

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 3561

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DATE	D-PG	OFFICIAL STATUS
02/12/2024	11559	Introduction and first reading Referred to Environment, Climate, and Legacy
02/15/2024	11620	Author added Kupec
02/26/2024	11762a	Comm report: To pass as amended and re-refer to Commerce and Consumer Protection
03/13/2024	12199	Withdrawn and re-referred to State and Local Government and Veterans
03/18/2024	12331a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety
03/21/2024	12500	Comm report: To pass and re-referred to Commerce and Consumer Protection
03/25/2024	12672a	Comm report: To pass as amended and re-refer to Environment, Climate, and Legacy
04/15/2024	13693a	Comm report: To pass as amended and re-refer to Finance Joint rule 2.03, referred to Rules and Administration
04/18/2024		Comm report: Adopt previous comm report Jt rule 2.03 suspended

1.1 A bill for an act

1.2 relating to solid waste; establishing Packaging Waste and Cost Reduction Act;

1.3 authorizing rulemaking; proposing coding for new law in Minnesota Statutes,

1.4 chapter 115A.

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

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

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

1.8 Reduction Act."

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

1.10 Subdivision 1. **Scope.** For the purposes of sections 115A.144 to 115A.1462, the terms

1.11 in this section have the meanings given.

1.12 Subd. 2. **Advisory board.** "Advisory board" or "board" means the Producer

1.13 Responsibility Advisory Board established under section 115A.1444.

1.14 Subd. 3. **Brand.** "Brand" means a name, symbol, word, or mark that identifies a product

1.15 and attributes the product and its components, including packaging, to the brand owner.

1.16 Subd. 4. **Brand owner.** "Brand owner" means a person that owns or licenses a brand or

1.17 that otherwise has rights to market a product under the brand, whether or not the brand's

1.18 trademark is registered.

1.19 Subd. 5. **Collection rate.** "Collection rate" means the amount of a covered material by

1.20 covered materials type collected by service providers and transported for recycling or

1.21 composting divided by the total amount of the type of a covered material by covered materials

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

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

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

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

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

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

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

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

2.20 Subd. 9. **Covered material.** "Covered material" means packaging and paper products
2.21 introduced into the state. Covered material does not include exempt materials.

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

2.28 Subd. 11. **De minimis producer.** "De minimis producer" means a person that in the
2.29 most recent fiscal year:

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

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

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

3.4 Subd. 13. **Environmental impact.** "Environmental impact" means the impact of a
3.5 covered material on human health and the environment from extraction and processing of
3.6 the raw materials composing the material through manufacturing; distribution; use; recovery
3.7 for reuse, recycling, or composting; and final disposal.

3.8 Subd. 14. **Exempt materials.** "Exempt materials" means materials, or any portion of
3.9 materials, that:

3.10 (1) are packaging for infant formula, as defined in United States Code, title 21, section
3.11 321(z);

3.12 (2) are packaging for medical food, as defined in United States Code, title 21, section
3.13 360ee(b)(3);

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

3.18 (4) are a product, including its peripheral accessories, and the packaging or packaging
3.19 components for any investigational or approved product regulated as a drug or medical
3.20 device by the United States Food and Drug Administration;

3.21 (5) are medical equipment or products or their components, including consumable
3.22 medical equipment or products and their components, and the packaging or packaging
3.23 components for any products used in health care settings, including hospitals and clinics
3.24 that are regulated by the United States Food and Drug Administration or used for infection
3.25 prevention and dispensing of medication;

3.26 (6) are medical equipment or products and the packaging or packaging components for
3.27 any product intended for Research Use Only as defined in the Federal Food, Drug, and
3.28 Cosmetic Act, United States Code, title 21, section 360 et seq.;

3.29 (7) are drugs, biological products, parasiticides, medical devices, or in vitro diagnostics
3.30 used to treat, or administered to, animals and regulated by the United States Food and Drug
3.31 Administration under the Federal Food, Drug, and Cosmetic Act, United States Code, title
3.32 21, section 301 et seq., by the United States Department of Agriculture under the federal
3.33 Virus-Serum-Toxin Act, United States Code, title 21, section 151 et seq.;

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

4.4 (9) are packaging used to contain liquefied petroleum gas and are designed to be refilled;
4.5 or

4.6 (10) are paper products used for a print publication that primarily includes content derived
4.7 from primary sources related to news and current events.

4.8 Subd. 15. **Food packaging.** "Food packaging" has the meaning given in section 325F.075.

4.9 Subd. 16. **Independent auditor.** "Independent auditor" means an independent and
4.10 actively licensed certified public accountant that is:

4.11 (1) retained by a producer responsibility organization;

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

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

4.15 Subd. 17. **Infrastructure investment.** "Infrastructure investment" means an investment
4.16 by a producer responsibility organization that funds or reimburses service providers for:

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

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

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

4.23 Subd. 18. **Introduce.** "Introduce" means to sell, offer for sale, distribute, or use to ship
4.24 a product within or into this state.

4.25 Subd. 19. **Living wage.** "Living wage" means the minimum hourly wage necessary to
4.26 allow a person working 40 hours per week to afford basic needs.

4.27 Subd. 20. **Needs assessment.** "Needs assessment" means an assessment conducted
4.28 according to section 115A.1450. Except where the context requires otherwise, needs
4.29 assessment means the most recently completed needs assessment.

4.30 Subd. 21. **Nondisclosure agreement.** "Nondisclosure agreement" means an agreement
4.31 that requires the parties to the agreement to treat private and nonpublic data submitted to

5.1 facilitate completion of a needs assessment according to the definitions and requirements
5.2 established in section 115A.06, subdivision 13.

5.3 Subd. 22. **Packaging.** "Packaging" has the meaning given in section 115A.03 and
5.4 includes food packaging and only includes those materials that are supplied to a residential
5.5 consumer. Packaging does not include exempt materials.

5.6 Subd. 23. **Paper product.** "Paper product" means a product made primarily from wood
5.7 pulp or other cellulosic fibers, except that paper product does not include bound books or
5.8 products that recycling or composting facilities will not accept because of the unsafe or
5.9 unsanitary nature of the paper product.

5.10 Subd. 24. **Postconsumer recycled content.** "Postconsumer recycled content" means
5.11 the portion of a product composed of postconsumer material, expressed as a percentage of
5.12 the total weight of the product.

