This document contains the comments the MPCA received during the Request for Comments public comment period May 26, 2026, through July 24, 2026, for the proposed new rules governing the Packaging Waste and Cost Reduction Act, Revisor ID # 04992.

41576 Minnesota Pollution Control Agency Request for Comments on the Packaging Waste and Cost Reduction Act

Closed Jul 24, 2026 · Discussion · 50 Participants · 1 Topics · 52 Answers · 0 Replies · 3 Votes

50	1	52	0	3
PARTICIPANTS	TOPICS	ANSWERS	REPLIES	VOTES

SUMMARY OF TOPICS

SUBMIT A COMMENT

52 Answers · 0 Replies

Important: All comments will be made available to the public. Please only submit information that you wish to make available publicly. The Court of Administrative Hearings does not edit or delete submissions that include personal information. We reserve the right to remove any comments we deem offensive, intimidating, belligerent, harassing, or bullying, or that contain any other inappropriate or aggressive behavior without prior notification.

Matt Klemin · Citizen · (Postal Code: unknown) · Jun 25, 2026 5:18 pm

1 Votes

The Coalition for Protein Packaging (CPP) appreciates the opportunity to comment on MPCA's development of exemption criteria under Sections 2(b) and 2(c) of the Packaging Waste and Cost Reduction Act rulemaking.

CPP respectfully urges MPCA to adopt clear, objective, and workable exemption criteria for packaging that is constrained by federal food safety requirements and for which no practical recycling pathway currently exists.

I. Packaging Used in Direct Contact with Raw Protein Warrants Special Consideration Under the Exemption Framework

As MPCA develops criteria for determining when health and safety requirements prevent packaging from being waste reduced, reusable, recyclable, or compostable, we encourage the agency to recognize the unique characteristics of plastic film packaging used in direct contact with raw meat, poultry, fish, and seafood.

This packaging presents challenges that differ substantially from many other covered materials.

• Food safety contamination. USDA and FDA regulations require strict separation of raw protein residues. Commingled recycling systems cannot safely or practically accept many food-contact film materials. Blood, fat, and protein residues create contamination concerns for collection systems, recycling facilities, workers, equipment, and downstream material quality.

• Recyclability gap. Infrastructure capable of collecting, sorting, and processing food-contact plastic film at scale does not currently exist across Minnesota or most U.S. markets. Subjecting these materials to EPR obligations without a functioning recovery pathway creates compliance obligations without corresponding environmental benefits.

• Regulatory constraints. Packaging used for raw protein products is subject to extensive federal food safety oversight, including requirements administered by USDA, FSIS, and FDA. These requirements significantly constrain available packaging options and limit redesign opportunities.

II. MPCA Should Recognize Both Regulatory Requirements and Functional Food Safety Requirements
CPP encourages MPCA to recognize that health and safety requirements extend beyond explicit statutory or regulatory mandates.
Many packaging formats used for raw protein products are designed to satisfy food safety objectives that are directly tied to federal requirements, including:
o contamination prevention
o pathogen reduction
o oxygen barrier performance
o moisture management
o shelf-life preservation
o product integrity
These performance characteristics are often necessary to comply with federal food safety requirements and should therefore be considered when evaluating whether health and safety requirements prevent packaging from being waste reduced, reusable, recyclable, or compostable.
III. Exemption Criteria Should Consider the Availability of Practical Recycling Pathways
CPP encourages MPCA to consider whether practical collection, sorting, and end-market infrastructure exists when evaluating packaging subject to health and safety constraints.
Packaging should not be deemed recyclable solely because a theoretical recycling process exists somewhere in the marketplace.
Rather, the agency should evaluate whether realistic collection, processing, and end-market pathways are available to manage the material in practice.
For food-contact plastic film packaging, those pathways remain extremely limited today.
IV. Harmonization Among States Should Be a Consideration
Producers increasingly operate under packaging EPR programs in multiple states, including California, Colorado, Maryland, Minnesota, Oregon, and Washington.
As MPCA develops exemption criteria, CPP encourages the agency to consider opportunities for regional and national harmonization, particularly for packaging categories subject to significant food safety constraints.
Greater consistency among state programs will reduce administrative complexity, improve compliance, and allow resources to be directed toward environmental improvements rather than navigating conflicting regulatory requirements.
V. MPCA Should Establish a Practical and Predictable Exemption Framework
CPP respectfully encourages MPCA to adopt exemption criteria that:
1. Recognize federal food safety requirements administered by USDA, FSIS, and FDA.
2. Recognize contamination prevention, pathogen control, shelf-life preservation, and product integrity as legitimate health and safety considerations.
3. Consider whether practical collection, sorting, and end-market infrastructure exists for the material in question.
4. Allow similarly situated packaging formats to be evaluated consistently under common exemption criteria.
Conclusion
CPP supports Minnesota's efforts to improve recycling outcomes and reduce packaging waste. At the same time, packaging used in direct contact with raw meat, poultry, fish, and seafood presents unique food safety, contamination, and infrastructure challenges that warrant careful consideration.
We respectfully request that MPCA adopt exemption criteria that recognize these realities and provide a practical pathway for evaluating packaging that is constrained by

federal food safety requirements and the absence of viable recycling infrastructure.
Please use our organization, it's members and packaging experts as a resource throughout the rule making process. CPP is in the middle of a massive research project that could provide extensive value for MPCA as it decides on exemption criteria for packaging. As the research project progresses our staff will provide your staff with updates.
Thank you for your consideration.
Coalition for Protein Packaging

David Keeling · Citizen · (Postal Code: unknown) · Jul 09, 2026 11:59 am
1 Votes

Response to Question 2(a): Criteria for Determining Exemption of Packaging Used to Contain Hazardous or Flammable Products Regulated by OSHA's 2012 Hazard Communication Standard
The Pressurized Cylinder Industry Association (PCIA) is responding to the Minnesota Pollution Control Agency's request for comments regarding possible new rules relating to the Packaging Waste and Cost Reduction Act. The PCIA's response specifically addresses how exemption may be determined for pressurized cylinders regulated by OSHA's 2012 hazard communication standard. Note that this information was previously submitted to the agency on February 8, 2026.

The exemption in Minnesota's statute allows for consideration of certain federally regulated packaging, such as pressurized cylinders, that serve an essential safety function and consequently limit opportunities for redesign and conventional end-of-life management.
Accordingly, pressurized cylinders qualify for exemption Minn. Stat. §115A.1441, subd. 16(11) because (1) they are regulated under OSHA's 2012 Hazard Communication Standard, (2) federal safety requirements govern their design and (3) the governing DOT specifications prevent practical implementation of material reduction, reuse or recyclability within the packaging EPR management system.
In addition, adopting a similar interpretation of this exemption to California would provide regulatory consistency, administrative efficiency and predictability for consumers for a nationally distributed and regulated product.

Please see the attached pdf file entitled "PCIA Packaging EPR Letter - Minnesota - July 2026" for our complete comments and recommendations.

The PCIA was incorporated in June 2023 to represent the interests of pressurized cylinder brands and producers in the development of extended producer responsibility legislation. PCIA is made up of leading brands supplying both refillable and non-refillable pressurized cylinders to US consumers, including Cascade Designs, Inc., The Coleman Company Inc., Johnson Outdoors Gear Inc., Manchester Tank, Sterno Group LLC, Worthington Enterprises, and YSN Imports.
Sincerely,
David Keeling, Executive Director
Pressurized Cylinder Industry Association

Donovan Ringo · Citizen · (Postal Code: unknown) · Jul 21, 2026 2:19 pm
0 Votes

Auto Care Association Comments on the Packaging Waste and Cost Reduction Act Request for Comments

The Auto Care Association is submitting comments on the Minnesota Pollution Control Agency's request for comments regarding possible new rules relating to the Packaging Waste and Cost Reduction Act.

Our comments respond most directly to Questions 2(a) and 2(b) on the criteria for exempting packaging that contains hazardous or flammable products under Minn. Stat. § 115A.1441, subd. 16(11) and § 115A.1453, subd. 6. We request that MPCA exempt automotive lubricant packaging from the EPR program. These products are subject to OSHA Hazard Communication Standard requirements and DOT packaging specifications that make the packaging difficult to eco-modulate, reduce, or recycle, and they are already managed through long-established end-of-life collection systems (used oil and battery collection programs). We also raise broader concerns about compliance costs, multi-state administrative complexity, duplication with existing stewardship systems, interstate supply chain impacts, and legal risk based on challenges to similar EPR programs in other states.

Please see the attached letter, "Auto Care Association Comments on the Minnesota Packaging Waste and Cost Reduction Act Rulemaking," for our complete comments and recommendations.

The Auto Care Association represents the entire spectrum of the motor vehicle aftermarket, including manufacturers, distributors, retailers, and service providers that support the maintenance and repair of vehicles across the United States. In Minnesota, the automotive aftermarket is responsible for 38,540 jobs, 12.5 billion dollars of economic activity, and 2.9 billion dollars of wages.

Sincerely,
Donovan Ringo
Director, State Affairs & Grassroots
Auto Care Association

Daniel Persica · Citizen · (Postal Code: unknown) · Jul 21, 2026 3:36 pm
0 Votes

On behalf of Domtar, thank you for the opportunity to provide comments on possible new rules to support implementation of the Minnesota Packaging Waste and Cost Reduction Act (PWCRA).

Paper is one of the most widely recycled materials in America, with between 60-64% of paper recycled in 2024. This is the direct result of decades of effort by the industry to invest in and improve paper recycling. Therefore, Domtar believes that unprinted paper does not belong in EPR programs, particularly paper utilized in the industrial, commercial, and institutional (IC&I) sectors. These IC&I sectors have robust infrastructure and collection programs developed over the years to ensure the efficient flow of materials and mature secondary markets. EPR programs should not jeopardize decades of paper recycling success by creating additional fees or burdens for IC&I paper products. The same reasoning holds for packaging and food packaging. Therefore, limits are needed to ensure that the definitions of “paper product” and “packaging” do not bring IC&I materials into their scope.

Please see the attached comments referring to suggested updates to the current definition of “paper product” in 115A.1441 (24) and the current definition of “packaging” in 115A.1441 (23). Excluding IC&I volumes for both paper products and packaging ensures harmonization between PWCRA and other emerging state EPR programs.

Thank you for your consideration of our comments. We look forward to engaging further with the Minnesota Pollution Control Agency to implement the PWCRA and advance a sustainable recycling system in Minnesota.

Megan Daum · Citizen · (Postal Code: unknown) · Jul 21, 2026 4:06 pm
0 Votes

On behalf of American Beverage, the U.S. trade association for the refreshment beverage industry, thank you for the opportunity to provide comments during the rulemaking period for the Minnesota Packaging Waste and Cost Reduction Act. Please find that letter attached.

Jeffrey Leiter · Citizen · (Postal Code: unknown) · Jul 23, 2026 10:05 am
0 Votes

Please see attached comments on behalf of the Independent Lubricant Manufacturers Association,

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Lucy Mullany · Citizen · (Postal Code: unknown) · Jul 23, 2026 10:21 am
0 Votes

Please find the attached comments from the Alliance for Mission-Based Recycling (AMBR).

Lucy Mullany · Citizen · (Postal Code: unknown) · Jul 23, 2026 10:23 am
0 Votes

Please find the attached comments from Eureka Recycling.

Carol Patterson · Citizen · (Postal Code: unknown) · Jul 23, 2026 1:55 pm
0 Votes

Please see attached comments from the Foodservice Packaging Insitute.

Miriam Holsinger · Citizen · (Postal Code: unknown) · Jul 23, 2026 2:46 pm
0 Votes

Please see attached comments from the MN Packaging EPR Advisory Board

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Shaina Zarkin-Scott · Citizen · (Postal Code: unknown) · Jul 23, 2026 3:34 pm
0 Votes

Please see attached comments from the American Wood Council.

Brian Martinson · Citizen · (Postal Code: unknown) · Jul 23, 2026 4:06 pm
0 Votes

Comments attached from the Solid Waste Administrators Association (SWAA)

Carlos Gutierrez · Citizen · (Postal Code: unknown) · Jul 23, 2026 9:08 pm
0 Votes

Comments attached from the Consumer Healthcare Products Association (CHPA).

Emily Jones · Citizen · (Postal Code: unknown) · Jul 24, 2026 8:30 am
0 Votes

Comments attached from the Alliance for Automotive Innovation (Auto Innovators)

Jamie Logan · Citizen · (Postal Code: unknown) · Jul 24, 2026 8:52 am
0 Votes

Please find the attached comments on behalf of the American Cleaning Institute (ACI). Thank you for the consideration.

Tim Wilkin · Citizen · (Postal Code: unknown) · Jul 24, 2026 8:53 am
0 Votes

Comments attached from the Minnesota Beverage Association.

Andrew Morley · Citizen · (Postal Code: unknown) · Jul 24, 2026 9:21 am
0 Votes

Please find the attached comments from the Minnesota Chamber of Commerce.

Ally Peck · Citizen · (Postal Code: unknown) · Jul 24, 2026 9:36 am
0 Votes

Please see attached comments from Consumer Technology Association

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Calllie Lehman · Citizen · (Postal Code: unknown) · Jul 24, 2026 9:42 am
0 Votes

Please see the attached comment from the Partnership on Waste and Energy.

Raymond Morrissey · Citizen · (Postal Code: unknown) · Jul 24, 2026 9:47 am
0 Votes

Please see attached comments from the Greeting Card Association

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Abbey Linsk · Citizen · (Postal Code: unknown) · Jul 24, 2026 9:55 am
0 Votes

Please see the attached comments for the American Chemistry Council.

Bridget Corridon · Citizen · (Postal Code: unknown) · Jul 24, 2026 10:00 am
0 Votes

Please see the attached comments from Personal Care Products Council (PCPC).

Danielle Quist · Citizen · (Postal Code: unknown) · Jul 24, 2026 10:01 am
0 Votes

Please see the attached comments on behalf of the International Dairy Foods Coalition

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Tarunika Anand · Citizen · (Postal Code: unknown) · Jul 24, 2026 10:26 am
0 Votes

Thank you for providing an opportunity to submit comments on behalf of World Wildlife Fund. Please find our comments attached here for reference.

Sydney Harris · Citizen · (Postal Code: unknown) · Jul 24, 2026 11:44 am
0 Votes

Hello, please find comments from Upstream attached. Thank you for your consideration.

Amber Backhaus · Citizen · (Postal Code: unknown) · Jul 24, 2026 11:58 am
0 Votes

Please find attached comments from the NWRA - MN Chapter.

Fatimah Rickert · Citizen · (Postal Code: unknown) · Jul 24, 2026 12:12 pm
0 Votes

Please find the attached comments from AdvaMed. Thank you for your consideration.

Lucy Mullany · Citizen · (Postal Code: unknown) · Jul 24, 2026 12:32 pm
0 Votes

We are sharing comments on behalf of the Minnesota Zero Waste Coalition.

Rachel Fullmer · Citizen · (Postal Code: unknown) · Jul 24, 2026 12:36 pm
0 Votes

Please see the attached comments on behalf of Natural Resources Defense Council.

Lori Olinger · Citizen · (Postal Code: unknown) · Jul 24, 2026 12:36 pm
0 Votes

I am sharing comments on behalf of the Coalition for Plastic Reduction

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Kris Coperine · Citizen · (Postal Code: unknown) · Jul 24, 2026 12:41 pm
0 Votes

Please see the attached comments from Circular Action Alliance Minnesota, and thank you for your considerations of our comments.

Cory Bloom · Citizen · (Postal Code: unknown) · Jul 24, 2026 12:42 pm
0 Votes

Please see the attached comments on behalf of the Recycled Materials Association (ReMA)

Erin Brower · Citizen · (Postal Code: unknown) · Jul 24, 2026 12:48 pm
0 Votes

Please see the attached comments on behalf of Hallmark Cards, Inc. and Crayola LLC.

Jason Malcore · Citizen · (Postal Code: unknown) · Jul 24, 2026 12:55 pm
0 Votes

Please see the attached comments on behalf of the Association of Equipment Manufacturers (AEM)

Annebelle Klein · Citizen · (Postal Code: unknown) · Jul 24, 2026 12:59 pm
0 Votes

On behalf of the American Coatings Association (ACA), I thank you for the opportunity to provide comments on the development of new rules for the Packaging Waste and Cost Reduction Act. Please find ACA's comment letter attached.

Peter Blair · Citizen · (Postal Code: unknown) · Jul 24, 2026 1:20 pm
0 Votes

Please see the attached comments submitted on behalf of Just Zero. Just Zero is an environmental non-profit advocacy organization that supports community members and policy makers nationwide to implement proven, effective, and equitable policy solutions to climate-damaging and toxic production, consumption, and waste disposal practices. Just Zero has helped support the development of EPR for Packaging programs in California, Colorado, Maine, Maryland, Oregon, and Washington.

Thank you for the opportunity to provide comments on the development of rules to implement the Packaging Waste and Cost Reduction Act

Doug Murray · Citizen · (Postal Code: unknown) · Jul 24, 2026 1:22 pm
0 Votes

Please find comments attached from IKEA U.S.

Devin O'Herron · Citizen · (Postal Code: unknown) · Jul 24, 2026 2:00 pm
0 Votes

Thank you for the opportunity to provide comments, please see the attached submitted on behalf of the Association of Home Appliance Manufacturers (AHAM).

Jon Steiner · Citizen · (Postal Code: unknown) · Jul 24, 2026 2:02 pm
0 Votes

On behalf of Polk County, and its partner Counties of Beltrami, Clearwater, Hubbard, Mahnomen and Norman, please find attached our comments on the Packaging Waste & Cost Reduction Act rulemaking initiative. Thank you for the opportunity to provide our input.

Alexandra Ward · Citizen · (Postal Code: unknown) · Jul 24, 2026 2:20 pm
0 Votes

Please see attached comments from Imperial Bag & Paper Co. LLC.

Bud DeFlaviis · Citizen · (Postal Code: unknown) · Jul 24, 2026 2:34 pm
0 Votes

Thank you for the opportunity to submit comments on behalf of the National Association of Electrical Distributors. Our comments are attached.

Kimberly Davis · Citizen · (Postal Code: unknown) · Jul 24, 2026 3:04 pm
0 Votes

Thank you for the opportunity to response. Please see the attached comments on behalf of the Biodegradable Products Institute (BPI).

Kyla Fisher · Citizen · (Postal Code: unknown) · Jul 24, 2026 3:09 pm
0 Votes

Thank you for the opportunity to submit comments on behalf of the Flexible Packaging Association. Our comments are attached.

Molly Blessing · Citizen · (Postal Code: unknown) · Jul 24, 2026 3:13 pm
0 Votes

Please find attached comments from the Household & Commercial Products Association. Thank you for the opportunity to submit comments.

Caitlin Hart · Citizen · (Postal Code: unknown) · Jul 24, 2026 3:21 pm
0 Votes

Thank you so much for the opportunity to provide our comments on behalf of Ocean Conservancy. Please find attached comments from Dr. Anja Brandon, Director of Plastics Policy.

Charlotte Hickcox · Citizen · (Postal Code: unknown) · Jul 24, 2026 3:22 pm
0 Votes

The Toy Association appreciates the opportunity to provide comments, especially as they relate to long-term storage packaging and applicability within the PWCRA.

Gregory Melkonian · Citizen · (Postal Code: unknown) · Jul 24, 2026 3:31 pm
0 Votes

On behalf of AMERIPEN – the American Institute for Packaging and the Environment – please see the attached comment letter. Thank you for your consideration.

Shoshana Micon · Citizen · (Postal Code: unknown) · Jul 24, 2026 3:35 pm
0 Votes

Attached please find the American Forest & Paper Association comments on the Request for Comment's for implementation of the State of Minnesota’s Packaging Waste and Cost Reduction Act. We look forward to continued engagement as we refine the approach toward improving paper recycling. These comments are submitted independently from Shoshana Micon’s participation as an Advisory Board member for implementation of HF 3911.

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Bruce Nustad · Citizen · (Postal Code: unknown) · Jul 24, 2026 3:41 pm

0 Votes

Minnesota Retailers appreciates the opportunity to provide the attached comments for consideration.

Will Grassle · Citizen · (Postal Code: unknown) · Jul 24, 2026 4:03 pm

0 Votes

Please find the attached comments from the Consumer Brands Association. Thank you for the opportunity to submit comments.

Ashley Walter · Citizen · (Postal Code: unknown) · Jul 24, 2026 4:13 pm

0 Votes

Please see the attached comments. Thank you.

Kristi Block · Citizen · (Postal Code: unknown) · Jul 24, 2026 4:24 pm

0 Votes

Please see attached comments from the American Wood Council.

EPR LEADERSHIP FORUM

RECEIVED BY CAH
7/24/2026

July 24, 2026

Minnesota Court of Administrative Hearings
Attn: William Moore
600 North Robert Street, P.O. Box 64620
St. Paul, MBN 55164-0620

Submitted via electronic mail.

RE: Possible New Rules Relating to the Packaging Waste and Cost Reduction Act.

Dear William Moore:

On behalf of the EPR Leadership Forum (ELF), I'd like to thank you for the opportunity to engage as the Minnesota Pollution Control Agency (MPCA) begins the rulemaking process for the Packaging Waste and Cost Reduction Act (PWCRA). Founded in 2024, ELF's membership is comprised of leading manufacturers and retailers of consumer-packaged goods that are supportive of well-designed packaging EPR policies. Our mission is to collaborate with stakeholders and policymakers across the country and to engage proactively on legislation that aligns EPR programs with our core principles and state policy objectives.

In addition to actively engaging in matters of packaging EPR legislation, ELF seeks to engage in regulatory processes that could affect existing or developing packaging EPR programs. More specifically, we engage with policymakers to ensure that enacted EPR programs have:

- Strong environmental outcomes;
- Efficient, cost-effective, transparent, and accountable systems;
- Shared financial responsibility;
- Convenience for consumers;
- Long-term financial sustainability;
- Producers' ability to secure material;
- Social inclusiveness and fairness;
- Stakeholder sequencing and engagement;
- Pathways to material and technological innovation; and
- Legislative alignment on definitions and methodologies.

Last year, the EPR Leadership Forum developed and published a whitepaper that analyzes various design elements from other early enacting states and whether they constitute a well-developed program. Titled "Unpacking Successful Extended Producer Responsibility Policy for Packaging in the U.S.", our whitepaper highlights a core element that we found consistently contributed to smooth rulemaking and implementation processes: EPR programs that were designed for efficiency. For this reason, we applaud MPCA's initial request for comments before drafting rules for the PWCRA. ELF believes it is critical that MPCA provide obligated producers and other key stakeholders with a clear program scope and definitions before implementation, as it would ensure timely reporting and delivery of robust and accurate needs assessment data. That said, we sincerely look forward to reviewing the draft rule upon its release and providing comprehensive feedback on the insight gleaned from this public comment opportunity.

Thank you again for your work on this important item. If you have any questions or would like to discuss further, please do not hesitate to contact me at agraham@epr-leaders.org. You can also find more information about the EPR Leadership Forum and our core principles on our website at https://www.epr-leaders.org.

Sincerely,

Alchemy Graham
Policy Director
EPR Leadership Forum

July 24, 2026

Minnesota Pollution Control Agency
c/o Office of Administrative Hearings eComments

Re: Comments on Possible New Rules Relating to the Packaging Waste and Cost Reduction Act, Minnesota Rules Chapter 7035; Revisor ID R-04992

Dear Commissioner Kessler:

The Window & Door Manufacturers Association (WDMA) appreciates the opportunity to submit comments to the Minnesota Pollution Control Agency (MPCA) on possible new rules to implement Minnesota's Packaging Waste and Cost Reduction Act (PWCRA), Minn. Stat. §§ 115A.144 to 115A.1463.

WDMA represents leading manufacturers and suppliers of windows, doors, skylights, and related building products across North America, including companies that manufacture, distribute, sell, and install products in Minnesota. WDMA members support clear and workable packaging rules that reduce unnecessary waste while recognizing the realities of construction supply chains.

WDMA's request is narrowly focused on packaging used to protect and transport construction building products before installation. The PWCRA should not impose unintended or unworkable obligations on packaging that serves a specialized construction function and is not typically managed through residential, public, school, nonprofit, or similar covered-entity recycling systems.

WDMA urges MPCA to provide categorical regulatory treatment for construction building-product packaging, including packaging used to protect and transport windows, doors, skylights, and related building products intended for construction, remodeling, repair, replacement, retrofit, or installation.

MPCA should consider that construction debris, including packaging, is not collected as mixed municipal waste and clarify how it is treated under the PWCRA's requirements and the scope of any business-to-business exemption or B2B treatment. The rule should focus on the product's construction use and the packaging's protective function, recognizing that windows, doors, skylights, and related building products often move through varied distribution channels before reaching the jobsite or end user.

I. Proposed Definition

WDMA recommends that MPCA include a definition similar to the following:

Washington DC Office: 2001 K Street, NW, 3rd Floor North | Washington, DC 20006 | Phone: 202-367-1157 | membersupport@wdma.com
Chicago Office: 330 N. Wabash Ave., Suite 2000 | Chicago, IL 60611 | Phone: 312-321-6802 | www.wdma.com

Construction building-product packaging means a container or any appurtenant material that provides a means of transporting, protecting, handling, storing, delivering, or facilitating the installation of windows, doors, skylights, and related durable building products, including associated parts, components, accessories, and installation materials supplied with or for use with those products, intended for construction, remodeling, repair, replacement, retrofit, or installation.

Durable building products include windows, doors, skylights, and related building products intended to be incorporated into, affixed to, assembled into, or otherwise used in residential, multifamily, commercial, institutional, industrial, public, or infrastructure construction projects.

Construction building-product packaging includes protective, support, securing, labeling, weather-protection, and transport materials used to ensure durable building products can be safely handled, transported, stored, delivered, and installed.

This definition applies regardless of sales or distribution channel, including products sold directly or indirectly through manufacturers, dealers, distributors, wholesalers, lumber and building material dealers, retailers, builders, remodelers, contractors, installers, project owners, or individual consumers.

This definition does not apply to unrelated packaging for non-building products. It is intended to address packaging that functions to protect and transport durable building products before installation.

II. Construction Building-Product Packaging Is Different from Most Consumer Goods Packaging

Windows, doors, and skylights are not typical consumer packaged goods. They are durable building products used in construction, remodeling, replacement, and retrofit projects. They are often large, heavy, custom-sized, project-specific, and require special handling. They also must meet building code, energy-efficiency, safety, weather-resistance, and installation requirements.

The packaging used with these products is specialized. It includes transport packaging, protective wraps and films, cushioning, bracing, corner and edge protection, weather protection, fasteners, labels, spacers, and similar materials. These materials protect glass, frames, finishes, hardware, weatherstripping, screens, thresholds, and related components.

This packaging is not used primarily for consumer marketing or household convenience. In many cases, the homeowner or building occupant never receives or discards it. It is removed by dealers, distributors, builders, contractors, installers, or jobsite personnel before or during installation and often managed through commercial, jobsite, reuse, return, or construction-and-demolition channels.

Construction building-product packaging waste should be evaluated based on how it is actually generated, collected, and managed. Packaging used to protect windows, doors, skylights, and related building products is frequently removed by dealers, distributors, installers, contractors, or jobsite personnel before the product reaches a building occupant. As a result, these materials are often managed through commercial, industrial, reuse, return, and construction-related waste systems rather than through the covered-entity collection systems that form the central focus of the PWCRA.

MPCA should recognize these distinct management pathways when developing implementation requirements. Packaging waste that is predominantly generated and managed outside covered-entity collection systems should be evaluated based on its actual management pathway and protective function rather than solely on the identity of the purchaser or sales channel.

III. Construction Packaging Rules Should Reflect Housing Affordability Concerns

Windows, doors, and skylights are basic building components and are necessary inputs for housing, schools, public buildings, commercial construction, and energy-efficiency retrofit projects. They also support building performance, durability, weather protection, and consumer safety.

Packaging used for these products is not discretionary. It protects large, often custom-sized building products that are sensitive to transit stress before they are installed. If protective packaging is reduced too aggressively, manufacturers may face higher damage rates, replacement shipments, added transportation, delayed projects, and more wasted material. Those outcomes would increase costs while further burdening Minnesota's waste disposal system.

Packaging compliance costs imposed on construction building products would not remain isolated to manufacturers. Those costs would move through the construction supply chain to dealers, distributors, builders, contractors, installers, project owners, homeowners, tenants, and public-sector customers. In a market where housing affordability and construction costs are already significant concerns, added regulatory costs on necessary protective packaging would further burden new housing, multifamily development, replacement projects, and energy-efficiency retrofits.

These impacts are especially important for affordable housing and public construction, where project budgets are often fixed and limited resources must be stretched as far as possible. Even modest added costs can reduce the effectiveness of public funding, affect project feasibility, or increase costs for homeowners and renters.

Minnesota should avoid implementing the PWCRA in a way that increases housing, retrofit, and construction costs without materially improving the management of packaging in covered entity recycling systems. Practical regulatory treatment for construction building-product packaging would help prevent unnecessary cost increases while preserving the packaging needed to deliver products safely, prevent damage, and avoid greater waste.

IV. Minnesota's Statutory Framework Supports Distinct Treatment

The PWCRA's implementation framework is built around covered materials, covered services, and covered entities, including residences, schools, child care providers, certain nonprofits, state agencies, political subdivisions, public entities, public areas, and other governmental units. That framework does not fit neatly with construction building-product packaging that is often managed through manufacturers, dealers, distributors, contractors, installers, jobsites, or other construction supply-chain channels before the finished product reaches a building occupant.

Under Minn. Stat. § 115A.03, subd. 7, "construction debris" includes waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of buildings and roads and is not mixed municipal waste. Minnesota acknowledges that construction debris, including packaging, is disposed of distinctly which supports a rulemaking approach that treats construction building-product packaging differently from packaging managed through mixed municipal waste streams.

MPCA should clarify how the PWCRA's broad definition of "introduce" applies to construction supply chains. Construction building-product packaging may be removed, reused, discarded, or otherwise managed before any building occupant receives the finished product. Because WDMA member products move through varied sales and distribution channels, manufacturers often do not know the final installation address, building type, disposal pathway, or entity that removes the packaging.

V. Protective Packaging Prevents Greater Waste

For windows, doors, skylights, and related building products, protective packaging prevents damage before installation. Inadequate packaging can result in product loss, replacement shipments, added transportation, construction delays, and greater overall waste.

Minnesota's statute recognizes that waste-reduction measurement should consider what is necessary to deliver a product without damage or spoilage. That principle is central for construction building products. Reducing or penalizing necessary protective packaging could undermine Minnesota's waste-reduction goals.

Window, door, and skylight manufacturers urge MPCA to prioritize this principle during development of waste-reduction goals to avoid overcorrection. The environmental objective should be less total waste, not less protective packaging when that packaging prevents product loss.

VI. Reporting and Fee Obligations Would Be Impractical Without Safe Harbors

WDMA recognizes that the PWCRA defines producer responsibility broadly, making it important for MPCA to clarify how obligations apply when packaging waste is generated and managed through construction channels rather than covered-entity collection systems.

Windows, doors, and skylights are often custom or semi-custom products, with packaging that varies by design, shipment method, sales channel, project location, and installation need. These products also may move through multi-state distribution networks and several intermediaries before reaching the jobsite or end customer.

Many manufacturers do not typically maintain Minnesota-specific, component-level packaging data for every order, particularly where packaging varies by product configuration, shipment method, and sales channel. Tracking each protective material—including fasteners, labels, spacers, pallets, crate components, covers, and other packaging components—would create a significant burden without a proportional environmental benefit. MPCA needs to ensure it includes the building industry in discussions of recycling markets so that the covered materials can be recycled.

MPCA should establish a broad documentation and reporting safe harbor for construction building-product packaging. Producers should be allowed to rely on ordinary business records, reasonable estimates, supplier data, allocation methods, product-category averages, and weight-based reporting. They should not be required to track downstream installation locations, disposal practices, or third-party handling after products move through independent construction supply-chain entities.

VII. The Requested Treatment Should Apply Across Sales and Distribution Channels

The requested categorical treatment should apply to packaging used to protect and transport windows, doors, skylights, and related building products intended for construction, remodeling, repair, replacement, retrofit, or installation.

This treatment should apply regardless of sales channel, including direct, dealer, distributor, retail, installed-sales, special-order, builder, contractor, or consumer channels. MPCA should focus on the packaging's function and the product's construction use, not the immediate buyer or final building type.

MPCA should not create a rule that treats identical construction building-product packaging differently based on the identity of the immediate buyer. A window sold to a lumber and building material dealer may later be sold to a builder, remodeler, contractor, installer, or individual homeowner. The sales path may change, but the packaging function does not. It still protects a durable building product before installation.

The actual management pathway for packaging should not change based on the identity of the immediate purchaser or the route through which a product reaches a jobsite. Windows, doors, and skylights frequently move through dealers, distributors, retailers, builders, contractors, and installers before final installation. A sales-channel distinction would create unnecessary complexity while providing little value for assessing how associated packaging is ultimately managed.

The same packaging may be used for residential, multifamily, commercial, institutional, industrial, or public projects. Manufacturers often do not know the final building type when products move through dealers, distributors, retailers, builders, contractors, remodelers, or installers.

VIII. Additional Comments

- **Clarify Producer-to-Producer Exemption**: The PWCRA includes a limited producer-to-producer exemption for certain covered materials used in the production of another product. MPCA should clarify the scope of that exemption and explain how producer responsibility applies to construction building-product packaging that moves from material and component suppliers, manufacturers, or other construction supply-chain channels before installation.

- **State Harmonization**: MPCA should also seek to harmonize Minnesota's implementation approach with other state packaging EPR programs where possible. Manufacturers that sell products across multiple states need clear and consistent rules for reporting, material categorization, fee treatment, and compliance timelines. Significant state-by-state variation would increase administrative burden, complicate packaging decisions, and raise costs without improving environmental outcomes. Aligning Minnesota's rules with practical approaches in other states would support compliance, reduce unnecessary complexity, and help ensure the PWCRA is implemented in a way that works across regional and national supply chains.

- **Recognition of Prior Regional and National Packaging Reductions**: MPCA should ensure that producers receive appropriate recognition for packaging changes made towards reuse and return rates, waste reduction, and use of PCR content made prior to the establishment of statewide requirements, including changes made to comply with other state EPR programs and are given a minimum of five years of clear notice before statewide requirements impacting the materials a producer can introduce into Minnesota. Many manufacturers use common packaging systems across multiple states, and Minnesota's rules should recognize broader packaging improvements where they reduce the amount or impact of covered materials introduced into Minnesota.

