercial, industrial, construction, or any other general type of waste.

Subd. 2. **Records; collectors; facilities.** (a) Each person who collects solid waste in a county in which a designation ordinance is in effect shall maintain records regarding the volume or weight, type, and origin of waste collected. Each day, a record of the origin, type, and weight of the waste collected that day and the identity of the waste facility at which that day's collected waste is deposited must be kept on the waste collection vehicle. If the waste is measured by volume at the waste facility at which it is deposited, the record may show the volume rather than the weight of the waste.

(b) The owner or operator of a solid waste facility shall maintain records regarding the weight of the waste, or the volume of the waste if the waste is measured by volume; the general type or types of waste; the origin of the waste delivered to the facility; the date and time of delivery; and the name of the waste collector that delivered the waste to the facility.

Subd. 3. **Inspection.** (a) A person authorized by a county in which a designation ordinance is effective may, anywhere in the state:

(1) upon presentation of identification and without a search warrant, inspect or copy the records required to be kept on a waste collection vehicle under subdivision 2 and inspect the waste on the vehicle at the time of deposit of the waste at a facility;

(2) when reasonable notice under the circumstances has been given, upon presentation of identification and without a search warrant, inspect or copy the records of an owner or operator of a solid waste facility that are required to be maintained under subdivision 2;

(3) request, in writing, copies of records of a solid waste collector that indicate the type, origin, and weight or, if applicable, the volume of waste collected, the identity of the facility at which the waste was deposited, and the date of deposit at the facility; and

(4) upon presentation of identification and without a search warrant, inspect or copy that portion of the business records of a waste collector necessary to comply with clause (3) at the central record-keeping location of the waste collector only if the collector fails to provide copies of the records within 15 days of receipt of a written request for them, unless the time has been extended by agreement of the parties.

(b) Records or information received, inspected, or copied by a county under this section are classified as nonpublic data as defined in section 13.02, subdivision 9, and may be used by the county solely for

enforcement of a designation ordinance. A waste collector or the owner or operator of a waste facility shall maintain business records needed to comply with this section for two years.

Subd. 4. **Civil enforcement; venue.** (a) A person who fails to comply with this section is subject to:

(1) an action to compel performance or to restrain or enjoin any activity that interferes with the requirement to keep records in subdivision 2 or the requirement to allow timely entry and inspection in subdivision 3;

(2) damages caused by the failure to keep records or by refusal to allow timely entry or inspection;

(3) a civil penalty payable to the county seeking enforcement of up to $10,000 per day for each day of refusal to allow timely entry or inspection; or

(4) any or all of the above.

(b) A county in which a designation ordinance is in effect may enforce this section by commencing an action in district court in the county in which the facility is located or in the county in which the designation ordinance is in effect. The court may compel performance in any manner deemed appropriate by the court, including, but not limited to, issuance of an order to show cause, a temporary restraining order, or an injunction. In addition, the court may order payment of damages or a civil penalty or both. In an action brought by a county to enforce this section in which the county substantially prevails, the court may order payment by the defendant of the county's costs and disbursements, including reasonable attorney fees.

History: *1988 c 521 s 1; 1991 c 337 s 35; 1994 c 585 s 15,16*

115A.89 SUPERVISING IMPLEMENTATION.

The commissioner shall:

(1) require regular reports on the implementation of each designation;

(2) periodically evaluate whether each designation as implemented has accomplished its purposes and whether the designation is in the public interest and in furtherance of the state policies and purposes expressed in section 115A.02; and

(3) report periodically to the legislature on the commissioner's conclusions and recommendations.

History: *1984 c 644 s 44; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161*

115A.893 PETITION FOR EXCLUSION.

Subdivision 1. **Petition for exclusion.** Any person proposing to own or operate a processing facility using waste materials subject to a designation ordinance may petition the waste district or county for exclusion of the materials from the designation ordinance. In order to qualify for the exclusion of materials under this section, the petitioner shall submit with the petition a written description of the proposed facility, its intended location, its waste supply sources, purchasers of its products, its design capacity, and other information that the district or county may reasonably require.

Subd. 2. **Decision.** The district or county, after appropriate notice and hearing, shall issue a written decision with findings of fact and conclusions on all material issues. The district or county shall grant the petition if it determines that:

(1) the materials will be processed at the facility; and

(2) the exclusion can be implemented without impairing the financial viability of the designated facility or impairing contractual obligations or preventing the performance of contracts by the facility owner or operator, the district or county, or users of the facility.

Subd. 3. **Appealing decision.** A person aggrieved by the decision of the district or county may appeal to the commissioner. The review is confined to the record. The decision of the commissioner must be based on the standards stated in this section.

Subd. 4. **Designation ordinance and petition amendments.** If the commissioner approves the petition, the designation ordinance must be amended in conformance with the decision of the commissioner. The petition may be amended during the proceedings by agreement between the petitioner and the district or county.

History: *1985 c 274 s 10; 1989 c 325 s 16; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161*

WASTE TIRES, BATTERIES, AND USED OIL

115A.90 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 115A.90 to 115A.914.

Subd. 2. MS 1990 [Renumbered subd 3]

Subd. 2. **Collection site.** "Collection site" means a permitted site, or a site exempted from permit, used for the storage of waste tires.

Subd. 3. MS 1990 [Renumbered subd 2]

Subd. 3. MS 1994 [Repealed, 1995 c 247 art 2 s 55]

Subd. 4. MS 1986 [Repealed, 1988 c 685 s 44]

Subd. 5. **Person.** "Person" has the meaning given in section 116.06, subdivision 17.

Subd. 6. **Processing.** "Processing" means producing or manufacturing usable materials, including fuel, from waste tires including necessary incidental temporary storage activity.

Subd. 6a. **Shredder residue.** "Shredder residue" means the residue generated by shredding a motor vehicle, an appliance, or other source of recyclable steel after removing the reusable and recyclable materials.

Subd. 7. **Tire.** "Tire" means a pneumatic tire or solid tire for motor vehicles as defined in section 169.011.

Subd. 8. **Tire collector.** "Tire collector" means a person who owns or operates a site used for the storage, collection, or deposit of more than 50 waste tires.

Subd. 9. **Tire dump.** "Tire dump" means an establishment, site, or place of business without a required tire collector or tire processor permit that is maintained, operated, used, or allowed to be used for storing, keeping, or depositing unprocessed waste tires.

Subd. 10. **Tire processor.** "Tire processor" means a person engaged in the processing of waste tires.

Subd. 11. **Waste tire.** "Waste tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

History: *1984 c 654 art 2 s 92; 1988 c 685 s 45; 1989 c 335 art 1 s 269; 1993 c 172 s 58*

115A.902 PERMIT; TIRE COLLECTORS AND PROCESSORS.

Subdivision 1. **Permit required.** A tire collector or tire processor with more than 500 waste tires shall obtain a permit from the agency unless exempted in subdivision 2. The agency may by rule require tire collectors or tire processors with less than 500 waste tires to obtain permits unless exempted by subdivision 2.

Subd. 2. **Exemptions.** A permit is not required for:

(1) a retail tire seller for the retail selling site if no more than 500 waste tires are kept on the business premises;

(2) an owner or operator of a tire retreading business for the business site if no more than 3,000 waste tires are kept on the business premises;

(3) an owner or operator of a business who, in the ordinary course of business, removes tires from motor vehicles if no more than 500 waste tires are kept on the business premises;

(4) a permitted landfill operator with less than 10,000 waste tires stored above ground at the permitted site; or

(5) a person using waste tires for agricultural purposes if the waste tires are kept on the site of use.

Subd. 3. **Local authority.** The issuance of an agency permit does not replace a permit or license required under section 400.16 or 473.811.

Subd. 4. **Permit fee.** The revenue from permit fees shall be credited to the general fund.

History: *1984 c 654 art 2 s 93; 1988 c 685 s 45; 1989 c 335 art 1 s 269; 1999 c 73 s 5*

115A.904 LAND DISPOSAL PROHIBITED.

The disposal of waste tires in the land is prohibited after July 1, 1985, except for beneficial uses of tire-derived products designated by the commissioner. This does not prohibit the storage of unprocessed waste tires at a collection or processing facility.

History: *1984 c 654 art 2 s 94; 1Sp1985 c 13 s 230; 1Sp1985 c 16 art 2 s 42 subd 1; 2012 c 272 s 70*

115A.906 MS 2000 [Repealed, 1Sp2001 c 2 s 162]

115A.908 MOTOR VEHICLE TRANSFER FEE.

Subdivision 1. **Fee charged.** A fee of $10 shall be charged on the initial registration and each subsequent transfer of title within the state, other than transfers for resale purposes, of every motor vehicle weighing more than 1,000 pounds. The fee shall be collected by the commissioner of public safety. Registration plates or certificates of title may not be issued by the commissioner of public safety for the ownership or operation of a motor vehicle subject to the transfer fee unless the fee is paid. The fee may not be charged on the transfer of:

(1) previously registered vehicles if the transfer is to the same person;

(2) vehicles subject to the conditions specified in section 297A.70, subdivision 2; or

(3) vehicles purchased in another state by a resident of another state if more than 60 days have elapsed after the date of purchase and the purchaser is transferring title to this state and has become a resident of this state after the purchase.

Subd. 2. **Deposit of revenue.** Revenue collected under this section shall be credited to the environmental fund.

Subd. 3. MS 1996 [Repealed, 1997 c 216 s 160]

History: *1984 c 654 art 2 s 96; 1Sp1985 c 13 s 231; 1989 c 335 art 4 s 35; 1993 c 172 s 59,60; 1995 c 220 s 97; 1999 c 231 s 132; 2000 c 418 art 1 s 44; 2003 c 128 art 1 s 127; 1Sp2005 c 6 art 2 s 1; 2008 c 179 s 34; 2009 c 101 art 2 s 109; 2011 c 76 art 1 s 7*

115A.909 SHREDDER RESIDUE; MANAGEMENT.

The commissioner, in consultation with persons who are engaged in the business of shredding motor vehicles, appliances, and other sources of recyclable steel, shall study management of shredder residue. To the extent possible under state and federal law, the commissioner shall encourage reduction in the amount of residue generated, allow beneficial use of the residue, and minimize costs of management and disposal. The commissioner shall study all reasonably ascertainable alternatives for management of the residue, including use as cover material at solid waste disposal facilities, use in manufacture of refuse-derived fuel, and any other resource recovery management technique.

History: *1993 c 172 s 61*

115A.912 WASTE TIRES; MANAGEMENT.

Subdivision 1. **Purpose.** Money appropriated to the agency for waste tire management may be spent for regulation of permitted waste tire facilities, research and studies to determine the technical and economic feasibility of uses for tire-derived products, and public education on waste tire management.