5.13 Subd. 25. **Producer.** (a) "Producer" means the following person responsible for
5.14 compliance with requirements under this act for a covered material sold, offered for sale,
5.15 or distributed in or into this state:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.26 (i) where another person has mutually signed an agreement with a producer as defined
6.27 in clauses (1) to (5) that contractually assigns responsibility to the person as the producer,
6.28 and the person has joined a registered producer responsibility organization as the responsible
6.29 producer for that covered material under this act. In the event that another person is assigned
6.30 responsibility as the producer under this subdivision, the producer under clauses (1) to (5)
6.31 must provide written certification of that contractual agreement to the producer responsibility
6.32 organization; and

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

7.4 (b) "Producer" does not include:

7.5 (1) government agencies, municipalities, or other political subdivisions of the state;

7.6 (2) registered 501(c)(3) charitable organizations and 501(c)(4) social welfare
7.7 organizations;

7.8 (3) de minimis producers; or

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

7.10 Subd. 26. **Producer responsibility organization.** "Producer responsibility organization"
7.11 means a nonprofit corporation that is tax exempt under chapter 501(c)(3) of the federal
7.12 Internal Revenue Code and that is created by a group of producers to implement activities
7.13 under this act.

7.14 Subd. 27. **Recycling.** "Recycling" has the meaning given in section 115A.03 except that
7.15 recycling does not include reuse or composting, as defined in this act.

7.16 Subd. 28. **Recycling rate.** "Recycling rate" means the amount of covered material, in
7.17 aggregate or by individual covered materials type, recycled in a calendar year divided by
7.18 the total amount of covered materials sold or distributed into the state by the relevant unit
7.19 of measurement established in section 115A.1451.

7.20 Subd. 29. **Refill.** "Refill" means the continued use of a covered material by a consumer
7.21 through a system that is:

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

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

7.26 (3) compliant with all applicable state and local statute, rule, ordinance, or other law
7.27 governing health and safety.

7.28 Subd. 30. **Responsible market.** "Responsible market" means a materials market that:

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

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

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

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

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

8.7 Subd. 31. **Return rate.** "Return rate" means the amount of reusable covered material in
8.8 aggregate or by individual covered materials type, collected for reuse by the producer or
8.9 service provider in a calendar year, divided by the total amount of reusable covered materials
8.10 sold or distributed into the state by the relevant unit of measurement established in section
8.11 115A.1451.

8.12 Subd. 32. **Reusable.** "Reusable" means capable of reuse.

8.13 Subd. 33. **Reuse.** "Reuse" means the return of a covered material to the marketplace and
8.14 the continued use of the covered material by a producer or service provider when the covered
8.15 material is:

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

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

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

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

8.25 Subd. 34. **Reuse rate.** "Reuse rate" means the share of units of a covered material sold
8.26 or distributed into the state in a calendar year that are deemed reusable by the commissioner
8.27 according to section 115A.1451.

8.28 Subd. 35. **Service provider.** "Service provider" means an entity that collects, transfers,
8.29 sorts, processes, recovers, or otherwise prepares covered materials for reuse, recycling, or
8.30 composting. A political subdivision that provides or that contracts or otherwise arranges
8.31 with another party to provide reuse, collection, recycling, or composting services for covered
8.32 materials within its jurisdiction may be a service provider regardless of whether it provided,

9.1 contracted for, or otherwise arranged for similar services before the approval of the applicable
 9.2 stewardship plan.

9.3 Subd. 36. **Third-party certification.** "Third-party certification" means certification by
 9.4 an accredited independent organization that a standard or process required by this act, or a
 9.5 stewardship plan approved under this act, has been achieved.

9.6 Subd. 37. **This act.** "This act" means sections 115A.144 to 115A.1462.

9.7 Subd. 38. **Toxic substance.** "Toxic substance" means hazardous waste, a problem
 9.8 material, a chemical or chemical class regulated under section 115A.965, 116.943, 325F.075,
 9.9 or 325F.172 to 325F.179, or a chemical of high concern identified under section 116.9402.

9.10 Subd. 39. **Waste reduction or source reduction.** "Waste reduction" or "source reduction"
 9.11 has the meaning given in section 115A.03, except that waste reduction or source reduction
 9.12 does not include reuse, but does include refill, as defined in this act.

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

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

9.20 **Sec. 4. [115A.1443] REGISTRATION OF PRODUCER RESPONSIBILITY**
 9.21 **ORGANIZATIONS AND SERVICE PROVIDERS.**

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

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

9.28 (2) a list of all member producers that will operate under the stewardship plan
 9.29 administered by the producer responsibility organization and, for each producer, a list of
 9.30 all brands of the producer's covered materials introduced;

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

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

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

10.9 (b) Following the approval of the initial producer responsibility organization and the
10.10 initial stewardship plan, if more than a single producer responsibility organization is
10.11 established, the producers and producer responsibility organizations must establish a
10.12 coordinating body and process to prevent redundancy. The stewardship plans of all producer
10.13 responsibility organizations must be integrated into a single stewardship plan that covers
10.14 all requirements of this act and encompasses all producers when submitted to the
10.15 commissioner for approval. The annual reports of all producer responsibility organizations
10.16 must be integrated into a single annual report that covers all requirements of this act and
10.17 encompasses all producers when submitted to the commissioner.

10.18 Subd. 2. **Registration fee.** (a) As part of its annual registration with the commissioner,
10.19 a producer responsibility organization must submit to the commissioner an annual fee for
10.20 the following year, as determined by the commissioner. Beginning October 1, 2026, and
10.21 annually thereafter, the commissioner must notify registered producer responsibility
10.22 organizations in writing of the amount of the fee for the following year. If there is more
10.23 than one registered producer responsibility organization, the coordinating body described
10.24 in subdivision 1, paragraph (b), must equitably apportion payment of the annual fee between
10.25 all registered producer responsibility organizations. The annual fee must be set at an amount
10.26 anticipated to in the aggregate meet but not exceed the commissioner's estimate of the costs
10.27 required to perform the commissioner's duties as described in section 115A.1445 and to
10.28 otherwise administer, implement, and enforce this act.

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

10.33 Subd. 3. **Initial producer responsibility organization registration; implementation**
10.34 fee. (a) By January 1, 2025, producers must appoint a producer responsibility organization.