MPCA should provide producers with at least five years of clear notice before any material standard, collection-list determination, packaging-design requirement, or restriction affects a producer's ability to introduce covered materials in Minnesota. Construction product manufacturers need sufficient lead time to evaluate alternatives, qualify suppliers, update packaging systems, and prevent product damage. Rushed packaging changes made to avoid a future sales restriction would increase costs throughout the construction supply chain and ultimately raise the cost of housing, replacement projects, and energy-efficiency improvements. This approach would encourage packaging optimization while avoiding duplicative or inconsistent state-by-state requirements and affording producers the opportunity to make thoughtful changes to packaging that meet the intended goals of the PWCRA.

- **Substantiating Postconsumer Recycled Content**: MPCA should provide clear and practical guidance on how producers may substantiate postconsumer recycled content in packaging. The rules should identify the types of documentation producers may reasonably use, including supplier certifications, purchase records, recycled-content declarations, chain-of-custody documentation, third-party certifications, and other ordinary business records. MPCA should also allow producers to rely on supplier-provided information where appropriate and clarify what level of verification is expected for upstream material inputs.

IX. Conclusion

WDMA appreciates MPCA's consideration of these comments and its work to implement the Packaging Waste and Cost Reduction Act in a clear and practical manner. **WDMA respectfully urges MPCA to provide categorical regulatory treatment for construction building-product packaging, including packaging used to protect and transport windows, doors, skylights, and related building products before installation.**

WDMA looks forward to continued engagement with MPCA as the rulemaking process moves forward. Thank you for the opportunity to provide input.

If you have any further questions, please contact Alex McIntyre at amcintyre@wdma.com.

Respectfully,

John Crosby
President and CEO

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7/24/2026

Court of Administrative Hearings

July 21, 2026

Via CAH eComments Website (https://minnesotaoah.granicusideas.com)
CAH, Attn: William Moore
600 North Robert Street
P.O. Box 64620
St. Paul, MN 55164-0620

Re: Possible New Rules Relating to the Packaging Waste and Cost Reduction Act, Minnesota Rules, Chapter 7035, Revisor ID Number R-04992

To Whom it May Concern:

Brady Industries, LLC, d/b/a BradyPLUS ("BradyPLUS"), is an intermediary distributor of various foodservice, janitorial and sanitation, office supplies, packaging, and personal protection & safety products across the United States, including in Minnesota. BradyPLUS is providing comments on the Minnesota Pollution Control Agency's ("MPCA") request for comments on possible new rules relating to the Packaging Waste and Cost Reduction Act ("PWCRA"), published in the State Register on May 26, 2026 (the "RFC").

Please note, language in *italics* throughout are from Minnesota's Request for Comments to guide the discussion.

1. **Definitions**

Definitions for terms used that are not defined in statute.

BradyPLUS recommends providing regulatory definitions for the following terms not defined in the statute:

- **Contamination** (term used at Minn. Stat. §§ 115A.1450, subd. 4(13), 115A.1453, subd. 4(6), § 115A.1455, subd. 4)
- Optimal level of convenience and service (§ 115A.1451 ,subd. 3, cl. 2; subd. 9, cl. iv)
- **Reuse system** (term used at *id.* §§ 115A.1444, subd. 2(a)(9), 115A.1448, subd. 1(c)(1), 115A.1451, subds. 3(2)(iii), 6(c)(1)-(2), 115A.1454, subds. 1(3)(iii), 1(5), and 115A.1458)
- **Refill system** (term used at *id.* §§ 115A.1444, subd. 2(a)(9), 115A.1448, subd. 1(c)(2), 115A.1449(1), 115A.1451, subd. 3(2)(iv), and 115A.1455, subd. 4(b)(5))
- **Marketplace** (term used at *id.* §§ 115A.1441, subd. 34, and 115A.1454, subd. 1(5))

2. **Exemptions**

There are two exemption pathways within the existing statutory language and one criterion to be further defined. The commissioner has the authority to determine if a material or any portion of material is exempt if it meets Minnesota Statutes, section 115.1441, subdivision 16 (11), "are packaging used to contain hazardous or flammable products regulated by the 2012 federal Occupational Safety and Health Administration Hazard Communication Standard, Code of Federal Regulations, title 29, section 1910.1200, that prevent the packaging from being waste reduced or made reusable, recyclable, or compostable, as determined by the commissioner." The MPCA would appreciate comments on the following question, as well as any other comments relating to a process for establishing exemptions:

2(a): Under Minnesota Statutes, section 115A.1441, subdivision 16 (11), what criteria should be used to determine that a specific hazardous or flammable products regulated by the 2012 federal OSHA CFR, title 29, section 1910.1200 that prevents a material, any proportion of material, or packaging cannot be waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?

For the sake of consistency with other states, MPCA should broadly construe this exemption given the lack of agency determination necessary for this exemption to apply in other states. For example, California exempts "[p]ackaging used to contain hazardous or flammable products classified by the 2012 federal Occupational Safety and Health Administration Hazard Communication Standard (29 C.F.R. § 1910.1200)" without any need for submission of materials by the producer or determination by the agency. California Public Resources Code § 42041(e)(2)(D).

MPCA's criteria for this exemption should recognize situations in which a packaging format is functionally unavailable for waste reduction, reuse, recycling, or composting; or whether compliance would significantly reduce the packaging's ability to safely contain, transport, store, or communicate hazards associated with the product, rather than requiring an absolute impossibility standard.

MPCA should take both a categorical and individual approach to this exemption to promote flexibility for producers. Specifically, MPCA should promulgate categories that, if any are met, means that the material is exempt and producers do not have to submit any information to secure the exemption; and MPCA should also allow for an individual producer to submit materials to MPCA for an exemption in unique circumstances in which the promulgated categories do not squarely apply.

Accordingly, MPCA should consider promulgating categories under which materials are exempt without any need to submit materials to the agency, such as situations in which:

- The packaging is necessary to prevent leakage, fire, exposure, contamination, product instability, or mislabeling;
- Federal or state law prescribes specific packaging, transportation, storage, labeling, or hazard-communication requirements; or
- The packaging is already managed through another stewardship, take-back, or specialized collection program.

For packaging that does not readily fit into a promulgated category, MPCA should consider the product's applicable OSHA hazard classification and broad criteria such as the following, and grant the exemption if any one of the criteria are met:

- whether alternative packaging formats have been evaluated and found technically infeasible, commercially unavailable, or unable to satisfy applicable safety and hazard-control requirements;
- whether waste reduction would compromise product integrity, required labeling, safe handling, shelf life, or regulatory compliance; or
- whether a reusable, recyclable, or compostable alternative would increase risks to workers, consumers, transporters, recyclers, composters, or disposal facility operators.

A producer seeking to demonstrate that the criteria are satisfied should submit materials to support the criteria it is seeking to apply, such as:

- safety data sheet(s) for the product;
- the product's applicable OSHA hazard classification and supporting hazard-communication documentation;
- a technical explanation of the packaging functions necessary to safely contain, transport, store, or communicate hazards associated with the product;
- an alternatives analysis describing the reusable, recyclable, compostable, or source-reduced packaging formats considered and why those alternatives are infeasible or would create unacceptable safety, compliance, or product-integrity risks;
- documentation from packaging suppliers, engineers, transporters, recyclers, composters, or other qualified third parties, where relevant, regarding the feasibility or risks of alternative packaging formats; and/or
- documentation demonstrating increased risks to others by use of a reusable, recyclable, or compostable alternative.

Further, MPCA should clarify that the exemptions identified in Section 115A.1441, subdivision 16 are not subject to the procedure set forth in Section 115A.1453, subdivision 6. MPCA should also establish a defined process for reconsideration, resubmission, or administrative appeal if a producer's individual exemption request is denied. Moreover, MPCA should establish a defined process for protection of proprietary, trade secret, or confidential business information that may have to be submitted to support the application.

2(b): Under Minnesota Statutes, section 115A.1453, subdivision 6., what criteria should be used to determine that a specific federal or state health and safety requirement prevents a material, any proportion of material, or packaging cannot be waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?

MPCA should broadly construe this exemption to include any federal or state health and safety requirement that interferes with or makes waste reduction, reusability, recyclability, or compostability impracticable for the packaging, material, or material component for which an exemption is sought. The criteria should recognize that the statutory standard is satisfied where compliance with the health and safety requirement would be materially impaired by waste reduction, reuse, recycling, or composting—not only where compliance is impossible—and should incorporate significant flexibility for producers to make this demonstration given the wide variety of industries that may be applying for this exemption. MPCA should also promulgate a form that producers can use to apply for this exemption for administrative efficiency.

Accordingly, MPCA could consider promulgating a list of criteria it is willing to consider with respect to this exemption, such as:

- whether a specific federal or state safety health and statute, regulation, permit condition, approval, license, waiver, modification, guidance document, or recognized standard (collectively, "Health and Safety Law") applies to the product, packaging, material, or material component;
- the specific packaging function required by that authority, such as containment, sterility, sanitation, tamper evidence, child resistance, barrier protection, shelf-life preservation, structural integrity, labeling, hazard communication, transport safety, or prevention of contamination;
- whether waste reduction would compromise, interfere with, or make impracticable the packaging's ability to satisfy that required health-and-safety function;
- whether reuse would create unacceptable risks related to cleaning, sanitation, product contamination, degradation, cross-contact, traceability, or regulatory compliance;
- whether recycling or composting is functionally unavailable because the packaging must contain materials, coatings, barriers, additives, closures, labels, or residual product characteristics that are necessary for health and safety compliance; and
- whether a source-reduced, reusable, recyclable, or compostable alternative has been evaluated and found unable to satisfy the applicable health and safety requirement.

These criteria should be treated as exemplary only, not to be construed as a prescriptive list of required criteria. A producer seeking to demonstrate that criteria are satisfied should be permitted to submit an application form accompanied by documentation to support the application, such as:

- citations to the specific Health and Safety Law on which the exemption request is based;
- a description of the product, packaging format, material composition, and specific component, layer, coating, additive, closure, label, or proportion of material for which the exemption is sought;
- an explanation of why waste reduction, recycling, reuse, or composting would compromise, interfere with, or make impracticable compliance with the identified Health and Safety Law, including any specification sheets, testing, engineering analysis, supplier documentation, regulatory approvals, or third-party assessments; and
- any alternatives analysis identifying any source-reduced, reusable, recyclable, or compostable formats considered and explaining why those alternatives would not satisfy the applicable health and safety requirement.

Any promulgated list of documentation should not be prescriptive, but rather exemplary of what *could* be submitted to support the exemption. MPCA should also establish a defined process for reconsideration, resubmission, or administrative appeal if a producer's exemption request is denied. Moreover, MPCA should establish a defined process for protection of proprietary, trade secret, or confidential business information that may have to be submitted to support the application.

2(c): Should criteria be defined for "unsafe and unsanitary" in relation to Minnesota Statutes, section 115.1441, subdivision 24? If so, what should those criteria be? Should this be tied to what is accepted on the covered material lists?

We suggest adding a definition for "unsafe and unsanitary" in relation to subdivision 24 that provides a non-exhaustive list of examples scenarios in which a paper product may be considered "unsafe" or "unsanitary," such as:

> A paper product is "unsafe or unsanitary" if, through its intended or foreseeable use, it is likely to:
>
> - Come into contact with, or become contaminated by, human bodily fluids, blood, or pathogenic materials;
> - Cause disease, bodily harm, or otherwise endanger the health of persons handling the material in the recycling or composting process;
> - Come into contact with, or become contaminated by, hazardous substances, toxic substances as defined in subdivision 39, or infectious waste;
> - Present a material risk of disease transmission, bodily harm, or health endangerment under conditions reasonably expected to be encountered at recycling or composting facilities.

Furthermore, it should be noted that "unsafe and unsanitary" paper products are excluded from the definition of "paper products" and therefore cannot be a covered material. In turn, "unsafe and unsanitary" paper products should not be included in the covered materials list nor should "unsafe and unsanitary" be factors considered when evaluating material inclusion on the covered materials list.

3. **Collection Lists**

The MPCA must determine what covered materials should be placed on the lists established in Minnesota Statutes, section 115A.1453. The creation of these lists will establish when a covered material is recyclable or compostable. The MPCA must also establish a process to allow the agency to identify when a covered material can be incorporated or must be removed from the collection lists. The MPCA would appreciate comments on the following questions, as well as any other comments relating to a process for determining whether a covered material should be included on a collection list or requirements for alternative collection programs:

3(a): What should the threshold for "current availability of collection" services be for recycling? For organics recycling? Should they be different or the same?

Inclusion on the recyclable or compostable covered materials list established in section 115A.1453 is a critical determination because under section 115A.1448, subd. 1(c)(3)–(4), (d)), after January 1, 2032, packaging and paper products must either be reusable/refillable or included on the recyclable or compostable covered materials list or exempt list. For that reason, related thresholds (including "current availability of collection") should be realistic, attainable, and strongly based upon the most recent Needs Assessment.

Section 115A.1453 subd. 3 currently provides that the Commissioner must consult with interested parties to develop or amend the recyclable or compostable covered materials list and "must review the requests by interested parties for addition or removal," but does not set forth the formal process for doing so. We recommend that in promulgating these rules, MPCA proscribe a formal amendment request process.

Based on the preliminary Needs Assessment, the threshold for organics recycling should be significantly lower because Minnesota's organics collection system is at a fundamentally earlier stage of development than its recycling system. MPCA should consider a phased or tiered approach for organics that recognizes where the system is today while setting a trajectory for growth. The criteria should also account for drop-off access in addition to curbside, since that is how most Minnesotans currently access organics recycling.

3(b): What is the threshold for access to recycling and composting processing infrastructure? Should it be determined by distance to a percent of the population, total coverage of a percent of the total population, or something else? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?

"Accessible" should be based on whether a covered entity's collected material can reach a facility capable of sorting or processing that material through existing collection routes and transfer logistics and not by measuring straight-line distance from the covered entity to the nearest processing facility. This approach avoids the need for separate thresholds. A distance-only measure would disadvantage rural producers and communities and could exclude materials that are otherwise viable for recycling simply because no materials recovery facility ("MRF") is located nearby, even though transfer infrastructure already moves those materials to processing.

3(c): In evaluating the capacity and technology for sorting covered materials, how much processing capacity should be set as the threshold for a covered material to be included on a collection list? Should it be set as a percentage or another measure?

Processing capacity should be evaluated based on MRF capacity and efficiency as identified in the most recent Needs Assessment. Materials that sort below the threshold should be placed on a watch list or alternative collection list pending infrastructure investment, rather than excluded entirely, taking into consideration that the goal of EPR is to drive investment in processing upgrades.

3(d): What is the minimum availability of responsible markets for a covered material to be included on a collection list? Is there a threshold relating to capacity, number, distance, or some combination of thresholds?

The minimum threshold for responsible market availability should focus on whether at least one verified responsible end market exists with sufficient capacity to absorb the anticipated volume of that material from Minnesota at an economically viable price point. Distance should not be used as a standalone disqualifier. Many recyclable commodities move through regional and national markets and restricting the analysis to in-state markets would exclude materials that are routinely and successfully recycled today.

3(e): What are the recommended thresholds for the presence and amount of a residual, contaminant, and/or toxic substance for a covered material to be excluded from the collection list?

MPCA should establish material-specific thresholds rather than a single universal contamination threshold because contamination impacts vary by material, collection method, processor, and end market. We recommend that the criteria evaluate three factors:

- **Health and safety:** Does the collection or processing of the material in a commingled stream create health or safety hazards for workers?
- **Commodity contamination:** Does the material, even when empty, contaminate end-market commodity streams and reduce their value or marketability below acceptable specifications?
- **Prohibitive content:** Is the material considered a prohibited contaminant in the commodity outputs it predominantly ends up in?

If a material scores poorly on all three factors, it should be excluded. If it scores poorly on one but not others, it should be evaluated for alternative collection methods (e.g., separate collection or drop-off) rather than outright exclusion.

MPCA should also build in a pathway for materials to move from exclusion to inclusion over time. If contamination-control measures, improved labeling, consumer education, advances in sorting technology, or changes in market requirements reduce the impact of a material's residuals to acceptable levels, there should be a clear mechanism to revisit and revise the exclusion.

3(f): What is the quantity of a covered material estimated to be available and recoverable that should cause a covered material to be included on a collection list?

The quantity threshold should not be a single absolute tonnage figure applied uniformly across all materials. Instead, it should reflect whether a material is generated in sufficient volume to justify the cost of collection and sorting. Even low-volume materials may warrant inclusion if they are easily sortable, have strong end markets, and do not create contamination issues for other streams. The threshold should be informed by the Needs Assessment and should be revisited as the program matures.

3(g): What are some examples of future conditions of these criteria to be considered?

Future conditions should include planned infrastructure investments, new or expanded processing capacity, changes in responsible markets, technology improvements, regional service expansions, and future Needs Assessment findings.

3(h): Are there any other criteria recommended to be considered? Are there criteria mentioned above or in statute that are not recommended to be considered?

MPCA should consider administrative feasibility, consumer confusion, consistency with neighboring or peer EPR states, and whether list decisions will require duplicative or inconsistent reporting categories.

3(i): Relating to alternative collection systems, what are the considerations for what meets "convenience" and what would the minimums be? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?

We recommend that convenience be defined by a combination of geographic access, hours of operation, frequency of pickup (if applicable), and general awareness of the alternative collection system.

3(j): Are there any considerations to how covered materials collected through alternative collection must be accurately measured?

The measurement should reflect net recovered material, accounting for contamination removed during processing.

4. Statewide Requirements and Measurement

Statewide requirements are to be set by the commissioner as established in Minnesota Statutes, section 115A.1451, subdivision 7. The commissioner must establish the units by which certain rates are set and may modify how a recycling performance target is met and measured as established in Minnesota Statutes, section 115A.1451, subdivision 6. A service provider is required to meet performance standards, ensure that covered materials are sent to responsible markets, and provide transparency on cost relating to what is reimbursed by a producer responsibility organization by this law as established in Minnesota Statutes, section 115A.1449. The commissioner must also approve when a reusable covered material meets the criteria set in Minnesota Statutes, section 115A.1451, subdivision 6. Return rate is also defined in Minnesota Statutes, section 115A.1441, subdivision 32. The MPCA would appreciate comments on the following questions related to requirements for recycling, systems of reuse, and statewide requirements and criteria:

4(a): What criteria should be considered to set a return rate?

Initial return rates should be modest and escalate over time as systems mature. Return rates should be set based on:

- the type of reusable material covered;
- the existing availability of reuse systems;
- the number of use cycles reasonably expected;
- collection access;
- consumer participation;
- loss and breakage rates;

- sanitation and safety requirements; and
- whether the material can be tracked and audited.

4(b): How might a producer or producer responsibility organization demonstrate a return rate?

A producer or PRO should be able to demonstrate a return rate through one or more of the following methods, depending on the reuse system:

- **Direct tracking**: For closed-loop systems (e.g., deposit-return, branded refill programs), item-level or batch-level tracking through unique identifiers, barcodes, RFID, or deposit redemption records.
- **System-level measurement:** For programs where items are returned through a service provider or retail location, measurement at the point of return (e.g., units returned to a collection point divided by units distributed over the same period).
- **Representative sampling or statistical estimation:** Where item-level tracking is impracticable MPCA should allow statistically valid sampling methodologies, provided the method is transparent, auditable, and disclosed.

MPCA should specify what documentation is sufficient and provide safe harbors for methodologies that meet defined statistical confidence levels, so producers have certainty about compliance.

4(c): Are there any considerations the agency should evaluate when determining statewide requirements?

When determining statewide requirements, MPCA should consider baseline data availability and whether requirements can be implemented without creating conflicting reporting systems, duplicative data submissions, or most importantly, requirements that exceed available infrastructure and are therefore overburdensome or even impracticable for producers to meet.

5. **Stewardship Plan and Annual Reports**

A producer responsibility organization must submit a stewardship plan by October 1, 2028, and every five years thereafter, to the commissioner that describes the proposed operation by the organization of programs to fulfill the requirements of Minnesota Statutes, sections 115A.144 to 115A.1463 and that incorporates the findings and results of needs assessments. The stewardship plan is required to meet the criteria established in Minnesota Statute, section 115A.1451, subdivision 3. The commissioner must review and approve, deny, or request additional information for a draft stewardship plan. 3 The annual reports of registered producer responsibility organizations in Minnesota Statutes, section 115A.1456, subdivision 1 contain information used to administer the program and keep the public informed.

5(a): Are there any items within the stewardship plan requirements that may need to be further clarified?

Generally, MPCA should clarify several stewardship-plan requirements, including those related to producer reporting expectations, fee-setting methodologies, reimbursement processes, compliance timelines, and documentation standards, to ensure that the stewardship plan provides producers and stakeholders with clear, transparent, and practical guidance for understanding how the program will operate and how compliance obligations will be implemented.

One specific item that MPCA should clarify is what constitutes a prohibited "consumer-facing fee" versus a permissible service charge by a service provider, and how this interacts with existing hauler rate structures.

5(b): Are there any items within the annual reports from registered producer responsibility organizations that may need to be further clarified?

MPCA should clarify how data gaps should be disclosed and treated.

5(c): What information should the MPCA request to verify producer responsibility organization costs and reimbursement rates in a stewardship plan and/or annual report as part of a budget and any financial and programmatic auditing?

We urge MPCA to require PROs to provide enough information in stewardship plans and annual reports to allow MPCA, producers, service providers, and the public to understand where producer funds are going, how those funds are being used, and how the PRO is making cost-allocation and reimbursement-rate decisions. Producers need greater certainty and transparency regarding producer responsibility dues so they can budget, plan, and allocate resources responsibly, and that transparency in fee-setting is undermined if a PRO discloses only a general methodology without enough supporting information to show how rates were actually derived.

At minimum, MPCA should require each stewardship plan and annual report to identify and separately itemize major cost categories, including service provider reimbursements, infrastructure investments, education and outreach, PRO operating and administrative costs, required payments to MPCA, costs associated with needs assessments and audits, and the amount and basis for any financial reserve. Minnesota law requires producer fees to generate revenue sufficient to pay MPCA fees, obligations under an approved stewardship plan, service provider reimbursements, PRO operating costs, and establishment and maintenance of a financially prudent reserve, and section provides that overcollections must be used to improve or enhance program outcomes or reduce producer fees. Minn. Stat. § 115A.1454.

MPCA should also require the PRO to provide the data, assumptions, and calculations used to establish producer fees and reimbursement rates, not merely a high-level description of the methodology. Requiring disclosure of the inputs and assumptions behind these categories would allow producers to anticipate and budget for their obligations.

5(d): Does any part of the stewardship plan and plan amendment approval process need to be further clarified?

MPCA should clarify how plan amendments proposed in annual reports (§ 115A.1456, subd. 1, cl. 10) interact with the formal amendment process under § 115A.1451, subd. 4.

6. Other Topics

Additionally, the MPCA would appreciate any comments related to the PWCRA and areas where there could be clarification provided through the rulemaking. The Agency also requests any information pertaining to the cumulative effect of the possible new rule with other federal and state regulations related to the specific purpose of the rule. Cumulative effect means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules.

BradyPLUS encourages MPCA to use this rulemaking to prioritize consistency with other state EPR programs, clear and early communication of compliance expectations, and practical implementation timelines that account for the cumulative burden of overlapping state and federal requirements. Producers need clear guidance on what they must report, when they must report it, and how the PRO will use that information, because producers need time to build internal data systems, allocate staff, and budget for compliance. To reduce cumulative compliance burdens, MPCA should require the PRO to provide sufficient advance notice of reporting requirements, producer-fee methodologies, reimbursement-rate methodologies, and any material changes to compliance expectations, along with illustrative examples, FAQs, and accessible support channels for producers of varying sizes and operational models. Where possible, MPCA should also harmonize data requests, terminology, and reporting processes with other EPR jurisdictions so producers are not required to generate duplicative or inconsistent data sets for substantively similar obligations.

Thank you for considering our comments on the RFC. BradyPLUS looks forward to working collaboratively with the MPCA and the Circular Action Alliance ("CAA") to implement an effective packaging stewardship program in Minnesota. We welcome opportunities to discuss these matters further.

Sincerely yours,

Mark Allen

Mark Allen
Chief Merchandising Officer
BradyPLUS

The Recycling Partnership

20 F Street NW
7th Floor
Washington, D.C. 20001
recyclingpartnership.org

Attn: William Moore, Fiscal Note and Rulemaking Coordinator
600 North Robert Street
P.O. Box 64620
St. Paul, MN 55164-0620

Dear William Moore,

Thank you for the opportunity to comment on the direction of the new rules to implement the Packaging Waste and Cost Reduction Act (PWCRA) of Minnesota Statutes, sections 115A.144 to 115A.1463.

The Recycling Partnership is a purpose-driven organization committed to building a better recycling system, one that delivers the economic and environmental benefits our communities and the hundreds of thousands of people who work throughout the recycling industry deserve. The Recycling Partnership's team of experts, practitioners, and thought leaders with real-world experience works with its partners to create meaningful change across the recycling system and assist communities, companies, and policymakers in enacting such change. The Recycling Partnership uses its one-of-a-kind National Recycling Database that reaches more than 9,000 U.S. recycling programs and develops practical and innovative resources to address critical gaps in the recycling system, as recently discussed in our 2026 State of Recycling Report.

Please find our feedback on the main goals of the possible new rule below.

1. **Definitions for terms used that are not defined in statute**

The Recycling Partnership recommends defining "Alternative Collection Program" since Alternative Collection Programs are a required section of the Stewardship Plan according to statute in 115A.1451 (Sec. 12, Subd. 8) and a producer responsibility organization (PRO) must implement an Alternative Collection Program to manage the materials listed on the alternative collection list in statute in 115A.1453 (Sec. 13, Subd. 2). Including the definition would increase clarity and decrease confusion surrounding the statute and rules.

2. **Exemptions**

In response to Minnesota Pollution Control Agency (MPCA) questions 2(a-c), The Recycling Partnership recommends that MPCA avoid setting a standard through rule and rather require the PRO—as opposed to individual producers—to explain why the exemption is needed. MPCA would then still have the opportunity and authority to approve or request revisions from the PRO's exemption applications, but the onus for demonstrating why the exemption is needed would be on the PRO. This could be modeled after California, where in 18980.2.4, producers are required to submit information detailing the exemption request, such as conflict with federal statute, alternative materials and why they won't work as suitable replacements, etc.

3. Collection Lists

Acknowledging the importance of creating statewide collection lists for recyclable and compostable materials and establishing a process for transitioning materials on and off the collection lists, The Partnership urges MPCA to set clear, defined thresholds for determining a covered material's recyclability and inclusion in the statewide collection lists.

We would like to stress that setting criteria for the collections lists simultaneously establishes the determination criteria for whether or not a material is recyclable (or compostable or reuseable), enabling or prohibiting its sale on and after 2032 according to statute (115A.1448 (Sec. 9, Subd. 1)(c)). Thus, the pathway by which a covered material can be placed on or taken off the collection lists also plays the essential role of determining whether a material can be sold by a producer as of and after 2032. This mirrors the California SB 54 requirement that packaging be 100% recyclable or compostable by 2032.

Recognizing the significance for MN producers amid similar standards developing across the country, we strongly urge the MPCA to consider aligning its thresholds with that of California's SB 343 to increase cross-state harmonization to provide a clear, defined pathway towards material recyclability. Section 115A.1453(Sec. 13, Subd. 4) defines a list of criteria that "may" be considered by the Commissioner, which can guide decision-making, but ultimately, producers will need a distinct set of recyclability standards with clearly-defined, yet reasonable, thresholds that are achievable in real-world recycling systems. This is especially true if a covered material that is not on the statewide collection lists after 2032 can no longer be sold in the state.

Our recommendation is that at a minimum, material be placed on the lists if it meets the CA SB 343 required thresholds: 60% community access, 60% acceptance in MRFs, sorted to a defined stream at the MRF, and sent to a responsible end market.

5. Stewardship plan and annual reports

In response to MPCA question 5(a), we recommend that MPCA consider adding to the required content of the Stewardship Plan in 115A.1451(Sec. 12, Subd. 3) a description of how the PRO will notify affected producers of their obligations and how the PRO will track compliance among producers. Requiring the PRO to define this in its Stewardship Plan creates a clearer connection to the requirement in 115A.1456

(Sec. 16, Subd. 1)(9) that the PRO include out-of-compliance producers and actions taken by the PRO to return producers to compliance in its Annual Report. This addition to the Stewardship Plan section could be made in (Sec. 12, Subd. 3)(8) or another appropriate subdivision.

We thank the Minnesota Pollution Control Agency for the opportunity to provide comments on these topics considered for draft regulations. The Recycling Partnership stands ready to assist MPCA in any way possible throughout the process of regulations and implementation of this extended producer responsibility law.

Please feel free to reach out with any questions.

Sincerely,

DeNeile Cooper
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The Recycling Partnership

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July 24, 2026

Submitted via CAH eComments: https://minnesotaoah.granicusideas.com

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RE: Written Comments — MPCA Request for Comments on Possible New Rules Relating to the Packaging Waste and Cost Reduction Act (PWCRA); Revisor's ID Number R-04992

Introduction

The Ag Container Recycling Council (ACRC) respectfully submits these written comments in response to the Minnesota Pollution Control Agency's (MPCA) Request for Comments (RFC) on possible new rules implementing the Packaging Waste and Cost Reduction Act (PWCRA), Minnesota Statutes, sections 115A.144 to 115A.1463.

ACRC is a 501(c)(6) nonprofit association that promotes and funds programs in the United States for the collection and recycling of plastic containers (up to and including 55 gallons) from agricultural pesticide, animal health, specialty pest control, micronutrient, biologicals, fertilizer, adjuvant, and surfactant products. ACRC was founded in February 1992 and today represents 54 Regular Member and 19 Affiliate Member companies — totaling 73 member companies — who are manufacturers, formulators, and packagers of agricultural chemical products.

ACRC has operated a container collection and recycling program in Minnesota continuously since 1993, making it one of ACRC's longest-running state programs. Minnesota program data from ACRC's MASTER collection database confirms the following:

- Total collected 1993–2025: 8,906,052 pounds of HDPE agricultural chemical containers
- Five-year annual average (2021–2025): 520,810 pounds per year
- 2025 collections: 715,918 pounds (81.2% of member-reported sales) — a 17.2% increase over 2024, and ACRC's strongest year on record in Minnesota
- 2024 collections: 610,985 pounds (78.1% collection rate)
- 2023 collections: 491,266 pounds (61.1% collection rate vs. 804,538 lbs member-reported sales)

- Minnesota's 2025 collection rate of 81.2% is the highest of any active packaging EPR state in ACRC's program, exceeding Oregon (70.9%), California (59.7%), and Washington (51.4%)
- Collections in 53 counties across the state over the past five years (G. Phillips & Sons, ACRC's Minnesota contractor)
- More than 100 unique collection sites served in 2025 alone
- Note: Member sales survey data was not collected for all states/years; where 2024 sales data was unavailable, collection rates reflect available data

ACRC's Minnesota collection program operates predominantly in rural and agricultural areas of the state. Collection site categories include municipal sites (county, city, and state facilities), landfills, agricultural retail locations, solid waste management facilities, professional applicators (ground and aerial), environmental management facilities, farms, landscape operations, weed management operations, and aquatic management operations. The program does not provide collection in major metropolitan areas, where agricultural chemical container generation is minimal.

ACRC is widely recognized as the oldest continuously operated, voluntary, industry-funded product stewardship program of its kind in the United States, supported by more than eighty percent of the agricultural chemicals manufacturing industry. ACRC's Minnesota program represents exactly the kind of established, results-demonstrating stewardship infrastructure that the PWCRA's alternative collection program framework is designed to recognize.

Preliminary Note on Scope: Agricultural Chemical Packaging and the PWCRA

ACRC understands that the PWCRA's covered materials and producer compliance obligations apply broadly to packaging introduced into the state of Minnesota, regardless of whether the products are intended for residential or commercial/professional end use. Accordingly, ACRC members who sell non-exempt products into Minnesota — including certain fertilizer, micronutrient, adjuvant, and surfactant products — may have producer obligations under the law.

At the same time, ACRC notes that the PWCRA's existing statutory exemptions — including the FIFRA exemption (Subd. 16(7)), the animal health exemption (Subd. 16(6)), and the OSHA HazCom exemption (Subd. 16(11)) — collectively cover a significant portion of the agricultural chemical product universe. ACRC's comments below are intended to help the MPCA develop rulemaking that clarifies and strengthens these exemptions, and that appropriately recognizes established voluntary industry stewardship programs such as ACRC's for any remaining covered materials.

Response to RFC Question 2(a): OSHA HazCom Exemption Criteria

> *"What criteria should be used to determine that a specific hazardous or flammable product regulated by the 2012 federal OSHA CFR, title 29, section 1910.1200 prevents packaging from being waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?"*

ACRC supports a broad, workable, and objective standard for the OSHA HazCom exemption established in Minnesota Statutes, section 115A.1441, Subdivision 16(11). ACRC offers the following specific recommendations:

A. Adopt a Presumptive Exemption Standard Based on GHS Hazard Classification

The MPCA should adopt a rule providing that any product bearing a GHS hazard classification in Section 2 of a Safety Data Sheet (SDS) — whether a physical hazard or a health hazard — is presumptively considered to prevent standard recyclability under the PWCRA. This approach is consistent with the scope of 29 CFR §1910.1200, which requires SDSs for any product classified as a physical or health hazard under the GHS system, and is inclusive of the broad range of agricultural chemical products. Examples include:

- Flammable liquids — many adjuvants, surfactants, and crop oils
- Corrosive materials — numerous liquid fertilizer formulations
- Toxic, irritant, or sensitizing chemicals — micronutrients, biologicals, and adjuvants
- Oxidizing materials — certain fertilizer and soil amendment formulations

ACRC respectfully notes that a comparable exemption in California's SB-54 does not condition exemption on a separate showing that the hazard "prevents" recyclability — the OSHA HazCom classification itself is the qualifying criterion. ACRC encourages the MPCA to adopt a similarly self-executing standard, rather than requiring case-by-case commissioner determinations that would create unnecessary uncertainty and administrative burden for both producers and the Agency.

B. Residue Contamination and Co-Mingling at Collection Sites Are Automatic Disqualifiers from Standard MRF Recyclability

ACRC requires triple-rinsing or pressure-rinsing of all containers prior to acceptance for collection, consistent with ANSI/ASABE S596, the standard ACRC was instrumental in developing. This rinsing protocol has been independently tested and confirmed to achieve 99.99% removal of pesticide residues, consistent with EPA standards for pesticide products. ACRC contractors inspect all containers to this standard at the time of collection. To support proper rinsing practice by program end users, ACRC provides instructional resources including training videos available at https://agrecycling.org/recycling/container-rinsing/#why. This same triple-rinse and inspection standard is applied uniformly across all container and product categories collected through ACRC's contractor network — including fertilizer, adjuvant, surfactant, animal health, and other non-pesticide product containers.