Subd. 2. MS 2000 [Repealed, 1Sp2001 c 2 s 162]

Subd. 3. MS 2000 [Repealed, 1Sp2001 c 2 s 162]

Subd. 4. **Waste tire materials; prohibition.** Materials derived from waste tires may not be used as lightweight fill in the construction of public roads in the state unless the construction plan is prepared by a professional engineer experienced in the geotechnical field and licensed in the state of Minnesota. The plan shall include, but not be limited to, the location, duration, and length of the project, the depth of fill, the depth of cover, the size of waste tire pieces, the plan for encapsulating the waste tire pieces, and the fire protection plan. All engineering specifications must be consistent with the current lightweight tire fill engineering practices as developed for roadways by the Minnesota Department of Transportation.

History: *1984 c 654 art 2 s 97; 1988 c 685 s 14; 1989 c 335 art 1 s 269; 1997 c 216 s 96; 1999 c 73 s 5; 1Sp2001 c 2 s 126; 2002 c 382 art 1 s 2*

115A.913 MS 2000 [Repealed, 2002 c 382 art 1 s 6]

115A.914 ADMINISTRATION; COUNTY PLANNING AND ORDINANCES.

Subdivision 1. **Regulatory and enforcement powers.** For purposes of implementing and enforcing the waste tire programs in sections 115A.90 to 115A.914, the agency may exercise the regulatory and enforcement powers of the agency under chapters 115 and 116.

Subd. 2. **Agency rules.** The agency shall adopt rules for administration of waste tire collector and processor permits and waste tire collection.

Subd. 3. **County planning; ordinances.** Counties shall include collection and processing of waste tires in the solid waste management plan prepared under sections 115A.42 to 115A.46 and shall adopt ordinances under sections 400.16 and 473.811 for management of waste tires that embody, but may be more restrictive than, agency rules.

History: *1984 c 654 art 2 s 98; 1Sp1985 c 13 s 232; 1988 c 685 s 16; 1989 c 335 art 1 s 269; 1999 c 73 s 5; 1Sp2001 c 2 s 127*

115A.915 LEAD ACID BATTERIES; LAND DISPOSAL PROHIBITED.

A person may not place a lead acid battery in mixed municipal solid waste or dispose of a lead acid battery after January 1, 1988. A person who violates this section is guilty of a misdemeanor. This section may be enforced by the agency pursuant to sections 115.071 and 116.072.

History: *1987 c 348 s 24; 1Sp1989 c 1 art 20 s 6; 1991 c 347 art 1 s 18*

115A.9152 TRANSPORTING USED LEAD ACID BATTERIES.

(a) A person who transports used lead acid batteries from a retailer must deliver the batteries to a recycling facility.

(b) A person who violates paragraph (a) is guilty of a misdemeanor. The failure to deliver each used lead acid battery to a recycler is a separate violation.

History: *1Sp1989 c 1 art 20 s 7*

115A.9155 DISPOSING OF CERTAIN DRY CELL BATTERIES.

Subdivision 1. **Prohibition.** A person may not place in mixed municipal solid waste a dry cell battery containing mercuric oxide electrode, silver oxide electrode, nickel-cadmium, or sealed lead-acid that was purchased for use or used by a government agency, or an industrial, communications, or medical facility.

Subd. 2. **Manufacturer responsibility.** (a) A manufacturer of batteries subject to subdivision 1 shall:

(1) ensure that a system for the proper collection, transportation, and processing of waste batteries exists for purchasers in Minnesota; and

(2) clearly inform each final purchaser of the prohibition on disposal of waste batteries and of the system or systems for proper collection, transportation, and processing of waste batteries available to the purchaser.

(b) To ensure that a system for the proper collection, transportation, and processing of waste batteries exists, a manufacturer shall:

(1) identify collectors, transporters, and processors for the waste batteries and contract or otherwise expressly agree with a person or persons for the proper collection, transportation, and processing of the waste batteries; or

(2) accept waste batteries returned to its manufacturing facility.

(c) At the time of sale of a battery subject to subdivision 1, a manufacturer shall provide in a clear and conspicuous manner a telephone number that the final consumer of the battery can call to obtain information on specific procedures to follow in returning the battery for recycling or proper disposal. The manufacturer may include the telephone number and notice of return procedures on an invoice or other transaction document held by the purchaser. The manufacturer shall provide the telephone number to the commissioner of the agency.

(d) A manufacturer shall ensure that the cost of proper collection, transportation, and processing of the waste batteries is included in the sales transaction or agreement between the manufacturer and any purchaser.

(e) A manufacturer that has complied with this subdivision is not liable under subdivision 1 for improper disposal by a person other than the manufacturer of waste batteries.

History: *1990 c 409 s 1; 1991 c 257 s 1*

115A.9157 RECHARGEABLE BATTERIES AND PRODUCTS.

Subdivision 1. **Definition.** For the purpose of this section, "rechargeable battery" means a sealed nickel-cadmium battery, a sealed lead acid battery, or any other rechargeable battery, except a rechargeable battery governed by section 115A.9155 or exempted by the commissioner under subdivision 9.

Subd. 2. **Prohibition.** Effective August 1, 1991, a person may not place in mixed municipal solid waste a rechargeable battery, a rechargeable battery pack, a product with a nonremovable rechargeable battery, or a product powered by rechargeable batteries or rechargeable battery pack, from which all batteries or battery packs have not been removed.

Subd. 3. **Collection and management costs.** A manufacturer of rechargeable batteries or products powered by rechargeable batteries is responsible for the costs of collecting and managing its waste rechargeable batteries and waste products to ensure that the batteries are not part of the solid waste stream.

Subd. 4. MS 2006 [Repealed, 2007 c 13 art 2 s 7]

Subd. 5. **Collection and management programs.** (a) By September 20, 1995, the manufacturers or their representative organization shall implement permanent programs, based on the results of the pilot projects required in Minnesota Statutes 1994, section 115A.9157, subdivision 4, that may be reasonably expected to collect 90 percent of the waste rechargeable batteries and the participating manufacturers' products powered by rechargeable batteries that are generated in the state. The batteries and products collected must be recycled or otherwise managed or disposed of properly.

(b) In every odd-numbered year after 1995, each manufacturer or a representative organization shall provide information to the senate and house of representatives committees having jurisdiction over environment and natural resources and environment and natural resources finance that specifies at least the estimated amount of rechargeable batteries subject to this section sold in the state by each manufacturer and the amount of batteries each collected during the previous two years. A representative organization may report the amounts in aggregate for all the members of the organization.

Subd. 6. **List of participants.** A manufacturer or its representative organization shall inform the committees listed in subdivision 5 when they begin participating in the projects and programs and immediately if they withdraw participation.

Subd. 7. **Contracts.** A manufacturer or a representative organization of manufacturers may contract with the state or a political subdivision to provide collection services under this section. The manufacturer or organization shall fully reimburse the state or political subdivision for the value of any contractual services rendered under this subdivision.

Subd. 8. **Anticompetitive conduct.** A manufacturer or organization of manufacturers and its officers, members, employees, and agents who participate in projects or programs to collect and properly manage waste rechargeable batteries or products powered by rechargeable batteries are immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce for activities related to the collection and management of batteries and products required under this section.

Subd. 9. **Exemptions.** To ensure that new types of batteries do not add additional hazardous or toxic materials to the mixed municipal solid waste stream, the commissioner of the agency may exempt a new type of rechargeable battery from the requirements of this section if it poses no unreasonable hazard when placed in and processed or disposed of as part of a mixed municipal solid waste.

History: *1991 c 257 s 2; 1992 c 593 art 1 s 23,24; 1994 c 585 s 17,18; 1996 c 470 s 27; 2002 c 379 art 1 s 31; 1Sp2005 c 1 art 2 s 161; 2007 c 13 art 1 s 8*

115A.916 MOTOR VEHICLE FLUIDS AND FILTERS; PROHIBITIONS.

(a) A person may not knowingly place motor oil, brake fluid, power steering fluid, transmission fluid, motor oil filters, or motor vehicle antifreeze:

(1) in solid waste or in a solid waste management facility other than a recycling facility or a household hazardous waste collection facility;

(2) in or on the land, unless approved by the agency; or

(3) in or on the waters of the state, in a subsurface sewage treatment system as defined in section 115.55, or in a stormwater or wastewater collection or treatment system except as described in paragraph (c).

(b) For the purposes of this section, "antifreeze" does not include small amounts of antifreeze contained in water used to flush the cooling system of a vehicle after the antifreeze has been drained and does not include deicer that has been used on the exterior of a vehicle.

(c) A person may place waste motor vehicle antifreeze in a wastewater collection or treatment system permitted by the agency, unless prohibited by the operator of the system, if the person:

(1) generates an annual average of less than 50 gallons per month of waste motor vehicle antifreeze; and

(2) keeps records of the amount of waste antifreeze generated. Records must be maintained on site and made available for inspection for a minimum of three years following generation of the waste antifreeze.

(d) Notwithstanding paragraph (a), motor oil filters and portions of motor oil filters may be processed at a permitted mixed municipal solid waste resource recovery facility that directly burns the waste if:

(1) the facility is subject to an industrial waste management plan that addresses management of motor oil filters and the owner or operator of the facility can demonstrate to the satisfaction of the commissioner that the facility is in compliance with that plan;

(2) the facility recovers ferrous metal after incineration for recycling as part of its operation; and

(3) the motor oil filters are collected separately from mixed municipal solid waste and are not combined with it except for the purpose of incinerating the waste.

(e) The commissioner of the Pollution Control Agency, in conjunction with industry organizations representing automotive repair businesses and antifreeze recycling businesses and environmental organizations shall work together to develop and promote opportunities to recycle waste motor vehicle antifreeze and to review the impact of alternative antifreeze disposal or recycling methods on businesses and the environment.

History: *1987 c 348 s 25; 1988 c 685 s 17; 1991 c 347 art 1 s 18; 1993 c 249 s 16; 1994 c 585 s 19; 1996 c 470 s 9; 1997 c 216 s 97; 1998 c 379 s 2; 1Sp2005 c 1 art 2 s 161; 2009 c 109 s 14*

115A.9162 MS 1996 [Repealed, 1996 c 470 s 28]

NEW DISPOSAL FACILITIES; CERTIFICATE OF NEED

115A.917 CERTIFICATE OF NEED.