11.1 The producer responsibility organization must register with the commissioner by submitting
11.2 the following:

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

11.5 (2) a list of current member producers and their written agreements confirming producers
11.6 will operate under an approved stewardship plan administered by the producer responsibility
11.7 organization;

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

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

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

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

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

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

11.29 (c) By January 1, 2025, and annually until the first stewardship plan is approved, the
11.30 commissioner must provide written notice to the initial producer responsibility organization
11.31 appointed by producers of the commissioner's estimate of the cost of conducting the
11.32 preliminary needs assessment, initial needs assessment, and the commissioner's costs to
11.33 administer this act during the period prior to plan approval. The producer responsibility

12.1 organization must remit payment in full for these costs to the commissioner within 45 days
 12.2 of receipt of this notice. The producer responsibility organization may charge each member
 12.3 producer to cover the cost of its implementation fee according to each producer's unit-,
 12.4 weight-, volume-, or sales-based market share or by another method it determines to be an
 12.5 equitable determination of each producer's payment obligation.

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

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

12.11 (2) producers organize under additional producer responsibility organizations that meet
 12.12 the criteria established in subdivision 3, paragraph (a).

12.13 Subd. 5. **Registration of service providers.** (a) By January 1, 2027, and annually
 12.14 thereafter, a service provider seeking reimbursement for services provided under an approved
 12.15 stewardship plan according to section 115A.1451 may elect to register with the commissioner
 12.16 by submitting the following information:

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

12.18 (2) address of the service provider.

12.19 (b) A service provider may register at any time.

12.20 **Sec. 5. [115A.1444] ESTABLISHMENT OF PRODUCER RESPONSIBILITY**
 12.21 **ADVISORY BOARD.**

12.22 Subdivision 1. **Establishment.** The Producer Responsibility Advisory Board is established
 12.23 to review all activities conducted by producer responsibility organizations under this act
 12.24 and to advise the commissioner and producer responsibility organizations regarding the
 12.25 implementation of this act.

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

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

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

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

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

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

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

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

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

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

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

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

13.19 (12) one member representing the commissioner.

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

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

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

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

13.25 Subd. 3. **Terms; removal.** A member of the advisory board appointed under subdivision
 13.26 2, paragraph (a), clause (12), serves at the pleasure of the commissioner. All other members
 13.27 serve for a term of four years, except that the initial term for nine of the initial appointees
 13.28 must be two years so that membership terms are staggered. Members may be reappointed
 13.29 but may not serve more than eight consecutive years. Removing members and filling of
 13.30 vacancies is governed by section 15.059, subdivision 4. Except as otherwise provided,
 13.31 chapter 15 does not apply to the board.

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

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

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

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

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

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

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

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

14.27 Sec. 6. **[115A.1445] COMMISSIONER RESPONSIBILITIES.**

14.28 The commissioner must:

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

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

- 15.1 (3) complete a preliminary needs assessment by December 31, 2025, and an initial needs
15.2 assessment by December 31, 2026, and update the needs assessment every five years
15.3 thereafter, according to section 115A.1450;
- 15.4 (4) approve stewardship plans and amendments to stewardship plans according to section
15.5 115A.1451;
- 15.6 (5) provide lists established according to the requirements of section 115A.1453 to all
15.7 producer responsibility organizations by March 1, 2027;
- 15.8 (6) establish or approve requirements according to section 115A.1451, subdivision 7;
- 15.9 (7) post on the agency's website:
- 15.10 (i) the most recent registration materials submitted by producer responsibility
15.11 organizations, including all information submitted under section 115A.1443, subdivision
15.12 1;
- 15.13 (ii) a list of registered service providers;
- 15.14 (iii) the most recent needs assessments;
- 15.15 (iv) any stewardship plan or amendment submitted by a producer responsibility
15.16 organization under section 115A.1451 that is in draft form during the public comment
15.17 period;
- 15.18 (v) the most recent lists established according to section 115A.1453;
- 15.19 (vi) the list of exempt materials and covered materials exempt from performance targets
15.20 and statewide requirements as approved in the stewardship plan;
- 15.21 (vii) links to producer responsibility organization websites;
- 15.22 (viii) comments of the public, advisory board, and producer responsibility organizations
15.23 on the documents listed in items (iii), (iv), (v), and (ix), and the responses of the
15.24 commissioner to those comments; and
- 15.25 (ix) links to adopted rules implementing this act;
- 15.26 (8) provide producer responsibility organizations with information regarding Minnesota
15.27 and federal laws that prohibit toxic substances in covered materials;
- 15.28 (9) require each producer responsibility organization to secure an independent auditor
15.29 to perform an annual financial audit of program operations and approve the selection of
15.30 each auditor; and

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

16.3 **Sec. 7. [115A.1446] PRODUCER RESPONSIBILITY ADVISORY BOARD**
16.4 **RESPONSIBILITIES.**

16.5 The Producer Responsibility Advisory Board must:

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

16.7 (2) consult with the commissioner regarding the scope of the needs assessments and to
16.8 provide written comments on needs assessments, according to section 115A.1450, subdivision
16.9 2;

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

16.12 (4) submit comments to producer responsibility organizations and to the commissioner
16.13 on any matter relevant to the administration of this act; and

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

16.16 **Sec. 8. [115A.1447] PRODUCER RESPONSIBILITY ORGANIZATION**
16.17 **RESPONSIBILITIES.**

16.18 A producer responsibility organization must:

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

16.20 (2) submit a stewardship plan to the commissioner by March 1, 2027, and every five
16.21 years thereafter, according to section 115A.1451;

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

16.24 (4) forward upon receipt from the commissioner the lists established according to section
16.25 115A.1453 to all service providers that participate in a stewardship plan administered by
16.26 the producer responsibility organization;

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

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

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

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

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

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

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

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

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

17.18 (14) reimburse service providers in a timely manner and according to reimbursement
17.19 rates approved in a stewardship plan as established according to section 115A.1451; and

17.20 (15) comply with all other applicable requirements of this act.

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

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

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

17.29 (c) After January 1, 2032, no producer may introduce covered materials unless the
17.30 covered materials are:

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

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

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

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

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

18.13 Subd. 2. Duties. A producer must:

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

18.16 (2) pay producer fees according to section 115A.1454; and

18.17 (3) comply with all other applicable requirements of this act.

18.18 **Sec. 10. [115A.1449] SERVICE PROVIDER RESPONSIBILITIES.**

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

18.21 (1) ensure the collection, transportation, and management of covered materials generated
 18.22 in the state pursuant to the lists established under section 115A.1453 or covered materials
 18.23 that are capable of refill or reuse;

18.24 (2) register with the commissioner and submit invoices to the producer responsibility
 18.25 organization for reimbursement for services rendered;

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

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

18.29 (5) provide documentation to the producer responsibility organization on the amounts,
 18.30 covered materials types, and volumes of covered materials collected, transported, and
 18.31 managed for recycling, composting, or reuse; and

19.1 (6) comply with all other applicable requirements of this act.