Even with rigorous rinsing, containers that have held OSHA HazCom-regulated products may retain chemical residue characteristics that make them incompatible with standard municipal material recovery facility (MRF) processing streams. The MPCA should recognize residue contamination from OSHA HazCom-regulated products as an automatic disqualifier from standard MRF recyclability requirements, without requiring producers to commission case-by-case technical studies for each product or container type.

This position is further reinforced by the realities of agricultural container collection logistics. Prior to collection, containers of all product types — including both regulated and non-regulated products — are stored together at collection sites in the same pile or staging area. Pesticide containers and other regulated product containers come into direct physical contact with containers from non-regulated product categories. As a result, residues present on regulated containers can transfer to adjacent non-regulated containers through direct contact during storage and staging. This cross-contamination dynamic makes it both impractical and scientifically unsound to attempt to segregate agricultural chemical containers by product type at the point of collection, and strongly supports treating all agricultural chemical product containers as a single, unified stream subject to consistent regulatory treatment. The existence of ACRC's specialized alternative collection and recycling infrastructure — which responsibly manages this entire container stream outside the standard MRF system — confirms that responsible management is achievable, but that it requires a single, distinct pathway applied uniformly across all container types in the program.

C. Establish Practical Documentation Standards

The information a producer should be required to submit to demonstrate qualification for the OSHA HazCom exemption should be limited to:

- A copy or citation of the product's current SDS demonstrating the presence of one or more GHS hazard classifications in Section 2
- A written attestation identifying the container type and the OSHA HazCom-regulated product it contains

Requiring additional studies, laboratory analyses, or agency-specific characterization reports would impose disproportionate burdens on producers — particularly smaller manufacturers — without materially improving the accuracy of exemption determinations.

D. Address Secondary and Tertiary Packaging

ACRC requests that the MPCA clarify through rulemaking that secondary and tertiary packaging (such as corrugated cases and pallet overwraps) used to contain, transport, or ship primary containers of OSHA HazCom-regulated products are also exempt from covered material obligations. The PWCRA's broad definition of "packaging" encompasses multiple packaging layers, and consistent application of the OSHA exemption across all packaging layers is both logical and administratively practical.

Response to RFC Question 2(b): Federal/State Health and Safety Exemption Criteria

> *"What criteria should be used to determine that a specific federal or state health and safety requirement prevents packaging from being waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?"*

ACRC recommends that the MPCA's rules under Section 115A.1453, Subdivision 6 broadly recognize all federal health and safety regulations that impose mandatory design, material, or labeling specifications on packaging as qualifying bases for a commissioner-determined exemption. ACRC specifically recommends inclusion of the following:

A. U.S. Department of Transportation Hazardous Materials Regulations (49 CFR)

A significant portion of agricultural chemical containers are regulated as hazardous materials under U.S. Department of Transportation (DOT) regulations, 49 CFR Parts 171–180. DOT regulations specify mandatory container design, material, closure, and marking requirements that cannot be modified to accommodate alternative end-of-life processing requirements. These requirements are clearly "specific federal health and safety requirements" within the meaning of Section 115A.1453, Subdivision 6.

ACRC notes that comparable packaging EPR legislation in New York (S.1464) explicitly includes DOT hazardous materials packaging as a separate statutory exemption category. Minnesota's PWCRA does not include this exemption, creating a gap for containers that are regulated under DOT but may not independently qualify under the OSHA HazCom exemption. ACRC urges the MPCA to close this gap through rulemaking by recognizing DOT hazmat-regulated packaging as qualifying for commissioner-determined exemption under Subdivision 6.

Recommended documentation standard: (1) confirmation that the product is shipped under a DOT Proper Shipping Name and UN/NA number; (2) confirmation that the packaging meets 49 CFR Part 178 specifications; and (3) confirmation that the container bears a UN/DOT marking.

B. FIFRA Label and Container Requirements

Agricultural pesticide containers subject to EPA label requirements under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 136 et seq.) must comply with specific container integrity and labeling specifications. While ACRC understands that FIFRA-regulated product packaging is separately and explicitly exempt under Subdivision 16(7), ACRC recommends that FIFRA-based container design requirements also be recognized as qualifying health and safety requirements under Subdivision 6 as a secondary protection for any products that may fall into definitional gaps.

C. Oregon Model: ACRC Program Recognition

ACRC draws the MPCA's attention to Oregon's packaging EPR rules (OAR 340-090-0840(2)(d)(D)), which provide a direct, program-specific exemption for:

> *"Rigid HDPE packaging of commercial-use pesticides, fertilizers, adjuvants, surfactants, and agricultural amendments produced by members of the Ag Container Recycling Council or ACRC and eligible for collection by ACRC."*

This approach — recognizing an established, responsible voluntary stewardship program directly in rule — is a model ACRC encourages the MPCA to consider for Minnesota. ACRC's program has operated in Minnesota since 1993 with a 34-year track record. Over the past five years, the program has averaged 520,810 pounds per year of collection, with 2025 representing a record 715,918 pounds. ACRC's contractor has served 53 counties and more than 100 unique collection sites in Minnesota in recent years alone. This infrastructure already provides the responsible end-of-life management that EPR systems are designed to achieve. Notably, Minnesota's 2025 collection rate of 81.2% is the highest of any existing packaging EPR state in ACRC's program — a metric that underscores the effectiveness of the voluntary program model. This program performance is fully funded by ACRC members resulting in negligible collection fees to program end users. Recognition of ACRC's program through the commissioner's rulemaking authority under Subdivision 6 would be fully consistent with the PWCRA's objectives and would appropriately protect an already high-performing stewardship system.

Response to RFC Question 2(c): "Unsafe and Unsanitary" Criteria for Paper Products

> *"Should criteria be defined for 'unsafe and unsanitary' in relation to Minnesota Statutes, section 115.1441, subdivision 24? If so, what should those criteria be? Should this be tied to what is accepted on the covered material lists?"*

ACRC supports the development of clear, objective, and science-based criteria for the "unsafe and unsanitary" definition as it applies to paper products. Some ACRC member companies sell fertilizer, seed, and agricultural amendment products packaged in paper bags. ACRC offers the following recommendations:

- Criteria should be based on actual acceptance standards of material recovery facilities (MRFs) and composting facilities — not aspirational recyclability targets. If a paper bag type is not accepted by commercial facilities in practice, it should qualify as unsafe or unsanitary for purposes of the exemption.
- Paper bags and packaging that have contained agricultural chemical products — including fertilizers, soil amendments, and seed treatments — and that retain chemical residues should

qualify. Residue contamination from agricultural chemicals poses risks to composting processes and to the quality of recycled feedstocks, and facilities routinely decline to accept such materials.

- Pesticide-contaminated paper packaging, including paper bags used in seed treatment applications, should have a clearly defined and streamlined pathway to an "unsafe and unsanitary" determination.
- Criteria should be tied to objective, measurable thresholds (e.g., residue levels, pH, or contaminant concentrations consistent with existing EPA or state standards) rather than requiring case-by-case facility surveys or producer-funded studies.

ACRC further recommends that the "unsafe and unsanitary" criteria be coordinated with the covered material lists described in RFC Topic 3, so that materials consistently excluded from MRF and compost facility acceptance are also excluded from collection list requirements.

Response to RFC Question 3(a): Threshold for Current Availability of Collection Services

> *"What should the threshold for 'current availability of collection' services be for recycling? For organics recycling? Should they be different or the same?"*

ACRC offers the following perspective relevant to any covered agricultural chemical packaging that may be placed on a collection list:

- Thresholds for current availability of collection services should be differentiated by material type and generation pattern. Agricultural chemical packaging is generated predominantly at farm operations, agricultural retail locations, and professional applicator facilities — not at residential addresses. Existing residential and curbside collection infrastructure is not an appropriate benchmark for assessing collection availability for these materials.
- For agricultural chemical packaging, "current availability" should be assessed against the existing network of agricultural container collection events and drop-off programs, including those operated by ACRC's contractor network in Minnesota. ACRC's program currently serves 53 counties and over 100 unique collection sites annually, demonstrating meaningful statewide availability in agricultural production areas.
- Recycling and organics recycling thresholds should differ for agricultural packaging. Given the chemical residue characteristics of agricultural containers — even after triple-rinsing to 99.99% residue removal standards — these materials are not appropriate for organics/composting streams. The relevant threshold for agricultural packaging is recycling collection availability only.

Response to RFC Question 3(b): Threshold for Access to Recycling and Composting Processing Infrastructure

> *"What is the threshold for access to recycling and composting processing infrastructure? Should it be determined by distance to a percent of the population, total coverage of a percent of the total population, or something else? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?"*

ACRC strongly supports differentiated standards for Greater Minnesota versus the Twin Cities Metro Area, and offers the following recommendations:

- For agricultural chemical packaging specifically, infrastructure access should be measured against proximity to agricultural chemical container collection sites and events, not proximity to municipal MRF or transfer station facilities. ACRC's Minnesota program demonstrates that a functional, accessible collection infrastructure for agricultural containers exists and operates independently of the municipal recycling system.
- A population-percentage threshold is inappropriate for agricultural packaging, which is generated by a relatively small number of large-volume commercial producers (farms, ag retailers, and professional applicators) distributed across rural landscapes — not by a broad residential population base. A county-based coverage threshold is more appropriate and aligns with ACRC's existing county-level program data. ACRC's contractor has collected in 53 of Minnesota's 87 counties over the past five years, concentrated in the state's primary agricultural production regions.
- Greater Minnesota thresholds must reflect the realities of seasonal generation patterns, lower population density, and longer transport distances. ACRC's program experience in Minnesota demonstrates that seasonal collection events coordinated with crop seasons and agricultural retail locations represent a practical, effective, and convenient model — one that would be unnecessarily burdened by standards designed for urban residential service.
- ACRC's program does not operate in major metropolitan areas of Minnesota, where agricultural chemical container generation is minimal. This geographic concentration in rural, agricultural regions of the state is a feature of the program's design — collection resources are deployed where the material is generated.

Response to RFC Question 3(e): Thresholds for Residuals, Contaminants, and Toxic Substances

> *"What are the recommended thresholds for the presence and amount of a residual, contaminant, and/or toxic substance for a covered material to be excluded from the collection list?"*

ACRC recommends that the MPCA establish clear, science-based residual contamination thresholds and offers the following program-specific context:

- ACRC requires triple-rinsing or pressure-rinsing of all containers prior to acceptance for collection, consistent with ANSI/ASABE S596 Standard (a standard ACRC was instrumental in developing). This protocol achieves 99.99% removal of pesticide residues, as confirmed by independent testing and consistent with EPA standards. This same triple-rinse standard applies across all container and product categories collected by ACRC — including fertilizer, adjuvant, micronutrient, animal health, and surfactant containers.
- Despite this rigorous rinsing standard, triple-rinsed agricultural chemical containers are not compatible with standard MRF processing and are not accepted in general recyclable streams. ACRC's program routes these containers to carefully vetted, specialized end markets: agricultural drain tile, underground electrical conduit, landscaping edging, and nursery products. These end markets have accepted ACRC program material responsibly for over three decades.
- The MPCA should establish a pathway whereby materials managed through an established, responsible stewardship program with documented recycling outcomes — such as ACRC's 34-year Minnesota program — are not required to meet the same residual/contaminant thresholds as materials destined for standard MRF processing, provided the alternative end markets are verified as responsible markets under the PWCRA.

- For materials not managed through an established alternative program, ACRC recommends that any threshold framework recognize that the presence of OSHA HazCom-classified residues from agricultural chemical products constitutes a per se basis for exclusion from standard collection lists — rather than requiring producers to fund individual product analyses.

Response to RFC Question 3(i): Considerations for "Convenience" in Alternative Collection Systems

> *"Relating to alternative collection systems, what are the considerations for what meets 'convenience' and what would the minimums be? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?"*

ACRC has direct and extensive experience operating an alternative collection system for agricultural chemical containers in Minnesota since 1993, providing a real-world model for what a convenient, functional alternative collection program looks like in an agricultural context.

- "Convenience" for agricultural packaging should be defined by standards appropriate to the actual end users: farmers, commercial pesticide applicators, aerial applicators, ag retailers, and professional landscape and weed management operators. These users do not generate or dispose of agricultural containers on the same schedule, at the same locations, or in the same volumes as residential consumers. A convenience standard designed for residential curbside service is fundamentally incompatible with the agricultural sector's needs and operational realities.
- ACRC's Minnesota program demonstrates a working model of agricultural convenience: collection events and permanent drop-off sites located at or near agricultural retail locations, solid waste management facilities, municipal sites, and professional applicator operations; scheduling coordinated with crop seasons and agricultural retail cycles; advance notice through industry channels; and geographic concentration in the 53 counties of the state where agricultural chemical containers are actually generated.
- ACRC's 2025 collection in Minnesota included more than 100 unique collection sites across diverse site types: municipal (county, city, and state), landfills, agricultural retail, solid waste management, professional applicators (ground and aerial), environmental management, farms, landscape operations, weed management, and aquatic management. This breadth of site types reflects the diversity of professional end users of agricultural chemical products in Minnesota.
- Greater Minnesota and Metro Area standards should differ substantially. For rural Greater Minnesota, a county-based model — with collection availability in counties where material is generated, informed by sales or program data — is more appropriate than a population-density-based minimum. ACRC's existing county-level collection data for Minnesota provides a practical baseline for what a convenient alternative collection system looks like in practice.
- ACRC recommends that the MPCA explicitly allow alternative collection systems to operate seasonally where material generation is seasonal. A requirement for year-round collection infrastructure in rural agricultural areas would impose costs disproportionate to the volume of material generated outside of crop seasons. ACRC's experience confirms that seasonally-timed collection events in agricultural areas achieve high participation rates precisely because they align with when growers and applicators have containers available for return.

Response to RFC Question 3(j): Measurement of Covered Materials in Alternative Collection Systems

> *"Are there any considerations to how covered materials collected through alternative collection must be accurately measured?"*

ACRC operates an established measurement and reporting system for agricultural chemical container collection, providing directly applicable experience on this question:

- Measurement of covered materials in alternative collection systems should be weight-based, using certified scale weights at the point of processing or responsible market delivery. ACRC currently reports collected container volumes on a weight basis (pounds) by state and by collection program, with data auditable and verifiable against contractor records.
- Chain-of-custody documentation — tracking containers from collection event through transport to end market — should be accepted as the standard of measurement accountability for alternative collection programs. ACRC's existing documentation and reporting infrastructure provides a proven model for this approach.
- Producer-level attribution should be based on member-reported sales data by state or county, rather than requiring direct tracing of individual containers to individual producers at the collection point. This is operationally impractical for agricultural containers commingled at collection events, and producer sales data by geography provides a sound and verifiable basis for attribution.
- Alternative collection programs with established reporting histories — such as ACRC's 34-year Minnesota program — should be permitted to use historical program data and existing reporting frameworks as the baseline for measurement and performance evaluation, rather than being required to establish entirely new tracking systems.
- ACRC recommends that county-level sales data, where available from producers, be accepted as the basis for regional attribution of alternative collection program performance. This is consistent with approaches used in other states' EPR rules for regional alternative collection programs and aligns with ACRC's existing data capabilities.

Conclusion and Summary of Key Requests

ACRC appreciates the MPCA's commitment to early stakeholder input and respectfully urges the Agency to prioritize the following in rule development:

- Adopt a broad, presumptive, self-executing OSHA HazCom exemption standard based on the presence of any GHS hazard classification in SDS Section 2, without requiring case-by-case commissioner determinations of whether the hazard "prevents" recyclability
- Establish DOT hazardous materials packaging (49 CFR) as a qualifying basis for a commissioner-determined exemption under Section 115A.1453, Subdivision 6, consistent with the approach taken in New York's comparable legislation
- Recognize ACRC's established 34-year voluntary stewardship program in Minnesota through program-specific rule language modeled on Oregon OAR 340-090-0840(2)(d)(D), reflecting ACRC's demonstrated performance: 8.9 million pounds collected since 1993, a 2025 collection rate of 81.2% (highest among all active packaging EPR states in ACRC's program), 53 counties served, and over 100 unique collection sites in 2025
- Recognize that the triple-rinse/pressure-rinse protocol (ANSI/ASABE S596 Standard), verified at 99.99% residue removal, provides an appropriate and practicable industry standard for agricultural containers, while also confirming that triple-rinsed agricultural containers are not compatible with standard MRF processing

- Define "convenience" for alternative collection systems in ways that reflect agricultural sector realities: seasonal generation patterns, rural geography, and farm- and retail-based collection infrastructure concentrated in agricultural production counties
- Differentiate Greater Minnesota from the Twin Cities Metro Area in all collection availability, infrastructure access, and convenience thresholds
- Accept weight-based, chain-of-custody measurement and county-level sales data attribution as appropriate standards for alternative collection program performance measurement

ACRC welcomes further dialogue with the MPCA on these issues and is prepared to provide additional program data, technical information, or documentation to support the rulemaking process. ACRC also intends to resubmit these comments at the formal Notice of Intent to Adopt Rules stage to ensure they are included in the official rulemaking record.

Respectfully submitted,

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Reusable Packaging ASSOCIATION

RECEIVED BY CAH
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Filed via Court of Administrative Hearings (CAH) eComments website

RE: Rulemaking for the PWCRA (MN Statutes sections 115A.144 to 115A.1463)

The Reusable Packaging Association (RPA) is submitting these comments in response to MPCA's request for comments on possible new rules relating to the Packaging Waste and Cost Reduction Act (PWCRA). RPA is a non-profit 501(c)6 trade organization consisting of member companies that supply, use, and provide services to reusable transport packaging products such as pallets, bulk bins, containers, totes, and racks for their continuous use in a managed system featuring the packaging's recovery, maintenance, and return for their intended purpose. RPA member companies combine in the supply, handling, use, and service of billions of reusable transport packaging movements each year through supply chains worldwide, including their omnipresent role in moving commerce every day in the State of Minnesota.

RPA is offering initial comments to support PWCRA's objectives and MPCA's rulemaking on two topics: (1) clarification of the business-to-business exemption; and (2) approach to establishing a "return rate" for reusable packaging. We provide perspectives for consideration based on a long-established history and widespread operation of successful systems of reusable transport packaging in supply chain applications that eliminate solid waste, prevent pollution, and deliver cost-savings in Minnesota.

Clarification of the Business-To-Business Exemption

PWCRA Section 115A.1441 Subdivision 16 (14) exempts "covered materials" that are "*distributed to a commercial or business entity for the production of another product*." This qualification for exemption generally refers to transport or tertiary packaging in a business-to-business (B2B) application between commercial entities. We find that the exemption, as written using the phrase "production of another product," covers one of two common channels for B2B packaging – the movement of raw materials, ingredients, commodities, or parts from a supplier to a production, manufacturing or assembly plant. The second B2B packaging channel involves the movement of finished goods from a manufacturer to a commercial or industrial establishment. For example, transport packaging is used to ship food products from a production facility to a retail warehouse or distribution center. We believe that the statute's direction of exempting packaging that is "distributed to a commercial or business entity" also includes the downstream use of product distribution to another business in a non-consumer use, and we request that the rulemaking process clarifies this scope.

Pallets illustrate a practical difficulty created by a narrow reading of the exemption. A pallet carrying raw materials into a manufacturing facility and the same pallet being reused to carry finished goods from that facility to a retail distribution center perform the identical transport function within commercial supply chains. Distinguishing between these two channels of use would create regulatory complexity and producer compliance challenges without advancing the statutory waste reduction and cost-saving objectives.

In another illustration, MPCA Document September 2024 (w-ps1-05b) cites a corrugated Gaylord box as exempt when distributing raw cotton fabric to a T-shirt company to produce shirts. If the same company uses a Gaylord box to ship shirts in bulk to a retail warehouse or store, in which the box is not sold to a consumer buying the shirt and the box remains in the possession of the retailer, this commercial downstream use of the same packaging type between two business entities should also be covered under the exemption.

The PWCRA recognizes that packaging circulating within commercial production systems differs from consumer packaging. The functionally equivalent characteristics exist for reusable transport packaging that moves finished goods exclusively between commercial entities, never becoming part of the consumer ecosystem.

This wider scope for the B2B exemption shares the intent with other state laws and regulations implementing extended producer responsibility for packaging. For example, the Colorado Producer Responsibility Program for Statewide Recycling Act (Colo. Rev. Stat. § 25-17-703(25)(b)) defines that "*'Packaging material' does not include: (1) Packaging materials used solely in transportation or distribution to nonconsumers; and (2) Packaging materials used solely in business-to-business transactions where a covered material is not intended to be distributed to the end consumer*."

During rulemaking, MPCA should consider whether the exemption can be reasonably interpreted or implemented in a manner that also encompasses business-to-business transport packaging used exclusively between commercial entities where the packaging never becomes part of the consumer sale.

Reusable Packaging Return Rate

MPCA requests comments on considerations for setting a "return rate" for reusable packaging, including the criteria for determining the rate, steps in which a producer demonstrates its performance in achieving that rate, and the statewide requirement for the rate. The statute defines "return rate" in section 115A.1441, subdivision 32 as "*the amount of reusable covered material in aggregate or by individual covered materials type, collected for reuse by a producer or service provider in a calendar year, divided by the total amount of reusable covered materials sold or distributed into the state by the relevant unit of measurement established in section 115A.1451*."

RPA agrees with the PWCRA's definition of "Reuse" in 115A.1441 Subdivision 34, notably the reference to the conditions: (1) "*intentionally designed and marketed to be used multiple times*"; (2) "*designed for durability and maintenance to extend its useful life and reduce demand for new production*"; and (3) "*supported by adequate logistics and infrastructure*." It is in these three conditions in which a producer can demonstrate reusability and the stated requirement should be set, rather than using a "return rate" for definition or validation of reuse.

RPA defines "reuse" or "reusable" as the act of extending the utility and value of an asset following a use, often a repeat of the cycle for its intended purpose. Packaging is deemed reusable when both the design and manufacture achieve durability for multiple uses, and a defined and managed system is in place to recover the empty asset for reuse. The packaging is never disposed of or sent to landfill following any use, as effort is made to perform another use of the product or to capture the inherent material value for another manufacture.

In its simplest definition, a "return rate" for a reusable packaging product refers to the number of times an asset is used and reused over a specified number of days. The "return rate" describes how many full use cycles the asset completes in a specified period, e.g. one calendar year, and this rate is a key performance metric that determines how many assets are needed in inventory to fulfill the total number of uses. A higher return rate means the package can be used more times and thus less total inventory is needed to meet demand. Conversely, a lower return rate means more packaging units will be needed to satisfy demand. Thus, the return rate has significant implications on asset utility and capital requirements, with higher return rates leading to lower capital costs and inventory management expenses.

RPA does not specify a minimum number of uses or a return rate as the qualifying condition for being reusable or having a favorable environmental impact. There are many unique market applications for reusable packaging across many commercial sectors, and the future will present more applications not known or considered today. Any assignment of an arbitrary number to represent a defining or acceptable return rate for a reusable product may neglect scenarios where a second or third use of packaging effectively eliminates solid waste, prevents pollution, and saves money.

Reusable Packaging ASSOCIATION

Instead, consistent to the PWCRA's definition, we emphasize a product's durability to last "multiple uses" and the system in place to recover, maintain, and reuse the product as the defining characteristics on what is reusable. A packaging provider who invests in a product's durability for multiple uses and the physical operations to return it following its use will be financially incentivized to maximize the number of uses and the rate of product return. The more uses of the packaging and the quicker the packaging is reused, the packaging's total cost over time is lowered and the savings on new packaging expenses can be realized and amplified. If the product is durable enough to achieve a second use, and the owner of the product has deployed the resources and facilities to recover that product after its first use, then the owner is economically motivated to use the packaging for a third time, and so on. Thus, return rates are more of a system performance measurement rather than an indicator of reusability's impact. Product durability and return operations that incentivize maximum return rates are the better factors for validating reuse.

We recommend that MPCA sets the qualifications and requirements for a reusable product based on its durability to achieve multiple uses and the establishment of operational processes such as reverse logistics and inspection/cleaning/repair services, where appropriate, to ensure its complete return and possession, rather than using a numerical return rate to distinguish between reusable packaging and a single or one-time use packaging. A producer or producer responsibility organization can demonstrate reuse through verifying the presence of an operating system for return, revealing an investment made to achieve the highest and quickest number of uses over time.

Thank you for the opportunity to comment on these important regulatory concepts concerning reusable packaging. We welcome further engagement with MPCA to support rulemaking based on real-world commercial use experience and impact to achieve the objectives of the PWCRA.

Sincerely,

Tim Debus
President & CEO
Reusable Packaging Association

700 12th Street NW, Suite 700, Washington, DC 20005 | (813) 358-5327 | reusables.org

RECEIVED BY CAH
7/24/2026

July 20, 2026

Minnesota Pollution Control Agency
520 Lafayette Rd N.
St. Paul, MN 55155

Transmitted via: Online Portal

Re: Public Comment on Possible New Rules Governing the Packaging Waste and Cost Reduction Act, Minnesota Rules, 7035 (Revisor's ID Number R-4992, CAH Docket No. 22-9003-41576)

To Whom It May Concern,

The Outdoor Power Equipment Institute ("OPEI") respectfully submits the following comments to the Minnesota Pollution Control Agency ("MPCA") regarding the public comment period concerning possible new rules governing the Packaging Waste and Cost Reduction Act and general considerations for the extended producer responsibility ("EPR") regulations. OPEI appreciates the opportunity to comment and the Agency's engagement with stakeholders on the drafting of the legislation.

OPEI is an international trade association representing more than 100 manufacturers and their suppliers of both gas- and electric-powered outdoor power equipment. and non-road powered engines, personal transport & utility vehicles, golf cars and consumer and commercial outdoor power equipment ("OPE"). OPE includes lawnmowers, garden tractors, trimmers, edgers, chain saws, snow throwers, tillers, leaf blowers and other related products. OPEI member companies and their suppliers contribute approximately $16 billion to US GDP each year.

The ability for producers to understand their EPR obligations and potential impacts on their respective business within the state of Minnesota is critical to future operations as the OPE industry is ubiquitous to Minnesota's households and businesses. They are sold across the state through a diversity of retail outlets, including national and regional home improvement chains, local hardware stores, e-commerce retailers, and independent dealers. Our member companies have invested significant resources to properly implement extended producer responsibilities and support EPR when implemented responsibly. OPEI has published the following EPR industry positions that provide legislation recommendations and considerations.

<u>Industry Positions For Extended Producer Responsibility Legislation:</u>

From metal content to rechargeable batteries, outdoor power equipment utilizes existing market driven networks for end-of-life product management. While Extended Producer Responsibility has proven successful in dealing with problem consumer products, not all materials are suited for inclusion in an EPR system.

In the case of outdoor power equipment (OPE) there is a well-established existing market driven reuse - recovery system for OPE that already meets many of the government's policy objectives. Unlike traditional regulated stewardship programs, where a separate collection, transportation and processing system is developed to recycle products, OPE utilizes the existing market driven recycling network for metals. The OPE life cycle of products is extended by the availability of repair parts, the ability of a dealer/retailer network to repair and refurbish, and ultimately extend the life of these inherently intrinsic valued products.

Regulation of OPE could add unforeseen financial and administrative burdens onto manufacturers, suppliers, and consumers of these products which are already being reused, refurbished, collected, and recycled at very high levels.

OVERVIEW

Extended Producer Responsibility is an alternative recycling approach that shifts complete waste handling and processing obligation on producers, distributors, and retailers to manage the end-of-life collection of the products they produce.

OPEI recognizes that producers have the right to sell their products in the market and supports a harmonized EPR approach that reduces the amount of solid waste polluting our environment.

Regulations today target specific aspects of products including batteries, products, and product packaging. However, there is not a single harmonized approach, and it is creating unduly demands and cost demands on all producers – including OPE manufacturers.

EPR legislation must consider the exclusion of industries when there are market driven systems already developed or industries that properly manage end-of-life products such as OPE. When such regulation is considered then OPEI supports the following recommendations.

EPR Positions

In an effort to support ongoing EPR regulatory developments, OPEI respectfully requests legislators to consider the following:

- EPR programs must provide accessible collection of obligated products on a regular, convenient, and a no collection fee basis.
- Education and consumer outreach must be of any program priority.

- The producer should be well defined to clearly indicate the responsible organization (e.g. local manufacturer, distributor, importer, etc.)
- Industry appropriate and consistent approach to determining total EPR contributions based on quality and quantity of materials.
- EPR legislation must provide opportunities for environmental handling fee (EHF) - Fees help eliminate most "free rider" concerns.
- EHF funds should be administered by a third-party to fund collection and recycling.
- Collection targets should not be dictated by certain dates but set economically and technically feasible performance goals.
- Minimize any product carve outs.
- Cover products that are sold or offered for sale that include retail, wholesale, business-to-business, and online sales.
- Responsible reporting incentives for producers in either price cuts or rebates.
- Empower regulators with the ability to adapt with market changes through the amendments of deadlines, protection against bad actors, and products regulated. Ability to use graduated actions for bad actors.
- Open public communication and dialogue where PROs and obligated producers have the ability to discuss market issues or evolvement with regulators.
- Clearly define any product and material qualifications, size of the market, and the location of where PROs can collect obligated products.
- Clearly defined monitoring system to ensure PROs and producers are reporting accurately without the use of audits.
- Recognition that products can easily flow across state/province boarders to allow ease of recycling.
- Easily accessible conflict resolution mechanisms that are clearly communicated.
- Include emergency response exceptions to adapt to external conditions that may impact normal recycling operations.
- Any PROs shall adhere to plain language classification standards including and not limited to product pricing.
- In the event that a PRO fails to meet their obligations, the producer shall have protective rights until their PRO issues are resolved or a contract with another PRO is established.

- Packaging that is kept for storing or to protect the product should not qualify as an obligated material (e.g. carrying case or storage box).
- Reusable transport packaging should not qualify as an obligated material.
- Packaging that is used toward transporting, for example to the dealer or seller, should not get passed on to the consumer for recycling and there should be exempted.
- Materials that are readily recyclable should be exempted.

In Closing

Thank you for your time and the opportunity to submit our industry feedback to the MPCA open comment period concerning possible new rules governing the Packaging Waste and Cost Reduction Act. We collectively welcome the ability to discuss these matters in more detail should you request.

Respectfully submitted,

Brandon Martin

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Vice President, Battery Electric Products and Industry Affairs
Outdoor Power Equipment Institute
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Court of Administrative Hearings

July 21, 2026

Via CAH eComments Website (https://minnesotaoah.granicusideas.com)
CAH, Attn: William Moore
600 North Robert Street
P.O. Box 64620
St. Paul, MN 55164-0620

Re: Possible New Rules Relating to the Packaging Waste and Cost Reduction Act, Minnesota Rules, Chapter 7035, Revisor ID Number R-04992

To Whom it May Concern:

Imperial Bag and Paper Co. LLC, d/b/a Imperial Dade ("Imperial Dade"), is an intermediary distributor of various foodservice, janitorial and sanitation, office supplies, packaging, and personal protection & safety products across the United States, including in Minnesota. Imperial Dade is providing comments on the Minnesota Pollution Control Agency's ("MPCA") request for comments on possible new rules relating to the Packaging Waste and Cost Reduction Act ("PWCRA"), published in the State Register on May 26, 2026 (the "RFC").

Please note, language in *italics* throughout are from Minnesota's Request for Comments to guide the discussion.

1. **Definitions**

Definitions for terms used that are not defined in statute.

Imperial Dade recommends providing regulatory definitions for the following terms not defined in the statute:

- **Contamination** (term used at Minn. Stat. §§ 115A.1450, subd. 4(13), 115A.1453, subd. 4(6), § 115A.1455, subd. 4)
- Optimal level of convenience and service (§ 115A.1451 ,subd. 3, cl. 2; subd. 9, cl. iv)
- **Reuse system** (term used at *id.* §§ 115A.1444, subd. 2(a)(9), 115A.1448, subd. 1(c)(1), 115A.1451, subds. 3(2)(iii), 6(c)(1)-(2), 115A.1454, subds. 1(3)(iii), 1(5), and 115A.1458)
- **Refill system** (term used at *id.* §§ 115A.1444, subd. 2(a)(9), 115A.1448, subd. 1(c)(2), 115A.1449(1), 115A.1451, subd. 3(2)(iv), and 115A.1455, subd. 4(b)(5))
- **Marketplace** (term used at *id.* §§ 115A.1441, subd. 34, and 115A.1454, subd. 1(5))

2. **Exemptions**

There are two exemption pathways within the existing statutory language and one criterion to be further defined. The commissioner has the authority to determine if a material or any portion of material is exempt if it meets Minnesota Statutes, section 115.1441, subdivision 16 (11), "are packaging used to contain hazardous or flammable products regulated by the 2012 federal Occupational Safety and Health Administration Hazard Communication Standard, Code of Federal Regulations, title 29, section 1910.1200, that prevent the packaging from being waste reduced or made reusable, recyclable, or compostable, as determined by the commissioner." The MPCA would appreciate comments on the following question, as well as any other comments relating to a process for establishing exemptions:

2(a): Under Minnesota Statutes, section 115A.1441, subdivision 16 (11), what criteria should be used to determine that a specific hazardous or flammable products regulated by the 2012 federal OSHA CFR, title 29, section 1910.1200 that prevents a material, any proportion of material, or packaging cannot be waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?

For the sake of consistency with other states, MPCA should broadly construe this exemption given the lack of agency determination necessary for this exemption to apply in other states. For example, California exempts "[p]ackaging used to contain hazardous or flammable products classified by the 2012 federal Occupational Safety and Health Administration Hazard Communication Standard (29 C.F.R. § 1910.1200)" without any need for submission of materials by the producer or determination by the agency. California Public Resources Code § 42041(e)(2)(D).

MPCA's criteria for this exemption should recognize situations in which a packaging format is functionally unavailable for waste reduction, reuse, recycling, or composting; or whether compliance would significantly reduce the packaging's ability to safely contain, transport, store, or communicate hazards associated with the product, rather than requiring an absolute impossibility standard.

MPCA should take both a categorical and individual approach to this exemption to promote flexibility for producers. Specifically, MPCA should promulgate categories that, if any are met, means that the material is exempt and producers do not have to submit any information to secure the exemption; and MPCA should also allow for an individual producer to submit materials to MPCA for an exemption in unique circumstances in which the promulgated categories do not squarely apply.