No new capacity for disposal of mixed municipal solid waste may be permitted in counties outside the metropolitan area without a certificate of need issued by the commissioner indicating the commissioner's determination that the additional disposal capacity is needed in the county. A certificate of need may not be issued until the county has a plan approved under section 115A.46. If the original plan was approved more than five years before, the commissioner may require the plan to be revised before a certificate of need is issued under this section. The commissioner shall certify need only to the extent that there are no feasible and prudent alternatives to the additional disposal capacity, including waste reduction, source separation, and resource recovery, that would minimize adverse impact upon natural resources. Alternatives that are speculative or conjectural are not feasible and prudent. Economic considerations alone do not justify the certification of need or the rejection of alternatives.

History: *1984 c 644 s 45; 1987 c 404 s 145; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161*

DISPOSAL FACILITIES; LOCAL FEE AUTHORITY

115A.918 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in this section apply to this section and sections 115A.919 to 115A.929.

Subd. 2. **Closure.** "Closure" means actions that will prevent, mitigate, or minimize the threat to public health and the environment posed by a closed solid waste disposal facility including application of final cover; grading and seeding of final cover; installation of an adequate monitoring system, if necessary; and construction of groundwater and surface water diversion structures.

Subd. 2a. **Equivalent.** For mixed municipal solid waste, the measure of "equivalent" or "equivalent cubic yards of waste" is 3.33 cubic yards per ton of waste.

Subd. 3. **Operator.** "Operator" means:

(1) the permittee of a mixed municipal solid waste disposal facility that has an agency permit; or

(2) the person in control of a mixed municipal solid waste disposal facility that does not have an agency permit.

Subd. 4. **Postclosure, postclosure care.** "Postclosure" and "postclosure care" mean actions taken for the care, maintenance, and monitoring of a solid waste disposal facility after closure that will prevent, mitigate, or minimize the threat to public health and environment posed by the closed facility.

Subd. 5. **Response.** "Response" has the meaning given it in section 115B.02, subdivision 18.

History: *1985 c 274 s 11; 1994 c 585 s 20,21; 2023 c 25 s 35*

115A.919 COUNTY FEE AUTHORITY.

Subdivision 1. **Fee.** (a) A county may impose a fee, by cubic yard of waste or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste or construction debris located within the county. The revenue from the fees shall be credited to the county general fund and shall be used only for landfill abatement purposes, or costs of closure, postclosure care, and response actions or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities. The interest generated from fees imposed under this subdivision may be credited to the county general fund for use by a county for other purposes.

(b) Fees for construction debris facilities may not exceed 50 cents per cubic yard. Revenues from the fees must offset any financial assurances required by the county for a construction debris facility. The maximum revenue that may be collected for a construction debris facility must be determined by multiplying the total permitted capacity of the facility by 15 cents per cubic yard. Once the maximum revenue has been collected for a facility, the fee may no longer be imposed. The limitation on the fees in this paragraph and in section 115A.921, subdivision 2, are not intended to alter the liability of the facility operator or the authority of the agency to impose financial assurance requirements.

Subd. 2. **Additional fee.** A county may impose a fee, by cubic yard or the equivalent of waste collected outside the county, in addition to a fee imposed under subdivision 1, on operators of mixed municipal solid waste disposal facilities located within the county. The fee may not exceed $7.50 per cubic yard or the equivalent. A person licensed to collect solid waste in a county that designates the waste under sections 115A.80 to 115A.893 who is referred to a disposal facility outside the county due to temporary closure of the designated facility is exempt from the additional fee; the designated facility is responsible for the fee. Revenue generated from the additional fee must be credited to the county general fund and may be used only for the purposes listed in subdivision 1.

Subd. 2a. **Joint powers agreement.** If a facility is owned by a joint powers board, total fees in excess of $1 per cubic yard or equivalent may not be imposed or revenue expended under subdivision 1 or 2 without the approval of the board.

Subd. 3. **Exemptions.** (a) Waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from any fee imposed by a county under this section if there is at least an 85 percent weight reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 473.843, subdivision 1, paragraph (c), must be followed and submitted to the appropriate county, except that for facilities operating outside of the metropolitan area the commissioner shall prescribe procedures for verifying the required 85 percent weight reduction.

(b) A facility permitted for the disposal of construction debris is exempt from 25 percent of a fee imposed under subdivision 1 if the facility has implemented a recycling program approved by the county and 25 percent if the facility contains a liner and leachate collection system approved by the agency.

History: *1984 c 644 s 46; 1985 c 274 s 12; 1988 c 685 s 19; 1989 c 325 s 18; 1991 c 337 s 37; 1994 c 585 s 22; 1995 c 247 art 1 s 21; 1996 c 470 s 10; 1996 c 471 art 13 s 3; 2003 c 128 art 1 s 128*

115A.921 CITY OR TOWN; FEE AUTHORITY.

Subdivision 1. **Mixed municipal solid waste.** (a) A city or town may impose a fee, not to exceed $1 per cubic yard of waste, or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste located within the city or town. The revenue from the fees must be credited to the city or town general fund. Revenue produced by 25 cents of the fee must be used only for purposes of landfill abatement or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities. Revenue produced by the balance of the fee may be used for any general fund purpose.

(b) Waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from the fee imposed by a city or town under this section if there is at least an 85 percent weight reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 473.843, subdivision 1, paragraph (c), must be followed and submitted to the appropriate city or town, except that for facilities operating outside of the metropolitan area the commissioner shall prescribe procedures for verifying the required 85 percent weight reduction.

Subd. 2. **Construction debris.** (a) A city or town may impose a fee, not to exceed 50 cents per cubic yard of waste, or its equivalent, on operators of facilities for the disposal of construction debris located within the city or town. The revenue from the fees must be credited to the city or town general fund. Two-thirds of the revenue must be used only for purposes of landfill abatement or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects resulting from the facilities.

(b) A facility permitted for the disposal of construction debris is exempt from 25 percent of a fee imposed under this subdivision if the facility has implemented a recycling program that has been approved by the county and 25 percent if the facility contains a liner and leachate collection system approved by the agency.

(c) Two-thirds of the revenue from fees collected under this subdivision must offset any financial assurances required by the city or town for a construction debris facility.

(d) The maximum revenue that may be collected under this subdivision must be determined by multiplying the total permitted capacity of a facility by 15 cents per cubic yard. Once the maximum revenue has been collected for a facility, the fees in this subdivision may no longer be imposed.

History: *1984 c 644 s 47; 1987 c 348 s 26; 1988 c 685 s 20; 1989 c 325 s 19; 1991 c 337 s 38; 1994 c 585 s 23; 1995 c 247 art 1 s 22*

115A.922 MS 1989 Supp [Repealed, 1990 c 604 art 10 s 32]

115A.923 GREATER MINNESOTA; LANDFILL CLEANUP FEE.

Subdivision 1. **Amount of fee.** (a) The operator of a mixed municipal solid waste disposal facility outside of the metropolitan area shall charge a fee on solid waste accepted and disposed of at the facility as follows:

(1) a facility that weighs the waste that it accepts must charge a fee of $2 per cubic yard based on equivalent cubic yards of waste accepted at the entrance of the facility;

(2) a facility that does not weigh the waste but that measures the volume of the waste that it accepts must charge a fee of $2 per cubic yard of waste accepted at the entrance of the facility; and

(3) waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse is exempt from the fee imposed by this subdivision if there is at least an 85 percent weight reduction in the solid waste processed.

(b) To qualify for exemption under paragraph (a), clause (3), waste residue must be brought to a disposal facility separately. The commissioner shall prescribe procedures for determining the amount of waste residue qualifying for exemption.

Subd. 1a. **Disposition of fee.** The operator of a disposal facility in greater Minnesota shall remit the fees collected under subdivision 1 to the county or sanitary district where the facility is located, except that the operator of a facility that is owned by a statutory or home rule city shall remit the fees to the city that owns the facility and the operator of a facility that is owned by a joint powers board shall remit the fees to the board. The county, city, joint powers board, or sanitary district may use the revenue from the fees only for the purposes specified in section 115A.919.

Subd. 2. MS 1989 Supp [Repealed, 1990 c 604 art 10 s 32]

Subd. 3. MS 1989 Supp [Repealed, 1990 c 604 art 10 s 32]

Subd. 4. MS 1989 Supp [Repealed, 1990 c 604 art 10 s 32]

Subd. 5. MS 1989 Supp [Repealed, 1990 c 604 art 10 s 32]

Subd. 6. MS 1992 [Repealed, 1994 c 416 art 4 s 5]

History: *1989 c 325 s 21; 1990 c 604 art 10 s 26; 1991 c 337 s 39,40; 1994 c 416 art 4 s 1; 1995 c 247 art 1 s 23; 1996 c 470 s 11; 1996 c 471 art 13 s 4*

115A.924 MS 1989 Supp [Repealed, 1990 c 604 art 10 s 32]

115A.925 MS 1989 Supp [Repealed, 1990 c 604 art 10 s 32]

115A.927 MS 1989 Supp [Repealed, 1990 c 604 art 10 s 32]

115A.928 MS 1989 Supp [Repealed, 1990 c 604 art 10 s 32]

115A.929 FEES; ACCOUNTING.

Each political subdivision that provides for solid waste management shall account for all revenue collected from waste management fees, together with interest earned on revenue from the fees, separately from other revenue collected by the political subdivision and shall report revenue collected from the fees and use of the revenue separately from other revenue and use of revenue in any required financial report or audit. For the purposes of this section, "waste management fees" means:

(1) all fees, charges, and surcharges collected under sections 115A.919, 115A.921, and 115A.923;

(2) all tipping fees collected at waste management facilities owned or operated by the political subdivision;

(3) all charges imposed by the political subdivision for waste collection and management services; and

(4) any other fees, charges, or surcharges imposed on waste or for the purpose of waste management, whether collected directly from generators or indirectly through property taxes or as part of utility or other charges for services provided by the political subdivision.

History: *1991 c 337 s 41; 1993 c 249 s 17; 1994 c 585 s 24; 1Sp2003 c 1 art 2 s 63; 1Sp2005 c 1 art 2 s 131*

SOLID WASTE COLLECTION; REQUIREMENTS

115A.93 LICENSING; SOLID WASTE COLLECTION.

Subdivision 1. **License and registration required; reporting.** (a) A person may not collect mixed municipal solid waste for hire without a license from the jurisdiction where the mixed municipal solid waste is collected. The local licensing entity shall submit a list of licensed collectors to the agency.

(b) A person may not collect recyclable materials for hire unless registered with the agency. If a person is licensed under paragraph (a), the person need not register with the agency under this paragraph.

(c) The agency, in consultation with the Solid Waste Management Coordinating Board, the Association of Minnesota Counties, the Minnesota Solid Waste Administrators Association, and representatives from the waste industry, shall, by July 1, 2016, develop uniform short and long reporting forms that will reduce duplicative reporting to governmental units by collectors of solid waste and recyclable materials.