19.2 Sec. 11. [115A.1450] NEEDS ASSESSMENTS.

19.3 Subdivision 1. Needs assessments required. (a) By December 31, 2025, and every five
19.4 years thereafter, the commissioner must complete a preliminary needs assessment according
19.5 to this section.

19.6 (b) By December 31, 2026, and every five years thereafter, the commissioner must
19.7 complete a statewide needs assessment according to this section. The commissioner may
19.8 adjust what is required to be included in a specific needs assessment to inform the next
19.9 stewardship plan.

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

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

19.16 (2) contract with a third party who is not a producer or a producer responsibility
19.17 organization to conduct the needs assessment; and

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

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

19.25 (1) tons of collected covered materials;

19.26 (2) recycling and composting program characteristics, including a description of
19.27 single-stream and dual-stream recycling systems used in the state and prevalence of use,
19.28 average frequency of collection of covered materials for recycling and composting, types
19.29 of collection containers used, and commonly accepted materials for recycling and
19.30 composting;

19.31 (3) total number and types of single-family and multifamily households and residential
19.32 properties receiving recycling and composting collection services;

20.1 (4) processing capacity at recycling facilities, including total tons processed and number
20.2 of bales created, the range of material composition and bales produced, and current
20.3 technologies utilized;

20.4 (5) size and number of depot, container, or drop-off locations;

20.5 (6) size and number of transfer stations and transfer locations;

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

20.8 (8) average recycling facility processing fees charged to collectors delivering covered
20.9 materials for recycling;

20.10 (9) available markets in the state for covered materials and the capacity of those markets;
20.11 and

20.12 (10) covered materials sales by volume, weight, and material types introduced by
20.13 producers.

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

20.16 (1) an evaluation of the performance of:

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

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

20.22 (iii) the extent to which postconsumer recycled content, by the best estimate, is or could
20.23 be incorporated into each covered materials type, as applicable;

20.24 (2) an evaluation of a representative sample of management of covered materials with
20.25 mixed municipal solid waste, as source-separated recyclable materials, and as
20.26 source-separated compostable materials as received by waste management, recycling, and
20.27 composting facilities in the state, and relevant findings from any publicly available waste
20.28 stream evaluations conducted within the previous year, to evaluate the amount and portion
20.29 of covered materials being disposed of that would otherwise be recyclable or compostable;

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

- 21.1 (i) waste reduction;
- 21.2 (ii) reuse rate and return rates;
- 21.3 (iii) recycling rates;
- 21.4 (iv) composting rates; and
- 21.5 (v) postconsumer recycled content, if applicable;
- 21.6 (4) proposals for a range of outcomes for the categories established in section 115A.1451,
- 21.7 subdivision 7, that consider:
- 21.8 (i) information contained in or used to prepare a needs assessment according to this
- 21.9 subdivision;
- 21.10 (ii) goals and requirements of the Waste Management Act under this chapter;
- 21.11 (iii) statewide goals for greenhouse gas emission reductions under section 216H.02;
- 21.12 (iv) need for continuous progress toward generating less waste from covered materials
- 21.13 and the complete reuse, recycling, or composting of the covered materials that are generated,
- 21.14 in doing so reducing impacts to human health and the environment;
- 21.15 (v) a preference for statewide requirements that accomplish and further the goals and
- 21.16 requirements in clauses (2) to (4) as soon as practicable and to the maximum extent
- 21.17 achievable; and
- 21.18 (vi) information from packaging and paper producer responsibility programs operating
- 21.19 in other jurisdictions;
- 21.20 (5) an evaluation of the following factors for each covered material collected for recycling
- 21.21 or composting:
- 21.22 (i) availability of recycling and composting collection services;
- 21.23 (ii) recycling and composting processing infrastructure;
- 21.24 (iii) capacity and technology for sorting covered materials;
- 21.25 (iv) availability of responsible end markets;
- 21.26 (v) presence and amount of processing residuals, contamination, and toxic substances;
- 21.27 (vi) quantity of material estimated to be available and recoverable;
- 21.28 (vii) projected future conditions for items (i) to (vi); and
- 21.29 (viii) other criteria or factors determined by the commissioner;

22.1 (6) recommended collection methods by covered materials type to maximize collection
22.2 efficiency, feedstock quality, level of service, and convenience for collection of covered
22.3 materials included on lists established in section 115A.1453;

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

22.6 (8) an evaluation of options for third-party certification of activities to meet obligations
22.7 of this act;

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

22.9 (i) infrastructure, capacity, performance, funding level, and method and sources of
22.10 financing for the existing waste reduction, reuse, collection, transportation, processing,
22.11 recycling, and composting systems for covered materials operating in the state;

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

22.14 (iii) availability and cost of waste reduction, reuse, recycling, and composting services
22.15 for covered materials at single-family residences, at multifamily residences, and in public
22.16 places where political subdivisions arrange for collection of recyclable or compostable
22.17 materials, including identification of disparities in the availability of these services in
22.18 environmental justice areas compared with other areas and proposals for reducing or
22.19 eliminating those disparities;

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

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

22.25 (ii) expand the availability and accessibility of recycling collection services for recyclable
22.26 covered materials to all residents of the state at an equivalent level of service and convenience
22.27 as collection services for mixed municipal solid waste; and

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

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

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

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

23.6 (14) an assessment of what toxic substances might be intentionally added to covered
 23.7 materials and best practices to eliminate or mitigate their use or presence in covered materials;

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

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

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

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

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

23.23 (17) other items identified by the commissioner that would aid the creation of the
 23.24 stewardship plan, its administration, and the enforcement of this act.

23.25 Subd. 5. **Needs assessment as baseline.** When determining the extent to which any
 23.26 statewide requirement or performance target under this act has been achieved, information
 23.27 contained in a needs assessment must serve as the baseline for that determination, when
 23.28 applicable.

23.29 Subd. 6. **Participation required.** (a) A service provider or other person with data or
 23.30 information necessary to complete a needs assessment must provide the data or information
 23.31 to the commissioner upon request. A service provider or other person who does not want
 23.32 to be identified with information submitted to the commissioner under this subdivision may
 23.33 request to proceed under a nondisclosure agreement. A nondisclosure agreement is limited

24.1 to the items under section 115A.06, subdivision 13. Once a request is made, the requestor,
24.2 the commissioner, and all third parties participating in the completion of the needs assessment
24.3 in whatever capacity must enter into a nondisclosure agreement. Once these parties have
24.4 entered into a nondisclosure agreement, the requestor must submit the necessary data or
24.5 information to the contractor selected by the commissioner according to subdivision 2, who
24.6 must aggregate and anonymize the data or information, excluding location data necessary
24.7 to assess needs, received from all parties proceeding under a nondisclosure agreement under
24.8 this subdivision and must then submit the aggregated anonymized information to the
24.9 commissioner or to the party or parties contracted to complete the needs assessment, including
24.10 assessing each covered material's generation of hazardous waste, generation of greenhouse
24.11 gases, environmental justice impacts, public health impacts, and other impacts.