Accordingly, MPCA should consider promulgating categories under which materials are exempt without any need to submit materials to the agency, such as situations in which:

- The packaging is necessary to prevent leakage, fire, exposure, contamination, product instability, or mislabeling;
- Federal or state law prescribes specific packaging, transportation, storage, labeling, or hazard-communication requirements; or
- The packaging is already managed through another stewardship, take-back, or specialized collection program.

For packaging that does not readily fit into a promulgated category, MPCA should consider the product's applicable OSHA hazard classification and broad criteria such as the following, and grant the exemption if any one of the criteria are met:

- whether alternative packaging formats have been evaluated and found technically infeasible, commercially unavailable, or unable to satisfy applicable safety and hazard-control requirements;
- whether waste reduction would compromise product integrity, required labeling, safe handling, shelf life, or regulatory compliance; or
- whether a reusable, recyclable, or compostable alternative would increase risks to workers, consumers, transporters, recyclers, composters, or disposal facility operators.

A producer seeking to demonstrate that the criteria are satisfied should submit materials to support the criteria it is seeking to apply, such as:

- safety data sheet(s) for the product;
- the product's applicable OSHA hazard classification and supporting hazard-communication documentation;
- a technical explanation of the packaging functions necessary to safely contain, transport, store, or communicate hazards associated with the product;
- an alternatives analysis describing the reusable, recyclable, compostable, or source-reduced packaging formats considered and why those alternatives are infeasible or would create unacceptable safety, compliance, or product-integrity risks;
- documentation from packaging suppliers, engineers, transporters, recyclers, composters, or other qualified third parties, where relevant, regarding the feasibility or risks of alternative packaging formats; and/or
- documentation demonstrating increased risks to others by use of a reusable, recyclable, or compostable alternative.

Further, MPCA should clarify that the exemptions identified in Section 115A.1441, subdivision 16 are not subject to the procedure set forth in Section 115A.1453, subdivision 6. MPCA should also establish a defined process for reconsideration, resubmission, or administrative appeal if a producer's individual exemption request is denied. Moreover, MPCA should establish a defined process for protection of proprietary, trade secret, or confidential business information that may have to be submitted to support the application.

2(b): Under Minnesota Statutes, section 115A.1453, subdivision 6., what criteria should be used to determine that a specific federal or state health and safety requirement prevents a material, any proportion of material, or packaging cannot be waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?

MPCA should broadly construe this exemption to include any federal or state health and safety requirement that interferes with or makes waste reduction, reusability, recyclability, or compostability impracticable for the packaging, material, or material component for which an exemption is sought. The criteria should recognize that the statutory standard is satisfied where compliance with the health and safety requirement would be materially impaired by waste reduction, reuse, recycling, or composting—not only where compliance is impossible—and should incorporate significant flexibility for producers to make this demonstration given the wide variety of industries that may be applying for this exemption. MPCA should also promulgate a form that producers can use to apply for this exemption for administrative efficiency.

Accordingly, MPCA could consider promulgating a list of criteria it is willing to consider with respect to this exemption, such as:

- whether a specific federal or state safety health and statute, regulation, permit condition, approval, license, waiver, modification, guidance document, or recognized standard (collectively, "Health and Safety Law") applies to the product, packaging, material, or material component;
- the specific packaging function required by that authority, such as containment, sterility, sanitation, tamper evidence, child resistance, barrier protection, shelf-life preservation, structural integrity, labeling, hazard communication, transport safety, or prevention of contamination;
- whether waste reduction would compromise, interfere with, or make impracticable the packaging's ability to satisfy that required health-and-safety function;
- whether reuse would create unacceptable risks related to cleaning, sanitation, product contamination, degradation, cross-contact, traceability, or regulatory compliance;
- whether recycling or composting is functionally unavailable because the packaging must contain materials, coatings, barriers, additives, closures, labels, or residual product characteristics that are necessary for health and safety compliance; and
- whether a source-reduced, reusable, recyclable, or compostable alternative has been evaluated and found unable to satisfy the applicable health and safety requirement.

These criteria should be treated as exemplary only, not to be construed as a prescriptive list of required criteria. A producer seeking to demonstrate that criteria are satisfied should be permitted to submit an application form accompanied by documentation to support the application, such as:

- citations to the specific Health and Safety Law on which the exemption request is based;
- a description of the product, packaging format, material composition, and specific component, layer, coating, additive, closure, label, or proportion of material for which the exemption is sought;
- an explanation of why waste reduction, recycling, reuse, or composting would compromise, interfere with, or make impracticable compliance with the identified Health and Safety Law, including any specification sheets, testing, engineering analysis, supplier documentation, regulatory approvals, or third-party assessments; and
- any alternatives analysis identifying any source-reduced, reusable, recyclable, or compostable formats considered and explaining why those alternatives would not satisfy the applicable health and safety requirement.

Any promulgated list of documentation should not be prescriptive, but rather exemplary of what *could* be submitted to support the exemption. MPCA should also establish a defined process for reconsideration, resubmission, or administrative appeal if a producer's exemption request is denied. Moreover, MPCA should establish a defined process for protection of proprietary, trade secret, or confidential business information that may have to be submitted to support the application.

2(c): Should criteria be defined for "unsafe and unsanitary" in relation to Minnesota Statutes, section 115.1441, subdivision 24? If so, what should those criteria be? Should this be tied to what is accepted on the covered material lists?

We suggest adding a definition for "unsafe and unsanitary" in relation to subdivision 24 that provides a non-exhaustive list of examples scenarios in which a paper product may be considered "unsafe" or "unsanitary," such as:

> A paper product is "unsafe or unsanitary" if, through its intended or foreseeable use, it is likely to:
>
> - Come into contact with, or become contaminated by, human bodily fluids, blood, or pathogenic materials;
> - Cause disease, bodily harm, or otherwise endanger the health of persons handling the material in the recycling or composting process;
> - Come into contact with, or become contaminated by, hazardous substances, toxic substances as defined in subdivision 39, or infectious waste;
> - Present a material risk of disease transmission, bodily harm, or health endangerment under conditions reasonably expected to be encountered at recycling or composting facilities.

Furthermore, it should be noted that "unsafe and unsanitary" paper products are excluded from the definition of "paper products" and therefore cannot be a covered material. In turn, "unsafe and unsanitary" paper products should not be included in the covered materials list nor should "unsafe and unsanitary" be factors considered when evaluating material inclusion on the covered materials list.

3. Collection Lists

The MPCA must determine what covered materials should be placed on the lists established in Minnesota Statutes, section 115A.1453. The creation of these lists will establish when a covered material is recyclable or compostable. The MPCA must also establish a process to allow the agency to identify when a covered material can be incorporated or must be removed from the collection lists. The MPCA would appreciate comments on the following questions, as well as any other comments relating to a process for determining whether a covered material should be included on a collection list or requirements for alternative collection programs:

3(a): What should the threshold for "current availability of collection" services be for recycling? For organics recycling? Should they be different or the same?

Inclusion on the recyclable or compostable covered materials list established in section 115A.1453 is a critical determination because under section 115A.1448, subd. 1(c)(3)–(4), (d)), after January 1, 2032, packaging and paper products must either be reusable/refillable or included on the recyclable or compostable covered materials list or exempt list. For that reason, related thresholds (including "current availability of collection") should be realistic, attainable, and strongly based upon the most recent Needs Assessment.

Section 115A.1453 subd. 3 currently provides that the Commissioner must consult with interested parties to develop or amend the recyclable or compostable covered materials list and "must review the requests by interested parties for addition or removal," but does not set forth the formal process for doing so. We recommend that in promulgating these rules, MPCA proscribe a formal amendment request process.

Based on the preliminary Needs Assessment, the threshold for organics recycling should be significantly lower because Minnesota's organics collection system is at a fundamentally earlier stage of development than its recycling system. MPCA should consider a phased or tiered approach for organics that recognizes where the system is today while setting a trajectory for growth. The criteria should also account for drop-off access in addition to curbside, since that is how most Minnesotans currently access organics recycling.

3(b): What is the threshold for access to recycling and composting processing infrastructure? Should it be determined by distance to a percent of the population, total coverage of a percent of the total population, or something else? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?

"Accessible" should be based on whether a covered entity's collected material can reach a facility capable of sorting or processing that material through existing collection routes and transfer logistics and not by measuring straight-line distance from the covered entity to the nearest processing facility. This approach avoids the need for separate thresholds. A distance-only measure would disadvantage rural producers and communities and could exclude materials that are otherwise viable for recycling simply because no materials recovery facility ("MRF") is located nearby, even though transfer infrastructure already moves those materials to processing.

3(c): In evaluating the capacity and technology for sorting covered materials, how much processing capacity should be set as the threshold for a covered material to be included on a collection list? Should it be set as a percentage or another measure?

Processing capacity should be evaluated based on MRF capacity and efficiency as identified in the most recent Needs Assessment. Materials that sort below the threshold should be placed on a watch list or alternative collection list pending infrastructure investment, rather than excluded entirely, taking into consideration that the goal of EPR is to drive investment in processing upgrades.

3(d): What is the minimum availability of responsible markets for a covered material to be included on a collection list? Is there a threshold relating to capacity, number, distance, or some combination of thresholds?

The minimum threshold for responsible market availability should focus on whether at least one verified responsible end market exists with sufficient capacity to absorb the anticipated volume of that material from Minnesota at an economically viable price point. Distance should not be used as a standalone disqualifier. Many recyclable commodities move through regional and national markets and restricting the analysis to in-state markets would exclude materials that are routinely and successfully recycled today.

3(e): What are the recommended thresholds for the presence and amount of a residual, contaminant, and/or toxic substance for a covered material to be excluded from the collection list?

MPCA should establish material-specific thresholds rather than a single universal contamination threshold because contamination impacts vary by material, collection method, processor, and end market. We recommend that the criteria evaluate three factors:

- **Health and safety:** Does the collection or processing of the material in a commingled stream create health or safety hazards for workers?
- **Commodity contamination:** Does the material, even when empty, contaminate end-market commodity streams and reduce their value or marketability below acceptable specifications?
- **Prohibitive content:** Is the material considered a prohibited contaminant in the commodity outputs it predominantly ends up in?

If a material scores poorly on all three factors, it should be excluded. If it scores poorly on one but not others, it should be evaluated for alternative collection methods (e.g., separate collection or drop-off) rather than outright exclusion.

MPCA should also build in a pathway for materials to move from exclusion to inclusion over time. If contamination-control measures, improved labeling, consumer education, advances in sorting technology, or changes in market requirements reduce the impact of a material's residuals to acceptable levels, there should be a clear mechanism to revisit and revise the exclusion.

3(f): What is the quantity of a covered material estimated to be available and recoverable that should cause a covered material to be included on a collection list?

The quantity threshold should not be a single absolute tonnage figure applied uniformly across all materials. Instead, it should reflect whether a material is generated in sufficient volume to justify the cost of collection and sorting. Even low-volume materials may warrant inclusion if they are easily sortable, have strong end markets, and do not create contamination issues for other streams. The threshold should be informed by the Needs Assessment and should be revisited as the program matures.

3(g): What are some examples of future conditions of these criteria to be considered?

Future conditions should include planned infrastructure investments, new or expanded processing capacity, changes in responsible markets, technology improvements, regional service expansions, and future Needs Assessment findings.

3(h): Are there any other criteria recommended to be considered? Are there criteria mentioned above or in statute that are not recommended to be considered?

MPCA should consider administrative feasibility, consumer confusion, consistency with neighboring or peer EPR states, and whether list decisions will require duplicative or inconsistent reporting categories.

3(i): Relating to alternative collection systems, what are the considerations for what meets "convenience" and what would the minimums be? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?

We recommend that convenience be defined by a combination of geographic access, hours of operation, frequency of pickup (if applicable), and general awareness of the alternative collection system.

3(j): Are there any considerations to how covered materials collected through alternative collection must be accurately measured?

The measurement should reflect net recovered material, accounting for contamination removed during processing.

4. Statewide Requirements and Measurement

Statewide requirements are to be set by the commissioner as established in Minnesota Statutes, section 115A.1451, subdivision 7. The commissioner must establish the units by which certain rates are set and may modify how a recycling performance target is met and measured as established in Minnesota Statutes, section 115A.1451, subdivision 6. A service provider is required to meet performance standards, ensure that covered materials are sent to responsible markets, and provide transparency on cost relating to what is reimbursed by a producer responsibility organization by this law as established in Minnesota Statutes, section 115A.1449. The commissioner must also approve when a reusable covered material meets the criteria set in Minnesota Statutes, section 115A.1451, subdivision 6. Return rate is also defined in Minnesota Statutes, section 115A.1441, subdivision 32. The MPCA would appreciate comments on the following questions related to requirements for recycling, systems of reuse, and statewide requirements and criteria:

4(a): What criteria should be considered to set a return rate?

Initial return rates should be modest and escalate over time as systems mature. Return rates should be set based on:

- the type of reusable material covered;
- the existing availability of reuse systems;
- the number of use cycles reasonably expected;
- collection access;
- consumer participation;
- loss and breakage rates;
- sanitation and safety requirements; and
- whether the material can be tracked and audited.

4(b): How might a producer or producer responsibility organization demonstrate a return rate?

A producer or PRO should be able to demonstrate a return rate through one or more of the following methods, depending on the reuse system:

- **Direct tracking**: For closed-loop systems (e.g., deposit-return, branded refill programs), item-level or batch-level tracking through unique identifiers, barcodes, RFID, or deposit redemption records.
- **System-level measurement:** For programs where items are returned through a service provider or retail location, measurement at the point of return (e.g., units returned to a collection point divided by units distributed over the same period).
- **Representative sampling or statistical estimation:** Where item-level tracking is impracticable MPCA should allow statistically valid sampling methodologies, provided the method is transparent, auditable, and disclosed.

MPCA should specify what documentation is sufficient and provide safe harbors for methodologies that meet defined statistical confidence levels, so producers have certainty about compliance.

4(c): Are there any considerations the agency should evaluate when determining statewide requirements?

When determining statewide requirements, MPCA should consider baseline data availability and whether requirements can be implemented without creating conflicting reporting systems, duplicative data submissions, or most importantly, requirements that exceed available infrastructure and are therefore overburdensome or even impracticable for producers to meet.

5. Stewardship Plan and Annual Reports

A producer responsibility organization must submit a stewardship plan by October 1, 2028, and every five years thereafter, to the commissioner that describes the proposed operation by the organization of programs to fulfill the requirements of Minnesota Statutes, sections 115A.144 to 115A.1463 and that incorporates the findings and results of needs assessments. The stewardship plan is required to meet the criteria established in Minnesota Statute, section 115A.1451, subdivision 3. The commissioner must review and approve, deny, or request additional information for a draft stewardship plan. 3 The annual reports of registered producer responsibility organizations in Minnesota Statutes, section 115A.1456, subdivision 1 contain information used to administer the program and keep the public informed.

5(a): Are there any items within the stewardship plan requirements that may need to be further clarified?

Generally, MPCA should clarify several stewardship-plan requirements, including those related to producer reporting expectations, fee-setting methodologies, reimbursement processes, compliance timelines, and documentation standards, to ensure that the stewardship plan provides producers and stakeholders with clear, transparent, and practical guidance for understanding how the program will operate and how compliance obligations will be implemented.

One specific item that MPCA should clarify is what constitutes a prohibited "consumer-facing fee" versus a permissible service charge by a service provider, and how this interacts with existing hauler rate structures.

5(b): Are there any items within the annual reports from registered producer responsibility organizations that may need to be further clarified?

MPCA should clarify how data gaps should be disclosed and treated.

5(c): What information should the MPCA request to verify producer responsibility organization costs and reimbursement rates in a stewardship plan and/or annual report as part of a budget and any financial and programmatic auditing?

We urge MPCA to require PROs to provide enough information in stewardship plans and annual reports to allow MPCA, producers, service providers, and the public to understand where producer funds are going, how those funds are being used, and how the PRO is making cost-allocation and reimbursement-rate decisions. Producers need greater certainty and transparency regarding producer responsibility dues so they can budget, plan, and allocate resources responsibly, and that transparency in fee-setting is undermined if a PRO discloses only a general methodology without enough supporting information to show how rates were actually derived.

At minimum, MPCA should require each stewardship plan and annual report to identify and separately itemize major cost categories, including service provider reimbursements, infrastructure investments, education and outreach, PRO operating and administrative costs, required payments to MPCA, costs associated with needs assessments and audits, and the amount and basis for any financial reserve. Minnesota law requires producer fees to generate revenue sufficient to pay MPCA fees, obligations under an approved stewardship plan, service provider reimbursements, PRO operating costs, and establishment and maintenance of a financially prudent reserve, and section provides that overcollections must be used to improve or enhance program outcomes or reduce producer fees. Minn. Stat. § 115A.1454.

MPCA should also require the PRO to provide the data, assumptions, and calculations used to establish producer fees and reimbursement rates, not merely a high-level description of the methodology. Requiring disclosure of the inputs and assumptions behind these categories would allow producers to anticipate and budget for their obligations.

5(d): Does any part of the stewardship plan and plan amendment approval process need to be further clarified?

MPCA should clarify how plan amendments proposed in annual reports (§ 115A.1456, subd. 1, cl. 10) interact with the formal amendment process under § 115A.1451, subd. 4.

6. Other Topics

Additionally, the MPCA would appreciate any comments related to the PWCRA and areas where there could be clarification provided through the rulemaking. The Agency also requests any information pertaining to the cumulative effect of the possible new rule with other federal and state *regulations related to the specific purpose of the rule. Cumulative effect means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules.*

Imperial Dade encourages MPCA to use this rulemaking to prioritize consistency with other state EPR programs, clear and early communication of compliance expectations, and practical implementation timelines that account for the cumulative burden of overlapping state and federal requirements. Producers need clear guidance on what they must report, when they must report it, and how the PRO will use that information, because producers need time to build internal data systems, allocate staff, and budget for compliance. To reduce cumulative compliance burdens, MPCA should require the PRO to provide sufficient advance notice of reporting requirements, producer-fee methodologies, reimbursement-rate methodologies, and any material changes to compliance expectations, along with illustrative examples, FAQs, and accessible support channels for producers of varying sizes and operational models. Where possible, MPCA should also harmonize data requests, terminology, and reporting processes with other EPR jurisdictions so producers are not required to generate duplicative or inconsistent data sets for substantively similar obligations.

Thank you for considering our comments on the RFC. Imperial Dade looks forward to working collaboratively with the MPCA and the Circular Action Alliance ("CAA") to implement an effective packaging stewardship program in Minnesota. We welcome opportunities to discuss these matters further.

Sincerely yours,

Kevin McGrath
Kevin McGrath (Jul 21, 2026 16:26:57 EDT)

Kevin McGrath
Senior Vice President, Supply Chain & Replenishment
Imperial Dade

#540084920_v2

MAVERIK

Court of Administrative Hearings

July 23, 2025

Via Electronic Submission
CAH, Attn: William Moore
600 North Robert Street
P.O. Box 64620
St. Paul, MN 55164-0620

Re: Possible New Rules Relating to the Packaging Waste and Cost Reduction Act, Minnesota Rules, 7035 Revisor's ID Number R-04992

To Whom It May Concern:

Maverik, Inc. ("Maverik") is a convenience retail company headquartered in Salt Lake City, Utah, operating retail locations across multiple states, including Minnesota. As part of its commitment to environmental stewardship and waste reduction, Maverik offers durable, reusable beverage cups that are designed and marketed for repeated consumer use. These cups are consumer products intended for long-term personal use, not single-use packaging destined for immediate disposal.

Maverik submits these comments in response to the Minnesota Pollution Control Agency's ("MPCA") request for comments on possible new rules relating to the Packaging Waste and Cost Reduction Act ("PWCRA" or "the Act"), published in the State Register on May 26, 2026 (the "RFC").[1] Maverik's comments address the appropriate treatment of reusable beverage cups under the Act.

I. Reusable Beverage Cups Are Categorically Distinct from Single-Use Packaging and Advance Waste Reduction

Durable, reusable beverage cups are fundamentally different from single-use packaging in purpose, design, and disposition. Treating them as equivalent under the PWCRA is both conceptually unsound and contrary to the Act's objectives. Unlike single-use packaging, which is designed for immediate discard after use, reusable beverage cups are engineered for durability, marketed for repeated use over months or years, and retained by consumers as personal items. As a result, they enter curbside recycling streams less frequently and do not impose the systemic collection, sorting, and processing costs on residential recycling infrastructure that extended

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[1] 50 MN 50 SR 1360–64 (May 26, 2026).

producer responsibility ("EPR") programs are designed to reform. Their end-of-life profile is more akin to that of durable goods than to packaging waste.

II. Policy Implications and Unintended Consequences of Treating Reusable Beverage Cups as Covered Materials

Including durable, reusable beverage cups within the definition of "covered materials" under the PWCRA would produce unintended consequences that undermine the Act's stated purpose of encouraging redesign that reduces environmental and health impacts and the generation of waste covered by the Act.

First, treating reusable cups as covered materials would penalize waste reduction. Imposing producer responsibility fees on products that already reduce waste generation sends a perverse economic signal, taxing the solution alongside the problem.

Second, it would disincentivize retailer-led reuse. Retailers that invest in reusable cup programs would face fee obligations identical to those imposed on single-use packaging, eliminating the economic distinction between waste-generating and waste-reducing products.

Third, such treatment would conflate reuse with disposal. Treating reusable cups as "packaging" subject to EPR signals to consumers, producers, and the market that these products are functionally equivalent to disposable items, directly contradicting the waste hierarchy and the Act's goal of encouraging redesign.

These concerns are reinforced by Minnesota's solid waste management laws and policy. Minn. Stat. § 115A.02 prioritizes waste reduction and reuse above recycling and disposal. Reusable cups advance source reduction by displacing single-use cups. Subjecting such products to EPR obligations designed for disposable packaging would conflict with this statutory priority. Therefore, durable, reusable beverage cups should not be treated as equivalent to single-use packaging under the PWCRA.

Other states recognize this distinction. For example, Colorado exempts packaging materials "designed for reuse or refill" that are intended to be used at least five times for their original purpose,[2] providing useful precedent for treating reusable cups differently from single-use packaging. Reusable beverage cups likewise warrant an exemption in Minnesota. Maverik recognizes, however, that carving out reusable or refillable materials from coverage under the PWCRA may be more appropriately achieved through amendment of the Act rather than through this rulemaking, and it raises the point here so that the MPCA can account for the distinct character of reusable or refillable products as it develops the rules.

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[2] *See* 6 CCR 1007-2:1-18.1.6 (Definitions of Terms Used in this Section) (definition of "Reuse" or "Refill").

III. A “Return Rate” is Inapplicable to Reusable Beverage Containers

The PWCRA expressly contemplates reuse as a pathway. Minn. Stat. § 115A.1451, subd. 6 provides that the commissioner must approve a reusable covered material when it meets established criteria.

The RFC contains targeted questions relating to setting and demonstrating “return rates.” Maverik would like to emphasize that a traditional “return rate” is not useful for the purposes of evaluating the efficacy of reusable beverage containers in achieving the state’s sustainability goals.

For durable, consumer-owned beverage cups like Maverik’s, “return” to a collection point is not a relevant metric. Instead, MPCA could consider criteria such as verified refill transaction frequency, product durability certification, or consumer retention surveys. The MPCA should ensure that any return-rate criteria do not inadvertently penalize open-loop consumer reuse models, in which the consumer retains the cup, relative to closed-loop deposit-return systems.

If durable, reusable beverage cups remain within the program scope, which Maverik urges against, any reuse metrics should not be limited solely to “return rates.” The rules should incentivize, not burden, producer-led reuse initiatives.

IV. Conclusion

Maverik appreciates the opportunity to comment at this early stage of the rulemaking process and welcomes further dialogue with the MPCA and stakeholders regarding the appropriate treatment of durable, reusable goods under the PWCRA. We are available to provide additional information as the rulemaking proceeds.

Respectfully submitted,

M. Thomas Schofield

Maverik Group, LLC

M. Thomas Schofield

Chief Legal Officer and Secretary

Comments to the Minnesota Pollution Control Agency

Packaging Waste and Cost Reduction Act — Request for Comments on Rule Concepts

July 20, 2026

The Carton Council appreciates the opportunity to comment on MPCA's rule concepts through the Request for Comments process. We submit the following for your consideration:

Question 3: Collection Lists

Minnesota Statutes, section 115A.1453 stipulates the creation of collection lists that will establish when a covered material is recyclable or compostable. The Carton Council suggests that gable-top and aseptic cartons be a single material category, as they are currently classified in the Preliminary Needs Assessment. Gable-top and aseptic food and beverage containers are collected, processed, and recycled together and many consumers cannot easily discern the two carton types from each other nor does the recycling system differentiate between them. Further, having to distinguish between these two types of cartons during audits can be challenging and adds unnecessary costs.

Additionally, Carton Council suggests that cartons be considered a recyclable material type to be included on the state's collection lists, as cartons are a highly recyclable material with multiple markets, whether recovered in mixed paper bales (PSI-54) or as cartons-only bales (PSI-52). Cartons are considered recyclable in Oregon, Colorado and Maine. We anticipate that cartons will be considered recyclable in California when the SB 54 CMC list is next updated (by January 1, 2027) based on updated information.

The MPCA must also establish a process to allow the agency to identify when a covered material can be incorporated or must be removed from the collection lists. The Carton Council suggests that the PRO should be able to submit an on-ramp strategy to add a material to the recyclable list via a program plan, annual report, or an amendment to the annual report. The ability to add a material should not be slowed by process.

Question 3(b) asks about the threshold for access to recycling and composting processing infrastructure. The Carton Council suggests that instead of setting high thresholds that would limit or discourage recycling of a material type where it is already taking place within the state, statewide thresholds should be relatively modest, should be based on population percentage rather than program percentage, and allow the PRO to provide financial assistance to the areas needing investment. This will help Minnesota move forward with recycling, expand collection and recycling rates, rather than letting recycling decline by excluding a material type from the collection list and requiring or inviting communities already recycling the material to stop doing so.

Question 3(d) asks about the minimum availability of responsible markets for a covered material to be included on a collection list. The Carton Council suggests that Minnesota harmonize by adopting Maine's criterion of at least two responsible markets existing in North America. There should be no thresholds for distance or capacity. Instead, the material should simply need to be marketable to responsible markets. Transportation costs are a reimbursable expense for which MRFs will receive payment by the PRO.

Question 3(e) asks about the recommended thresholds for the presence and amount of a residual, contaminant, and/or toxic substance for a covered material to be excluded from the collection list. The Carton Council suggests that instead of addressing residuals or contaminants, rules should indicate that the material type must be comprised of at least 50%, by weight, of a base material being targeted for recycling. This approach is more consistent with that implemented in other states and leads to recycling more material.

Question 4: Statewide Requirements and Measurements

Per Section 115A.1451 subdivision 6, the commissioner must establish the units by which certain rates are set and may modify how a recycling performance target is met and measured.

The Carton Council asserts that both cartons recycled in mixed paper and cartons-only bales be included in recycled tons and recycling rate measurements. This measures the performance of the system in recovering and sorting materials for recycling. Because the

PWCRA includes provisions for service providers to only sell recovered materials to responsible end markets, regulatory enforcement and financial payment provisions by the PRO to service providers can ensure this occurs.

Materials recycled by end markets that are not on a responsible end market list should also be counted as recycled, as end markets may not wish to submit certain data for a variety of reasons, however that does not mean the material was not recycled. Separate statistics can still be maintained on quantities recycled by each type of market.

The Carton Council suggests that waste reduction and recycled content goals be set at the Tier 1 level.

Question 6: Other Topics

The Carton Council suggests that the rules call for transparency and equity in fee setting including in showing how the PRO's administrative/overhead costs are distributed among producers.

Respectfully submitted,

Jordan Fengel

President

Carton Council, Inc.

The Coalition for Protein Packaging (CPP) appreciates the opportunity to comment on MPCA's development of exemption criteria under Sections 2(b) and 2(c) of the Packaging Waste and Cost Reduction Act rulemaking.

CPP respectfully urges MPCA to adopt clear, objective, and workable exemption criteria for packaging that is constrained by federal food safety requirements and for which no practical recycling pathway currently exists.

I. Packaging Used in Direct Contact with Raw Protein Warrants Special Consideration Under the Exemption Framework

As MPCA develops criteria for determining when health and safety requirements prevent packaging from being waste reduced, reusable, recyclable, or compostable, we encourage the agency to recognize the unique characteristics of plastic film packaging used in direct contact with raw meat, poultry, fish, and seafood.

This packaging presents challenges that differ substantially from many other covered materials.

- Food safety contamination. USDA and FDA regulations require strict separation of raw protein residues. Commingled recycling systems cannot safely or practically accept many food-contact film materials. Blood, fat, and protein residues create contamination concerns for collection systems, recycling facilities, workers, equipment, and downstream material quality.
- Recyclability gap. Infrastructure capable of collecting, sorting, and processing food-contact plastic film at scale does not currently exist across Minnesota or most U.S. markets. Subjecting these materials to EPR obligations without a functioning recovery pathway creates compliance obligations without corresponding environmental benefits.
- Regulatory constraints. Packaging used for raw protein products is subject to extensive federal food safety oversight, including requirements administered by USDA, FSIS, and FDA. These requirements significantly constrain available packaging options and limit redesign opportunities.

II. MPCA Should Recognize Both Regulatory Requirements and Functional Food Safety Requirements

CPP encourages MPCA to recognize that health and safety requirements extend beyond explicit statutory or regulatory mandates.

Many packaging formats used for raw protein products are designed to satisfy food safety objectives that are directly tied to federal requirements, including:

- contamination prevention
- pathogen reduction
- oxygen barrier performance
- moisture management

- shelf-life preservation
- product integrity

These performance characteristics are often necessary to comply with federal food safety requirements and should therefore be considered when evaluating whether health and safety requirements prevent packaging from being waste reduced, reusable, recyclable, or compostable.

III. Exemption Criteria Should Consider the Availability of Practical Recycling Pathways

CPP encourages MPCA to consider whether practical collection, sorting, and end-market infrastructure exists when evaluating packaging subject to health and safety constraints.

Packaging should not be deemed recyclable solely because a theoretical recycling process exists somewhere in the marketplace.

Rather, the agency should evaluate whether realistic collection, processing, and end-market pathways are available to manage the material in practice.

For food-contact plastic film packaging, those pathways remain extremely limited today.

IV. Harmonization Among States Should Be a Consideration

Producers increasingly operate under packaging EPR programs in multiple states, including California, Colorado, Maryland, Minnesota, Oregon, and Washington.

As MPCA develops exemption criteria, CPP encourages the agency to consider opportunities for regional and national harmonization, particularly for packaging categories subject to significant food safety constraints.

Greater consistency among state programs will reduce administrative complexity, improve compliance, and allow resources to be directed toward environmental improvements rather than navigating conflicting regulatory requirements.

V. MPCA Should Establish a Practical and Predictable Exemption Framework

CPP respectfully encourages MPCA to adopt exemption criteria that:

1. Recognize federal food safety requirements administered by USDA, FSIS, and FDA.
2. Recognize contamination prevention, pathogen control, shelf-life preservation, and product integrity as legitimate health and safety considerations.
3. Consider whether practical collection, sorting, and end-market infrastructure exists for the material in question.
4. Allow similarly situated packaging formats to be evaluated consistently under common exemption criteria.

Conclusion

CPP supports Minnesota's efforts to improve recycling outcomes and reduce packaging waste. At the same time, packaging used in direct contact with raw meat, poultry, fish, and seafood presents unique food safety, contamination, and infrastructure challenges that warrant careful consideration.

We respectfully request that MPCA adopt exemption criteria that recognize these realities and provide a practical pathway for evaluating packaging that is constrained by federal food safety requirements and the absence of viable recycling infrastructure.

Please use our organization, it's members and packaging experts as a resource throughout the rule making process. CPP is in the middle of a massive research project that could provide extensive value for MPCA as it decides on exemption criteria for packaging. As the research project progresses our staff will provide your staff with updates.

Thank you for your consideration.

Coalition for Protein Packaging

Attn: Mallory Anderson
Packaging EPR Coordinator
Minnesota Pollution Control Agency
and
Kris Coperine
State Program Manager, Minnesota
Circular Action Alliance

Sent via email: mallory.anderson@state.mn.us; kris.coperine@circularaction.org

From: David Keeling, Executive Director, Pressurized Cylinder Industry Association

Date: July 7, 2026

RE: Response to Question 2(a): Criteria for Determining Exemption of Packaging Used to Contain Hazardous or Flammable Products Regulated by OSHA's 2012 Hazard Communication Standard

The Pressurized Cylinder Industry Association (PCIA) is responding to the Minnesota Pollution Control Agency's request for comments regarding possible new rules relating to the Packaging Waste and Cost Reduction Act. The PCIA's response specifically addresses how exemption may be determined for pressurized cylinders regulated by OSHA's 2012 hazard communication standard.

Note that this information was previously submitted to the agency on February 8, 2026. The PCIA looks forward to receiving feedback on Minnesota's exemption determination process so that its members can plan for their future obligations in the state.

The PCIA was incorporated in June 2023 to represent the interests of pressurized cylinder brands and producers in the development of extended producer responsibility legislation. PCIA is made up of leading brands supplying both refillable and non-refillable pressurized cylinders to US consumers, including Cascade Designs, Inc., The Coleman Company Inc., Johnson Outdoors Gear Inc., Manchester Tank, Sterno Group LLC, Worthington Enterprises, and YSN Imports.

Sincerely,

David Keeling, Executive Director
Pressurized Cylinder Industry Association
E: davidkeeling@cylinderindustry.org
T: 414-630-9382

Response to Question 2(a): Criteria for Determining Exemption of Packaging Used to Contain Hazardous or Flammable Products Regulated by OSHA's 2012 Hazard Communication Standard

Minnesota Statutes §115A.1441, subd. 16(11) exempts packaging used to contain hazardous or flammable products regulated by the 2012 OSHA Hazard Communication Standard (29 C.F.R. §1910.1200) when those regulatory requirements prevent the packaging from being waste reduced, reusable, recyclable, or compostable.

The Minnesota Pollution Control Agency should adopt criteria that focus on whether federal health and safety regulations require the packaging to perform specific containment, hazard communication, transportation, or handling functions that materially limit the ability to redesign or manage the packaging through conventional recycling or composting systems.