(d) A collector of mixed municipal solid waste or recyclable materials shall separately report to the agency on an annual basis information including, but not limited to, the quantity of mixed municipal solid waste and the quantity of recyclable materials collected:

(1) from commercial customers;

(2) from residential customers;

(3) by county of origin; and

(4) by destination of the material.

Subd. 2. **Local licensing.** (a) Each city and town may issue licenses for persons to collect mixed municipal solid waste for hire within their jurisdictions.

(b) County boards shall by resolution adopt the licensing authority of a city or town that does not issue licenses. A county may delegate its licensing authority to a consortium of counties or to municipalities to license collection of mixed municipal solid waste within the county.

Subd. 3. **License requirements; pricing based on volume or weight.** (a) A licensing authority shall require licensees to impose charges for collection of mixed municipal solid waste that increase with the volume or weight of the waste collected.

(b) A licensing authority may impose requirements that are consistent with the county's solid waste policies as a condition of receiving and maintaining a license.

(c) A licensing authority shall prohibit mixed municipal solid waste collectors from imposing a greater charge on residents who recycle than on residents who do not recycle.

(d) The commissioner may exempt a licensing authority from the requirements of paragraph (a) if the county within which the authority is located has an approved solid waste management plan that concludes that variable rate pricing is not appropriate for that jurisdiction because it is inconsistent with other incentives and mechanisms implemented within the jurisdiction that are more effective in attaining the goals of this chapter to discourage on-site disposal, littering, and illegal dumping.

(e) In the interim between revisions to the county solid waste management plan, the commissioner may exempt a licensing authority from the requirements of paragraph (a) if the commissioner makes the determination otherwise made by the plan in paragraph (d) and finds that the licensing authority:

(1) operates or contracts for the operation of a residential recycling program that collects more categories of recyclable materials than required in section 115A.552;

(2) has a residential participation rate in its recycling programs of at least 70 percent or in excess of the participation rate for the county in which it is located, whichever is greater; and

(3) is located in a county that has exceeded the recycling goals in section 115A.551.

An exemption granted by the commissioner in the interim between revisions to the county solid waste management plan is only effective until the county solid waste management plan is revised.

Subd. 3a. **Volume requirement.** A licensing authority that requires a pricing system based on volume instead of weight under subdivision 3 shall determine a base unit size for an average small quantity household generator and establish, or require the licensee to establish, a multiple unit pricing system that ensures that amounts of waste generated in excess of the base unit amount are priced higher than the base unit price.

Subd. 4. **Date certain.** By January 1, 1993, each county shall ensure that each city or town within the county requires each mixed municipal solid waste collector that provides curbside collection service in the city or town to obtain a license under this section or the county shall directly require and issue the licenses. No person may collect mixed municipal solid waste after January 1, 1993, without a license.

Subd. 5. **Customer data.** Customer lists provided to counties or cities by solid waste collectors are private data on individuals as defined in section 13.02, subdivision 12, with regard to data on individuals, or nonpublic data as defined in section 13.02, subdivision 9, with regard to data not on individuals.

History: *1Sp1989 c 1 art 20 s 8; 1991 c 337 s 42,43; 1992 c 593 art 1 s 25,26; 1993 c 351 s 23; 1996 c 470 s 12; 1Sp2005 c 1 art 2 s 161; 1Sp2015 c 4 art 4 s 111*

115A.9301 SOLID WASTE COLLECTION; VOLUME- OR WEIGHT-BASED PRICING.

Subdivision 1. **Requirement.** A local government unit that collects charges for solid waste collection directly from waste generators shall implement charges that increase as the volume or weight of the waste collected on site from each generator's residence or place of business increases.

Subd. 2. **Volume requirement.** If a local government unit implements a pricing system based on volume instead of weight under subdivision 1, it shall determine a base unit size for an average small quantity household generator and establish a multiple unit pricing system that ensures that amounts of waste generated in excess of the base unit amount are priced higher than the base unit price.

Subd. 3. **Alternative.** A local government unit may satisfy the requirements of this section by establishing at least three price categories for collection of household mixed municipal solid waste to include, for households that generate small volumes of waste, a waste collection unit that is smaller than and priced lower than for other generators if the local government unit:

(1) operates or contracts for the operation of a residential recycling program that collects more categories of recyclable materials than required in section 115A.552;

(2) has a residential participation rate in its recycling programs of at least 70 percent or in excess of the participation rate for the county in which it is located, whichever is greater;

(3) is located in a county that has exceeded the recycling goals in section 115A.551; and

(4) generates, by all waste generators in the city, an amount of mixed municipal solid waste that is managed by incineration, production of refuse-derived fuel, mixed municipal solid waste composting, or disposal that is no greater, in proportion to the total amount of waste managed as listed above by all waste generators in the county in which the city is located, than it was for calendar year 1993.

Subd. 4. **Exemption.** (a) The commissioner may exempt a local government unit from the requirements of subdivision 1 if the county within which the local government unit is located has an approved solid waste management plan that concludes that variable rate pricing is not appropriate for that jurisdiction because it is inconsistent with other incentives and mechanisms implemented within the jurisdiction that are more effective in attaining the goals of this chapter to discourage on-site disposal, littering, and illegal dumping.

(b) In the interim between revisions to the county solid waste management plan, the commissioner may exempt a local government unit from the requirements of subdivision 1 if the commissioner makes the determination otherwise made by the plan in paragraph (a) and finds that the local government unit:

(1) operates or contracts for the operation of a residential recycling program that collects more categories of recyclable materials than required in section 115A.552;

(2) has a residential participation rate in its recycling programs of at least 70 percent or in excess of the participation rate for the county in which it is located, whichever is greater; and

(3) is located in a county that has exceeded the recycling goals in section 115A.551.

(c) An exemption granted by the commissioner in the interim between revisions to the county solid waste management plan is only effective until the county solid waste management plan is revised.

History: *1992 c 593 art 1 s 27; 1994 c 585 s 25; 1996 c 470 s 13; 1Sp2005 c 1 art 2 s 161*

115A.9302 WASTE DEPOSIT; DISCLOSURE.

Subdivision 1. **Disclosure required.** (a) By January 1, 1994, and at least annually thereafter between January 1 and March 31, a person that collects construction debris, industrial waste, or mixed municipal solid waste for transportation to a waste facility shall disclose to each waste generator from whom waste is collected the name, location, and type of, and the number of the permit issued by the agency, or its counterpart in another state, if applicable, for the processing or disposal facility or facilities, excluding a transfer station, at which the waste will be deposited. The collector shall note the approximate percentage of waste deposited at each of the two primary facilities used for the type of waste collected from the generator in the county in which the generator generates the waste and any alternative facilities regularly used by the collector for the type of waste collected from the generator in the county in which the generator generates the waste.

(b) All written disclosures must include the following statement:

"You may be responsible for any liability that results from contamination at a facility where your waste has been deposited. Minnesota believes that its waste management system provides substantially more

financial and environmental protection than depositing waste in landfills in other states. Managing your waste in Minnesota may minimize your potential liability."

All oral disclosures must include the following statement:

"You may be responsible for any liability that results from contamination at a facility where your waste has been deposited. Minnesota believes that its waste management system offers more protection from liability than the waste management systems of other states."

(c) If any of the primary or alternative disposal facilities identified by the collector in paragraph (a) are not located in Minnesota, the disclosure must state "The landfill to which your waste may be sent during the current calendar year is not a Minnesota landfill."

Subd. 2. **Form of disclosure.** (a) A collector shall make the disclosure to the waste generator in writing at least once per year between January 1 and March 31 and on any written contract for collection services for that year. The written disclosure must include all of the information described in subdivision 1. The oral disclosure required in this section need only include the statement required in subdivision 1, paragraph (b), and the statement required in subdivision 1, paragraph (c), if that paragraph applies. If the license issued by the county to the collector for collection within the county does not require the collector to submit a copy of the disclosure to the county, the collector shall submit a copy to the commissioner by March 31 of each year.

(b) An oral disclosure is only required with regard to the collection of mixed municipal solid waste. A collector must provide the required disclosure orally to a waste generator at the time the generator agrees to purchase regular collection service and must provide written disclosure to the generator within 45 days from the date of request. This oral disclosure is not required if the city or county within which the waste is generated selects the collector that may provide collection services to the generator.

(c) If a collector provides onetime or occasional service to a waste generator, the collector must orally provide the generator with the required disclosure at the time the generator agrees to purchase the service. The collector shall then provide written disclosure to the generator within 45 days from the date of request.

(d) If an additional facility becomes either a primary facility or an alternative facility during the year, the collector shall make the disclosure set forth in subdivision 1 within 30 days. A local government unit that collects solid waste without direct charges to waste generators shall make the disclosure on any statement that includes an amount for waste management, provided that, at a minimum, disclosure to waste generators must be made at least twice annually in a form likely to be available to all generators.

(e) The agency may develop standard disclosure forms containing the information that is required in this section. Collectors may use the form developed by the agency.

Subd. 3. **Transfer stations.** If the collector deposits waste at a transfer station, the collector need not disclose the name and location of the transfer station but must disclose the destination of the waste when it leaves the transfer station.

History: *1993 c 249 s 18; 1995 c 247 art 1 s 24,25*

SPECIFIC SOLID WASTE MATERIALS

115A.931 YARD WASTE; PROHIBITION.

(a) Except as authorized by the agency, in the metropolitan area after January 1, 1990, and outside the metropolitan area after January 1, 1992, a person may not place yard waste:

(1) in mixed municipal solid waste;

(2) in a disposal facility; or

(3) in a resource recovery facility except for the purposes of reuse, composting, or cocomposting.

(b) MS 2008 [Renumbered 115A.03, subd 38]

(c) On or after January 1, 2010, a person may not place yard waste or source-separated compostable materials generated in a metropolitan county in a plastic bag delivered to a transfer station or compost facility unless the bag meets all the specifications in ASTM Standard Specification for Compostable Plastics (D6400). For purposes of this paragraph, "metropolitan county" has the meaning given in section 473.121, subdivision 4, and "ASTM" has the meaning given in section 296A.01, subdivision 6.

(d) A person who immediately empties a plastic bag containing yard waste or source-separated compostable materials delivered to a transfer station or compost facility and removes the plastic bag from the transfer station or compost facility is exempt from paragraph (c).

(e) Residents of a city of the first class that currently contracts for the collection of yard waste are exempt from paragraph (c) until January 1, 2013, if, by that date, the city implements a citywide source-separated compostable materials collection program using durable carts.

History: *1988 c 685 s 21; 1991 c 337 s 44; 1992 c 593 art 1 s 28; 1995 c 247 art 1 s 66; 2009 c 37 art 1 s 44*

115A.932 MERCURY PROHIBITION.