24.12 (b) The commissioner, any employee of the agency, or any agent thereof, when authorized
24.13 by the commissioner, may enter upon any property, public or private, for the purpose of
24.14 obtaining information necessary for completing the evaluation in subdivision 3, clause (2).

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

24.16 Subdivision 1. **Stewardship plan required.** By March 1, 2027, and every five years
24.17 thereafter, a producer responsibility organization must submit a stewardship plan to the
24.18 commissioner that describes the proposed operation by the organization of programs to
24.19 fulfill the requirements of this act and that incorporates the findings and results of needs
24.20 assessments. Once approved, a stewardship plan remains in effect for five years, as amended,
24.21 or until a subsequent stewardship plan is approved.

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

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

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

24.32 (2) a description of the anticipated method of collection, how reimbursements will
24.33 support a level of convenience for collection, service convenience metrics, processing

- 25.1 infrastructure and management methods to be used for each covered materials type, and
25.2 how these will meet the statewide requirements established in subdivision 7 for covered
25.3 materials:
- 25.4 (i) included on the list established in section 115A.1453, subdivision 1;
25.5 (ii) included on the list established in section 115A.1453, subdivision 2;
25.6 (iii) that are reusable covered materials managed through a reuse system; and
25.7 (iv) that are capable of refill and managed through a system of waste reduction.
- 25.8 (3) proposals for exemptions from performance targets and statewide requirements for
25.9 covered materials that cannot be waste reduced or made reusable, recyclable, or compostable
25.10 due to federal or state health and safety requirements, identifying the specific federal or
25.11 state requirements and their impact on the covered materials;
- 25.12 (4) a plan for how the producer responsibility organization will measure recycling, waste
25.13 reduction, reuse, composting, and inclusion of postconsumer recycled content, according
25.14 to subdivision 6 and by covered materials type as applicable;
- 25.15 (5) third-party certifications as required by the commissioner or voluntarily undertaken;
- 25.16 (6) a budget identifying funding needs for each of the five calendar years covered by
25.17 the plan, producer fees, a description of the process used to calculate the fees, and an
25.18 explanation of how the fees meet the requirements of section 115A.1454;
- 25.19 (7) goals for infrastructure investments, including a description of how the process to
25.20 offer and select opportunities will be conducted in an open, competitive, and fair manner;
25.21 how it will address gaps in the system not met by service providers; and potential financial
25.22 and legal instruments to be used;
- 25.23 (8) an explanation of how the program will be paid for by the producer responsibility
25.24 organization through fees from producers, without any new or additional consumer-facing
25.25 fee to members of the public, businesses, service providers, the state or any political
25.26 subdivisions, or any other person who is not a producer, unless the fee is:
- 25.27 (i) a deposit made in connection with a product's refill, reuse, or recycling that can be
25.28 redeemed by a consumer; or
- 25.29 (ii) a charge for service by a service provider, regardless of whether registered;
- 25.30 (9) a description of activities to be undertaken during the next five calendar years, which
25.31 must at a minimum describe how the producer responsibility organization, acting on behalf
25.32 of producers, will:

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

26.4 (ii) incorporate as program objectives the improved design of covered materials according
26.5 to section 115A.1454, subdivision 1, clause (2);

26.6 (iii) provide funding to expand and increase the convenience of waste reduction, reuse,
26.7 collection, recycling, and composting services according to the order of the waste
26.8 management hierarchy under section 115A.02;

26.9 (iv) provide for reasonable reimbursement rates for statewide coverage of recycling
26.10 services for covered materials on the lists established in section 115A.1453 to single-family
26.11 residences, multifamily residences, and political subdivisions arranging for collection,
26.12 transportation, and processing of recyclable materials at an equivalent level of convenience
26.13 as services for mixed municipal solid waste according to section 115A.1455; and

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

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

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

26.21 (i) the use of differentiated rates developed according to the requirements and factors
26.22 established under section 115A.1455, subdivision 4;

26.23 (ii) clear and reasonable timelines for reimbursement, with a frequency of no less than
26.24 monthly unless agreed to by a service provider and a producer responsibility organization;
26.25 and

26.26 (iii) a process to resolve disputes that arise between the producer responsibility
26.27 organization and a service provider regarding the determination and payment of
26.28 reimbursements;

26.29 (12) performance standards for service providers that are reimbursed under an approved
26.30 stewardship plan, including but not limited to the following, as applicable to the service
26.31 provided:

- 27.1 (i) requirements that service providers must accept all covered materials on the lists
27.2 established by the commissioner under section 115A.1453; and
- 27.3 (ii) labor standards and safety practices, including but not limited to safety programs,
27.4 health benefits, and living wages;
- 27.5 (13) a description of how the producer responsibility organization will treat and protect
27.6 nonpublic data submitted by service providers;
- 27.7 (14) a description of how the producer responsibility organization will provide technical
27.8 assistance to:
- 27.9 (i) service providers in order to deliver covered materials to responsible markets;
- 27.10 (ii) producers regarding toxic substances in covered materials and actions producers can
27.11 take to reduce intentionally added toxic substances in covered materials, including verification
27.12 by suppliers through certificates of compliance, upon request; and
- 27.13 (iii) producers to make changes in product design that reduce the environmental impact
27.14 of covered materials or that increase the recoverability or marketability of covered materials
27.15 for reuse, recycling, or composting;
- 27.16 (15) a description of how the producer responsibility organization will increase public
27.17 awareness, educate, and complete outreach activities accounting for culturally responsive
27.18 materials and methods and evaluate the efficacy of these efforts including how the producer
27.19 responsibility organization will:
- 27.20 (i) assist producers in improving product labels as a means of informing consumers
27.21 about refilling, reusing, recycling, composting, and other environmentally sound methods
27.22 of managing covered materials;
- 27.23 (ii) increase public awareness of how to use and manage covered materials in an
27.24 environmentally sound manner and how to access waste reduction, reuse, recycling, and
27.25 composting services; and
- 27.26 (iii) encourage behavior change to increase participation in waste reduction, reuse,
27.27 recycling, and composting programs;
- 27.28 (16) a summary of consultations held with the advisory board and other stakeholders to
27.29 provide input to the stewardship plan, a list of recommendations that were incorporated into
27.30 the stewardship plan as a result, and a list of rejected recommendations and the reasons for
27.31 rejection; and

28.1 (17) strategies to incorporate findings from any relevant studies required by the
28.2 legislature.