Recommended Approach for Determination of Exemption

The packaging qualifies for exemption under Minn. Stat. §115A.1441, subd. 16(11) when the following characteristics are demonstrated:

	Criteria for Exemption	**Description**	**Application to Pressurized Cylinders**
1	**The product is regulated under OSHA's 2012 Hazard Communication Standard (29 C.F.R. §1910.1200)**	The product contained in the packaging is classified as a hazardous chemical, hazardous material, flammable gas, compressed gas, or other hazard category requiring OSHA-compliant hazard communication, including Safety Data Sheets (SDSs), hazard statements, signal words, and GHS pictograms.	Pressurized cylinders are classified by the Department of Transportation (DOT) as hazardous materials[1] and may contain flammable materials. As a result, these products require OSHA/GHS hazard classifications, labels, pictograms, and associated hazard communication elements[2].

[1] The hazard class is determined by DOT definition in 49 CFR 173.115-141; most pressurized cylinders are defined as Hazard Class 2.1 flammable or 2.2 non-flammable, depending on the type of gas they contain.
[2] Labeling requirements are outlined in the OSHA standard. Each container must be labeled with the following: product identifier; signal word; hazard statement(s); pictogram(s); precautionary statement(s); name, U.S address, and U.S. telephone number of the responsible party.

2	**Federal health and safety regulations prescribe packaging design, performance, handling, or transportation requirements that are necessary for safe containment of the product**	Federal requirements governing the hazardous product dictate material specifications, structural integrity, wall thickness, pressure ratings, testing requirements, markings, transportation requirements, or other safety-related packaging characteristics. As a result, the packaging serves a safety-critical function beyond that of conventional consumer packaging.	Title 49 of the Code of Federal Regulations[3] defines hazardous materials, outlines transportation requirements by hazardous material type, and dictates the design of the packaging (e.g., pressurized cylinder) containing the hazardous material, including the cylinder material, wall thickness and strength to ensure safe storage and transportation.
3	**Those federal requirements prevent the packaging from being waste reduced, reusable, recyclable, *or* compostable**	Compliance with the applicable federal requirements limits the ability to redesign the packaging, reduce material usage, implement reuse systems, or manage the packaging through conventional recycling or composting infrastructure.	Federal safety requirements for pressurized cylinders make waste reduction, reuse, recycling, or composting impractical or unreasonable because compliance would impose disproportionate engineering changes, specialized infrastructure, substantial additional costs, and increased safety risks. DOT regulations specify the material type and wall thickness for pressurized cylinders[4], directly preventing meaningful waste reduction. Reducing material content would compromise compliance,

[3] See **49 CFR 178.35-178.75 Subpart C Specifications for Cylinders**

[4] For example, 178.65 Specification 39 non-reusable (non-refillable) cylinders specifies materials of construction and minimum wall thickness.

			diminish safety margins, and require additional containers to deliver the same quantity of product. In addition, pressurized cylinders are considered full[5] even when they contain only residual contents. As a result, they are generally not considered recyclable in conventional curbside recycling systems. Instead, specialized handling, segregation, transportation, permitting, or processing is necessary due to residual hazards or pressurization. While some cylinders are refillable, refillability depends on dedicated return logistics and specialized filling infrastructure regulated under federal law. For certain types of cylinders, these systems are uneconomical and undesirable to consumers.

Consistency with Other State Packaging EPR Programs Supports Exempting Pressurized Cylinders

Minnesota's implementation of this exemption should also be informed by the broader regulatory landscape. California's packaging EPR program, established under SB 54, excludes packaging used to contain hazardous or flammable products regulated by OSHA's 2012 Hazard Communication Standard (29 C.F.R. § 1910.1200) from the definition of covered material.

[5] DOT 40 CFR Section 261.7 designates a container holding compressed gases as empty when it approaches atmospheric pressure. This occurs when a cylinder has been punctured or the valve has been removed.

Harmonization across state packaging EPR programs supports the efficient implementation of producer responsibility systems. As additional states adopt packaging EPR legislation, consistent interpretations of common statutory exemptions reduce confusion, facilitate compliance, and improve program administration while preserving the public safety protections established under federal OSHA and DOT regulations.

Conclusion

The exemption in Minnesota's statute allows for consideration of certain federally regulated packaging, such as pressurized cylinders, that serve an essential safety function and consequently limit opportunities for redesign and conventional end-of-life management.

Accordingly, pressurized cylinders qualify for exemption Minn. Stat. §115A.1441, subd. 16(11) because (1) they are regulated under OSHA's 2012 Hazard Communication Standard, (2) federal safety requirements govern their design and (3) the governing DOT specifications prevent practical implementation of material reduction, reuse or recyclability within the packaging EPR management system.

In addition, adopting a similar interpretation of this exemption to California would provide regulatory consistency, administrative efficiency and predictability for consumers for a nationally distributed and regulated product.

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21 July 2026

Minnesota Court of Administrative Hearings
Attn: Honorable Judge Christa L. Moseng
CAH Docket No. 22-9003-41576
Re: **Comments on Possible Rules Implementing Minnesota's Packaging Waste and Cost Reduction Act (Revisor's ID No. R-4992)**

Dear Judge Moseng:

The Auto Care Association appreciates the opportunity to provide comments on potential rules implementing the Minnesota Packaging Waste and Cost Reduction Act.

The Auto Care Association represents the entire spectrum of the motor vehicle aftermarket, including manufacturers, distributors, retailers, and service providers that support the maintenance and repair of vehicles across the United States. Our members produce and distribute a wide array of consumer-facing products, such as motor oil, filters, cleaning chemicals, replacement parts, and accessories, all of which rely on packaging that is subject to emerging extended producer responsibility (EPR) requirements.

In Minnesota, the automotive aftermarket is responsible for 38,540 jobs, 12.5 billion dollars of economic activity, and 2.9 billion dollars of wages. There are over 10,000 facilities in Minnesota connected to the automotive aftermarket.

Our industry shares the agency's commitment to improving environmental outcomes and advancing responsible materials management. At the same time, we are concerned that a complex EPR framework, particularly one that diverges from other state programs, would create substantial compliance burdens, increase costs for consumers, and disrupt national supply chains that deliver essential products.

The Automotive Aftermarket is an Environmental Leader

The automotive aftermarket has long been engaged in responsible product lifecycle management. The sector has invested heavily in recycling and closed-loop systems (e.g., used oil collection programs, battery collection programs), packaging innovation, and supply chain efficiency.

We support pragmatic, results-oriented approaches that acknowledge these efforts and deliver measurable improvements in recycling and waste reduction. However, implementation must reflect operational realities of the auto care sector, particularly the complexity of packaging supply chains and the interstate nature of product distribution.

Key Concerns with EPR Programs

1. Increased Costs to Consumers

Auto care products are essential goods. Consumers rely on them to maintain vehicle safety, efficiency, and compliance with environmental standards. The imposition of broad EPR obligations where producers must fund a large share of system costs will directly increase the cost of bringing products to market. These costs will necessarily be reflected in product pricing, as companies must recover compliance expenses across high-volume product lines.

In the auto care sector, even incremental per-unit cost increases can have significant cumulative effects due to:

- Large SKU counts across product portfolios
- Low margins on commodity maintenance products
- High distribution volumes serving both retail and professional markets

The result is a direct and unavoidable impact on consumers, particularly for everyday maintenance items such as motor oil, filters, and cleaning products. A highly robust EPR system will increase costs for essential goods without ensuring proportional environmental benefit.

2. Administrative and Compliance Complexity in a Multi-State Framework

Auto care companies operate nationally and must comply with multiple state-level EPR programs simultaneously. While core program elements, such as participation in a Producer Responsibility Organization (PRO), data reporting, and fee payments, are broadly consistent, the details vary significantly across states.

For example:

- Oregon has active fee enforcement and ongoing reporting requirements
- Colorado implemented fees beginning in 2026 with detailed supply reporting obligations and a separate entity for automotive lubricant packaging, resulting in two different reporting and fee structures for brand owners
- California requires extensive and unrealistic source reduction planning, reporting, and packaging modification

These differences create a fragmented compliance environment that requires companies to maintain multiple parallel systems for data collection, reporting, and fee management. For auto care products, this challenge is compounded by:

- Complex supply chains, often involving global manufacturers and upstream suppliers
- Private-label and distributor-branded products, which complicate “producer” determinations — the same product on a retail shelf could be subject to two separate requirements
- Packaging data that may not be centralized or readily available

Even small definitional differences across states can force companies to duplicate effort, maintain parallel datasets, and absorb compounding compliance risk. The administrative burden is particularly acute for small and mid-sized businesses.

Any deviation from existing structures would augment this fragmentation and increase compliance costs without improving outcomes.

3. Inefficiencies and Duplication with Existing Systems

The auto care sector already participates in established stewardship and recovery systems, particularly for products like used motor oil, batteries, and related packaging streams. These systems reflect decades of coordination between manufacturers, retailers, and recyclers.

A highly prescriptive EPR framework risks duplicating or conflicting with these existing systems, particularly if:

- New administrative structures are layered on top of functioning collection programs

- Reporting requirements duplicate information already collected through other regulatory programs
- Resources are diverted from operational improvements to administrative overhead

We encourage MPCA to design rules that leverage and integrate with existing systems rather than replacing them. Preserving these systems will reduce costs, maintain continuity of service, and support more efficient implementation.

4. Impacts on Interstate Commerce and Supply Chains

Auto care products are produced, packaged, and distributed through highly integrated national supply chains. Products sold in Minnesota are typically not packaged solely for one state; they are part of broader distribution networks serving multiple markets simultaneously.

If Minnesota adopts a unique EPR framework, companies may be forced to:

- Segregate packaging or labeling for Minnesota-specific products
- Adjust sourcing or manufacturing processes to meet state-specific requirements
- Limit product offerings in the state due to disproportionate compliance burdens

These outcomes would increase operational complexity and reduce supply chain efficiency, ultimately affecting product availability and affordability. In extreme cases, smaller companies may choose to limit participation in the Minnesota market altogether, reducing choice for consumers and increasing costs.

5. Legal Considerations

EPR programs in other states are under legal challenge. For example, a federal judge granted a preliminary injunction against Oregon's EPR program. *National Association of Wholesaler-Distributors v. Feldon*, Docket No. 3:25-cv-01334 (D. Or. Jul 30, 2025). Producers have filed a class action with the same judge challenging Oregon's program. There are active challenges to the Colorado and California EPR programs, based on similar claims. And a federal court in California put a stop to California's restrictive recycling law. *California League of Food Producers et al v. Bonta*, Docket No. 3:26-cv-01675 (S.D. Cal. July 14, 2026).

Minnesota should heed the warning of these cases and make sure any EPR program is legally sound. An EPR program that fails to provide producers with legitimate opportunities to participate in the fee-setting process and meaningfully appeal unfair fees will be subject to legal challenges, leading to increased costs and delayed environmental achievements.

Policy Recommendations

Minnesota should rely on existing, working waste management structures rather than establish new and expensive EPR programs. But should Minnesota decide to proceed, to ensure a workable and effective framework we recommend the following:

1. Include practical, safe carve outs for appropriate products

Other EPR programs have recognized that certain products present recyclability and collection challenges, necessitating reasonable carve-outs from EPR programs. We applaud the law for recognizing that certain products prevent the packaging “from being waste reduced or made reusable, recyclable, or compostable.” Minnesota Statutes, section 115A.1453, subdivision 6. MPCA should exempt automotive lubricants from the EPR program. These products are critical to proper functioning of the economy and, due to safety requirements, the packaging of these products is very difficult to eco-modulate or recycle. Furthermore, many of these products are already managed through long-established end-of-life collection systems. The Auto Care Association stands ready to assist the state with providing targeted, safe exclusions for these products and notes that OSHA HCA flammability and health/safety requirements called out in Sections 2a and 2b support these exclusions.

2. Preserve and Support Existing Recycling and Stewardship Systems

MPCA should explicitly recognize and preserve the role of existing recycling infrastructure and industry-led programs. Supporting these systems rather than establishing duplicative and expensive systems will minimize disruption and leverage proven approaches.

3. Align program with already existing EPR programs

If Minnesota decides to establish an EPR program, Minnesota should not create yet another confusing layer of compliance obligations on top of other EPR states. It should instead align its definitions, reporting requirements, and compliance structures with other packaging EPR states. Consistency across states will:

- Reduce duplicative compliance efforts
- Improve data accuracy
- Lower overall costs for both industry and consumers

4. Ensure Transparent Fee Structures and Appeals Processes

Producer fees should be based on transparent methodologies, with clear explanations of how costs are calculated and allocated. Regulated entities should have a meaningful opportunity to review and challenge fee determinations to ensure fairness and accuracy.

Fees should track the true cost of establishing and operating recycling systems and the program should be transparent and accountable to this end. Minnesota does not appear to track the amount of waste that is shipped out of the state. Producers are being asked by several states to pay the full cost of each state's recycling and waste programs despite those states exporting the cost of disposal to other states. This is not a workable or fair system.

5. Adopt a Phased and Flexible Implementation Approach

Given the complexity of the auto care supply chain, MPCA should adopt a phased implementation schedule that allows companies time to:

- Identify covered materials
- Collect and validate packaging data
- Coordinate with suppliers and partners

Flexibility will be critical to avoiding unintended disruptions and ensuring compliance is achievable.

6. Retain governmental oversight

Yielding state enforcement and regulatory authority to an unaccountable third party like a PRO is illegal, inefficient, and undemocratic. Any program created by Minnesota should ensure that MPCA retains *full* authority over the program so that producers are not at the whim of an unaccountable third party.

Conclusion

The Auto Care Association supports Minnesota's goal of improving packaging sustainability and reducing environmental impacts. However, we urge the MPCA to avoid adopting a duplicative EPR framework that imposes excessive costs, increases administrative burden, and disrupts established supply chains.

A balanced, harmonized, and practical approach will better serve Minnesota consumers, businesses, and environmental objectives alike. We look forward to continued engagement with the agency as the rulemaking process moves forward.

Thank you for your consideration.

Respectfully,

Donovan Ringo

Donovan Ringo
Director, State Affairs & Grassroots
The Auto Care Association

Domtar

Domtar Paper Company LLC
234 Kingsley Park Drive Fort Mill, SC 29715

July 22, 2026

Minnesota's Packaging Waste and Cost Reduction Act Rulemaking

Request for Comments

On behalf of Domtar, thank you for the opportunity to provide comments on possible new rules to support implementation of the Minnesota Packaging Waste and Cost Reduction Act (PWCRA).

Domtar is a privately held manufacturer of diversified forest products, with a workforce of nearly 14,000 employees in more than 60 locations across North America. The company has an annual production capacity of 7.2 million metric tons of pulp, packaging and tissue. As a leading manufacturer of diversified forest products, Extended Producer Responsibility (EPR) laws including PWCRA directly impact our business.

Paper is one of the most widely recycled materials in America, with between 60-64% of paper recycled in 2024. This is the direct result of decades of effort by the industry to invest in and improve paper recycling. Therefore, Domtar believes that unprinted paper does not belong in EPR programs, particularly paper utilized in the industrial, commercial, and institutional (IC&I) sectors. These IC&I sectors have robust infrastructure and collection programs developed over the years to ensure the efficient flow of materials and mature secondary markets. EPR programs should not jeopardize decades of paper recycling success by creating additional fees or burdens for IC&I paper products. The same reasoning holds for packaging and food packaging. Therefore, limits are needed to ensure that the definitions of "paper product" and "packaging" do not bring IC&I materials into their scope.

In the PWCRA, the current definition of "paper product" in 115A.1441 (24) reads:

> *Subd. 24.* ***Paper product.*** *"Paper product" means a product made primarily from wood pulp or other cellulosic fibers but does not include bound books or products that recycling or composting facilities will not accept because of the unsafe or unsanitary nature of the 110.24 paper product. Paper product does not include exempt materials.*

Domtar's position is that PWCRA should explicitly state that paper products processed through the industrial, commercial, and institutional streams are excluded per the reasons listed above. Therefore, the "Paper Product" language should read:

> *Subd. 24.* ***Paper product.*** *"Paper product" means a product made primarily from wood pulp or other cellulosic fibers but does not include bound books or products that recycling or composting facilities will not accept because of the unsafe or unsanitary nature of the 110.24 paper product.* ***"Paper product" includes paper products sold or supplied to the consumer for personal, noncommercial use, and does not include paper***

products generated by the industrial, commercial, and institutional sectors. *Paper product does not include exempt materials.*

In the PWCRA, the current definition of "packaging" in 115A.1441 (23) reads:

Subd. 23. ***Packaging****. "Packaging" has the meaning given in section 115A.03 and 110.20 includes food packaging. Packaging does not include exempt materials.*

Domtar's position is that PWCRA should explicitly state that packaging processed through the industrial, commercial, and institutional streams are excluded. Therefore, the "Packaging" language should read:

Subd. 23. ***Packaging****. "Packaging" has the meaning given in section 115A.03 and 110.20 includes food packaging.* ***"Packaging" includes products sold or supplied to the consumer for personal, noncommercial use, and does not include packaging generated by the industrial, commercial, and institutional sectors.*** *Packaging does not include exempt materials.*

In summary, Domtar does not seek the removal of paper products or packaging sold to consumers and processed through the residential stream. Rather, we seek to exclude IC&I volumes for both paper products and packaging, ensuring harmonization between PWCRA and other emerging state EPR programs.

Thank you for your consideration of our comments. We look forward to engaging further with the Minnesota Pollution Control Agency to implement the PWCRA and advance a sustainable recycling system in Minnesota.

Please contact Dan Persica, Sr. Manager, U.S. Public Affairs & Special Projects at dan.persica@domtar.com with any questions.

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July 21, 2026

Re: Request for Comments – Packaging Waste and Cost Reduction Act Rulemaking

Dear Minnesota Pollution Control Agency,

Thank you for the opportunity to participate in the Request for Comments regarding rulemaking for the Packaging Waste and Cost Reduction Act (PWCRA).

1). **Definitions**

- Ensure that the definitions of packaging and covered materials do not conflict with the definition of covered entities, noting that the intention is to layer covered materials and covered entities, so that covered materials are within scope only at covered entities. Covered entities in MN are limited to residential recycling, schools and public spaces; the focus should be on primary and secondary packaging associated with covered materials. Ensure the avoidance of broad application down to shipping containers, unfilled and filled packaging (which results in double counting/costs) and other warehouse and manufacturing packaging that is considered industry recycling and, therefore, outside scope of EPR.

- The definition of paper is too broad, covering industrial and commercial; ensuring the layering of covered materials and covered entities should solve this issue, but want to ensure that ICI is not inadvertently included.

2). **Exemptions**

- Covered materials under exemptions currently include all packaging and paper supplied into the state, regardless of whether they enter the PRO-managed system. This would significantly broaden the amount of non-residential single-use and reusable packaging (pallets, plastic trays, etc.) covered.

- CAA can't influence performance of covered materials supplied to non-covered entities (typically, these entities are responsible for most of the packaging supplied). Recycling and reuse performance rates currently only reflect materials CAA manages, but the denominator includes all covered materials in the market, making targets more difficult to achieve.

The language of concern in the exemptions section:
(14) are covered materials that:

(i) a producer distributes to another producer;

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

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

- Business to Business Exemption: Flexibility in this exemption is necessary to avoid double counting, unintended costs, confusion and issues measuring progress. Suggest that the description is stripped out, as the more that is explained, the more restrictive it becomes.

3). **Collection Lists**

- Toxics and PFAs should remain outside the scope of EPR and are not data points CAA can collect. Requirements like source reduction, toxics reductions, GHGs should be addressed at the program plan level by the PRO, not at the individual producer level and not as part of rulemaking. At the least, request adding “intentionally added” to any limitations put on toxics.

We look forward to continuing to engage with MPCA on this incredibly important law and are grateful for the opportunity to submit comments during this rulemaking process.

Warm regards,

Megan Daum
VP, Sustainability

ILMA
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July 23, 2026

Submitted via the Office of Administrative Hearings eComments system

(https://minnesotaoah.granicusideas.com)

Ms. Aubrey Sondrol, Rule Coordinator
Minnesota Pollution Control Agency
7381 Airport View Drive SW
Rochester, Minnesota 55902

Re: Possible New Rules Relating to the Packaging Waste and Cost Reduction Act — Minnesota Rules, Chapter 7035; Revisor's ID No. R-04992

Dear Ms. Sondrol:

The Independent Lubricant Manufacturers Association (ILMA) submits these comments in response to the Minnesota Pollution Control Agency's (MPCA or Agency) May 26, 2026 Request for Comments (RFC) concerning possible new rules implementing the Packaging Waste and Cost Reduction Act (PWCRA or Act), Minn. Stat. §§ 115A.144 to 115A.1463.

Introduction of ILMA

ILMA is the national trade association representing independent manufacturers and marketers of lubricants, greases, metalworking fluids, and related products, together with the suppliers to that industry. A 2025 S&P Global study commissioned by ILMA found that independent lubricant manufacturers contributed $7.8 billion to U.S. GDP in 2024, supported approximately 25,000 jobs, and paid $2.6 billion in wages. Many ILMA members introduce petroleum-based lubricants and maintenance products into Minnesota in HDPE, PET, PP, fluorinated bottles and similar containers and packaging. These members would qualify as "producers" of "covered material" as those terms are defined under the Act. ILMA therefore has a direct and substantial interest in how the Agency defines covered material, structures exemptions, builds the collection lists, and supervises the producer responsibility organization (PRO).

Summary of ILMA's Position

Lubricant containers are a poor fit for a commingled-packaging program. Empty lubricant containers commonly retain residual petroleum product. That residue — together with the limited sorting capability of materials recovery facilities (MRFs) for oil-bearing plastics and the absence of responsible end markets operating at meaningful scale — means that placing lubricant containers on a statewide commingled recyclable list would generate producer fees and performance obligations without producing an effective and functioning recycling outcome. In short, subjecting lubricant packaging to the proposed framework would impose significant operational challenges on the industry without yielding cognizable recyclability benefits, an outcome that neither serves the program's goals nor justifies the compliance burden.

A central principle should guide the Agency's work in implementing the PWCRA – that is, recyclability must be evaluated based on the package as discarded, not merely on the theoretical recyclability of its constituent resin. That HDPE is, in the abstract, a recyclable polymer says nothing about whether an oil-coated lubricant bottle can in fact be collected, sorted, processed, and sold into a responsible market.

Minnesota already maintains collection infrastructure directed at the oil-bearing materials generated in this very consumer transaction. Used motor oil and several related automotive fluids and filters are subject to specialized collection and disposal requirements under Minn. Stat. § 115A.916; used oil and certain oil-contaminated materials are separately addressed under Minnesota Rules, chapter 7045. The statute and regulations contemplate a geographically dispersed used oil and filter collection network, along with county household hazardous waste programs that operate under Minn. Stat. § 115A.96. The used container and the used oil are generated in the same transaction and commonly remain together after use. They should be collected together.

Accordingly, ILMA urges the Agency to (1) adopt definitions and exemption criteria that recognize the distinct post-use character of lubricant containers; (2) decline to place lubricant containers on either recyclable-material list absent evidence of actual sorting capacity and responsible end markets; (3) provide transparent and reviewable exemption and PRO procedures; (4) preserve a pathway for a qualifying alternative collection program under the Act if evidence demonstrates actual recyclability and responsible markets; and (5) recommend legislation establishing a product-specific lubricant-container stewardship program built on Minnesota's existing used-oil infrastructure if the existing PWCRA mechanisms cannot appropriately accommodate the material.

ILMA's willingness to discuss an appropriately designed, producer-financed program is offered as a policy proposal. It should not be understood as conceding that the PWCRA, in its current form, lawfully or appropriately subjects lubricant containers to the general packaging program. Further, ILMA's discussion below is not an endorsement of a particular Alternative Collection Program outside of the anticipated Producer Responsibility program.

1. Definitions (RFC Topic 1)

ILMA recommends that the Agency define the category of packaging at issue. A workable formulation:

> *"Lubricant container" means packaging used to contain lubricating oil, grease, hydraulic fluid, transmission fluid, or another petroleum-based or synthetic lubricant or functional fluid, that commonly retains residual product after ordinary consumer or commercial use.*

This definition describes the material without embedding a conclusion about its recyclability. The consequence should then be stated separately, because such containers commonly retain residual product and their suitability for commingled or alternative collection must be evaluated under the material-specific criteria in Minn. Stat. § 115A.1453. Defining the category gives the Agency a term to use in any exemption determination, collection-list decision, or alternative-collection designation, without prejudging the outcome of those determinations.

2. Exemptions

2(a): Criteria under Minn. Stat. § 115A.1441, subd. 16(11) (OSHA Hazard Communication Standard)

Subdivision 16(11) excludes from "covered material" packaging used to contain hazardous or flammable products regulated by the 2012 federal OSHA Hazard Communication Standard, 29 C.F.R. § 1910.1200 (OSHA updated its Standard in 2024), where that character prevents the packaging from being waste reduced or made reusable, recyclable, or compostable, as determined by the Commissioner.

ILMA does not contend that this exemption reaches every lubricant product. However, certain lubricants, additives, functional fluids, and related products are classified as hazardous or flammable under the Hazard Communication Standard; many ordinary finished lubricating oils are not. Eligibility under subdivision 16(11) should therefore be determined by reference to the product-specific Safety Data Sheet (SDS) and the actual characteristics of the residual product remaining in the package after use — not by broad product-family assumptions in either direction.

ILMA recommends that a producer be permitted to demonstrate exemption eligibility by submitting: (i) the SDS for the product the packaging contained; (ii) data on residual product retained in the container after ordinary consumer use; (iii) documentation that MRFs in the relevant collection region reject or cannot process containers bearing that residue; and (iv) documentation regarding the availability of responsible markets for the recovered material. The Agency should permit producers to group materially identical packages and products and should not require a separate evidentiary submission for every SKU where the relevant hazard classification, package construction, and residual characteristics are the same.

2(b): Criteria under Minn. Stat. § 115A.1453, subd. 6 (specific federal or state health and safety requirement)

Subdivision 6 permits the Commissioner to classify packaging as exempt where a specific federal or state health-and-safety requirement prevents the packaging from being waste reduced or made reusable, recyclable, or compostable. ILMA offers the following criterion:

> *Where a specific state or federal requirement governing the residual product or the contaminated material makes ordinary commingled collection or processing legally impermissible, or practically incompatible with the handling that requirement mandates, the packaging should qualify for exemption.*

Minnesota's used-oil rules recognize that wastes containing or contaminated with used oil require management based on the nature and amount of the residual oil. Minn. Stat. § 115A.916 directs used motor oil, several related automotive fluids, and used oil filters away from ordinary solid waste and into recycling or household hazardous waste collection. ILMA does not contend that these authorities conclusively establish exemption for every drained lubricant container as a categorical matter, because the existing statutory framework expressly addresses the oil and the filter, not the container in which the oil was sold. That is precisely the regulatory gap ILMA asks the Agency to help close, and it is addressed in Section 6 below. But where the residue in a particular package trigger handling requirements incompatible with commingled collection, the subdivision 6 standard is met and the Agency should so find.

2(c): Procedural administration of exemptions

Whatever substantive criteria the Agency adopts, the subdivision 6 exemption process should be workable, transparent, and reviewable. ILMA recommends that the rules provide for:

- procedures permitting coordinated or representative submissions by similarly situated producers, including the use of common technical evidence submitted by a trade association, while allowing each producer to provide any producer-specific certification the statute requires;
- confidential treatment of commercially sensitive sales, formulation, and cost data;
- published evidentiary standards identifying what a petitioner must submit;
- written decisions setting out findings and the evidence relied upon;
- an opportunity to supplement a deficient application before denial;
- reconsideration and administrative appeal of adverse determinations; and
- an abbreviated renewal procedure under which a producer may certify that the relevant health-and-safety requirements and material facts have not changed, with an existing exemption remaining effective while a timely renewal request is pending, to the fullest extent permitted by law.

ILMA recognizes that subdivision 6 provides for expiration two years after approval. ILMA does not ask the Agency to set that provision aside. ILMA asks only that the renewal process not require re-litigation of facts that have not changed, so that both producer and Agency resources are conserved.

3. Collection Lists (RFC Topic 3)

The criteria in Minn. Stat. § 115A.1453, subd. 4 — sorting capacity and technology, aggregation into defined commodity streams, availability of responsible markets, residuals and contamination, recoverable quantity, and projected future conditions — supply the Agency with ample basis to decline to place lubricant containers on the recyclable-material lists. ILMA responds to the Agency's specific questions as follows.

3(c) (sorting capacity and technology) and 3(d) (responsible markets). Oil-bearing lubricant and maintenance product containers are not regularly sorted and aggregated into defined recycling streams, are not the subject of established commodity specifications as a clean bale and lack responsible end markets operating at meaningful capacity. The absence of demonstrated sorting capability and responsible markets weighs decisively against inclusion.

3(e) (residuals, contaminants, and toxic substances). Residual lubricant is precisely the kind of residual and contaminant this criterion is designed to capture. Contamination should be evaluated at the level actually present in the discarded package, not at a hypothetical rinsed-and-clean condition that consumer behavior does not produce.

3(a), 3(b), and 3(f) (collection availability, infrastructure access, recoverable quantity). Many commingled curbside systems are not designed to capture oil-bearing containers and may reject them because of residual contamination. The marketable quantity recoverable from that stream may therefore be limited or negligible. ILMA expects to support these points with the evidence described below.

Responsible-market criteria. Because the responsible-market criterion does the most work, ILMA urges the Agency to define it rigorously. A material should not be listed as recyclable unless the Agency finds:

- ordinarily, more than one independently operating end market — unless the Agency makes findings demonstrating that a single market provides sufficient capacity, stability, financial assurance, and protection against interruption or market foreclosure;
- demonstrated commercial purchases of the material over a multi-year period, rather than pilot, trial, or announced capacity;
- evidence that the end market regularly purchases or accepts the material under documented commercial specifications, rather than merely expressing technical capability or a nonbinding willingness to receive it;
- market capacity sufficient for projected statewide generation of the material;
- documented acceptance of the material at the residual-contamination level actually expected in the discarded package;
- that storage, speculative accumulation, fuel blending, disposal, and unverified export are not counted as recycling;
- evidence that the market is not dependent on indefinite public subsidy or temporary pilot funding, unless the Agency specifically finds that the funding source is stable and sufficient for the relevant planning period; and
- consideration of transportation distance and net environmental impacts of moving the material to market.

This is the operational expression of the governing principle that recyclability must be evaluated based on the package as discarded, not merely on the theoretical recyclability of its constituent resin.

3(i) and 3(j) (alternative collection systems; convenience; measurement). Minnesota's used oil statute already contemplates a geographically dispersed collection network. Minn. Stat. § 325E.112 established collection-access goals for used motor oil and filters throughout the seven-county Twin Cities metropolitan area and in larger communities elsewhere in the State, together with retailer collection obligations and authorized agreements with nearby collection sites. That existing network — used-oil collection centers and aggregation points under Minnesota Rules, chapter 7045, qualifying retailers, automotive-service locations, and county household hazardous waste facilities — appropriately expanded, authorized, and funded to accept lubricant and maintenance product containers, is the natural foundation for a lubricant-container collection pathway. ILMA does not suggest that these facilities are presently authorized, designed, staffed, or funded to accept empty containers — that is the work to be done. Container recovery should be measured separately from recovery of the oil itself, both at the collection-site and aggregation-point level, under a protocol that avoids double counting and does not import curbside assumptions.

Relationship between the alternative collection list and a lubricant-container program. ILMA recognizes that the alternative collection list established by Minn. Stat. § 115A.1453, subd. 2, is limited to materials determined to be recyclable or compostable. Accordingly, lubricant and maintenance product containers should not be placed on that list unless the Agency first determines, based on evidence, that a specialized collection and processing system produces recyclable material for responsible markets. In the absence of that showing, the appropriate immediate treatment is exclusion from the recyclable-material lists, coupled with development of the product-specific lubricant-container stewardship program described in Section 6 below. ILMA distinguishes these outcomes deliberately: exemption under subdivision 6, placement on the statutory alternative collection list, and enactment of a separate used-oil-based stewardship program are three different dispositions governed by different authorities, and the evidence will determine which is appropriate.

Evidentiary supplementation. ILMA is developing evidence concerning MRF acceptance policies, post-consumer residual levels, processing limitations, commodity specifications, and actual end-market capacity for lubricant containers, including information from MRF operators, plastics reclaimers and processors, used-oil collection operators, packaging suppliers, and lubricant manufacturers. ILMA expects to submit that evidence during this proceeding or in connection with the subsequent formal rulemaking record, organized against the statutory criteria in subdivision 4 so that the Agency has a material-specific basis on which to make findings.

4. Statewide Requirements and Measurement (RFC Topic 4)

Performance targets should not be imposed where the necessary collection, processing, and end-market infrastructure does not exist, because the result would be financial penalties or escalating producer costs untethered to an achievable environmental outcome. Any return-rate or performance construct applied to lubricant containers should be calibrated to recovery through an expanded used-oil collection network and should reflect the material's actual post-use condition.

5. Stewardship Plan and Annual Reports; PRO Transparency and Oversight (RFC Topic 5)

The RFC asks (question 5(c)) what information the Agency should require to verify PRO costs and reimbursement rates. This is among the most consequential questions in the rulemaking. Producers will be obligated to fund a program whose costs, fees, and material classifications are determined in the first instance by a private organization. ILMA believes that the "producer" should be the first importer or seller into Minnesota. Meaningful transparency is the precondition, along with meaningful Agency supervision.

ILMA recommends that the stewardship plan and annual reports be required to disclose, at a minimum:

- each material classification and the basis for it;
- the fee-setting and eco-modulation methodology, including all formulas and weighting factors;
- the assumptions and underlying data sources supporting fees and classifications;
- administrative expenses, itemized;
- payments to affiliates, members, and contractors;
- material-specific collection, transportation, and processing costs;
- end markets and actual disposition of each material;
- contamination and residual deductions, and how they are calculated;
- reserves and reserve policy;
- cross-subsidization among material categories; and
- the procedures by which a producer may challenge a classification, fee, or reimbursement determination.

Disclosure to the Agency alone may not be sufficient if producers cannot test the charges imposed upon them. The rules should also require periodic independent financial and operational audits and should provide producers with access to the nonprivileged supporting information reasonably necessary to verify classifications, fees, eco-modulation adjustments, and material-specific costs, subject to appropriate protections for confidential business information.

A distinct material and cost category. Lubricant and maintenance product containers should be maintained as a distinct reporting and cost category and should not be combined with clean natural or colored HDPE in a manner that conceals their different contamination, processing, and market characteristics. This request stands regardless of how the Agency ultimately resolves the listing and exemption questions. If lubricant containers are averaged into an undifferentiated HDPE category, neither the Agency nor producers will be able to see the material's actual collection costs, contamination levels, processing outcomes, or end-market performance — and the cross-subsidization the Act's cost-allocation provisions are meant to prevent becomes invisible.