Subdivision 1. **Prohibitions and recycling requirements.** (a) A person may not place mercury or a mercury-containing device or product, as defined under section 116.92, subdivision 10, from which the mercury has not been removed for reuse or recycling:

(1) in solid waste; or

(2) in a wastewater disposal system.

(b) A person may not knowingly place mercury or a mercury-containing device or product, as defined under section 116.92, subdivision 10, from which the mercury has not been removed for reuse or recycling:

(1) in a solid waste processing facility; or

(2) in a solid waste disposal facility.

(c) A fluorescent or high-intensity discharge lamp must be recycled by delivery of the lamp to a lamp recycling facility, as defined in section 116.93, subdivision 1, or to a facility that collects and stores lamps for the purpose of delivering them to a lamp recycling facility, including, but not limited to, a household hazardous waste collection or recycling facility, retailer take-back and utility provider program sites, or other sites designated by an electric utility under section 216B.241, subdivisions 2 and 4.

Subd. 2. **Enforcement.** (a) Except as provided in paragraph (b), a violation of subdivision 1 is subject to enforcement under sections 115.071 and 116.072.

(b) A violation of subdivision 1 by a generator of household hazardous waste, as defined in section 115A.96, is not subject to enforcement under section 115.071, subdivision 3.

(c) An administrative penalty imposed under section 116.072 for a violation of subdivision 1 by a generator of household hazardous waste, as defined in section 115A.96, may not exceed $700.

History: *1992 c 560 s 1; 1993 c 249 s 19; 1997 c 62 s 1; 1997 c 216 s 98; 2007 c 109 s 1; 2010 c 382 s 18; 2014 c 277 s 1*

115A.935 SOLID WASTE GENERATED OUTSIDE MINNESOTA.

No person shall transport into or deposit in this state, for the purpose of processing or disposal, solid waste that was generated in another state, unless the waste:

(1) meets all the solid waste management regulations of the state in which it was generated; and

(2) contains none of the items specifically banned from mixed municipal solid waste in this state, including waste tires, motor and vehicle fluids and filters, waste lead acid batteries, yard waste, major appliances, and any other item specifically banned from the waste stream under this chapter.

History: *1991 c 337 s 45; 1993 c 249 s 61*

115A.936 CONSTRUCTION DEBRIS AS COVER MATERIAL PROHIBITED.

(a) Construction debris or residuals from processed construction debris containing any amount of gypsum shall not be managed as cover material at disposal facilities unless:

(1) residual material is managed in an industrial or construction and demolition disposal facility equipped with a liner and leachate collection system;

(2) residual material is not mechanically pulverized or size-reduced prior to processing, screening, or application;

(3) a maximum effort is made to remove gypsum from the waste prior to processing, screening, or application;

(4) residual material is mixed at a ratio of one part soil to one part residual material prior to application; and

(5) the disposal facility does not accept any amount of cover material greater than what is operationally necessary.

(b) For the purposes of this section, "residual material" means construction debris or residuals from processed construction debris containing any amount of gypsum.

History: *2008 c 300 s 2*

ORGANIZED AND MANDATORY COLLECTION

115A.94 ORGANIZED COLLECTION.

Subdivision 1. **Definition.** "Organized collection" means a system for collecting solid waste in which a specified collector, or a member of an organization of collectors, is authorized to collect from a defined geographic service area or areas some or all of the solid waste that is released by generators for collection.

Subd. 2. **Local authority.** A city or town may organize collection, after public notification and hearing as required in subdivisions 4a to 4f. A county may organize collection as provided in subdivision 5. A city or town that has organized collection as of May 1, 2013, is exempt from subdivisions 4a to 4f.

Subd. 3. **General provisions.** (a) The local government unit may organize collection as a municipal service or by ordinance, franchise, license, negotiated or bidded contract, or other means, using one or more collectors or an organization of collectors.

(b) The local government unit may not establish or administer organized collection in a manner that impairs the preservation and development of recycling and markets for recyclable materials. The local government unit shall exempt recyclable materials from organized collection upon a showing by the generator or collector that the materials are or will be separated from mixed municipal solid waste by the generator, separately collected, and delivered for reuse in their original form or for use in a manufacturing process.

(c) The local government unit shall invite and employ the assistance of interested persons, including persons licensed to operate solid waste collection services in the local government unit, in developing plans and proposals for organized collection and in establishing the organized collection system.

(d) Organized collection accomplished by contract or as a municipal service may include a requirement that all or any portion of the solid waste, except (1) recyclable materials and (2) materials that are processed at a resource recovery facility at the capacity in operation at the time that the requirement is imposed, be delivered to a waste facility identified by the local government unit. In a district or county where a resource recovery facility has been designated by ordinance under section 115A.86, organized collection must conform to the requirements of the designation ordinance.

Subd. 4. MS 2012 [Repealed, 2013 c 45 s 7]

Subd. 4a. **Committee establishment.** (a) Before implementing an ordinance, franchise, license, contract, or other means of organizing collection, a city or town, by resolution of the governing body, must establish a solid waste collection options committee to identify, examine, and evaluate various methods of solid waste collection. The governing body shall appoint the committee members.

(b) The solid waste collection options committee is subject to chapter 13D.

Subd. 4b. **Committee duties.** The committee established under subdivision 4a shall:

(1) determine which methods of solid waste collection to examine, which must include:

(i) the existing system of collection;

(ii) a system in which a single collector collects solid waste from all sections of a city or town; and

(iii) a system in which multiple collectors, either singly or as members of an organization of collectors, collect solid waste from different sections of a city or town;

(2) establish a list of criteria on which the solid waste collection methods selected for examination will be evaluated, which may include: costs to residential subscribers, impacts on residential subscribers' ability to choose a provider of solid waste service based on the desired level of service, costs and other factors, the impact of miles driven on city streets and alleys and the incremental impact of miles driven by collection vehicles, initial and operating costs to the city of implementing the solid waste collection system, providing incentives for waste reduction, impacts on solid waste collectors, and other physical, economic, fiscal, social, environmental, and aesthetic impacts;

(3) collect information regarding the operation and efficacy of existing methods of solid waste collection in other cities and towns;

(4) seek input from, at a minimum:

(i) the governing body of the city or town;

(ii) the local official of the city or town responsible for solid waste issues;

(iii) persons currently licensed to operate solid waste collection and recycling services in the city or town; and

(iv) residents of the city or town who currently pay for residential solid waste collection services; and

(5) issue a report on the committee's research, findings, and any recommendations to the governing body of the city or town.

Subd. 4c. **Governing body; implementation.** The governing body of the city or town shall consider the report and recommendations of the solid waste collection options committee. The governing body must provide public notice and hold at least one public hearing before deciding whether to implement organized collection. Organized collection may begin no sooner than six months after the effective date of the decision of the governing body of the city or town to implement organized collection.

Subd. 4d. **Participating collectors proposal; requirement.** Before establishing a committee under subdivision 4a to consider organizing residential solid waste collection, a city or town with more than one licensed collector must notify the public and all licensed collectors in the community. The city or town must provide a period of at least 60 days in which meetings and negotiations shall occur exclusively between licensed collectors and the city or town to develop a proposal in which interested licensed collectors, as members of an organization of collectors, collect solid waste from designated sections of the city or town. The proposal shall include identified city or town priorities, including issues related to zone creation, traffic, safety, environmental performance, service provided, and price, and shall reflect existing haulers maintaining their respective market share of business as determined by each hauler's average customer count during the six months prior to the commencement of the exclusive negotiation period. If an existing hauler opts to be excluded from the proposal, the city may allocate their customers proportionally based on market share to the participating collectors who choose to negotiate. The initial organized collection agreement executed under this subdivision must be for seven years. Upon execution of an agreement between the participating licensed collectors and city or town, the city or town shall establish organized collection through appropriate local controls and is not required to fulfill the requirements of subdivisions 4a, 4b, and 4c, except that the governing body must provide the public notification and hearing required under subdivision 4c.

Subd. 4e. **Parties to meet and confer.** Before the exclusive meetings and negotiations under subdivision 4d, participating licensed collectors and elected officials of the city or town must meet and confer regarding waste collection issues, including but not limited to road deterioration, public safety, pricing mechanisms, and contractual considerations unique to organized collection.

Subd. 4f. **Joint liability limited.** Notwithstanding section 604.02, an organized collection agreement must not obligate a participating licensed collector for damages to third parties solely caused by another participating licensed collector. The organized collection agreement may include joint obligations for actions that are undertaken by all the participating licensed collectors under this section.

Subd. 5. **Counties; organized collection.** (a) A county may by ordinance require cities and towns within the county to organize collection. Organized collection ordinances of counties may:

(1) require cities and towns to require the separation and separate collection of recyclable materials;

(2) specify the material to be separated; and

(3) require cities and towns to meet any performance standards for source separation that are contained in the county solid waste plan.

(b) A county may itself organize collection under subdivisions 4a to 4f in any city or town that does not comply with a county organized collection ordinance adopted under this subdivision, and the county may implement, as part of its organized collection, the source separation program and performance standards required by its organized collection ordinance.

Subd. 6. **Organized collection not required or prevented.** (a) The authority granted in this section to organize solid waste collection is optional and is in addition to authority to govern solid waste collection granted by other law.

(b) Except as provided in subdivision 5, a city, town, or county is not:

(1) required to organize collection; or

(2) prevented from organizing collection of solid waste or recyclable material.

(c) Except as provided in subdivision 5, a city, town, or county may exercise any authority granted by any other law, including a home rule charter, to govern collection of solid waste.

Subd. 7. **Anticompetitive conduct.** (a) A political subdivision that organizes collection under this section is authorized to engage in anticompetitive conduct to the extent necessary to plan and implement its chosen organized collection system and is immune from liability under state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

(b) An organization of solid waste collectors, an individual collector, and their officers, members, employees, and agents who cooperate with a political subdivision that organizes collection under this section are authorized to engage in anticompetitive conduct to the extent necessary to plan and implement the organized collection system, provided that the political subdivision actively supervises the participation of each entity. An organization, entity, or person covered by this paragraph is immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

History: *1987 c 348 s 27; 1989 c 325 s 26,27; 1990 c 600 s 1,2; 1991 c 337 s 46; 1993 c 249 s 20,21; 2013 c 45 s 1-6; 2018 c 177 s 1-8*

115A.941 SOLID WASTE; REQUIRED COLLECTION.

(a) Except as provided in paragraph (b), each city, and town described in section 368.01, with a population of 1,000 or more, and any other town with a population of 5,000 or more shall ensure that every residential

household and business in the city or town has solid waste collection service. To comply with this section, a city or town may organize collection, provide collection, or require by ordinance that every household and business has a contract for collection services. An ordinance adopted under this section must provide for enforcement.