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

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

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

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

28.28 Subd. 5. **Performance targets.** (a) The producer responsibility organization must propose
28.29 performance targets based on the needs assessment that meet the statewide requirements in
28.30 subdivision 7 that must be included in a stewardship plan approved under this section.
28.31 Performance targets must include reuse rates, return rates, recycling rates, composting rates,
28.32 and targets for waste reduction, and postconsumer recycled content by covered materials
28.33 type that are to be achieved by the end of the stewardship plan's term. The producer

29.1 responsibility organization must select the unit that is most appropriate to measure each
29.2 performance target as informed by the needs assessment.

29.3 (b) The commissioner may require that a producer responsibility organization obtain
29.4 third-party certification of any activity or achievement of any standard required by this act.
29.5 The commissioner must provide a producer responsibility organization with notice of at
29.6 least one year prior to requiring use of third-party certification under this paragraph if such
29.7 certifications are readily available, applicable, and of reasonable cost.

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

29.10 Subd. 6. Measurement criteria for performance targets. (a) For purposes of
29.11 determining whether recycling performance targets are being met, except as modified by
29.12 the commissioner, a stewardship plan must provide for the measurement of the amount of
29.13 recycled material to be at the point at which material leaves a recycling facility and must
29.14 account for:

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

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

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

29.19 (b) For purposes of determining whether waste reduction performance targets are being
29.20 met, a stewardship plan must provide for the measurement of the amount of waste reduction
29.21 of covered materials in a manner that can determine the extent to which the amount of
29.22 material used for a covered material is eliminated beyond what is necessary to efficiently
29.23 deliver a product without damage or spoilage, or other means of covered material redesign
29.24 to reduce overall use and environmental impacts.

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

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

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

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

30.4 Subd. 7. Statewide requirements. (a) The commissioner must establish or approve
30.5 statewide requirements and the date the statewide requirements must be met for the following
30.6 categories:

30.7 (1) recycling rate;

30.8 (2) composting rate;

30.9 (3) reuse rate;

30.10 (4) return rate;

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

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

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

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

30.20 (2) goals and requirements of the Waste Management Act under this chapter;

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

30.22 (4) need for continuous progress toward generating less waste from covered materials
30.23 and the complete reuse, recycling, or composting of the covered materials that are generated,
30.24 in doing so reducing impacts to human health and the environment;

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

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

30.30 (c) The commissioner must consult with the product stewardship organization on the
30.31 proposed statewide requirements and must submit proposed statewide requirements under

31.1 paragraph (a) to the advisory board and consider the board's recommendations before
 31.2 finalizing the statewide requirements.

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

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

31.10 **Sec. 13. [115A.1453] RECYCLABLE OR COMPOSTABLE COVERED**
 31.11 **MATERIALS LISTS.**

31.12 Subdivision 1. **List required.** By March 1, 2027, the commissioner must complete a
 31.13 list of covered materials determined to be recyclable or compostable statewide through
 31.14 systems where covered materials are commingled into a recyclables stream and a separate
 31.15 compostables stream. These covered materials must be collected at the equivalent level of
 31.16 service and convenience as collection services for mixed municipal solid waste.

31.17 Subd. 2. **Alternative collection list required.** By March 1, 2027, the commissioner
 31.18 must complete a list of covered materials determined to be recyclable or compostable and
 31.19 collected statewide through systems other than the system required for covered materials
 31.20 on the list established in subdivision 1.

31.21 Subd. 3. **Input from interested parties.** The commissioner must consult with the
 31.22 advisory board, producer responsibility organizations, service providers, political
 31.23 subdivisions, and other interested parties to develop or amend the recyclable or compostable
 31.24 covered materials lists and must review any petitions by interested parties for addition or
 31.25 removal of covered materials from the lists created under this section.

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

31.28 (1) current availability of recycling collection services;

31.29 (2) recycling collection and processing infrastructure;

31.30 (3) capacity and technology for sorting covered materials;

31.31 (4) availability of responsible end markets;

31.32 (5) presence and amount of processing residuals and contamination;

32.1 (6) quantity of material estimated to be available and recoverable;

32.2 (7) projected future conditions for clauses (1) to (6);

32.3 (8) if collected for recycling, the covered material type and form must be one that is

32.4 regularly sorted and aggregated into defined streams for recycling processes or the packaging

32.5 format must be specified in a relevant Institution of Scrap Recycling Industries specification;

32.6 and

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

32.8 Subd. 5. **Amendment.** The commissioner may amend a list completed under this section

32.9 at any time and must provide amended lists to producer responsibility organizations as soon

32.10 as possible after adopting an amendment. Producer responsibility organizations must provide

32.11 amended lists to service providers as soon as possible after receiving the amendment and

32.12 work to incorporate changes in relevant service provider reimbursement rates within a year.

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

32.14 Subdivision 1. **Annual fee.** A producer responsibility organization must annually collect

32.15 a fee from each producer that must:

32.16 (1) be based on the total amount of covered materials each producer introduces in the

32.17 prior year calculated on a per-unit basis, such as per ton, per item, or another unit of

32.18 measurement;

32.19 (2) incentivize using materials and design attributes that reduce the environmental impacts

32.20 and human health impacts, as determined by the commissioner, of covered materials by the

32.21 following methods:

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

32.23 (ii) reducing the amount of packaging per individual covered material that is necessary

32.24 to efficiently deliver a product without damage or spoilage without reducing its ability to

32.25 be recycled or reducing the amount of paper used to manufacture individual paper products;

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

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

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

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

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

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

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

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

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

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

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

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

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

33.19 Sec. 15. **[115A.1455] SERVICE PROVIDER; REIMBURSEMENT.**

33.20 Subdivision 1. **Service provider reimbursement required.** The reimbursements
 33.21 provided for waste reduction, reuse, processing, recycling, or composting services under
 33.22 an approved stewardship plan shall only be provided to service providers that meet the
 33.23 performance standards requirements established under an approved stewardship plan.

33.24 Subd. 2. **Collection of recyclables.** If a household does not have access to collection
 33.25 services at a comparable level of convenience as collection services for mixed municipal
 33.26 solid waste for covered materials on the recyclable covered materials list established under
 33.27 section 115A.1453, subdivision 1, the producer responsibility organization must ensure that
 33.28 collection service is available to the household through a service provider.