To the extent lubricant and maintenance containers are exempted or directed to an approved product-specific program, the rules should make clear that such material is not subject to the PRO's collection, reimbursement, fee, and reporting obligations, so that producers are not charged twice for the same material.

6. A Product-Specific Lubricant-Container Stewardship Program Built on Minnesota's Used-Oil Framework (RFC Topic 6)

The RFC invites comment on other topics and on the cumulative effect of the possible new rule alongside other state and federal regulations. ILMA offers an affirmative proposal.

Minnesota should manage lubricant and maintenance product containers through a product-specific stewardship program built on the used-oil framework rather than through the general PWCRA system, including an Alternative Collection Program. The container and the used oil are generated in the same transaction, commonly remain together after use, present related contamination concerns, and could be most conveniently returned through an expanded network using the same categories of retailers, collection centers, aggregation points, automotive-service locations, and household hazardous waste facilities.

ILMA is not proposing that lubricant and maintenance product containers escape producer responsibility. ILMA proposes that producer responsibility be imposed through the system best suited to the material. A lubricant and maintenance product container stewardship program could:

1. require lubricant producers to register and report Minnesota sales by container size or weight;
2. establish an equitable producer-financing mechanism sufficient to fund the reasonable and necessary costs of collection, transportation, draining, processing, market development, education, and administration;
3. authorize used-oil collection centers, qualifying retailers, automotive-service businesses, county household hazardous waste facilities, and other approved sites to accept empty lubricant and maintenance product containers;
4. establish handling standards to prevent leakage, commingling, and contamination;

5. provide collection incentives or reimbursement to participating sites;
6. measure container recovery separately from recovery of the oil itself;
7. require verified end-market reporting, and prohibit disposal or speculative accumulation from being counted as recycling; and
8. exempt containers managed under the approved lubricant-container program from duplicative PWCRA fees, targets, and PRO obligations.

Any financing mechanism should be transparent, material-specific, subject to governmental approval and audit, and designed to prevent cross-subsidization of unrelated materials.

The governing structure for such a program should be developed with affected lubricant producers and should not automatically be assigned to the general packaging PRO or an Alternative Collection Program. Whether administered by the Agency, a product-specific stewardship organization, or another approved entity, the program should maintain separate accounting, material-specific governance, and protection against cross-subsidization. Otherwise, the State could place lubricant and maintenance product containers nominally within the used-oil system while leaving control of fees and administration with an organization that has no particular expertise in, or accountability to, this material stream.

This approach would build on Minnesota's existing used-oil collection infrastructure rather than requiring the State and producers to construct a second, overlapping collection system. It would also allow the Agency to adopt performance measures appropriate to oil-bearing containers instead of applying curbside-recycling assumptions to a material that curbside systems frequently reject.

Cumulative effect. Used motor oil and several related automotive fluids and filters are already subject to specialized Minnesota collection and disposal requirements under Minn. Stat. § 115A.916, while used oil and certain oil-contaminated materials are separately addressed under Minnesota Rules, chapter 7045. Layering a general producer-responsibility regime on the packaging for those same products risks overlapping and inconsistent obligations — including directing residue-bearing containers toward a commingled stream that the used-oil framework is designed to keep contaminated materials out of. The Agency should harmonize the two regimes rather than stack them.

Interstate consistency. Lubricant manufacturers distribute nationally. A patchwork in which lubricant containers are treated as ordinary covered material in some States and managed through used-oil infrastructure in others imposes substantial and avoidable compliance burdens without corresponding environmental benefit.

ILMA therefore requests that MPCA:

1. recognize in this rulemaking that lubricant containers are candidates for specialized collection rather than commingled recycling;
2. refrain from placing lubricant containers on either recyclable-material list absent evidence of actual sorting capacity, processing capability, and responsible end markets;
3. establish rules implementing a qualifying PWCRA alternative collection program if the evidence supports inclusion on the alternative collection list; and

4. separately recommend legislation establishing a product-specific lubricant-container stewardship program within Minnesota's used oil framework, with containers managed under that program excluded from duplicative PWCRA obligations.

7. Legal and Administrative Constraints on Implementation

ILMA recognizes that this proceeding concerns the development of implementing rules rather than an adjudication of the PWCRA's constitutionality. Nevertheless, the Agency should develop these rules with close attention to the constitutional and administrative-law concerns now arising under packaging EPR programs in other States. Careful rulemaking can substantially reduce those risks.

Interstate-commerce burdens

Lubricant manufacturers generally do not operate separate packaging, tooling, supplier-qualification, inventory, and production systems for each State. Packaging specifications are developed and validated for integrated regional or national production and distribution systems. A Minnesota rule or Agency-approved stewardship plan that effectively requires producers to redesign packaging, alter nationwide sourcing or production practices, or satisfy Minnesota-specific packaging standards as a condition of market access could impose substantial burdens on commercial activity occurring outside Minnesota. The Agency should avoid rules that directly or practically dictate out-of-state manufacturing conduct and should ensure that any burden on interstate commerce is closely tied to demonstrable Minnesota waste-management benefits.

These concerns are not theoretical. ILMA advises the Agency, based on its members' operations, that lubricant manufacturers generally cannot economically or operationally maintain separate state-specific packaging systems at commercial scale: packaging molds, tooling, supplier qualification, product validation, inventory, and production scheduling are integrated across interstate operations, and a packaging change compelled by one state propagates through a national production and distribution system. These concerns are particularly relevant to any Minnesota-specific recycled-content, source-reduction, labeling, package-design, or eco-modulation criterion that cannot practically be satisfied without changing products or production systems used throughout the national market. ILMA is prepared to submit supporting technical and operational evidence on this point.

Private delegation and procedural safeguards

The Agency should retain meaningful governmental control over all decisions that determine producers' legal and financial obligations. The rules should ensure that the PRO does not possess effectively unreviewable authority to classify materials, establish producer fees, determine eco-modulation factors, interpret exemptions, or impose reporting requirements. The rules should establish objective standards, require transparent methodologies and supporting data, provide notice and a meaningful opportunity to comment, prohibit conflicts of interest, and permit timely Agency review and appeal of determinations materially affecting producers. Agency approval should reflect independent judgment based on an administrative record; it should not consist merely of accepting a PRO's classifications, methodologies, or conclusions without substantive review.

Delegation and due-process questions of this kind are presently before the courts. ILMA has raised related delegation, due-process, and statutory-authority claims in its pending Colorado litigation[1]. The question, in substance, is whether a private stewardship organization may exercise governmental power over regulated parties without adequate statutory standards, governmental supervision, transparency, and procedural protection. Minnesota can avoid creating comparable legal vulnerabilities through the rulemaking now underway.

Compelled private arrangements

The rules should not permit participation in the Minnesota market to depend upon acceptance of private contractual terms, membership agreements, fees, indemnities, releases, audit rights, or dispute procedures developed unilaterally by a PRO and not affirmatively reviewed by the Agency. Any terms effectively required as a condition of statutory compliance should be publicly available, reasonably related to implementation of the Act, and subject to Agency oversight and challenge.

Statutory authority and reasoned decision-making

The PWCRA authorizes the Agency to implement the statute; it does not authorize the Agency or a PRO to disregard the statutory exemption criteria, responsible-market requirements, contamination considerations, or alternative-collection provisions. The rules should require material-specific findings supported by evidence before a material is placed on a collection list or subjected to performance targets. In particular, the Agency should not classify a material as recyclable merely because its base resin is theoretically recyclable. The relevant inquiry is whether the material, in its actual post-use condition, can be collected, sorted, processed, and sold into responsible markets at meaningful scale.

Avoidance of constitutional doubt

The Agency should construe and implement the PWCRA, where reasonably possible, to avoid serious constitutional questions. For lubricant containers, that means recognizing their distinct contamination, collection, processing, and market characteristics; allowing a genuine alternative collection pathway; and avoiding rules that impose fees or performance standards disconnected from achievable environmental outcomes.

Reservation of rights

ILMA submits these comments without waiving any constitutional, statutory, or administrative-law position concerning the PWCRA, its implementing rules, an approved stewardship plan, or actions taken by PRO. Procedural safeguards are necessary, but they cannot authorize requirements that exceed statutory or constitutional limits.

Conclusion

At this stage, ILMA asks MPCA to preserve regulatory space for a lubricant-and maintenance product container-specific solution — define and track these containers as a distinct material category; do not presume that they are recyclable merely because they are made from HDPE or other plastics; require evidence of actual processing capacity and responsible end markets before placing them on either

[1] *Independent Lubricant Manufacturers Ass'n v. Colorado Dep't of Public Health & Environment*, Case No. 2026CV30902 District Court, City & Country of Denver, filed March 12, 2026.

collection list; establish transparent and reviewable exemption and PRO procedures; and work with ILMA and the Legislature to integrate lubricant-container stewardship into Minnesota's used oil collection infrastructure.

ILMA appreciates the opportunity to comment at this early stage and stands ready to provide data, technical input, and proposed rule and statutory language as the rulemaking proceeds. ILMA understands, consistent with the RFC, that comments submitted at this stage are not necessarily included in the formal rulemaking record, and ILMA intends to resubmit and supplement these comments after the Agency publishes a Notice of Intent to Adopt Rules so that they are before the Administrative Law Judge.

Please direct any questions regarding these comments to the undersigned.

Respectfully submitted,

Holly Alfano
CEO

ambr
Alliance for Mission-Based Recycling

July 23, 2026

Minnesota Pollution Control Agency (MPCA)
520 Lafayette Rd N,
Saint Paul, MN 55155

Re: Request for Comments – Packaging Waste and Cost Reduction Act Rulemaking (Revisor's ID No. R-04992)

Dear Commissioner Kessler and Assistant Commissioner Koudelka,

Thank you for the opportunity to comment on the Minnesota Pollution Control Agency's Request for Comments regarding implementation of the Packaging Waste and Cost Reduction Act (PWCRA).

The Alliance of Mission-Based Recyclers (AMBR) is a national coalition of nonprofit, mission-based, recyclers committed to advancing policies that reduce waste, strengthen recycling systems, expand reuse, and ensure that recovered materials are returned to productive use. Our members collectively represent decades of experience operating recycling programs, processing recyclable materials, developing recycling policy, and advocating for responsible materials management systems across the country.

We strongly supported Minnesota's Packaging Waste and Cost Reduction Act because it recognizes that producers have a responsibility not only to finance the management of packaging waste, but also to reduce waste through better packaging design and investment in systems that keep materials in productive use. Minnesota now has an opportunity to establish one of the nation's strongest producer responsibility programs—one that other states will look to as they implement their own packaging EPR laws.

Our comments focus on one overarching objective: ensuring that Minnesota's EPR program is built on real recycling, measurable environmental outcomes, and transparent accountability. Too often, recycling claims are based on theoretical recyclability, accounting mechanisms, or downstream processes that cannot demonstrate whether materials are actually returned to manufacturing. Producer responsibility programs should set a higher standard.

Accordingly, we encourage the Agency to adopt rules that:

- Define recyclability based on demonstrated system performance rather than theoretical capability;
- Require responsible end markets to return recovered materials to manufacturing while meeting strong environmental, labor, and community protection standards;
- Ensure post-consumer recycled content claims are supported by physical chain-of-custody and transparent verification;
- Measure success based on waste reduction, reuse, material recovery, and verified recycling outcomes—not collection alone; and
- Establish reporting requirements that allow regulators, producers, and the public to independently evaluate program performance.

The following comments focus on the rulemaking provisions most critical to maintaining the integrity of recycling and ensuring Minnesota's producer responsibility program delivers the environmental outcomes envisioned by the Legislature.

Collection Lists (Questions 3(a)–3(j))

The collection lists established under the PWCRA will shape how producers design packaging, where they invest, and what materials are ultimately recognized as recyclable in Minnesota. For that reason, collection lists should reflect demonstrated system performance—not theoretical recyclability or emerging technologies that cannot consistently recover materials into new products.

A material should only be included on a collection list when it can be:

- Reliably collected from Minnesota residents;
- Sorted at commercial scale using existing recycling infrastructure;

- Demonstrated not to contaminate, reduce the quality of, or otherwise interfere with the recycling of other materials;
- Sent to stable, domestic, end markets;
- Processed into usable recycled feedstock; and
- Returned to manufacturing through responsible end markets that produce measurable positive environmental benefits.

Designating materials as recyclable when they cannot consistently move through the recycling system undermines public confidence, increases contamination, and weakens incentives for producers to improve packaging design.

Flexible Film Packaging

The rules should recognize that flexible film packaging presents unique challenges that distinguish it from most other packaging materials. Real-world experience demonstrates that many flexible films—particularly multilayer flexible packaging—cannot be reliably collected, sorted, and recycled into new products at commercial scale. Instead, they contaminate recycling streams, damage processing equipment, and lack responsible end markets capable of producing high-quality recycled feedstock.

Accordingly, the Agency should not designate flexible film packaging as recyclable unless producers demonstrate that the material can consistently meet the same performance standards required of all recyclable packaging, including reliable collection, commercial-scale sorting, responsible end markets, and recycled into new products.

Producer responsibility should drive better packaging design—not require recycling systems to adapt to packaging that cannot be effectively recycled. The rules should create strong incentives for producers to reduce unnecessary flexible packaging, invest in reuse systems, and redesign packaging so it can meet Minnesota's standards for recyclability.

Responsible End Markets

Responsible end markets are fundamental to determining whether a material is truly recycled.

A material should not be considered recycled simply because it is collected, accepted by a processing facility, or shipped somewhere else. Recycling should be measured by packaging materials becoming new products.

The rules should establish minimum performance standards for responsible end markets, including a requirement that **at least 60 percent of incoming material is recycled into usable recycled feedstock that displaces virgin material in the manufacture of new products.** This minimum yield requirement is essential to distinguish true recycling from processes that primarily discard materials, produce fuels, or generate other non-manufacturing outputs while still claiming to recycle.

Material yield should be defined as the percentage of incoming material that becomes usable recycled output. Facilities with consistently low yields, high residual disposal rates, outputs primarily directed to landfill or energy recovery, or outputs that primarily produce fuels or chemical feedstocks should not qualify as responsible end markets.

Responsible end markets should also demonstrate compliance with applicable environmental laws, labor standards, and worker health and safety requirements and operate in a manner that minimizes adverse impacts on environmental justice areas, consistent with the PWCRA. The rules should establish objective criteria for evaluating these requirements, including compliance history, environmental performance, worker health and safety, and transparency regarding facility operations.

To ensure accountability, responsible end markets should report:

- Incoming material by commodity type;
- Material yield, verified through independent third-party review;
- Outputs used in the manufacture of new products;
- Residuals sent to disposal or energy recovery;
- Final destinations of all material outputs; and

- Information demonstrating compliance with environmental, labor, worker health and safety, and environmental justice requirements of Minnesota.

The Agency should establish minimum yield thresholds by material category and clear environmental and community protection standards to ensure responsible end markets deliver genuine recycling outcomes while protecting workers, communities, and the environment.

Measuring Real Recycling

The success of Minnesota's producer responsibility program should be measured by environmental outcomes—not collection volumes or participation rates alone.

Collection is only the first step in the recycling process. Materials are only recycled when they are transformed into feedstock that is used to manufacture new products. Accordingly, the rules should prioritize performance measures that demonstrate:

- Actual material recovery and recycling yield;
- Verified manufacture of new products using recovered materials;
- Increased use of post-consumer recycled materials;
- Reduced contamination;
- Expansion of waste reduction and reuse systems; and
- Development of stable, transparent, and responsible end markets.

These measures will ensure that producer responsibility drives real recycling and reuse, strengthens markets for recycled materials, and delivers the environmental outcomes envisioned by the PWCRA.

Statewide Requirements and Measurement (Questions 4(a)–4(c))

The statewide performance requirements established under the PWCRA will determine whether Minnesota's producer responsibility program drives meaningful system transformation or simply reinforces existing practices. These requirements should encourage producers to:

- Redesign packaging to be more recyclable, and not include toxic additive (in line with XXinsert MN toxics in packaging law # XXX);

- Reduce unnecessary packaging;
- Expand reuse systems;
- Increase demand for recycled materials; and
- Invest in the infrastructure needed to support high-performing recycling and reuse systems.

Performance standards should prioritize measurable beneficial environmental outcomes rather than administrative compliance. Success should be measured by reductions in waste generation and use of virgin materials, increased reuse, higher-quality recycling, greater use of post-consumer recycled content, and stronger domestic markets for recovered materials.

Waste Reduction and Reuse

Consistent with Minnesota's waste management hierarchy, the rules should establish ambitious waste reduction and reuse requirements that encourage producers to move beyond single-use packaging. Reuse systems should be evaluated based on verified return and reuse outcomes rather than product distribution or sales.

Return and refill targets should be ambitious enough to encourage meaningful investment in reusable packaging systems and the infrastructure needed to support them. Return rates should reflect:

- Verified physical return of reusable packaging;
- Verifiable reduction in overall material used for packaging compared to single-use packaging for the same product;
- Successful cleaning, refilling, or redistribution;
- Multiple reuse cycles over the life of a product;
- Documented losses due to damage or disposal; and
- Overall system recovery efficiency.

Measuring Program Performance

The statewide performance requirements should establish clear, outcome-based metrics that reward real environmental progress rather than activity alone. The rules should:

- Set performance targets that drive continuous improvement rather than codifying current market conditions;
- Prioritize waste reduction and reuse while establishing strong recycling and recycled content requirements for materials that remain in the system;
- Require standardized measurement, transparent reporting, and independent third-party verification;
- Periodically review and strengthen performance requirements as infrastructure, technology, and end markets evolve; and
- Evaluate success based on measurable environmental outcomes rather than collection alone.

Ultimately, Minnesota's producer responsibility program should be judged by its ability to reduce packaging waste, increase the use of recycled materials, expand reuse systems, strengthen responsible end markets, and reduce reliance on virgin resources. These outcomes—not simply the amount of material collected—will determine whether the PWCRA fulfills its promise.

Stewardship Plans and Annual Reporting (Questions 5(a)–5(b))

Stewardship plans and annual reports will be the primary mechanism for demonstrating whether Minnesota's producer responsibility program is achieving the environmental outcomes required by the PWCRA. These documents should do more than describe program activities—they should demonstrate measurable progress toward waste reduction, reuse, responsible recycling, and increased use of post-consumer recycled materials.

The rules should establish standardized, transparent, and independently verifiable reporting requirements that allow the Agency, producers, local governments, and the public to evaluate program performance over time.

Stewardship Plans

Stewardship plans should clearly describe how producers and producer responsibility organizations (PROs) will achieve the statutory performance requirements established under the PWCRA. At a minimum, stewardship plans should include:

- Strategies for reducing packaging waste and expanding reuse;
- Plans to increase the use of post-consumer recycled content;
- Investments in collection, processing, recycling, and reuse infrastructure;
- Methods for measuring environmental justice impacts;
- Plans to educate producers about Minnesota laws related to toxics in packaging;
- Methods for ensuring and transparently reporting that materials are managed through responsible end markets and verifiably recycled into new products; and
- Performance metrics that demonstrate how program investments will achieve measurable environmental outcomes.

Stewardship plans should link proposed activities to clear, measurable performance objectives rather than broad program descriptions.

Annual Reporting

Annual reports should provide sufficient information to independently evaluate whether the program is delivering the environmental outcomes envisioned by the PWCRA.

At a minimum, annual reports should include:

- Progress toward statewide service access, waste reduction, reuse, recycling, composting, and recycled content targets;
- Material-specific recovery and recycling performance;
- Verified information on responsible end markets, including material yield and final material destinations;
- Progress toward increasing the use of post-consumer recycled materials;
- Revenue reporting by material type including impacts of eco-modulated fees, as well as expenditures including funding spent on education and outreach efforts, infrastructure, and service provision;
- Investments in infrastructure, market development, and reuse systems; and
- Any significant changes in program performance or implementation.

The rules should require standardized reporting methodologies, independent verification, and public reporting that allows year-over-year comparison of program performance. Transparency is essential to maintaining public confidence, evaluating whether producers are meeting their obligations, and ensuring that producer responsibility delivers measurable environmental benefits rather than simply increasing material collection.

Key Additional Rulemaking Recommendations

Post-Consumer Recycled Content Measurement and Verification

Strong post-consumer recycled content requirements are essential to creating demand for recycled materials and ensuring that producer investments support real recycling infrastructure. The rules should establish clear, consistent, and verifiable methods for measuring post-consumer recycled (PCR) content.

PCR claims should reflect the use of actual post-consumer material recovered through recycling systems. Producers should verify PCR content through robust chain-of-custody systems supported by standardized reporting and independent third-party verification.

The rules should require that recycled content claims be based on recycled material that is physically incorporated into products sold into the Minnesota market. Chain-of-custody systems that track the physical flow of recycled material—including approaches that use a rolling-average percentage allocation to account for normal manufacturing fluctuations while maintaining a physical relationship between recycled inputs and finished products—may be appropriate for demonstrating compliance.

The rules should not allow accounting systems that allocate recycled content credits independently of the physical flow of recycled material. In particular, systems that use proportional or non-proportional credit allocation to assign recycled content to products that did not actually receive recycled material should not satisfy Minnesota's recycled content requirements. These approaches weaken transparency, undermine confidence in recycled content claims, and fail to ensure that producer investments increase the actual use of post-consumer recycled material.

Clear measurement and verification standards are vital to the success of Minnesota's producer responsibility program as they will create a level playing field for producers, strengthen confidence in recycled content claims, and ensure that producer investments support increased demand for recycled materials and continued investment in real recycling infrastructure.

Continuous Improvement

Packaging design, recycling technology, and end markets will continue to evolve throughout implementation of the PWCRA. The rules should establish a clear process for periodically reviewing and strengthening collection lists, responsible end market criteria, recycled content verification requirements, and statewide performance standards.

A producer responsibility program should continuously raise expectations as packaging design, technology and markets improve. Regular review will help ensure that Minnesota's program continues to reward genuine innovation, strengthen recycling markets, expand reuse, and deliver measurable beneficial environmental outcomes over time.

Conclusion

Minnesota has an opportunity to establish a producer responsibility program that sets a national standard for accountability, transparency, and environmental performance. The rules adopted through this process will determine whether the PWCRA drives meaningful reductions in waste, strengthens markets for recycled materials, and rewards producers that design packaging for a truly circular economy—or whether it perpetuates systems that rely on high usage of virgin resources, theoretical recyclability, weak end markets, and unverified environmental claims.

We encourage the Agency to adopt rules that protect the integrity of recycling by defining recyclability based on demonstrated system performance, requiring responsible end markets that deliver real manufacturing outcomes, ensuring recycled content claims are transparent and verifiable, and measuring success based on meaningful environmental results rather than collection alone.

Producer responsibility should drive innovation in packaging design, expand reuse, strengthen demand for recycled materials, and create lasting investment in the infrastructure needed to keep materials in productive use. By establishing clear, enforceable, and outcome-based standards, Minnesota can build a producer responsibility program that delivers lasting environmental benefits while providing a model for other states to follow.

Thank you for the opportunity to provide these comments. We appreciate the Agency's commitment to developing a strong implementation framework for the PWCRA and look forward to continued engagement throughout the rulemaking process.

Sincerely,

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July 23, 2026

Minnesota Pollution Control Agency (MPCA)
520 Lafayette Rd N,
Saint Paul, MN 55155

Re: Request for Comments – Packaging Waste and Cost Reduction Act Rulemaking (Revisor's ID No. R-04992)

Dear Commissioner Kessler and Assistant Commissioner Koudelka,

Thank you for the opportunity to comment on the Minnesota Pollution Control Agency's Request for Comments regarding implementation of the Packaging Waste and Cost Reduction Act (PWCRA).

For more than 20 years, Eureka Recycling has worked to improve recycling in Minnesota. As both a recycling collector and the operator of a Material Recovery Facility (MRF), we bring a unique perspective to this rulemaking. We see every day how packaging design, collection systems, processing infrastructure, and end markets determine whether materials are actually recovered and recycled. Those practical realities should guide implementation of the PWCRA.

We strongly supported passage of the PWCRA because it recognizes that producers have an essential responsibility not only to finance the management of packaging waste, but also to reduce its environmental impacts through better packaging design and investment in systems that keep materials in productive use. The decisions made through this rulemaking will determine whether the law delivers meaningful reductions in packaging waste, stronger recycling systems, expanded reuse, and greater producer accountability.

The rules should prioritize waste reduction and reuse while ensuring that materials designated as recyclable are actually recoverable within Minnesota's recycling system. They should establish clear, outcome-based performance standards supported by transparency, accountability, and independent verification. They should also create strong incentives for producers to improve packaging design and invest in the collection, processing, reuse, and recycling infrastructure needed to build a more resilient materials management system.

Throughout these comments, we encourage the Agency to adopt rules that place the burden of demonstrating compliance on producers rather than regulators. Whether seeking an exemption, claiming that packaging is recyclable, demonstrating post-consumer recycled content, or qualifying a responsible end market, producers should be required to support those claims with transparent, independently verifiable evidence. This approach is consistent with the purpose of producer responsibility and will create a more accountable, durable, and effective regulatory program.

The comments that follow respond to the questions posed in the Request for Comments and offer recommendations to strengthen implementation of the Packaging Waste and Cost Reduction Act.

Exemptions (Questions 2(a)–2(c))

We support the Agency's effort to define exemption pathways that remain narrow, well-justified, and consistent with the intent of the PWCRA. Exemptions should be rare and granted only when there is clear, documented evidence that legal health or safety requirements make waste reduction, reuse, recycling, or composting infeasible.

2(a) Hazardous or flammable products under OSHA requirements

Exemptions under Minnesota Statutes, section 115A.1441, subdivision 16(11), should only be granted when a producer demonstrates all of the following:

- A specific federal OSHA Hazard Communication Standard requirement directly prohibits redesign, reuse, recyclability, or compostability of the packaging;
- The restriction is mandatory and not based on voluntary industry practice or interpretation;
- No technically feasible alternative packaging exists that would meet both safety requirements and waste reduction goals;
- The exemption applies only to the specific portion of packaging affected by the requirement, not the entire product system; and
- The exemption is time-limited and subject to periodic review as packaging technology and alternatives evolve.

Producers seeking an exemption should be required to submit:

- A citation to the specific federal or state requirement;
- Engineering or technical analysis demonstrating the infeasibility of redesign;
- An assessment of alternative packaging options considered;
- An explanation of why reuse or recyclability cannot be achieved;
- Planned efforts to transition to reusable or recyclable packaging in the future; and
- Any relevant lifecycle or safety data supporting the request.

2(b) Health and safety requirements preventing redesign

The same narrow standard should apply to exemptions under Minnesota Statutes, section 115A.1453, subdivision 6. A packaging system should qualify for an exemption only when a specific, binding health or safety requirement directly prevents redesign for reuse, recycling, or composting.

The rule should explicitly clarify that the following do **not** constitute valid grounds for exemption:

- Cost or economic burden;
- Existing manufacturing practices;
- Supply chain constraints that can reasonably be addressed through redesign; or
- Market preferences for existing packaging formats.

Producers should demonstrate that compliance with health and safety requirements cannot be achieved through alternative packaging design or material substitution.

2(c) "Unsafe and unsanitary" paper products

The rule should define "unsafe and unsanitary" narrowly and tie the definition directly to demonstrable health risks that cannot be mitigated through standard processing practices.

At a minimum, this category should include:

- Materials contaminated with infectious or regulated medical waste.

It should **not** include:

- Typical food-soiled paper that can be processed in commercial composting systems;
- Waxed papers or coatings accepted by existing composting infrastructure; or
- Materials that could be successfully managed through improved sorting or processing.

Eligibility for this exemption should also be tied directly to the approved covered materials collection lists to ensure consistent implementation across the program and avoid conflicting interpretations among jurisdictions.

Collection Lists (Questions 3(a)–3(j))

The collection lists established under the PWCRA will be one of the most important determinants of the program's success because they define what materials are considered recyclable or compostable in Minnesota. These lists should reflect real-world system performance—not theoretical or emerging capabilities—and be based on what can actually be recovered at scale within Minnesota's recycling and organics systems.

A material should only be included on a collection list if it meets all of the following conditions:

- Meaningful access to collection exists for a substantial majority of Minnesota residents, including both single-family and multifamily households;
- The material can be sorted at commercial scale using existing materials recovery infrastructure;
- Adequate processing capacity exists to manage collected material;
- Responsible end markets process recovered material into usable feedstock for new products;
- The material can be recovered with minimal contamination and demonstrated environmental benefit; and
- No higher-order waste management option, such as waste reduction or reuse, is reasonably available at scale.

This approach ensures that recyclability is based on demonstrated system performance rather than theoretical potential.

3(a) Availability of collection services

"Current availability of collection" should be defined as consistent, reliable, and convenient access to recycling or organics collection for the vast majority of Minnesota households, including both single-family and multifamily residences. Collection should be broadly available across the state and should not be based on limited pilot programs, geographically isolated services, or voluntary drop-off opportunities that serve only a small portion of the population.

Recycling and organics collection thresholds should be evaluated separately to reflect differences in infrastructure, processing capacity, and program maturity. While organics collection continues to expand across Minnesota, recycling collection is well established and should be held to a higher standard of accessibility.

For recycling, collection should be as accessible and convenient as trash service wherever existing infrastructure supports it. A material should not be considered recyclable unless residents have practical and reliable opportunities to place it into the recycling system. Designating materials as recyclable without meaningful access to collection creates consumer confusion, increases contamination, and undermines confidence in the recycling system.

3(b) Access to processing infrastructure

Access to processing infrastructure should be defined based on population coverage and system redundancy rather than distance alone.

Key considerations should include:

- Percentage of the state's population served by available processing capacity;

- Availability of multiple processing facilities to ensure system resilience;
- Geographic distribution of capacity across Greater Minnesota and the Twin Cities metropolitan area; and
- Capacity to manage materials without creating long-term bottlenecks.

3(c) Sorting capacity and technology

Sorting capacity should be demonstrated through commercial-scale performance, not theoretical or pilot-scale capability.

The rules should require evidence that:

- Materials can be reliably sorted at existing MRFs;
- Sorting yields are consistent and reproducible across facilities;
- Contamination levels remain within acceptable operational thresholds; and
- Material recovery rates are sufficient to support stable responsible end markets.

3(d) Responsible End Markets

Responsible end markets are fundamental to determining whether a material is truly recycled.

The rules should define responsible end markets using minimum performance standards, including a requirement that a substantial portion—at least 60 percent—of incoming material is recycled into usable recycled feedstock that displaces virgin material.

A material should not be considered recycled simply because it is accepted at a processing facility or exported for unknown disposition.

The rules should establish a material yield requirement for responsible end markets. Yield should be defined as the percentage of inbound material that is processed into usable recycled feedstock.

Facilities with consistently low yields, high residual disposal rates, outputs primarily directed to landfill or energy recovery, or outputs that primarily produce fuels or chemical feedstocks should not qualify as responsible end markets.

In addition to meeting material recovery and yield standards, responsible end markets should operate in compliance with applicable environmental, labor, and worker health and safety laws and in a manner that minimizes adverse impacts on environmental justice areas, consistent with the requirements of the PWCRA. The rules should establish objective criteria for evaluating these requirements, including compliance history, environmental performance, worker health and safety, and transparency regarding facility operations.

Responsible end markets should report:

- Incoming material by commodity type;
- Output of recycled feedstock;
- Residuals sent to disposal or energy recovery;
- Final destinations of recovered materials;
- Independently verified material yield data; and
- Information sufficient to demonstrate compliance with applicable environmental, labor, and worker health and safety requirements and the statutory obligation to minimize adverse impacts on environmental justice areas.

The Agency should establish minimum yield thresholds by material category and clear environmental, labor, and community protection standards to ensure responsible end markets deliver meaningful recycling outcomes while protecting workers, communities, and the environment.

3(e) Residuals, contaminants, and toxic substances

To reduce contamination food service ware should be included in the covered material list since they are often used alongside compostable and recyclable packaging and often put in the collection bin despite not being recyclable or compost.

Thresholds for residuals and contaminants should be based on:

- Processor acceptance specifications;
- Worker health and safety considerations;
- Impacts on recycled material quality; and
- The ability to produce marketable recycled feedstock.

The Agency should also consider how the scope of covered materials affects contamination. Food service ware is frequently used alongside covered packaging and is commonly placed in recycling and organics collection containers despite often not meeting Minnesota's recyclability or compostability standards. This creates consumer confusion, increases contamination, and reduces the quality of recovered materials.

To reduce contamination and improve the effectiveness of Minnesota's collection systems, food service ware should be included within the scope of covered materials. Including these commonly used items in the producer responsibility program would promote more consistent collection guidance, improve labeling and public education, increase producer accountability for product design, and support higher-quality recycling and organics streams.

3(f) Quantity of recoverable material

Collection lists should reflect meaningful statewide recovery potential.

Materials should only be included when sufficient quantities exist to justify system investment, infrastructure development, and stable end markets. This prevents inclusion of niche or low-volume materials that cannot be effectively managed at scale.

3(g) Future conditions

The rules should account for future conditions, including:

- Changes in recycling and sorting technology;
- Expansion or contraction of end markets;
- Shifts in packaging design; and
- Evolving environmental and health standards.

3(h) Additional criteria

Additional criteria should include:

- Waste reduction and reuse potential;
- Compatibility with existing recycling systems;
- Environmental justice considerations related to system access and burden distribution; and
- Material yield performance.

3(i) Alternative collection systems and convenience

Alternative collection systems should provide a level of convenience and accessibility equivalent to traditional recycling and organics collection.

Minimum considerations should include:

- Geographic accessibility across all regions of the state;
- Reasonable travel distances for residents;
- Consistent and reliable collection opportunities;
- Clear and accessible public education; and
- No financial or logistical barriers to participation.

3(j) Measurement of alternative collection systems

Materials collected through alternative systems should be subject to standardized measurement and reporting requirements, including:

- Audited tonnage reporting;
- Material composition verification;
- Contamination rates;
- Final destination of materials; and

- Recovery and disposal outcomes.

These reporting requirements are essential to demonstrate that alternative collection systems deliver measurable environmental benefits rather than simply shifting materials outside the traditional recycling system.

4. Statewide Requirements and Measurement (Questions 4(a)–4(c))

Statewide performance requirements established under the PWCRA should ensure the program delivers measurable environmental outcomes—not simply administrative compliance. The Agency has broad authority to define how performance is measured, and the rules should establish metrics that reflect actual waste reduction, reuse, material recovery, and reductions in disposal.