(b) A city or town described in paragraph (a) may exempt a residential household or business in the city or town from the requirement to have solid waste collection service if the household or business ensures that an environmentally sound alternative is used.

(c) To the extent practicable, the costs incurred by a city or town under this section must be incorporated into the collection system or the enforcement mechanisms adopted under this section by the city or town.

History: *1991 c 337 s 47; 1993 c 249 s 22*

VISIBLE COSTS

115A.945 VISIBLE COSTS; SOLID WASTE MANAGEMENT.

Any political subdivision that provides or pays for the costs of collection or disposal of solid waste shall, through a billing or other system, make the prorated share of those costs for each solid waste generator visible and obvious to the generator.

History: *1Sp1989 c 1 art 20 s 9*

RECYCLABLE MATERIALS PROHIBITED FROM CERTAIN FACILITIES

115A.95 RECYCLABLE MATERIALS.

(a) Recyclable materials must be delivered to the appropriate materials processing facility as outlined in rules of the agency or any other facility permitted to recycle or compost the materials.

(b) A disposal facility or a resource recovery facility that is composting mixed municipal solid waste, burning waste, or converting waste to energy or to materials for combustion may not accept source-separated recyclable materials, and a solid waste collector or transporter may not deliver source-separated recyclable materials to such a facility, except for recycling or transfer to a recycler, unless the commissioner determines that no other person is willing to accept the recyclable materials.

History: *1985 c 274 s 13; 1987 c 348 s 28; 1994 c 585 s 26; 1Sp2005 c 1 art 2 s 161; 2011 c 107 s 82*

TELEPHONE DIRECTORIES

115A.951 TELEPHONE DIRECTORIES.

Subdivision 1. **Definition.** For the purposes of this section, a "telephone directory" means a printed list of residential, governmental, or commercial telephone service subscribers or users, or a combination of subscribers or users, that contains more than 7,500 listings and is distributed to the subscribers or users.

Subd. 2. **Prohibition.** A person may not place a telephone directory:

(1) in solid waste;

(2) in a disposal facility; or

(3) in a resource recovery facility, except a recycling facility.

Subd. 3. **Recyclability.** A person may not distribute a telephone directory to any person in this state unless the telephone directory:

(1) is printed on paper that is recyclable;

(2) is printed with inks that contain no heavy metals or other toxic materials; and

(3) is bound with materials that pose no unreasonable barriers to recycling of the directory.

Subd. 4. **Collecting used directories.** Each publisher or distributor of telephone directories shall:

(1) provide for the collection and delivery to a recycler of waste telephone directories;

(2) inform recipients of directories of the collection system; and

(3) submit a report to the agency by August 1 of each year that specifies the percentage of distributed directories collected as waste directories by distribution area and the locations where the waste directories were delivered for recycling and that verifies that the directories have been recycled.

History: *1992 c 593 art 1 s 29; 1995 c 247 art 2 s 20; 1Sp2005 c 1 art 2 s 161*

PROBLEM MATERIALS

115A.952 RETAIL SALE OF PROBLEM MATERIALS; UNIFORM LABELING AND CONSUMER INFORMATION.

Subdivision 1. **Duties of agency; rules.** The agency may adopt rules to identify products that are used primarily for personal, family, or household purposes and that constitute a problem material or contain a problem material as defined in section 115A.03, subdivision 24e. The rules may also prescribe a uniform label to be affixed by retailers of identified products as provided in subdivision 4. Packaging that is recyclable or made from recycled material shall not constitute a problem material.

Subd. 2. **Duties of commissioner of agriculture.** The commissioner of agriculture may adopt rules to provide consumer information and retail handling practices for pesticides, as defined in section 18B.01, subdivision 18; fertilizers, plant amendments, and soil amendments, as defined in section 18C.005, subdivisions 11, 25, and 33; and wood preservatives.

Subd. 3. **Preparing and supplying materials.** The agency and the commissioner of agriculture shall prepare and the agency shall supply to retailers, without charge to the retailers, the labels and informational materials required to comply with subdivision 4. Informational materials must include specific instructions on environmentally sound ways to use identified products and to handle them when the products or their containers are discarded.

Subd. 4. **Duties of retailers.** A person who sells or offers for sale at retail any product that is identified pursuant to rules of the agency adopted under subdivision 1 or under rules of the commissioner of agriculture under subdivision 2 shall:

(1) affix a uniform label as prescribed by the rules in a prominent location upon or near the display area of the product. If the adjacent display area is a shelf, the label shall be affixed to the price information for the product on the shelf;

(2) maintain and prominently display informational materials supplied by the agency at the location where identified products covered by the materials are sold or offered for sale; and

(3) comply with the handling practices required under subdivision 2.

History: *1Sp1989 c 1 art 20 s 10; 2024 c 85 s 12; 2024 c 116 art 2 s 34*

115A.9523 MS 1996 [Repealed, 1997 c 216 s 160]

115A.953 MS 1990 [Repealed, 1991 c 337 s 90]

115A.956 SOLID WASTE DISPOSAL; PROBLEM MATERIALS.

Subdivision 1. **Problem material; processing and disposal plan.** The agency shall develop a plan that designates problem materials and available capacity for processing and disposal of problem materials including household hazardous waste that should not be in mixed municipal solid waste. In developing the plan, the agency shall consider relevant regional characteristics and the impact of problem materials on specific processing and disposal technologies.

Subd. 2. **Problem material; separation and collection plan.** After the agency certifies that sufficient processing and disposal capacity is available, but no later than November 15, 1992, the agency shall develop a plan for separating problem materials from mixed municipal solid waste, collecting the problem materials, and transporting the problem materials to a processing or disposal facility and may by rule prohibit the placement of the designated problem materials in mixed municipal solid waste.

History: *1Sp1989 c 1 art 20 s 12; 1991 c 303 s 2; 1Sp2005 c 1 art 2 s 161*

115A.9561 MAJOR APPLIANCES.

Subdivision 1. **Prohibitions.** A person may not:

(1) place major appliances in mixed municipal solid waste; or

(2) dispose of major appliances in or on the land or in a solid waste processing or disposal facility. The agency may enforce this section pursuant to sections 115.071 and 116.072.

Subd. 2. **Recycling required.** (a) Major appliances must be recycled or reused. Each county shall ensure that its households have the opportunity to recycle used major appliances. For the purposes of this section, recycling includes:

(1) the removal of capacitors that may contain PCBs;

(2) the removal of ballasts that may contain PCBs;

(3) the removal of chlorofluorocarbon refrigerant gas; and

(4) the recycling or reuse of the metals, including mercury.

(b) To ensure that the materials removed from a major appliance are not introduced into the environment, an activity described in paragraph (a), clauses (1) to (3), must be conducted in a closed facility if the activity is conducted within 500 feet from the ordinary high-water level of a water basin that is a public water, as

those terms are described in section 103G.005, or of a watercourse identified by the public waters inventory under section 103G.201.

History: *1Sp1989 c 1 art 20 s 13; 1991 c 337 s 48; 1991 c 347 art 1 s 18; 1992 c 560 s 2; 1994 c 585 s 27; 2002 c 382 art 1 s 3*

115A.9565 CATHODE-RAY TUBE PROHIBITION.

Effective July 1, 2006, a person may not place in mixed municipal solid waste an electronic product containing a cathode-ray tube.

History: *2003 c 128 art 1 s 129; 1Sp2005 c 1 art 2 s 132*

115A.96 HOUSEHOLD HAZARDOUS WASTE; MANAGEMENT.

Subdivision 1. **Definitions.** The following definitions apply to this section:

(a) "Household" means a single detached dwelling unit or a single unit of a multiple dwelling unit and appurtenant structures.

(b) "Household hazardous waste" means waste generated from household activity that exhibits the characteristics of or that is listed as hazardous waste under agency rules, but does not include waste from commercial activities that is generated, stored, or present in a household.

(c) "Collection site" means a permanent or temporary designated location with scheduled hours for collection where individuals may bring household hazardous wastes.

(d) "Municipality" has the meaning given it in section 466.01, subdivision 1.

Subd. 2. **Management program.** The agency shall establish a statewide program to manage household hazardous wastes. The program must include:

(1) the establishment and operation of collection sites; and

(2) the provision of information, education, and technical assistance regarding proper management of household hazardous wastes.

Subd. 3. **Other participants.** (a) The agency may establish or operate all or part of the management program or may provide for services by contract or other agreement with public or private entities.

(b) The agency shall allow these programs to accept up to 100 pounds of waste per year from a hazardous waste generator that generates 220 pounds or less of hazardous waste per month.

Subd. 4. **Managing collected waste.** Any person who establishes or operates all or part of a household hazardous waste management program shall manage collected waste in compliance with standards applicable to a hazardous waste generator. If collected waste must be stored for a time exceeding those standards, the entity shall obtain the approval of the commissioner of the agency and shall manage the waste in compliance with applicable standards for the use and management of containers, but no facility permit is required. Waste accepted under subdivision 3, paragraph (b), must be managed in accordance with standards applicable to the waste.

Subd. 5. **Other programs.** A person must notify the commissioner of the agency before establishing and operating any part of a household hazardous waste management program.

Subd. 6. **Management plans.** (a) Each county shall include in its solid waste management plan required in section 115A.46, or its solid waste master plan required in section 473.803, a household hazardous waste management plan. The plan must at least:

(1) include a broad based public education component;

(2) include a strategy for reduction of household hazardous waste; and

(3) include a strategy for separation of household hazardous waste from mixed municipal solid waste and the collection, storage, and proper management of that waste.

(b) Each county required to submit its plan to the agency under section 115A.46 shall amend its plan to comply with this subdivision within one year after October 4, 1989.

(c) Each county in the state shall implement its household hazardous waste management plan by June 30, 1992.

(d) The agency shall review the plans submitted under this subdivision.

Subd. 7. **Indemnification; municipalities.** (a) A municipality, when operating or participating in a household hazardous waste management program pursuant to a contract with the agency under this section or other law, is an employee of the state, certified to be acting within the scope of employment, for purposes of the indemnification provisions of section 3.736, subdivision 9, for claims that arise out of the transportation, management, or disposal of any waste covered by the contract:

(1) from and after the time the waste permanently leaves the municipality's possession and comes into the possession of the agency's authorized transporter; and

(2) during the time the waste is transported between the municipality's facilities by the agency's authorized transporter.

(b) The state is not obligated to defend or indemnify a municipality under this subdivision to the extent of the municipality's liability insurance. The municipality's right to indemnity is not a waiver of the limitations, defenses, and immunities available to either the municipality or the state by law.