33.29 Subd. 3. **Bidding processes.** (a) For infrastructure investments included under an
 33.30 approved stewardship plan, a producer responsibility organization must use the competitive
 33.31 bidding processes established in section 16C.28, subdivision 1, and publicly post bid
 33.32 opportunities, except that preference must be given to existing facilities, providers of services,

34.1 and holders of service accounts in the state for waste reduction, reuse, collection, recycling,
 34.2 and composting of covered materials.

34.3 (b) No producer or producer responsibility organization may own or partially own
 34.4 infrastructure that is used to fulfill obligations under this act except in the following
 34.5 circumstances:

34.6 (1) a producer may hold an ownership stake in infrastructure used to fulfill obligations
 34.7 under this act so long as the stake was held prior to enactment of this act and said ownership
 34.8 stake is fully disclosed by the producer to the producer responsibility organization; or

34.9 (2) if, after a bidding process described in paragraph (a), no service provider bids on the
 34.10 contract, the producer responsibility organization may make infrastructure investments
 34.11 identified under an approved stewardship plan to implement the requirements in this act.

34.12 Subd. 4. **Reimbursement rates.** (a) An approved stewardship plan must provide
 34.13 reimbursement rates for services, collection, transportation, and management of covered
 34.14 materials, exclusive of exempt materials, and incorporate relevant cost information identified
 34.15 by the initial needs assessment. Reimbursement rates shall be established equivalent to 50
 34.16 percent of the cost per ton by July 1, 2027, 75 percent of the cost per ton by July 1, 2028,
 34.17 and 90 percent of the cost per ton by July 1, 2029, and each year thereafter and varied per
 34.18 ton, as follows:

34.19 (1) a fixed amount for each ton of covered material collected by a service provider that
 34.20 reflects conditions that affect collection, recycling, and composting costs in the region or
 34.21 jurisdiction in which the services are provided, including but not limited to:

34.22 (i) the number and size of households;

34.23 (ii) population density;

34.24 (iii) collections methods employed;

34.25 (iv) public education efforts;

34.26 (v) distance to consolidation or transfer facilities; to reuse, recycling, or composting
 34.27 facilities; or to responsible markets;

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

34.29 (vii) proportion of covered compostable materials within all source-separated compostable
 34.30 materials collected or managed through composting; and

34.31 (viii) the general quality of materials recycled or composted by service providers;

35.1 (2) a fixed amount for each ton of covered material recycled or composted by a service
35.2 provider in the prior calendar year based upon:

35.3 (i) the average costs associated with the transportation and processing from a central
35.4 location within a political subdivision, of collected covered material from the political
35.5 subdivision to a recycling or composting facility;

35.6 (ii) the processing of and removal of contamination from covered material by a recycling
35.7 or composting facility;

35.8 (iii) the recycling or composting of covered materials in the state or in another jurisdiction
35.9 less the average fair market value for that covered material based on the market indices for
35.10 the region, updated monthly;

35.11 (iv) costs associated with the management of contaminated materials removed from
35.12 collected covered material; and

35.13 (v) the proportion of covered compostable materials within all source-separated
35.14 compostable materials collected or managed through composting;

35.15 (3) an additional fixed amount, in excess of the rate provided under clause (2), for each
35.16 material type per ton for covered materials that are not included on the lists established
35.17 according to section 115A.1453, subdivision 1, that are recycled or composted by a service
35.18 provider in the prior calendar year less the average fair market value for that covered material
35.19 based on the market indices for the region, updated monthly;

35.20 (4) a fixed amount for mixed recycling tons that are managed through a process that
35.21 includes percentages of covered materials included on the lists established according to
35.22 section 115A.1453, subdivision 1, and additional covered materials. The per ton fixed
35.23 amount shall be prorated for the values in clause (2), items (i) and (ii), based upon the most
35.24 recent waste characterization for mixed recycling ton averages;

35.25 (5) a fixed amount, based on population served, for administrative costs of service
35.26 providers, including education, public awareness campaigns, and outreach program costs
35.27 as applicable; and

35.28 (6) a fixed amount for the cost of managing covered materials capable of refill or reusable
35.29 covered materials and for the costs associated with collection, cleaning, sanitation,
35.30 distribution, and management of contamination.

35.31 (b) A service provider may retain all revenue from the sale of covered materials. Nothing
35.32 in this act restricts a service provider from charging a fee for collection or processing of
35.33 covered materials to the extent that reimbursement from a producer responsibility

36.1 organization does not cover all costs of services, including operating profits and returns on
36.2 investments required by a service provider to provide sustainability of the services.

36.3 Subd. 5. **Local government authority.** (a) Nothing in this section shall be construed to
36.4 require a political subdivision to agree to operate under a stewardship plan, nor does it
36.5 restrict the authority of a political subdivision to provide waste management services to
36.6 residents or to contract with any entity to provide waste management services. Any political
36.7 subdivision that is also a service provider is eligible to be registered with the commissioner
36.8 and reimbursed per the rates and schedule approved in subdivision 4. If a majority of political
36.9 subdivisions in the state chooses not to participate in the program by January 1, 2030, the
36.10 commissioner shall revise the statewide requirements established under section 115A.1451,
36.11 subdivision 7.

36.12 (b) Nothing in this act restricts the authority of a political subdivision to provide waste
36.13 management services to residents, to contract with any entity to provide waste management
36.14 services, or to exercise its authority granted under section 115A.94. A producer responsibility
36.15 organization may not restrict or otherwise interfere with a political subdivision exercising
36.16 its authority under section 115A.94 to organize collection of solid waste, including materials
36.17 collected for recycling or composting, or to extend, renew, or otherwise manage any contracts
36.18 entered into as a result of exercising such authority or otherwise resulting from a competitive
36.19 procurement process.

36.20 Subd. 6. **Dispute resolution.** There must be a dispute resolution process for disputes
36.21 related to reimbursements utilizing third-party mediators.