4(a) Criteria to Set Return Rates

Return rates for reusable systems should be based on verified physical return and reuse outcomes—not product distribution or sales. Return and refill rate targets should be ambitious enough to encourage producers to invest in durable, scalable reuse systems and the infrastructure needed to support them. Targets that are too low will discourage investment and fail to drive the market transformation envisioned by the PWCRA.

At a minimum, return rate calculations should reflect:

- The number of items actually returned into the reuse system;
- The number of successful cleaning, refilling, or redistribution cycles;
- The number of times a unit is reused before reaching end-of-life;
- Documented losses due to breakage, contamination, or disposal; and
- System-wide recovery efficiency across collection points.

Return rates should not be based solely on the number of units sold or placed on the market, as sales do not reflect actual system performance. Instead, the Agency should establish ambitious, evidence-based return and refill targets that encourage producers to build convenient, statewide reuse systems capable of delivering meaningful environmental benefits and long-term reductions in packaging waste.

4(b) Demonstrating Return Rates

Producers and producer responsibility organizations should demonstrate return rates through:

- Standardized tracking systems that follow reusable items through multiple use cycles;
- Audited datasets verifying return, cleaning, and redistribution rates;
- Independent third-party verification of system performance; and

- Transparent reporting of losses and end-of-life disposition.

Where digital tracking systems are used—including barcodes, QR codes, or other return infrastructure—they should be validated for accuracy, completeness, and auditability.

4(c) Statewide Performance Requirements

The statewide requirements established by the Agency—including reuse rates, recycling rates, composting rates, post-consumer recycled content (PCRC) requirements, and waste reduction targets—will determine whether the PWCRA drives meaningful system transformation or simply reinforces existing practices. These requirements should be ambitious enough to encourage producers to redesign packaging, invest in collection and processing infrastructure, expand reuse systems, and increase demand for recycled materials.

In establishing statewide requirements, the rules should:

- Set performance targets that drive continuous improvement rather than codifying current market conditions;
- Establish implementation timelines that provide regulatory certainty while allowing sufficient time for infrastructure investment and market development;
- Prioritize waste reduction and reuse, consistent with Minnesota's waste management hierarchy, while establishing strong recycling, composting, and recycled content requirements for materials that remain in the system;
- Require robust measurement and verification through standardized reporting and independent third-party audits; and
- Provide for periodic review and adjustment of statewide requirements as infrastructure, technology, and end markets evolve.

Ultimately, statewide requirements should be judged by the environmental outcomes they produce. Success should be measured by reductions in packaging waste and virgin material use, increased adoption of reusable packaging systems, higher-quality recycling and composting, greater use of post-consumer recycled content, and sustained investment in the infrastructure needed to support a resilient, high-performing materials management system.

5. Stewardship Plans and Annual Reporting (Questions 5(a)–5(c))

Stewardship plans and annual reports will be central to ensuring accountability under the PWCRA. These documents should provide sufficient detail for the Agency, local governments, service providers, producers, and the public to evaluate whether producer responsibility organizations (PROs) are meeting statutory requirements and delivering measurable environmental outcomes.

The rules should establish standardized, transparent, and auditable reporting requirements that allow for consistent evaluation across PROs and over time.

5(a) Stewardship Plan Requirements

At a minimum, stewardship plans should include:

- Detailed descriptions of how statutory performance targets will be achieved;
- Clear descriptions of collection, sorting, processing, and responsible end market systems;
- Defined methodologies for calculating recovery, recycling, composting, and reuse rates;
- Planned investments in infrastructure and system improvements;
- Contamination management strategies; and
- Mechanisms for continuous improvement throughout the stewardship plan period.

Stewardship plans should clearly link proposed actions to measurable performance outcomes rather than broad program descriptions.

5(b) Annual Reporting Requirements

Annual reports should provide sufficient information for the Agency, local governments, service providers, producers, and the public to evaluate whether the program is meeting its statutory obligations and delivering meaningful environmental outcomes. To support transparency and accountability, the rules should establish standardized reporting requirements and consistent methodologies that allow for meaningful year-over-year evaluation.

At a minimum, annual reports should include:

- Material-specific collection, recycling, composting, and reuse rates;
- Progress toward each statewide performance requirement established under the PWCRA, including waste reduction, reuse, recycling, composting, and post-consumer recycled content targets;
- Contamination rates and material quality by commodity;
- Detailed information on responsible end markets, including material destinations and, where available, verified material yield;
- Investments in collection, processing, reuse infrastructure, education, and market development;
- Producer reimbursement amounts by service category and the methodology used to calculate those reimbursements;
- Program expenditures, including administrative costs; and
- Significant changes to program operations or performance.

The rules should require standardized reporting methodologies and consistent performance metrics to enable meaningful year-over-year comparisons, independent evaluation of program performance, and public accountability.

5(c) Verification of Costs and Reimbursement Rates

PROs should provide sufficiently detailed, auditable financial reporting to verify costs and reimbursement rates, including:

- Producer fee structures and methodologies;
- Reimbursement rates by service category;
- Contracts with service providers and processors, or standardized summary data where confidentiality is necessary;
- Administrative and programmatic expenditures;
- Infrastructure investments supported by producer funding; and
- Independent financial audits conducted on a regular basis.

These reporting requirements are essential to ensure that producer fees are used efficiently, reimbursement methodologies remain transparent, and producer investments deliver measurable environmental value.

6. Key Additional Rulemaking Recommendations

The recommendations below apply across multiple aspects of the rulemaking and are intended to establish consistent standards for implementation of the PWCRA.

Post-Consumer Recycled Content Measurement and Verification

The rules should establish clear, consistent, and verifiable methods for measuring post-consumer recycled (PCR) content.

PCR claims should reflect the use of actual post-consumer material recovered through recycling systems. Producers should verify PCR content through robust chain-of-custody systems supported by standardized reporting and independent third-party verification.

The rules should require that recycled content claims be based on recycled material that is physically incorporated into products sold into the Minnesota market. Chain-of-custody systems that track the physical flow of recycled material—including approaches that use a rolling-average percentage allocation to account for normal manufacturing fluctuations while maintaining a physical relationship between recycled inputs and finished products—may be appropriate for demonstrating compliance.

The rules should not allow accounting systems that allocate recycled content credits independently of the physical flow of recycled material. In particular, systems that use proportional or non-proportional credit allocation to assign recycled content to products that did not actually receive recycled material should not satisfy Minnesota's recycled content requirements. These approaches weaken transparency, undermine confidence in recycled content claims, and fail to ensure that producer investments increase the actual use of post-consumer recycled material.

Clear measurement and verification standards will create a level playing field for producers, strengthen confidence in recycled content claims, and ensure that producer investments support real recycling infrastructure and increased demand for recycled materials.

Recyclability Hierarchy

The rules should establish a clear framework for determining whether packaging qualifies as recyclable in Minnesota. Before a material is included on a collection list, it should demonstrate all of the following:

- Widely available and reliable collection access;
- Demonstrated commercial-scale sorting capability;
- Sufficient processing capacity within the state or region;
- Responsible end markets that meet minimum yield and transparency standards;
- Absence of toxic substances that undermine safe recycling or composting;
- Demonstrated ability to be processed into recycled feedstock and returned to manufacturing as new products;
- Demonstrated compatibility with the recycling system, without contaminating or diminishing the recovery of other recyclable materials; and
- No higher-order waste management option, such as waste reduction or reuse, is reasonably available.

This framework ensures that recyclability reflects demonstrated system performance rather than theoretical or emerging capabilities.

System Performance Measurement

Across all aspects of implementation, program performance should be evaluated based on measurable environmental outcomes rather than activity-based metrics.

Key performance indicators should emphasize:

- Actual material recovery and recycling yield;
- Reductions in packaging waste generation;
- Expansion of reuse systems and reuse cycles;
- Reductions in contamination; and
- Development of stable, transparent, and responsible end markets.

Collection or participation alone should not be treated as evidence of success unless it results in verified downstream recovery and measurable environmental benefit.

Compostable Packaging

The rules should strengthen requirements for compostable packaging to support Minnesota's organics recycling system and protect compost quality.

The covered materials list should include compostable food service accessories, including utensils, straws, stir sticks, and similar items. These products are commonly used alongside compostable food service ware and food scraps and should be managed consistently under the PWCRA.

Compostable packaging should only be designated as compostable when it can be successfully processed in Minnesota's commercial composting facilities under normal operating conditions. Certification alone should not determine whether a material belongs on the compost collection list.

The rules should also establish clear standards to protect compost quality. Compostable packaging should only be processed with clean, source-separated organics and should never be mixed with residual waste streams or materials derived from mixed municipal solid waste processing, including refuse-derived fuel (RDF) fines. Allowing contaminated feedstocks into composting systems threatens soil health, undermines confidence in compost products, and is inconsistent with the intent of the PWCRA to produce high-quality compost.

Compostable packaging has an important role in recovering food scraps, but it should complement—not replace—waste reduction and reusable packaging systems.

Continuous Improvement

The rules should establish a clear process for periodically reviewing and updating key program elements, including collection lists, performance standards, responsible end market criteria, and reporting requirements.

As packaging formats, recycling technologies, and end markets continue to evolve, the regulatory framework should evolve as well. Periodic review will help ensure that Minnesota's EPR program reflects real-world conditions, incorporates emerging best practices, and continues to deliver meaningful environmental outcomes over time.

Conclusion

Minnesota has an opportunity to establish one of the nation's strongest producer responsibility programs for packaging. Whether the Packaging Waste and Cost Reduction Act fulfills that promise will depend on rules that prioritize measurable environmental outcomes over theoretical recyclability, reward producers that reduce waste and improve packaging design, and maintain rigorous standards for recycling performance and accountability.

The rules should ensure that producer responsibility extends beyond financing collection to include responsibility for designing packaging that can be effectively reduced, reused, recycled, or composted within Minnesota's materials management system. They should establish clear, verifiable standards for recyclability, responsible end markets, recycled content, and program performance while preserving the flexibility to strengthen those standards as technology and markets evolve.

By adopting ambitious, transparent, and outcome-based rules, the MPCA can ensure that the PWCRA fulfills the Legislature's intent: reducing packaging waste, expanding reuse, strengthening Minnesota's recycling infrastructure, increasing demand for recycled materials, and creating a more resilient and accountable materials management system.

Thank you for the opportunity to provide these comments. We look forward to continuing to work with the Agency as implementation of the Packaging Waste and Cost Reduction Act moves forward.

Sincerely,

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Carol Patterson Attachment

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July 23, 2026

RE: Minnesota Pollution Control Agency Request for Comments on the Packaging Waste and Cost Reduction Act

On behalf of the Foodservice Packaging Institute (FPI), we appreciate the opportunity to provide feedback for the Minnesota Pollution Control Agency's consideration in response to its request for comments on implementation of the Packaging Waste and Cost Reduction Act.

Founded in 1933, FPI is the leading authority on foodservice packaging in North America. FPI supports the responsible use of all foodservice packaging while advocating for an open and fair marketplace for all materials. Our members include raw material and machinery suppliers, packaging manufacturers, distributors, and purchasers of foodservice packaging, representing approximately 90 percent of the industry.

Our comments are provided below.

Exemptions

Question 2(c): Should criteria be defined for "unsafe and unsanitary" in relation to Minnesota Statutes, section 115.1441, subdivision 24? If so, what should those criteria be? Should this be tied to what is accepted on the covered material lists?

FPI believes the criteria for determining whether a covered material is "unsafe and unsanitary" should be based on end market acceptance. This may include recognized bale specifications for recyclable materials and accepted materials lists for compostable materials.

Collection Lists

Question 3(a): What should the threshold for "current availability of collection" services be for recycling? For organics recycling? Should they be different or the same?

FPI suggests that the evaluation of "current availability of collection" consider all collection pathways available to residents, including curbside collection, drop-off programs, and subscription based and other alternative collection services.

FPI further recommends that recycling and organics recycling be evaluated separately. Recycling collection systems are generally more mature and widely available, while organics collection and processing infrastructure remains less developed and varies significantly across communities. Applying the same threshold to both systems may not reflect the current realities of organics collection and could create unintended challenges for covered materials that are effectively compostable but lack widespread access to organics collection programs.

Question 3(b): What is the threshold for access to recycling and composting processing infrastructure? Should it be determined by distance to a percent of the population, total coverage of a percent of the total population, or something else? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?

FPI recommends that MPCA take a broader view of access to processing infrastructure by considering covered materials that are routinely processed both within Minnesota and at out of state facilities. EPR programs are intended to expand access to recycling and improve recycling and composting infrastructure over time. Restricting eligibility or access determinations solely to existing in state processing capacity could fail to recognize established end markets and processing pathways that currently support material recovery.

We suggest a population-based framework that accounts for all collection pathways and available processing capacity. Any thresholds should be designed to support continued growth in recycling and composting access rather than create circumstances where covered materials currently being recovered could become ineligible for collection lists due to infrastructure gaps in certain regions.

Further, the producer responsibility organization (PRO) program plan should review existing infrastructure, evaluate gaps and support investments needed to increase access to collection and processing systems over time. Infrastructure limitations should be addressed through targeted improvements and investment and should not, on their own, serve as the basis for excluding covered materials from recovery programs.

Question 3(c): In evaluating the capacity and technology for sorting covered materials, how much processing capacity should be set as the threshold for a covered material to be included on a collection list? Should it be set as a percentage or another measure?

EPR programs are intended to support continued investment in collection, sorting and processing of recovery infrastructure over time. Limiting the evaluation to existing in state processing capacity may not accurately reflect the recyclability and compostability of covered materials that are successfully sorted, marketed and recovered through established systems.

Rather than relying on a specific percentage threshold, the Agency could consider whether a covered material is technically sortable using commonly available equipment and processes that are broadly used in materials recovery facilities. Relevant evidence may include inclusion in other packaging EPR programs, acceptance within established recycling systems, recognized end markets, participation in commonly traded commodity streams, established bale specifications, and other demonstrations of successful recovery at scale. For compostable covered materials, relevant considerations could include acceptance by permitted composting facilities, inclusion on accepted materials lists and demonstrated processing through established organics collection and composting systems.

FPI believes this approach would recognize covered materials that are already being successfully sorted and recovered while allowing the producer responsibility organization to identify infrastructure gaps and target investments that expand collection, sorting and processing capacity over time.

Question 3(d): What is the minimum availability of responsible markets for a covered material to be included on a collection list? Is there a threshold relating to capacity, number, distance, or some combination of thresholds?

FPI recommends that the Agency avoid establishing a fixed minimum number of responsible end markets as a prerequisite for inclusion on a collection list. Instead, the evaluation should focus on whether a covered material has access to established and responsible end markets that routinely accept and utilize the material, including facilities located both within Minnesota and outside the state.

Recovered materials do not necessarily remain within the state where they are collected. Therefore, both in state and out of state end markets should be considered when evaluating market availability. A covered material should not be excluded solely because the current number of responsible end markets is limited if there is clear evidence that it is being successfully recycled, composted, or otherwise managed through established market channels. Consistent with the objectives of EPR, the evaluation should recognize existing end markets while supporting efforts to identify market gaps and encourage investment in additional processing and end market capacity over time.

To support this evaluation, FPI maintains an end market map identifying numerous end markets across North America that accept foodservice packaging materials made from a variety of material types. This resource demonstrates the breadth of available markets and highlights the importance of considering regional and national market access when evaluating end market availability.

Question 3(e): What are the recommended thresholds for the presence and amount of a residual, contaminant, and/or toxic substance for a covered material to be excluded from the collection list?

FPI recommends that the Agency leverage existing industry specifications, standards and market requirements when evaluating the presence of residuals, contaminants, or other substances that may affect the recyclability or compostability of a covered material.

Established frameworks already define acceptable contamination levels and material quality requirements and should serve as the foundation for this assessment. Examples include ISRI/ReMA commodity specifications and bale standards, Association of Plastic Recyclers (APR) Design® Guide criteria, compostability standards such as ASTM D6400, D6868, D8618, and D8619, compost manufacturing operating standards, and other broadly accepted specifications addressing contamination, sortability, processability and market acceptance.

FPI believes materials should not be excluded from a collection list solely because they contain residuals or contaminants that can be effectively managed through existing collection, sorting, washing, recycling, or composting processes. The relevant consideration should be whether the covered material can be successfully recovered and managed consistently with industry specifications, processing requirements, and end market expectations.

A standards-based approach would provide consistency with current recycling and composting practices while allowing requirements to evolve alongside technological advancements and market conditions.

Question 3(f): What is the quantity of a covered material estimated to be available and recoverable that should cause a covered material to be included on a collection list?

FPI does not believe that a covered material should be excluded from a collection list solely because it is available or recoverable in relatively small quantities. Quantity alone is not indicative of whether a material can be effectively collected, sorted, processed, and marketed through recycling or composting systems. The relevant consideration should be whether a covered material can be successfully recovered and supported by viable end markets rather than whether it exceeds a predetermined volume threshold.

Many materials and packaging formats are successfully recovered despite representing a relatively small portion of the overall waste stream because they move through established commodity streams and can be managed using existing collection, sorting, and processing infrastructure.

For example, many foodservice packaging materials, including paper cups and other fiber-based formats, are routinely collected with mixed paper and can be sorted and marketed through existing paper recovery systems. Although these materials may represent a small share of the overall stream, they can nevertheless be successfully recovered through established commodity pathways.

Accordingly, FPI recommends focusing on a covered material's demonstrated ability to be collected, sorted, processed, and marketed through established systems rather than establishing a minimum quantity threshold for inclusion on a collection list. Materials that can be successfully recovered through existing infrastructure should remain eligible for collection regardless of volume.

FPI and its members have invested significant resources over the past 14 years to advance foodservice packaging recovery and have conducted extensive research demonstrating that a variety of foodservice packaging materials can be effectively collected, sorted, and recovered while supporting viable end markets. FPI's publicly available research, market assessments, access studies, and end market resources can be found at RecycleFSP.org. FPI would welcome the opportunity to discuss these resources and foodservice packaging recovery more broadly with MPCA as it develops its collection list framework.

Question 3(g): What are some examples of future conditions of these criteria to be considered?

FPI recommends that MPCA consider how collection systems, sorting technology, processing and composting capacity and end market availability may evolve over time as the producer responsibility program is implemented.

MPCA should establish a transparent, data-driven process for regularly reviewing and updating collection lists as conditions change. Covered materials that become recoverable as collection, processing, end market, or composting infrastructure develops should be eligible for timely consideration and inclusion on the collection list.

Question 3(i): Relating to alternative collection systems, what are the considerations for what meets "convenience" and what would the minimums be? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?

FPI recommends that convenience be evaluated based on access for the population served rather than geographic coverage alone. This approach better reflects the practical availability of collection opportunities while accommodating differences in population density across the state.

There should be flexibility in how convenience is achieved, recognizing that different collection models may be appropriate for different covered materials, communities and seasonal conditions. Alternative collection systems may include drop-off locations, retail take-back programs, collection events and other approaches that provide reasonable access for residents.

For covered materials that are more difficult to collect through traditional systems, a hub-and-spoke model may provide an effective and efficient collection approach by combining local collection opportunities with centralized processing.

Statewide requirements and measurement

Question 4(c): Are there any considerations the agency should evaluate when determining statewide requirements?

FPI recommends that statewide requirements be established at levels that are ambitious yet achievable. Targets should encourage continuous improvement while remaining practical to implement, measure and verify.

Statewide requirements should recognize that waste reduction can be achieved through multiple mechanisms identified in the statute, including source reduction, reuse, recycling, composting and investments that improve material recovery. Producers should have access to the full range of compliance options contemplated by the law rather than a narrow focus on any single strategy.

FPI also suggests that the Agency separately evaluate collection performance and recycling performance. Collection rates can provide insight into residents' access to and participation in recycling systems, while recycling rates better reflect the amount of covered material that ultimately reaches an end market. Measuring both can provide a more complete understanding of system performance and help identify opportunities for continued improvement in collection, sorting, processing and end market development.

Statewide requirements should also be reviewed periodically and adjusted, as appropriate.

<u>Other Topics</u>

FPI appreciates MPCA's efforts to implement the Packaging Waste and Cost Reduction Act and encourages the Agency to consider whether additional guidance is warranted regarding the definitions of "packaging" and "food packaging" as part of rulemaking. FPI recognizes the value of consistency and understands that the current definitions are drawn from existing Minnesota statutes. At the same time, the Agency may wish to evaluate whether additional direction is needed to ensure that the scope of covered materials aligns with the intent and objectives of the producer responsibility program, recognizing that the statutory definitions from which these terms are derived may encompass a broader range of products and materials than those intended to be managed through the EPR program.

As rulemaking proceeds, MPCA may wish to provide additional guidance regarding the application of these definitions and the categorization of covered materials to ensure the program's scope remains clear, administrable, and consistent with legislative intent. Clear direction will help provide certainty for producers, producer responsibility organizations, regulators, and other stakeholders while supporting effective implementation of the program.

FPI also encourages MPCA to consider alignment with other packaging EPR programs, where appropriate, when developing definitions, methodologies, and implementation approaches. Greater consistency across jurisdictions can reduce administrative complexity, improve program administration, and provide additional certainty for producers and their supply chains.

Thank you for your consideration of our feedback.

Sincerely,

CPatterson

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July 23, 2026

Minnesota Pollution Control Agency (MPCA)
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Re: Request for Comments – Packaging Waste and Cost Reduction Act Rulemaking (Revisor's ID No. R-04992)

Dear Commissioner Kessler and Assistant Commissioner Koudelka,

Thank you for the opportunity to comment on the Minnesota Pollution Control Agency's Request for Comments regarding implementation of the Packaging Waste and Cost Reduction Act (PWCRA).

We, the Packaging Extended Producer Responsibility Advisory Board, consisting of 17 individuals representing a wide range of impacted parties, provide the following comments for consideration in the rulemaking process.

Definitions

- It would be beneficial to better define and provide parameters for the terms "education", "outreach", "accessibility," and "public awareness".
- It is recommended that the term "accessible" is used both in terms of the ease of which one can use a service, as well as ADA standards.
- Clarify what "reasonably available" means
- Clarify what it means to be "capable of being managed in a reuse system": reusables are not prohibited if they don't meet high return rates right away. Reusables are "capable of being managed in a reuse system" if they are participating in a managed system that is on track to meet return rate targets in the future. (Note: the subcommittee has also discussed recommending that MPCA publish an interpretation document on this topic so producers & CAA can have clarity ASAP.)
- Clarify that the definition of Covered Materials includes untreated, non-recyclable organic materials that are not BPI or ASTM 6400 certified such as wet OCC, napkins, soiled food packaging like pizza boxes, broken pallets/wood packaging shredded for composting, etc..

Exemptions (Questions 2(a)–2(c))

We support the Agency's effort to carefully define exemption pathways so that they remain narrow, well-justified, and consistent with the intent of the PWCRA.

2(a) Hazardous or flammable products under OSHA requirements

We recommend that exemptions under Minnesota Statutes, section 115A.1441, subdivision 16(11), only be granted when a producer demonstrates all of the following:

- A specific federal OSHA Hazard Communication Standard requirement directly prohibits redesign, reuse, recyclability, or compostability of the packaging;
- The restriction is mandatory and not based on voluntary industry practice or interpretation;
- No technically feasible alternative packaging exists that would meet both safety requirements and waste reduction goals;
- The exemption applies only to the specific portion of packaging that is affected by the requirement, not the entire product system; and
- The exemption is time-limited and subject to periodic review as packaging technology and alternatives evolve.

An example of this would be packaging for materials routinely directed toward Minnesota's household hazardous waste management facilities should be classified as exempt. 40 CFR Part 261 Subpart D defines and lists hazardous wastes. Even when emptied through daily use, the packages may still fail to meet the definitions of RCRA empty (40CFR 261.7) or DOT empty (49 CFR 173.29).

We recommend that producers be required to submit the following documentation:

- Citation of the specific federal or state requirement;
- Engineering or technical analysis demonstrating infeasibility of redesign;
- Assessment of alternative packaging options considered;
- Explanation of why reuse or recyclability cannot be achieved;
- Planned efforts to move to reuse or recyclability in the future; and
- Any relevant lifecycle or safety data supporting the request.

Examples of materials that would not fall under this category are household cleaners, automotive material containers or lawn and garden product containers that do not contain hazardous materials or special handling or management practices from the general public.

Items that may become unsafe if handled improperly, such as pressurized containers, also would not be considered hazardous but should be considered for alternative collection to minimize the hazards.

2(b) Health and safety requirements preventing redesign

We recommend applying the same narrow standard for exemptions under Minnesota Statutes, section 115A.1453, subdivision 6. A packaging system should only qualify for exemption where a specific, binding health or safety requirement directly prevents redesign for reuse, recycling, or composting.

We further recommend that the rule explicitly clarify that the following do **not** constitute valid grounds for exemption:

- Cost or economic burden;
- Existing manufacturing practices;
- Supply chain constraints that can be addressed through redesign; or
- Market preferences for existing packaging formats.

Producers should be required to demonstrate that compliance with health and safety requirements cannot be achieved through alternative packaging design or material substitution.

The Advisory Board also recommends harmonizing standards with those of other states.

2(c) “Unsafe and unsanitary” paper products

We recommend that the Agency define “unsafe and unsanitary” narrowly and clearly, stating explicitly which paper products or use qualify and tie this definition directly to demonstrable health risks that cannot be mitigated through standard processing practices.

At a minimum, this category should include materials contaminated with infectious or regulated medical waste; and

We do **not** recommend including:

- Typical food-soiled paper that can be processed in composting systems;
- Wax or coatings that are currently accepted in existing composting infrastructure; or
- Materials that could be managed through improved sorting or processing.

We also recommend that eligibility for this category be tied directly to the approved covered materials collection lists to ensure consistency across the program and prevent conflicting interpretations across jurisdictions.

Collection Lists (Questions 3(a)–3(j))

The collection lists established under the PWCRA will be one of the most important determinants of program success because they define what materials are considered recyclable or compostable in Minnesota. These lists should be grounded in real-world system performance and should reflect what can actually be recovered at scale within Minnesota’s recycling and organics systems.

We recommend that a material only be included on a collection list if it meets **all** of the following conditions:

- Meaningful access to collection exists for a substantial majority of Minnesota residents, including both single-family and multifamily households;

- Materials can be sorted at commercial scale using existing materials recovery technology;
- Adequate processing capacity exists to manage collected material;
- Adequate responsible end markets exist that convert recovered material into usable feedstock for new products;
- The material can be recovered with minimal contamination levels and demonstrated environmental benefit; and
- No safer or higher-order waste management option (such as reuse or reduction) is reasonably available at scale.

This approach ensures that recyclability is based on actual system performance rather than theoretical or emerging capabilities.

3(a) Availability of collection services

We recommend that "current availability of collection" be defined as consistent, reliable, and convenient access to recycling or organics collection for the vast majority of Minnesota households, including single-family and multifamily residences. Collection should be broadly available across the state and not be based on limited pilot programs, geographically isolated services, or voluntary drop-off opportunities that serve only a small portion of the population.

Recycling and organics collection thresholds should be evaluated separately to reflect differences in infrastructure, processing capacity, and program maturity. While organics collection continues to expand across Minnesota, recycling collection is well established and should be expected to meet a higher standard of accessibility.

For recycling, we recommend that collection be as accessible and convenient as trash service wherever existing infrastructure supports it. A material should not be considered recyclable unless residents have practical and reliable opportunities to place it in the recycling system. Designating materials as recyclable without meaningful access to collection creates consumer confusion, increases contamination, and undermines confidence in the recycling system.

Ch. 115A.1441 Sub14 Drop-off Collection Site includes a standard of being open to the public a minimum of 12 hours weekly throughout the year. While the rules can't change statutes, it's a very low threshold for "current availability" and one that argues for additional considerations about proximity to population centers.

There should be an allowance for an implementation or phase-in plan for moving covered materials from an alternative collection designation to a collected material designation as the systems evolve. This would allow some facilities to collect and process materials on alternative collection lists in their curbside streams as some facilities may evolve prior to others.

There should be allowance for financial considerations given for materials on an alternative collection list due to factors related to payloads, distances, processing challenges, etc.

3(b) Access to processing infrastructure

We recommend that access to processing infrastructure be defined based on population coverage and system redundancy, rather than distance alone.

Key considerations should include:

- Percentage of the state population served by processing capacity;
- Availability of multiple processing facilities to ensure system resilience;
- Geographic distribution of capacity across Greater Minnesota and the Twin Cities metro; and
- Ability to manage materials without creating long-term bottlenecks.

A convenience metric for curbside and alternative collection (drop site) should be proposed by individual Counties and in their required Solid Waste Plans. These Plans are required by law and approved by the Agency, which can set minimum requirements for convenience.

The FTC Green Guidelines use the term vast majority and is set at 60%. 60% seemed like a minimum – slightly more than a simple majority – not a vast number. 60% should be a minimum and much higher should be the goal, even if it takes many years and plan implementations to reach the goal.

3(c) Sorting capacity and technology

A material should be included on a compostable collection list if it meets the state labeling law for compostable products. https://www.revisor.mn.gov/statutes/cite/325E.046

Sorting capacity should be demonstrated at commercial scale performance, not theoretical or pilot-scale capability.

We recommend that the Agency review evidence that:

- Materials can be reliably sorted at existing MRFs;
- Sorting yields are consistent and reproducible across facilities;
- Contamination levels remain within acceptable operational thresholds; and
- Material recovery rates are sufficient to support adequate stable responsible end markets.

3(d) Responsible end markets

Responsible end markets are essential to determining whether a material is truly recyclable. While ideally there are at least three responsible end markets available for each commodity, where this is not feasible there should be assurance that the responsible end markets available are stable and adequate at handling the supply of recycled materials.

We recommend that the MPCA define responsible end markets to include minimum performance standards, including a requirement that a substantial portion of incoming material is converted into usable recycled feedstock that displaces virgin material.

A material should not be considered recycled simply because it is accepted at a processing facility or exported for unknown disposition.

We strongly recommend that the rules establish an appropriate metric that respects and maintains proprietary information for responsible end markets.

Recycling End markets, not including those accepting compostable materials, which result in low yields, high residual disposal rates, primarily fuel or chemical outputs, or outputs primarily directed to disposal facilities should not qualify as responsible recycling end markets.

We recommend that responsible end markets be required to report the following in a way that allows proprietary information to be kept confidential.

While the above are consistent with responsible compostable markets, these markets should also include

- Facilities producing finished compost that meets applicable state and federal standards
- Demonstrated end-use markets in agriculture, landscaping, erosion control, soil health, and habitat restoration
- Ongoing demand for finished compost product
- Periodic waste audits/characterizations to evaluate criteria such as volumes, contamination, and other critical data

If the Agency does require certification of Responsible End Markets, there should be an on-ramp period to reduce disruptions while Markets get certified.

3(e) Residuals, contaminants, and toxic substances

We recommend that thresholds for residuals and contaminants be based on:

- Processor acceptance specifications;
- Worker health and safety considerations;
- Impact on recycled material quality; and
- Ability to produce marketable recycled feedstock.

Materials that intentionally introduce persistent toxic substances or significantly degrade recycling outcomes should not be included on collection lists including but not limited to

- PFAS and other persistent chemicals
- Heavy Metals

- BPI, the primary US certifier of compostable products, and the only qualified certifier for the State of Minnesota currently, already includes the following toxicity testing as part of the certification process:
    - Ecotoxicity; heavy metals, PFAS & other intentionally added fluorinated chemicals

When evaluating MRF contaminant thresholds and categories, ensure that solutions account for unacceptable items received by MRFs, reduce overall contamination in the stream and allow for the MRF to remove unacceptable contaminants in bales without increasing their residue percentages.

Contaminants- the plan must be very clear on what it means when discussing contaminants. Any item not typically collected & processed at a given facility but ended up there by mistake, is a contaminant for that given system. Contaminants in the compost stream could mean toxic substances but also means covered materials found in the compost stream that are not certified compostable products.

Contamination:

- The contaminant threshold at a compost facility for residual and contaminant should be relatively open and be adjusted downward over time as phase-in's for Producers' complaint materials (by 2032) become the norm in the marketplace and material streams.
- Tight initial contamination and residual limitations may result in less compostable packaging materials being accepted, stunting the initiative.
- The PRO should work with contracted Compost Facilities to assess & acquire necessary equipment to deal with the potential influx of contamination that will come from opening new services in new communities with new products, until education and behavior is matured
- Include utensils in the covered material lists to reduce the likelihood of contamination from disposable plasticware in the compost stream.

3(f) Quantity of recoverable material

We recommend that inclusion on collection lists be based on meaningful statewide recovery potential.

Materials should only be included when sufficient quantities exist to justify system investment, infrastructure development, and stable responsible end markets. This prevents inclusion of niche or low-volume materials that cannot be effectively managed at scale.

Compostable recovered quantity priority should be given to

- Food-service packaging commonly collected with food scraps
- Compostable products that improve organics diversion rates
- Materials that reduce contamination compared with conventional alternatives

3(g) Future conditions

We recommend that the Agency consider future conditions such as:

- Changes in recycling and sorting technology;
- Expansion or contraction of end markets;
- Shifts in packaging design trends;
- Evolving environmental and health standards.
- Market development and expansion of composting collection programs
- The definition of Covered Materials should be expanded to BPI certified (or future certifiers to the ASTM standards) materials that are not packaging materials but are directly associated with covered compostable packaging materials for food such as 'to-go' utensils, plates, napkins, toothpicks, etc..
- Any retailer of unpackaged produce sold in MN should be required to only offer for use certified compostable bags that meet the specs for compost facilities and durable compostable bag co-collection programs. (this would provide the 'return packaging' for compostable packaging and food scraps and result in less bags in the waste and recycle streams)

3(h) Additional criteria

We recommend that additional criteria include:

- Reuse and reduction potential;
- Compatibility with existing recycling systems;
- Environmental justice considerations related to system access and burden distribution.
- Material yield performance; and

3(i) Alternative collection systems and convenience

We recommend that alternative collection systems meet a standard of equivalent convenience and accessibility to traditional recycling and organics systems. MPCA should separately consider convenience standards or requirements for any alternative collection systems for reusables.

Minimum considerations should include:

- Geographic accessibility across all regions;
- Reasonable distance for residents - with consideration for local norms (i.e. in very rural areas of Greater Minnesota residents generally travel greater distances to purchase goods, and having to travel a reasonable distance to access recycling services is less of a barrier);
- Consistent and reliable collection opportunities;
- Clear and accessible public education; and
- No financial or logistical barriers for participation.