History: *1987 c 186 s 15; 1987 c 348 s 29; 1Sp1989 c 1 art 20 s 15,16; 1991 c 303 s 3; 1991 c 337 s 49; 1993 c 172 s 62,63; 1995 c 247 art 1 s 26; 2002 c 265 s 1,2; 2002 c 374 art 6 s 3-7; 1Sp2005 c 1 art 2 s 161*

115A.961 HOUSEHOLD BATTERIES; COLLECTION, PROCESSING, AND DISPOSAL.

Subdivision 1. **Definition.** For the purposes of this section, "household batteries" means disposable or rechargeable dry cells commonly used as power sources for household or consumer products including, but not limited to, nickel-cadmium, alkaline, mercuric oxide, silver oxide, zinc oxide, lithium, and carbon-zinc batteries, but excluding lead acid batteries.

Subd. 2. **Program.** (a) The commissioner, in consultation with other state agencies, political subdivisions, and representatives of the household battery industry, may develop household battery programs. The commissioner must coordinate the programs with the Legislative-Citizen Commission on Minnesota Resources study on batteries.

(b) The commissioner shall investigate options and develop guidelines for collection, processing, and disposal of household batteries. The options the commissioner may investigate include:

(1) establishing a grant program for counties to plan and implement household battery collection, processing, and disposal projects;

(2) establishing collection and transportation systems;

(3) developing and disseminating educational materials regarding environmentally sound battery management; and

(4) developing markets for materials recovered from the batteries.

(c) The commissioner may also distribute funds to political subdivisions to develop battery management plans and implement those plans.

Subd. 3. **Participation.** A political subdivision, on its own or in cooperation with others, may implement a program to collect, process, or dispose of household batteries. A political subdivision may provide financial incentives to any person, including public or private civic groups, to collect the batteries.

Subd. 4. [Obsolete, 1Sp2005 c 1 art 2 s 161]

History: *1Sp1989 c 1 art 20 s 14; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161; 2006 c 243 s 21*

115A.965 PROHIBITIONS ON SELECTED TOXICS IN PACKAGING.

Subdivision 1. **Packaging.** (a) As soon as feasible but not later than August 1, 1993, no manufacturer or distributor may sell or offer for sale or for promotional purposes in this state packaging or a product that is contained in packaging if the packaging itself, or any inks, dyes, pigments, adhesives, stabilizers, or any other additives to the packaging contain any lead, cadmium, mercury, or hexavalent chromium that has been intentionally introduced as an element during manufacture or distribution of the packaging.

(b) For the purposes of this section:

(1) "distributor" means a person who imports packaging or causes packaging to be imported into the state; it does not include a person involved solely in delivering packages on behalf of a third party;

(2) "intentional introduction" means the act of deliberately using a regulated metal in the formulation of a package where its continued presence is desired in the final package to provide a specific characteristic, appearance, or quality. It does not include:

(i) the use of a regulated metal as a processing agent or intermediate to impart certain chemical or physical changes during manufacturing, where the incidental retention of a residue of the metal in the final package is neither desired nor deliberate if the final package is in compliance with subdivision 2;

(ii) the use of recycled materials as feedstock for the manufacture of new packaging materials, where some portion of the recycled materials may contain amounts of a regulated metal if the new package is in compliance with subdivision 2; or

(iii) the incidental presence of any of the regulated metals.

Subd. 2. **Total toxics concentration levels.** The total concentration level of lead, cadmium, mercury, and hexavalent chromium added together in any packaging must not exceed the following amounts:

(1) 600 parts per million by weight by August 1, 1993;

(2) 250 parts per million by weight by August 1, 1994; and

(3) 100 parts per million by weight by August 1, 1995.

Subd. 3. **Exemptions.** (a) Until January 1, 2010, the following packaging is exempt from the requirements of subdivisions 1 and 2:

(1) packaging that would not exceed the total toxics concentration levels under subdivision 2 but for the addition in the packaging of materials that have fulfilled their intended use and have been discarded by consumers; and

(2) packages that are reused but exceed the total toxics concentration levels in subdivision 2, provided that:

(i) the product being conveyed by the package is regulated under federal or state health or safety requirements;

(ii) transportation of the packaged product is regulated under federal or state transportation requirements; and

(iii) disposal of the package is performed according to federal or state radioactive or hazardous waste disposal requirements.

(b) Until January 1, 2010, packages that have a controlled distribution and reuse, but exceed the total toxics concentration levels in subdivision 2 and do not meet the requirements of paragraph (a), may be exempted from subdivisions 1 and 2 if the manufacturers or distributors of the packages petition for and receive approval from the commissioner. In granting approval, the commissioner shall base the decision on satisfactory demonstrations that the environmental benefit of the controlled distribution and reuse is significantly greater compared to the same package manufactured in compliance with the total toxics concentration levels in subdivision 2, and on plans proposed by the manufacturer that include each of the following elements:

(1) a means of identifying the packaging in a permanent and visible manner;

(2) a method of regulatory and financial accountability so that a specified percentage of the packaging manufactured and distributed to other persons is not discarded by those persons after use but are returned to the manufacturer or the manufacturer's designee;

(3) a system of inventory and record maintenance to account for the packaging placed in, and removed from, service;

(4) a means of transforming packaging that is no longer reusable into recycled materials for manufacturing or into manufacturing wastes which are subject to existing federal or state laws or regulations governing such manufacturing wastes that ensure that these wastes do not enter the industrial or mixed municipal solid waste stream; and

(5) a system of annually reporting to the commissioner changes to the system and changes in designees.

(c) Packaging to which lead, cadmium, mercury, or hexavalent chromium has been intentionally introduced in the manufacturing process may be exempted from the requirements of subdivisions 1 and 2 by the commissioner of the Pollution Control Agency if:

(1) the use of the toxic element in the packaging is required by federal or state health or safety laws; or

(2) there is no feasible alternative for the packaging because the toxic element used is essential to the protection, safe handling, or function of the contents of the package.

(d) The commissioner may grant an exemption under paragraph (c) for a period not to exceed two years upon application by the packaging manufacturer that includes documentation showing that the criteria for an exemption are met. Exemptions granted by the commissioner may be renewed upon reapplication every two years.

Subd. 4. **Certificate of compliance.** (a) Beginning August 1, 1993, each manufacturer and distributor of packaging for sale or other distribution in this state shall certify to each of their purchasers or receivers that the packaging purchased or received complies with this section. The certificate of compliance must be in writing and must be signed by an official of the manufacturer or distributor. For packaging that has received an exemption under subdivision 3, the certificate of compliance must list the amount of total toxics concentration in the packaging, the specific toxics present, and the basis for the exemption.

(b) The manufacturer or distributor shall keep on file a copy of the certificate of compliance for each type of packaging manufactured or distributed and shall make copies available to the commissioner of the Pollution Control Agency or the attorney general on request, or to any member of the public within 60 days of receipt of a written request that specifies the type of packaging for which the information is requested.

(c) Each purchaser or receiver, except a retailer, of packaging shall retain the certificate of compliance for as long as the packaging is in use.

(d) If a manufacturer or distributor of packaging reformulates the packaging or creates new packaging, the manufacturer or distributor shall provide an amended or new certificate of compliance to purchasers and receivers for the reformulated or new packaging.

Subd. 5. **Enforcement.** This section may be enforced under sections 115.071 and 116.072. A person who fails to comply with this section is subject to a civil fine of up to $5,000 per day of violation, court costs and attorney fees, and all costs associated with the separate collection, storage, transfer, and appropriate processing or disposal of nonconforming packaging, to be determined by the true cost of those activities per ton times the approximate actual tonnage of nonconforming packaging sold or otherwise distributed in the state.

Subd. 6. MS 1996 [Repealed, 1997 c 186 s 4]

Subd. 6a. **Implementation.** In the interests of promoting consistent, nationally applicable standards, the commissioner shall have discretion to coordinate efforts under this section with similar efforts in other jurisdictions.

Subd. 7. MS 2010 [Repealed, 2012 c 272 s 98]

History: *1991 c 337 s 50; 1993 c 249 s 24; 1994 c 585 s 28,29; 1995 c 247 art 1 s 27; 1996 c 470 s 14,15,27; 1997 c 186 s 1-3; 2000 c 370 s 2; 1Sp2005 c 1 art 2 s 161*

115A.9651 LISTED METALS IN SPECIFIED PRODUCTS; ENFORCEMENT.

Subdivision 1. **Prohibition.** After July 1, 1998, no person may distribute a listed product for sale or use in this state.

Subd. 2. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Council" means the council established under subdivision 5.

(c) "Essential product" means a specified product into which the introduction of a listed metal is required under military specifications or to ensure the integrity of a product essential for aviation or railroad safety, and which is being used only in that application.

(d) "Intentionally introduce" means to deliberately use a listed metal as an element during manufacture or distribution of a specified product. Intentional introduction does not include the incidental presence of a listed metal.

(e) "Listed metal" means lead, cadmium, mercury, or hexavalent chromium.

(f) "Listed product" means a specified product that is included on the prohibited products list published under subdivision 4.

(g) "New product" means a specified product which was not used, sold, or distributed in the state before July 2, 1998, or which has been reformulated so that it contains more of a listed metal.

(h) "Official" means an officer of a corporation, a general partner of a partnership or limited partnership, a sole proprietor, or, in the case of any other entity, a person with high-level management responsibilities.

(i) "Specified product" means an ink, dye, pigment, paint, or fungicide into which a listed metal has been intentionally introduced or in which the incidental presence of a listed metal exceeds a concentration of 100 parts per million.

Subd. 3. **Certification of compliance.** (a) By July 1, 1998, each person who has filed the progress report specified in Laws 1994, chapter 585, section 30, subdivision 2, paragraph (e), indicating compliance would be achieved by July 1, 1998, shall certify to the commissioner that the products referenced in that report have been reformulated and no longer meet the definition of a specified product. The certification must be in writing and signed by an official of the company. If, due to significant change in circumstances, the person cannot so certify by July 1, 1998, a product review report and fee shall be submitted as provided under subdivision 6.

(b) The person submitting the certification shall keep a copy on file and make copies available to the commissioner or the attorney general upon request or to any member of the public within 60 days of receipt of a written request that specifies the type of product for which the information is requested.

Subd. 4. **Prohibited products list.** By October 1, 1998, the commissioner shall publish in the State Register a list of specified products for which the commissioner has received certifications as provided under subdivision 3.