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

36.23 Subdivision 1. **Producer responsibility organization annual report.** (a) By July 1,
36.24 2031, and each July 1 thereafter, a producer responsibility organization must submit a written
36.25 report to the commissioner that contains, at a minimum, the following information for the
36.26 previous calendar year:

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

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

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

- 37.1 (ii) information about third-party certifications obtained;
- 37.2 (3) the total cost to implement the program and a detailed description of program
- 37.3 expenditures including:
- 37.4 (i) the total amount of producer fees collected in the current calendar year; and
- 37.5 (ii) a description of infrastructure investments made during the previous year;
- 37.6 (4) a copy of a financial audit of program operations conducted by an independent auditor
- 37.7 approved by the commissioner that meets the requirements of the Financial Accounting
- 37.8 Standards Board's Accounting Standards Update 2016-14, Not-for-Profit Entities (Topic
- 37.9 958), as amended;
- 37.10 (5) a description of program performance problems that emerged in specific locations
- 37.11 and efforts taken or proposed by the producer responsibility organization to address them;
- 37.12 (6) a discussion of technical assistance provided to producers regarding toxic substances
- 37.13 in covered materials and actions taken by producers to reduce intentionally added toxic
- 37.14 substances in covered materials beyond compliance with prohibitions already established
- 37.15 in law;
- 37.16 (7) a description of public awareness, education, and outreach activities undertaken
- 37.17 including any evaluations conducted of their efficacy, plans for next calendar year's activities,
- 37.18 and an evaluation of the process established by the producer responsibility organization to
- 37.19 answer questions from consumers regarding collection, recycling, composting, waste
- 37.20 reduction, and reuse activities;
- 37.21 (8) a summary of consultations held with the advisory board and how any feedback was
- 37.22 incorporated into the report as a result of the consultations, together with a list of rejected
- 37.23 recommendations and the reasons for rejection;
- 37.24 (9) a list of any producers found to be out of compliance with this act, and actions taken
- 37.25 by the producer responsibility organization to return the producer to compliance, and
- 37.26 notification of any producers that are no longer participating in the producer responsibility
- 37.27 organization or have been expelled due to their lack of compliance;
- 37.28 (10) any proposed amendments to the stewardship plan to improve program performance
- 37.29 or reduce costs, including changes to producer fees, infrastructure investments, or
- 37.30 reimbursement rates;
- 37.31 (11) any recommendations for additions or removal of covered materials to or from the
- 37.32 recyclable or compostable covered materials lists developed under section 115A.1453; and

38.1 (12) any information requested by the commissioner to assist with determining
38.2 compliance with this act.

38.3 (b) Every fourth year after a stewardship plan is approved by the commissioner, a
38.4 performance audit of the program must be completed. The performance audit must conform
38.5 to audit standards established by the United States Government Accountability Office; the
38.6 National Association of State Auditors, Comptrollers, and Treasurers; or another nationally
38.7 recognized organization approved by the commissioner.

38.8 Subd. 2. **Report following unmet target.** A producer responsibility organization that
38.9 fails to meet a performance target approved in a stewardship plan must, within 90 days of
38.10 filing an annual report under this section, file with the commissioner an explanation of the
38.11 factors contributing to the failure and propose an amendment to the stewardship plan
38.12 specifying changes in operations that the producer responsibility organization will make
38.13 that are designed to achieve the following year's targets. If a performance target is unmet
38.14 due to lack of political subdivision participation in the program, the commissioner shall
38.15 revise the statewide requirements developed under section 115A.1451, subdivision 7. If a
38.16 revision to the statewide performance targets is required and completed by the commissioner,
38.17 the producer responsibility organization may revise the performance targets at the same
38.18 time. An amendment filed under this subdivision must be reviewed by the advisory board
38.19 and reviewed and approved by the commissioner in the manner specified in section
38.20 115A.1451, subdivisions 2 and 4.

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

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

39.1 Sec. 17. **[115A.1457] PRODUCER RESPONSIBILITY ORGANIZATION**
39.2 **WEBSITES.**

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

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

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

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

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

39.12 (5) information on how to manage materials included in lists established under section
39.13 115A.1453;

39.14 (6) the list of exempt materials as defined in this act and covered materials exempt from
39.15 performance targets and statewide requirements as approved in the stewardship plan;

39.16 (7) the most recent needs assessment and all past needs assessments;

39.17 (8) annual reports filed by the producer responsibility organization;

39.18 (9) a link to administrative rules implementing this act;

39.19 (10) comments of the advisory board on the documents listed in clauses (4) and (7), and
39.20 the responses of the producer responsibility organization to those comments;

39.21 (11) the names of producers and brands that are not in compliance with section
39.22 115A.1448;

39.23 (12) a list, that is updated at least monthly, of all member producers that will operate
39.24 under the stewardship plan administered by the producer responsibility organization and,
39.25 for each producer, a list of all brands of the producer's covered materials introduced in the
39.26 state; and

39.27 (13) education materials on waste reduction, reuse, recycling, and composting for
39.28 producers and the general public.

40.1 Sec. 18. [115A.1458] ANTICOMPETITIVE CONDUCT.

40.2 A producer responsibility organization that arranges collection, recycling, composting,
40.3 waste reduction, or reuse services under this act may engage in anticompetitive conduct to
40.4 the extent necessary to plan and implement collection, recycling, composting, waste
40.5 reduction, or reuse systems to meet the obligations under this act, and is immune from
40.6 liability under state laws relating to antitrust, restraint of trade, and unfair trade practices.

40.7 Sec. 19. [115A.1459] RULEMAKING.

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

40.10 Sec. 20. [115A.1460] PROVIDING INFORMATION.

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

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

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

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

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

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

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

40.22 (b) Any implementation of a deposit return system is created with at least a two-year
40.23 transition period prior to the expiry of the currently approved stewardship plan and conducted
40.24 in a manner that does not create sudden and significant operational or financial disruption
40.25 to the implementation of a stewardship plan under section 115A.1451, including provisions
40.26 of recycling or reuse services contained in the plan.

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

41.2 (a) The commissioner must enforce this act as provided under this section and sections
41.3 115.071 and 116.072. The commissioner may revoke a registration of a producer
41.4 responsibility organization or producer found to have violated this act.

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

41.9 (c) Notwithstanding the penalty limits contained in section 115.071, subdivision 3, a
41.10 producer responsibility organization or producer that violates a provision of or fails to
41.11 perform a duty imposed by this act, a rule adopted thereunder, or requirements of a
41.12 stewardship plan approved by the commissioner, is liable for a civil penalty not to exceed
41.13 \$25,000 per day of violation. For a second violation occurring within five years after the
41.14 approval of a stewardship plan, a producer responsibility organization or producer is liable
41.15 for a civil penalty not to exceed \$50,000 per day of violation. For a third or subsequent
41.16 violation occurring within five years after the approval of a stewardship plan, a producer
41.17 responsibility organization or producer is liable for a civil penalty not to exceed \$100,000
41.18 per day of violation.

41.19 Sec. 23. WORKPLACE CONDITIONS AND EQUITY STUDY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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