Subd. 5. MS 2006 [Repealed, 2007 c 133 art 2 s 13]

Subd. 6. **Product review reports.** (a) Except as provided under subdivision 7, the manufacturer, or an association of manufacturers, of any specified product distributed for sale or use in this state that is not listed pursuant to subdivision 4 shall submit a product review report and fee as provided in paragraph (c) to the commissioner for each product by July 1, 1998. Each product review report shall contain at least the following:

(1) a policy statement articulating upper management support for eliminating or reducing intentional introduction of listed metals into its products;

(2) a description of the product and the amount of each listed metal distributed for use in this state;

(3) a description of past and ongoing efforts to eliminate or reduce the listed metal in the product;

(4) an assessment of options available to reduce or eliminate the intentional introduction of the listed metal including any alternatives to the specified product that do not contain the listed metal, perform the same technical function, are commercially available, and are economically practicable;

(5) a statement of objectives in numerical terms and a schedule for achieving the elimination of the listed metals and an environmental assessment of alternative products;

(6) a listing of options considered not to be technically or economically practicable; and

(7) certification attesting to the accuracy of the information in the report signed and dated by an official of the manufacturer or user.

If the manufacturer fails to submit a product review report, a user of a specified product may submit a report and fee which comply with this subdivision by August 15, 1998.

(b) By July 1, 1999, and annually thereafter until the commissioner takes action under subdivision 9, the manufacturer or user must submit a progress report and fee as provided in paragraph (c) updating the information presented under paragraph (a).

(c) The fee shall be $295 for each report. The fee shall be deposited in the state treasury and credited to the environmental fund. The fee is exempt from section 16A.1285.

(d) Where it cannot be determined from a progress report submitted by a person pursuant to Laws 1994, chapter 585, section 30, subdivision 2, paragraph (e), the number of products for which product review reports are due under this subdivision, the commissioner shall have the authority to determine, after consultation with that person, the number of products for which product review reports are required.

(e) The commissioner shall summarize, aggregate, and publish data reported under paragraphs (a) and (b) annually.

(f) A product that is the subject of a recommendation by the Toxics in Packaging Clearinghouse, as administered by the Council of State Governments, is exempt from this section.

Subd. 7. **Essential products; published list.** (a) By January 1, 1998, a manufacturer or user of an essential product must submit a certification to the commissioner that the product meets the definition in subdivision 2, paragraph (c). By July 1, 2002, each manufacturer or user of an essential product shall submit a report to the commissioner which includes the information required in subdivision 6, paragraph (a), and a statement of whether the product continues to meet the definition in subdivision 2, paragraph (c).

(b) By October 1, 1998, the commissioner shall publish in the State Register a list of essential products for which the commissioner has received certification pursuant to this subdivision. By October 1, 2002, the commissioner shall publish in the State Register a list of essential products based on reports submitted by July 1, 2002, as provided in paragraph (a).

Subd. 8. **New products; criteria for review.** (a) After July 1, 1998, but before July 1, 2005, no person shall sell, distribute, or offer for sale in this state a new product prior to the manufacturer or user submitting a product review report and fee specified in subdivision 6.

(b) The council shall review reports submitted under this subdivision and provide advice to the commissioner. The council's advice to the commissioner under this subdivision shall be based on an evaluation of the environmental impact of the product and the ability of the manufacturer or user to reduce or eliminate

the listed metal. Before making a recommendation that the commissioner take action under subdivision 9, the council must conclude that:

(1) there is an alternative to the specified product that does not contain the listed metal that performs the same technical function, is commercially available, and is economically practicable, and replacement of the product with the alternative will result in an environmental benefit in the state; or

(2) if there is no alternative to the new product, that the use of the listed metal in the new product presents a significant threat to the safe and efficient operation of waste facilities, or use of the listed metal does not increase the useful life span of the new product, reduce the overall toxicity of the final product or of material used in production of the final product, or otherwise provide a net environmental benefit to the state.

(c) Notwithstanding subdivision 5, paragraph (f), where the commissioner determines that a new product subject to paragraph (a) is sufficiently similar to a product or products previously reviewed by the council, the commissioner may authorize the permanent members of the council to perform the duties established in paragraph (b) without the appointment of temporary members. In performing those duties, the council shall utilize information gathered in any previous review of a similar product or products.

(d) Beginning July 1, 2005, no person shall sell, distribute, or offer for sale in this state a new product without the commissioner's approval. A person seeking approval of a new product shall submit a product review report including the information and fee specified in subdivision 6. The commissioner shall not approve the new product unless the commissioner determines that it meets the criteria in paragraph (b). The commissioner shall make a determination within six months of receipt of a complete request.

Subd. 9. **Authority of commissioner.** (a) The commissioner may, upon the recommendation of the council, prohibit the distribution for sale or use in this state of a specified product that is not an essential product.

(b) Before taking action under this subdivision, the commissioner must conclude that:

(1) there is an alternative to the specified product that does not contain the listed metal that performs the same technical function, is commercially available, and is economically practicable, and replacement of the product with the alternative will result in an environmental benefit to the state; or

(2) if there is no alternative to the new product, that the use of the listed metal in the new product presents a significant threat to the safe and efficient operation of waste facilities, or use of the listed metal does not increase the useful life span of the new product, reduce the overall toxicity of the final product or of material used in production of the final product, or otherwise provide a net environmental benefit to the state.

(c) If the commissioner fails to take action under this subdivision as recommended by the council, the commissioner shall submit a report to the legislature explaining the reasons for not taking such action.

(d) The commissioner shall provide the legislature a report and recommendations based on any report prepared by the council under subdivision 5, paragraph (c), clause (2).

Subd. 10. **Application; enforcement.** (a) This section does not apply to art supplies.

(b) This section may be enforced under sections 115.071 and 116.072. The attorney general or the commissioner of the agency shall coordinate enforcement of this section.

Subd. 11. **Rulemaking authority.** (a) The Pollution Control Agency may adopt, amend, suspend, and repeal rules to implement this section.

(b) Publication of notice under subdivision 5, paragraph (g), shall be deemed to satisfy the requirements of section 14.101.

(c) The commissioner may adopt a council recommendation under subdivision 5 as the agency's statement of need and reasonableness. A recommendation adopted in this manner shall be deemed to satisfy any content requirements for a statement of need and reasonableness imposed by law.

(d) Any hearings on rules adopted under this section shall be conducted in accordance with sections 14.14 to 14.20 and address whether the rule meets the standards for review under which the judge is required to approve or disapprove the rule.

(e) Section 14.125 does not apply to the agency's rulemaking authority under this section.

(f) A rule adopted under this section is effective until repealed by the agency.

History: *1991 c 337 s 51; 1993 c 249 s 25; 1993 c 366 s 7; 1994 c 585 s 30; 1995 c 247 art 1 s 28; 1996 c 455 art 3 s 1; 1996 c 470 s 16,27; 1997 c 221 s 1; 2000 c 370 s 3; 2003 c 128 art 2 s 6; 1Sp2005 c 1 art 2 s 161*

115A.97 SPECIAL WASTE; INCINERATOR ASH.

Subdivision 1. **Policy; goals.** (a) It is the policy of the legislature that mixed municipal solid waste incinerators be planned and managed to achieve to the maximum extent feasible and prudent:

(1) reduction of the toxicity of incinerator ash;

(2) reduction of the quantity of the incinerator ash; and

(3) reduction of the quantity of waste processing residuals that require disposal.

(b) The purpose of this section is to establish temporary and permanent programs to achieve these reduction goals.

Subd. 2. **Definitions.** (a) For the purposes of this section the following terms have the meanings given them.

(b) "Incinerator ash" means ash resulting from the combustion of mixed municipal solid waste and ash resulting from the combustion of refuse-derived fuel.

(c) "Noncombustible fraction" means constituents of mixed municipal solid waste, including glass, ferrous metals, nonferrous metals and other inorganics, that, when burned, disproportionately add to the quantity of incinerator ash.

Subd. 3. **Rules.** The agency shall adopt rules to establish techniques to measure the noncombustible fraction of mixed municipal solid waste prior to incineration or processing into refuse-derived fuel and for at least the testing, management, and disposal of incinerator ash. The rules must be designed to meet the goals in subdivision 1.

Subd. 4. MS 1994 [Repealed, 1996 c 310 s 1]

Subd. 5. **Plans; report.** A county solid waste plan, or revision of a plan, that includes incineration of mixed municipal solid waste must clearly state how the county plans to meet the goals in subdivision 1 of reducing the toxicity and quantity of incinerator ash and of reducing the quantity of processing residuals

that require disposal. The commissioner, in cooperation with the counties, may develop guidelines for counties to use to identify ways to meet the goals in subdivision 1.

Subd. 6. **Permits; agency report.** An application for a permit to build or operate a mixed municipal solid waste incinerator, including an application for permit renewal, must clearly state how the applicant will achieve the goals in subdivision 1 of reducing the toxicity and quantity of incinerator ash and of reducing the quantity of processing residuals that require disposal. The agency, in cooperation with the counties, may develop guidelines for applicants to use to identify ways to meet the goals in subdivision 1.

History: *1988 c 685 s 13; 1989 c 335 art 1 s 269; 1990 c 469 s 1; 1991 c 337 s 52; 1994 c 639 art 5 s 3; 1995 c 247 art 2 s 21,22; 1Sp2005 c 1 art 2 s 161; 2007 c 13 art 1 s 9*

115A.98 MS 1988 [Repealed, 1989 c 325 s 77]

115A.981 MS 1998 [Repealed, 2000 c 370 s 5]

LITTER

115A.99 LITTER; PENALTIES AND DAMAGES.

Subdivision 1. **Civil penalty.** (a) A person who unlawfully places any portion of solid waste in or on public or private lands, shorelands, roadways, or waters is subject to a civil penalty of not less than twice nor more than five times the costs incurred by a state agency or political subdivision to remove, process, and dispose of the waste.

(b) A state agency or political subdivision that incurs costs as described in this section may bring an action to recover the civil penalty, related legal, administrative, and court costs, and damages for injury to or pollution of the lands, shorelands, roadways, or waters where the waste was placed if owned or managed by the entity bringing the action.

Subd. 2. **Disposition.** Civil penalties and damages collected under subdivision 1 must be collected and distributed as required in chapter 484.

Subd. 3. **Joinder; private action for damages.** A private person may join an action by the state or a political subdivision to recover a civil penalty under subdivision 1 to allow the person to recover damages for waste unlawfully placed on the person's property.

History: *1Sp1989 c 1 art 20 s 17; 1994 c 412 s 2; 2007 c 13 art 3 s 10*

115A.991 MS 1996 [Repealed, 1996 c 470 s 28]

115A.993 PROHIBITED DISPOSAL METHODS.

A person must not dispose of waste treated seed in a manner inconsistent with the product label, where applicable, or by:

(1) burial near a drinking water source or any creek, stream, river, lake, or other surface water;

(2) composting; or

(3) incinerating within a home or other dwelling.

History: *2023 c 60 art 3 s 16*