3(j) Measurement of alternative collection systems

We recommend that materials collected through alternative systems be subject to standardized measurement and reporting requirements, including:

- Audited tonnage reporting;
- Material composition verification;
- Contamination rates;
- Final destination of materials; and
- Recovery or disposal outcomes.

These requirements are essential to ensure that alternative collection systems deliver measurable environmental benefits and are not used to avoid accountability.

4. Statewide Requirements and Measurement (Questions 4(a)–4(c))

Statewide performance requirements under the PWCRA should be designed to ensure that the program delivers measurable environmental outcomes, not simply administrative compliance. We strongly support the Agency's authority to define how performance targets are measured and encourage the development of metrics that reflect actual material recovery, reuse, and reduction in disposal.

For reuse measurements, consider using established standards, such as those by PR3 as a benchmark while until enough systems are built and data collected for localized benchmarks.

When setting reuse and return rates, consider splitting these up across distinct, yet broad, categories and phasing each in over time. Categories could be determined by geography, type of system (i.e. closed vs open, B2B vs B2C, etc), material format, or other factors.

When return and reuse rates and future goals are set, allow an on-ramp period that allows for growth of reuse industries. On-ramp periods typically encompass at least 3 – 5 years with in-between milestones to allow adequate time for research, innovation, and growth.

Performance targets for compostable packaging should utilize a periodic waste sort conducted by the Producers at select (representative) facilities. The data should be used to extrapolate capture rates for each material targeted. The representative, periodic waste sorts should be conducted by the PRO, frequently enough to establish baseline data and changes over time, perhaps 1 waste sort per year & reducing that frequency when the data show improvement or consistently high performance.

4(c) Considerations for statewide requirements

The statewide requirements established by the Agency—including reuse rates, recycling rates, composting rates, post-consumer recycled content (PCRC) requirements, and waste reduction targets—will determine whether the PWCRA drives meaningful system transformation or simply reflects existing practices. These requirements should be ambitious enough to encourage producers to redesign packaging, invest in collection and processing infrastructure, expand reuse systems, and increase demand for recycled materials.

When establishing statewide requirements, we recommend that the Agency consider the following principles:

- Set performance targets that drive continuous improvement over time rather than codifying current market conditions.
- Establish timelines that provide regulatory certainty while allowing sufficient time for infrastructure investments and market development.
- Prioritize waste reduction and reuse, consistent with Minnesota's waste management hierarchy, while establishing strong recycling, composting, and recycled content requirements for materials that remain in the system.
- Ensure that targets are supported by robust measurement and verification requirements, including standardized reporting and independent third-party audits.
- Periodically review and update statewide requirements as infrastructure, technology, and end markets evolve to encourage continued innovation and improvement.

Statewide requirements should be designed to produce measurable environmental outcomes, including reductions in packaging waste, increased adoption of reusable packaging systems, higher-quality recycling and composting, and greater use of post-consumer recycled content. Success should be measured by actual reductions in virgin material use and disposal, increased recovery of materials into new products, and sustained investment in the infrastructure needed to support a circular economy.

5. Stewardship Plans and Annual Reporting (Questions 5(a)–5(d))

Stewardship plans and annual reports will be central to ensuring accountability under the PWCRA. These documents must provide sufficient detail for the Agency, stakeholders, and the public to evaluate whether producer responsibility organizations (PROs) are achieving statutory goals and delivering measurable environmental outcomes.

We recommend that stewardship plans and annual reports be structured around standardized, transparent, and auditable reporting requirements that allow for consistent comparison across PROs and over time.

Plans should clearly link proposed actions to measurable outcomes rather than general program descriptions.

Data protection for stewardship plans and annual reports should follow state and federal confidential business information protections at a minimum.

The PRO should be able to point to, reference, and/or promote existing education and outreach materials and programs when tasked with increasing public awareness.

The PRO should be able to submit plan amendments at any time, with clear justification.

5(b) Annual report clarification

The annual report should provide sufficient detail for the MPCA, local governments, service providers, producers, and the public to evaluate whether the program is meeting its statutory obligations and delivering meaningful environmental outcomes. To support transparency and accountability, the Agency should establish standardized reporting requirements that allow for year-over-year evaluation of program performance.

At a minimum, annual reports should include:

- Material-specific collection, recycling, composting, and reuse rates;
- Progress toward each statewide performance requirement established under the PWCRA, including waste reduction, reuse, recycling, composting, and post-consumer recycled content targets;
- Contamination rates and material quality by commodity;
- Information on toxicity in materials and progress towards toxics reduction goals.
- Detailed information on responsible end markets, including material destinations and, where available, material yield;
- Investments in collection, processing, reuse infrastructure, education, and market development;
- Reimbursement amounts by service category and methodology;
- Program expenditures, including administrative costs; and
- Any significant changes to program operations or performance.

The Agency should require the use of standardized reporting methodologies and consistent performance metrics to enable meaningful year-over-year comparisons and independent evaluation of the program's effectiveness.

5(c) Verification of costs and reimbursement rates

We recommend that the Agency require PROs to provide detailed, auditable financial reporting sufficient to verify costs and reimbursement rates, including:

- Producer fee structures and methodologies, including any efforts towards eco-modulation;
- Reimbursement rates by service category;
- Contracts with service providers and processors (or summarized standardized data where confidentiality is required);
- Administrative and programmatic expenditures;

- Infrastructure investments supported by producer funding; and
- Independent financial audits conducted on a regular basis.

These requirements are essential to ensure that producer fees are being used efficiently and that public funds embedded in the system are delivering environmental value.

5(d) Stewardship plan and plan amendment process clarification

- How the goals of toxicity reduction and product redesign for waste abatement would be reported, verified and measured.
- How the Registered Producers compliance/non-compliance with toxicity reduction and product redesign is reported to the stakeholders and the public.
- How to report how non-compliant Registered Producers plan to come into compliance for the stakeholders and the public.

6. Additional Rulemaking Recommendations

The Law, and any subsequent changes, will most certainly impact County's required Solid Waste Plans and likely their Facility Permits and Facility Annual Reports as well. As a result it will also likely impact any contracts for covered services. It would be presumptive that ordinance amendments, which often either drive the Plans/contracts or support those efforts, would not be done as a result of the Law or changes to it. All of those actions on behalf of a County – or community - will come with a cost to the County that will be measured in terms of workload, professional services and money, and it will be substantial.

Under MS115A.1455, and referenced Statues therein, identifies reimburse rates and factors to be considered in the Stewardship Plan Reimbursements. Those don't accommodate "group averages" and "tariff" (flat rate) approaches to reimbursement as identified by Eunomia in its June presentation to the Advisory Board. Nor do they require the PRO or consultant (Eunomia) hired by the PRO to judge if the service providers participating in an open market or through competitive bidding for contracts are overcharging or using non-efficient spending. The statute references an optimal level of convenience and service. Competition among service providers has and will continue to drive pricing to the levels needed to address convenience and to provide service appropriate for population density, distance traveled, variations in inputs (e.g., fuel, parts availability under federal tariffs, etc.) access to facilities, additional services requested by customers, and so forth.

Post-Consumer Recycled Content Measurement and Verification

The rules should establish clear and verifiable methods for measuring post-consumer recycled (PCR) content.

PCR claims should reflect the use of actual post-consumer material recovered through recycling systems—not accounting mechanisms that cannot demonstrate a physical connection between recovered material and finished products.

The MPCA should require producers to verify PCR content through robust chain-of-custody systems that track recycled material from collection through processing and into the manufacture of new products. Verification should include standardized reporting and independent third-party certification.

Mass balance accounting approaches that do not use physical traceability to allocate recycled content should not satisfy Minnesota's recycled content requirements unless they can demonstrate an equivalent level of transparency, accountability, and environmental integrity.

Clear measurement standards will create a level playing field for producers, strengthen confidence in recycled content claims, and ensure producer investments support actual recycling infrastructure.

System Performance Measurement

Across all elements of implementation, we encourage the Agency to prioritize measurable environmental outcomes over activity-based metrics. Key performance indicators should focus on:

- Actual material recovery and yield;
- Reduction in waste generation;
- Expansion of reuse systems and reuse cycles;
- Reduction in contamination rates; and
- Strengthening of stable, transparent end markets.

Collection or participation alone should not be treated as success unless it results in verified downstream recovery.

Continuous Improvement

Finally, we recommend that the rules include a clear mechanism for periodic review and update of key program elements, including collection lists, performance standards, and market definitions.

Given the rapid evolution of packaging formats, processing technology, and end markets, the PWCRA will require adaptive management to ensure that rules remain aligned with real-world conditions and continue to support meaningful environmental progress over time

Provide support for reuse

There is no clear incentive for reuse/waste reduction and no way to cover the costs that would allow for innovation. With minimal existing infrastructure, it could be hard to justify building and transitioning to reuse. Reports should give guidance on funding, the time needed for consumer habits to change, and on how to find systems that are specific to an area's cultural needs.

Sincerely

Miriam Holsinger,
Advisory Board Vice Chair
Eureka Recycling

Gabrielle Batzko-Conley
Stearns County/Tri-County Solid Waste Commission

Sara Bixby
National Waste & Recycling Association

Shannon Pinc
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Mac Sellars
r.World

Jon Steiner
Polk County

July 24, 2026

Katrina Kessler, Commissioner
Minnesota Pollution Control Agency
520 Lafayette Rd.
Saint Paul, MN 55155-4194

RE: American Wood Council Comments on Implementation of the Packaging Waste and Cost Reduction Act (PWCRA) (Minn. Stat. §§ 115A.144-115A.1463); Revisor's ID Number R-04992

Dear Commissioner Kessler,

The American Wood Council (AWC) appreciates the opportunity to comment on implementation of the Packaging Waste and Cost Reduction Act (PWCRA or "the Statute"). As regulations are drafted, we respectfully request that the Minnesota Pollution Control Agency (Agency), consider language to ensure that forthcoming regulations do not impose unintended and inequitable obligations on manufacturers and shippers of bulk structural wood construction materials.

AWC represents 87.5 percent of the structural wood products industry and the almost 465,000 men and women working family-wage jobs in mills across the country. From dimension lumber to engineered wood products, we champion the development of data, technology, and standards to ensure the best use of wood products and recognition of their unique sustainability and carbon-reduction benefits. We are leaders in providing education to the design, code and fire official communities who view AWC as a trusted and credible resource.

Through these comments, AWC requests that the Agency: (1) clarify that the Statute's business-to-business exemption applies to wood construction material packaging; and (2) determine that wood construction material packaging is subject to specific federal and state health and safety requirements that prevent the packaging from being waste reduced or made reusable, recyclable, or compostable under Section 115A.1451, Subd. 3, and is therefore exempt from obligations under the Statute.

Background on Packaging for Wood Construction Materials

AWC and our members take sustainability seriously. It is central to who we are as an industry, which is built on renewable, responsibly managed forest resources. Wood is the only major structural building material that is renewable and actively sequesters carbon, and our fiber suppliers, which includes some of our members, are active stewards of forest management and supply chain sustainability. These programs operate on a scale across the national supply chain and are not captured or assisted by state-level municipal recycling infrastructure.

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AWC members largely rely on two specific packaging materials to safely ship bulk quantities of structural wood construction materials: plastic strapping and weather-protective plastic wrap. These materials serve distinct, safety-critical functions:

- Plastic strapping: Plastic strapping stabilizes and contains wood bundles during transport on flatbed trucks, rail cars, and barges. Rail operators and highway safety authorities mandate specific banding requirements to ensure load integrity and prevent hazardous cargo from shifting in transit.

- Weather-protective plastic wrap: Weather-protective plastic wrap shields wood products from moisture exposure during shipment and storage. Industry standards, including the American Wood Protection Association Standard U1-22, require that treated wood products be protected from the elements prior to use. The International Code Council ES Evaluation Report (ESR-4373) imposes the same requirement for fire-retardant treated wood. More broadly, building codes reinforce this imperative at the end-use stage: IRC Section R317 requires that structural wood components in moisture-exposed applications be preservative-treated, a standard that presupposes the product arrives at the job site with its treatment intact. That integrity depends directly on protective wrapping during transit and storage.

This packaging is categorically different from typical consumer packaging and serves a different purpose. The packaging materials serve a structural quality and safety function - one mandated by federal and state transportation standards and industry codes - and cannot simply be eliminated or substituted within a statutorily imposed timeline. In fact, plastic strapping has been widely adopted to avoid metal bands used in times past that created safety concerns when cut under tension. Treating construction materials packaging as equivalent to consumer packaging will add significant costs to the construction industry, potentially raising housing costs and impacting families in Minnesota.

Request 1: The Agency Should Clarify that the Statute's Business to Business Exemption Language Applies to Wood Construction Material Packaging

The PWCRA (Minn. Stat. § 115A.144-115A.1463) currently outlines an exemption for materials where a packaged product is: (1) distributed to another producer; (2) where the packaging is used to contain a product, and the product is distributed to a commercial or business entity for the production of another product; and (3) the packaging is not introduced to a person other than the commercial or business entity that first received the product used for the production of another product. Minn. Stat. 115A.1441 Subd.16 (14)(i)-(iii).

AWC members commonly send wood products to builders and construction sites, where the transport packaging is removed and the wood product is used to produce another product – a home or other construction output. AWC submits that this scenario meets all the regulatory criteria to satisfy the Statute's business-to-business exemption where those products are distributed to job sites and commercial end users, including builders. Accordingly, AWC requests that the Agency clarify in its upcoming rulemaking that wood construction materials satisfy this criteria when those materials are sent to another business.

Request 2: The Agency Should Exempt Construction Material Packaging

Given the specific parameters and safety needs of our packaging outlined above, we ask the Agency to determine that wood construction product packaging is subject to federal and state health and safety requirements that prevent the packaging from being waste reduced, and therefore that the packaging is exempt from requirements under the Statute.

AWC's product packaging is closely tied to OSHA requirements to prevent shifting or collapse of materials (29 CFR 1910.176) and DOT requirements that loads withstand normal transportation conditions without failure (49 CFR 173.24; 49 CFR 393). For example, binding systems prevent bundle shift or separation; if they fail, there is a clear risk of load movement or collapse during transport or unloading. Wraps prevent water intrusion, which can affect load stability and lead to product degradation. Damaged or insufficient packaging can result in exposed edges or components, increasing injury risk during handling

AWC's members have diligently examined alternatives for adequate product packaging that would protect product safety and have determined that none exist. Substituting the existing wood product packaging with non-moisture-resistant alternatives (e.g. paper-based wraps, non-woven plastics or polyethylene films) that have been examined has resulted in product degradation, increased mold/mildew risk, and structural compromise, creating downstream health and safety risks for end users (e.g. compromised building materials leading to jobsite hazards).

As an illustrative example, wax-coated paper has been evaluated in the industry as an alternative to polypropylene woven wrap for lumber and engineered wood packaging, but it presents significant limitations:

- Moisture Resistance: While wax-coated paper offers some moisture resistance, it is inferior to woven polypropylene, especially under prolonged exposure to rain or humidity. The wax layer can degrade, leading to water penetration and product damage.

- Durability: Wax-coated paper is more prone to tearing, puncturing, and abrasion during handling, stacking, and transport. This can expose wood products to environmental elements and compromise load integrity.

- UV Protection: Wax-coated paper does not provide the same level of UV resistance as woven PP wrap, potentially allowing UV degradation of wood surfaces during outdoor storage.

- Recyclability and Disposal: Wax-coated paper is not recyclable.

Further, non-woven plastics and paper wraps have been evaluated in the industry but shown to be inadequate for moisture protection and did not withstand handling or weather exposure. Finally, polyethylene and other flexible films lack the necessary tensile strength and puncture resistance, leading to product exposure and damage, and are therefore similarly inadequate.

In other words, no currently available alternative meets the combination of strength, moisture resistance, and process compatibility necessary to comply with federal health and safety requirements, and to prevent damage to structures and endanger human lives.

The moisture prevention and packaging material durability, and stability that plastic wrap and plastic strapping provide are critical to preserving the integrity of the wood products and safety during transport. Unlike most other products, wood products are too big to be transported inside of a truck and are therefore transported in flatbeds and are disproportionately exposed to the elements. This level of moisture exposure, and the risks therein, is fundamentally different than a typical consumer product getting wet during transportation – building a house or other structure made with wood that has not been adequately protected from moisture results in poor structural integrity and could have devastating consequences for human life due to the increased risk of structural collapse.

Compromising the durability of the packaging for bulk wood products increases the risk that these products will shift during transit. Because these items are transported via flatbed, less durable packaging could potentially cause causing injury or loss of life in the event of an unexpected situation on the road such as a sharp turn or sudden braking.

Accordingly, AWC requests that the Agency exempt wood product packaging due to the disproportionate risks to health and safety described above. Specifically, we request the following language (shown in red below).

> "Packaging used with, containing, protecting, transporting, storing, distributing, or facilitating the installation of wood materials and products that are incorporated into, affixed to, assembled into, or otherwise become part of commercial, industrial, infrastructure, or residential construction projects, regardless of whether those products are sold directly to commercial construction businesses or at retail, are subject to federal and state health and safety requirements and therefore cannot be waste reduced, and thus are exempt from the requirements of the Statute."

Excluding wood construction material packaging is consistent with other state laws. The Washington State Recycling Reform Act of 2025 includes a comparable exemption for bulk construction material packaging within its definition of "exempt materials" (RCW 70A.208.020(19)(n)). Minnesota has the opportunity to align with this emerging national standard, ensuring implementation of PWCRA achieves its environmental goals without creating unworkable obligations for an industry that is already committed to sustainable stewardship. If the Agency chooses not to exempt wood product packaging based on the health and safety requirements it is subject to, AWC respectfully requests that the Agency implement an exemption for bulk construction material packaging similar to Washington State's exemption.

AWC strongly supports policies that advance responsible packaging stewardship and the development of robust recycling infrastructure in Minnesota. We are committed to working constructively with the Agency to ensure implementation of PWCRA achieves its environmental goals without creating unintended and inequitable burdens on the structural wood products industry.

We urge the Agency to incorporate the language described above into forthcoming implementation guidance and rulemaking. We welcome the opportunity to meet with members or staff to discuss these concerns further and to provide any additional technical information that would be helpful.

Sincerely,

W Layden

Will Layden

Vice President, Government Affairs
American Wood Council
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July 23, 2026

Court of Administrative Hearings
Attn: William Moore
600 North Robert Street
P.O. Box 64620
St. Paul, MN 55164-0620

RE: Comments of the Solid Waste Administrators Association (SWAA) on Possible New Rules Governing the Packaging Waste and Cost Reduction Act, Minnesota Rules, Chapter 7035; Revisor's ID Number R-4992

Dear Mr. Moore:

The Solid Waste Administrators Association (SWAA) appreciates the opportunity to provide comments on the Minnesota Pollution Control Agency's (MPCA) Request for Comments regarding the implementation of the Packaging Waste and Cost Reduction Act (PWCRA).

SWAA represents county solid waste professionals responsible for planning, operating, and managing Minnesota's integrated solid waste systems. Our members work daily with residents, businesses, public facilities, private service providers, and recycling markets to implement Minnesota's waste management policies. This practical experience provides SWAA with a unique perspective on how the proposed rules can effectively support implementation of the PWCRA.

SWAA supports implementation of the PWCRA in a manner that fulfills the Legislature's intent by preserving producer responsibility while building upon Minnesota's well-established integrated solid waste management system. We believe the rules should establish clear and durable policy direction while maintaining sufficient flexibility for the stewardship planning process to address operational issues that will evolve over time as infrastructure, technology, and markets develop.

Rather than responding to each individual question contained in the Request for Comments, SWAA has organized its recommendations around the major implementation topics identified by the Agency. We believe this approach more clearly addresses the underlying policy issues presented in the Request for Comments while providing recommendations that can assist the Agency throughout the rulemaking process.

Definitions and Exemptions (Questions 2(a)-2(c))

- SWAA recommends that exemption criteria remain objective and consistent with the producer responsibility framework established by the Packaging Waste and Cost Reduction Act. Exemptions should not inadvertently reduce incentives for producers to redesign packaging, reduce waste, or improve the recyclability or compostability of packaging materials. Likewise, the term "material" should refer to that of "packaging" as defined in statute, and strictly refer to the packaging and packaging components themselves rather than the packaged contents. The hazardous or flammable nature of the product contained within the packaging should not, by itself, determine whether the packaging qualifies for an exemption.

Therefore, SWAA recommends the following:

- Producers requesting an exemption should bear the responsibility of demonstrating that the packaging cannot reasonably be managed through any of the four pathways established by the PWCRA: source reduction, reuse, recycling, or composting. This evaluation should include consideration of whether reasonable redesign could enable the packaging to satisfy applicable health and safety requirements while improving its end-of-life management.

- Evaluation of exemption requests should include the condition of the packaging after normal consumer use, including reasonably anticipated residual contents and any preparation instructions provided by the producer. For example, packaging should not be considered nonrecyclable solely because the original contents were hazardous if, following normal consumer use and proper preparation, the resulting packaging can be safely managed within existing municipal solid waste management systems.

- Packaging should not qualify for an exemption solely because traditional curbside recycling is unavailable, if an alternative collection system can reasonably recover and manage the material. Alternative collection systems may include household hazardous waste programs, retailer take-back programs, producer-operated collection systems, or other approved collection methods.

- SWAA also recommends that the Agency establish objective criteria for determining when packaging is considered "unsafe or unsanitary" for recycling or composting. Because recycling and organics management systems operate differently, the MPCA should recognize that these criteria may differ depending upon the management pathway. At a minimum, the criteria should address packaging contaminated with infectious materials, hazardous biofluids, or other contaminants that present legitimate worker health and safety concerns.

Collection Lists (Questions 3(a)-3(j))

SWAA believes the success of Minnesota's producer responsibility program will depend upon collection standards that accurately reflect real-world operating conditions throughout the state, and that adapt with changing technology and infrastructure.

With respect to collection availability, SWAA recommends that the MPCA establish standards that consider whether recycling collection or disposal opportunities are generally available within an appropriate travel distance. As one example, the Agency could consider whether collection opportunities are available within approximately a 15-minute drive or within 10 to 15 miles for approximately 80 to 95 percent of the population. Existing curbside recycling services for both single-family and multiunit housing should also be considered when evaluating collection availability.

While SWAA supports the establishment of objective thresholds, the MPCA may also consider comparable performance-based approaches that provide substantially similar public access while recognizing differences in geography and local service delivery.

SWAA further recommends that collection thresholds for organics differ between Greater Minnesota and the metropolitan area. The MPCA should recognize the additional transportation distances, consolidation requirements, and infrastructure limitations that exist in many Greater Minnesota communities when establishing collection standards for organics management.

Finally, implementation of the PWCRA should build upon Minnesota's existing public and private collection and processing infrastructure. Counties own and operate various facilities such as transfer stations, material recovery facilities, compost facilities, household hazardous waste facilities. We also work closely with privately owned facilities, haulers, processors and numerous other service providers to deliver integrated waste management services. As producer responsibility organizations develop collection systems, they should leverage and strengthen this existing infrastructure wherever practical while strategically addressing infrastructure gaps rather than unnecessarily duplicating systems that are already functioning effectively.

Stewardship Plans (Section 5)

SWAA appreciates that the Request for Comments seeks input on numerous implementation details related to stewardship plans and annual reporting. Many of these operational questions involve standards that are likely to evolve over time as collection systems mature, processing technology advances, and recycling markets change.

For that reason, SWAA recommends that the administrative rules establish durable policy requirements and clear implementation procedures while allowing stewardship plans to address operational details that will require flexibility and periodic adjustment. This approach will enable the program to adapt to changing conditions without requiring repeated amendments to administrative rule.

Conclusion

SWAA appreciates the MPCA’s commitment to engaging stakeholders throughout implementation of the PWCRA. Counties and their public and private partners will play an essential role in the success of Minnesota's producer responsibility system, and SWAA looks forward to continuing to work collaboratively with the MPCA as the rulemaking process moves forward.

We respectfully submit these comments for your consideration and appreciate the opportunity to participate in the development of rules that are practical, adaptable, and capable of supporting an effective statewide packaging stewardship program.

Sincerely,

Gabrielle Batzko-Conley

Gabrielle Batzko-Conley
SWAA President
Tri-County Solid Waste Commission

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July 23, 2026

Aubrey Sondrol
Rule Coordinator
Minnesota Pollution Control Agency
7381 Airport View Drive SW
Rochester, MN 55902

Re: Request for Comments –Packaging Waste and Cost Reduction Act (PWCRA) Rulemaking, Revisor's ID Number R-04992

Dear Rule Coordinator Sondrol and MPCA Rulemaking Staff,

On behalf of the Consumer Healthcare Products Association (CHPA)[1], thank you for the opportunity to submit comments in response to the Minnesota Pollution Control Agency's (MPCA or "the Agency") Request for Comments (RFC) on possible new rules implementing the Packaging Waste and Cost Reduction Act (PWCRA). We respectfully submit the following comments on two related topics within the exemptions framework described in Section 2 of the RFC: (1) the scope of the packaging exemption for Food and Drug Administration (FDA) regulated products, and (2) the need for a comparable exemption for dietary supplements.

The Rule Should Confirm that Existing Statutory Exemption Extends to Secondary and Tertiary Packaging

Minnesota Statute section 115A.1441, subdivision 16, expressly excludes from the definition of "covered material" packaging for products regulated as a drug or medical device by the United States Food and Drug Administration (FDA), as well as packaging for medical equipment and products used in medical settings. Critically, both exclusions extend to "associated components and consumable medical equipment" and neither is limited to the immediate container of the product. The Legislature's use of the broad phrase "packaging for a product" together with the express inclusion of "associated components," reflects a clear intent to exempt the full packaging system that accompanies an FDA-regulated drug or device into commerce, not merely its primary container.

That reading is reinforced further by the federal regulatory framework these exemptions are designed to accommodate. FDA regulated drug products are among the most heavily regulated products in commerce, and federal requirements govern not just primary packaging, but every tier of the packaging system:

- **Primary packaging** must maintain drug stability, sterility, and prevent contamination – the basis most likely contemplated for any preliminary exemption consideration.
- **Secondary packaging** carries FDA mandated labeling required under 21 C.F.R. § 201.66, including complete Drug Facts panels, dosage instructions, warnings, lot numbers, and expiration dates. For many drugs, secondary packaging must also

[1] Consumer Healthcare Products Association is the national trade association based in Washington, D.C. that represents the manufacturers of over-the-counter (OTC) medications, dietary supplements, and OTC medical devices.

meet child-resistant standards under the Poison Prevention Packaging Act (PPPA), 15 U.S.C. § 1471 et seq., which impose specific material and design requirements that frequently conflict with recyclability or compostability. For OTC medical devices – such as adhesive bandages, digital thermometers, and toothbrushes – the outer carton often serves as the primary vehicle for federally mandated labeling under 21 C.F.R. Part 801 and 21 U.S.C. § 352, because the immediate container lacks sufficient space to carry it.

- **Tertiary packaging** must protect against tampering, contamination, and environmental exposure throughout distribution and storage, consistent with FDA cGMP regulations at 21 C.F.R. Parts 210-211. Tertiary shippers for both drugs and devices exist to preserve the integrity of federally mandated labeling and packaging features through the distribution chain and cannot be freely redesigned in response to state EPR incentives without risking noncompliance with underlying federal requirements.

Limiting the exemption to primary packaging alone would be inconsistent with both the statute's plain language and its underlying rationale. Producers legally required to comply with federal mandates governing secondary and tertiary packaging should not simultaneously face penalties under state law for doing so. The MPCA should therefore adopt rules confirming that the drug and medical device packaging exemptions extend to primary, secondary, and tertiary packaging, consistent with the Legislature's evident intent and the federal regulatory structure the exemptions are designed to respect.

Dietary Supplement Packaging Warrants a Comparable Full Exemption

We also urge the MPCA to give serious consideration to extending a full packaging exemption to dietary supplements regulated under the Federal Food, Drug, and Cosmetic Act (FD&C Act) and the Dietary Supplement Health and Education Act of 1994 (DSHEA), 21 U.S.C. § 350 et seq. The policy rationale for exempting drug packaging applies with equal, and in many respects identical, force to dietary supplement packaging.

Dietary supplements are subject to extensive federal packaging and labeling requirements that parallel those governing drugs:

- FDA cGMP regulations for dietary supplements, codified at 21 C.F.R. Part 111, impose mandatory requirements for packaging to protect supplements from contamination, degradation, and adulteration throughout the supply chain. These requirements govern material selection, container closure integrity, and sanitary design — constraints that frequently preclude recyclable or compostable packaging options.
- Supplement Facts labeling requirements under 21 C.F.R. § 101.36 mandate specific panel formats, type sizes, and content disclosures on secondary packaging, constraining design flexibility in ways that may conflict with recyclability.
- The PPPA applies to certain dietary supplements just as it does to drugs, imposing the same child-resistant packaging requirements that limit material substitution.
- Tamper-evident packaging requirements under 21 C.F.R. § 211.132, applied to dietary supplements by reference in FDA guidance, require structural packaging features that may not be available in currently recyclable or compostable substrates.

The PWCRA's exemption framework under Minnesota Statutes, section 115A.1453, subdivision 6, turns on whether "a specific federal or state health and safety requirement prevents the packaging from being waste reduced or made reusable, recyclable, or compostable." The federal requirements governing dietary supplement packaging meet this standard in the same manner as those governing drugs. There is no principled distinction between the two categories that would justify exempting drug packaging while subjecting substantially equivalent supplement packaging to full PWCRA compliance obligations.

We therefore recommend the MPCA adopt rules providing a full exemption — covering primary, secondary, and tertiary packaging — for dietary supplements regulated under the FD&C Act and DSHEA where federal packaging, labeling, cGMP, tamper-evident, or child-resistant requirements prevent the packaging from being waste reduced, made reusable, recyclable, or compostable.

Conclusion

The PWCRA's exemption framework reflects the legislature's recognition that federal health and safety requirements can, and do, prevent certain packaging from meeting the law's waste reduction goals. The MPCA should implement that framework consistently and fully by: (1) extending the drug packaging exemption to secondary and tertiary packaging, and (2) providing an equivalent full exemption for dietary supplement packaging subject to materially identical federal constraints.

We appreciate the MPCA's commitment to a thoughtful and inclusive rulemaking process and welcome the opportunity to provide further information or to discuss these comments at the Agency's convenience.

Respectfully,

Carlos I. Gutiérrez
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ALLIANCE FOR AUTOMOTIVE INNOVATION

July 24, 2026

William Moore
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Submitted via https://minnesotaoah.granicusideas.com/discussions/41576-minnesota-pollution-control-agency-request-for-comments-on-the-packaging-waste-and-cost-reduction-act

Dear Mr. Moore,

The Alliance for Automotive Innovation (Auto Innovators)[1] appreciates the opportunity to respond to the Minnesota Pollution Control Agency's (MPCA or the Agency) request for comments on the proposed regulation implementing the Packaging Waste and Cost Reduction Act (PWCRA) (Minn. Stat. § 115a.114-115A.1463). Auto Innovators represents the auto manufacturing sector, including automakers that produce and sell around 95% of the new light-duty vehicles in the United States. Millions of packaged auto parts are transported across the country and across the globe in order to repair and maintain the vehicles that our members sell; therefore, EPR programs have a substantial impact on automakers.

MPCA has issued several questions in its request for comments which we address below. However, we want to emphasize that the Agency should consider the applicability of any proposed regulations on producers of complex durable goods. Complex durable goods, such as vehicles, are made up of thousands of components, are subject to numerous state and federal safety, performance, and environmental requirements, and depend on highly complex global supply chains. Further, many of our products are designed for long service lives and may remain in the consumer market for many years. Our comments reflect ways that the regulations can be clarified to account for the unique needs of our products.

Question 2(a): Exemption Process

Auto Innovators encourages MPCA to develop an exemption process that is transparent, objective, and administratively practical for both regulated entities and the Agency. The current proposal appears to rely on exemptions being granted "as determined by the commissioner." While Agency discretion may be appropriate in limited circumstances, this standard provides limited regulatory certainty and could result in inconsistent implementation. In the case of OSHA mandated hazard communications, this may also create conflict between required state and federal laws. We recommend that MPCA establish objective eligibility criteria and categorical exemptions wherever possible rather than relying solely on case-by-case determinations.

[1] From the manufacturers producing most vehicles sold in the U.S. to autonomous vehicle innovators to equipment suppliers, battery producers and semiconductor makers – Alliance for Automotive Innovation represents the full auto industry, a sector supporting 10 million American jobs and five percent of the economy. Active in Washington, D.C. and all 50 states, the association is committed to a cleaner, safer and smarter personal transportation future. www.autosinnovate.org.

Existing state programs demonstrate that exemptions can be administered more efficiently. For example, New Jersey's recycled content program incorporates an exemption process within its registration framework,[2] which incorporates statutory exemptions into the registration process. Similar approaches provide greater regulatory certainty while allowing agencies to focus resources on circumstances that truly warrant individualized review.

If MPCA determines that an application process remains necessary, exemptions for legally required materials should be granted on a one-time basis and remain valid unless the underlying legal requirement or the product itself changes. Requiring manufacturers to periodically reapply for exemptions covering the same federally mandated materials would create unnecessary administrative burden without advancing the environmental objectives of the program.

To ensure consistency and predictability, producers seeking an exemption should identify:

- The applicable federal or state statute, regulation, or legally enforceable requirement;
- The affected material, packaging, label, or product component;
- A clear explanation of how the legal requirement prevents compliance; and
- Documentation submitted to OSHA if applicable.

Question 2(b): Federal or State Health and Safety Requirements

Auto Innovators agrees with MPCA that eligibiltiy for an exemption should be based on whether a specific legal requirement – not general preference, cost, or operational convenince – prevents a covered material or packaging component from being redesigned or recycled. MPCA should make clear that "health and safety requirements" encompass more than product performance standards.

For the automotive industry, these obligations frequently include labels, warnings, instructions, manuals, and other documentation intended to protect vehicle occupants, service technicians, emergency responders, transportation workers, and consumers required by federal and/or state law. These materials exist to protect vehicle occupants, service technicians, emergency responders, transportation workers, and consumers. In many cases, manufacturers have little or no flexibility to modify their content, placement, durability, or format.

For example, the Monroney label is required by the federal Automobile Information Disclosure Act.[3] Federal law requires manufacturers to affix a Monroney label to each new automobile before delivery to a dealer and specifies the information that must be disclosed to consumers, including the manufacturer's suggested retail price, standard equipment, optional equipment, destination charges, and other required consumer information. The label serves as a federally mandated consumer disclosure intended to provide standardized information at the point of sale and may not be omitted or materially altered by manufacturers or dealers.

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[2] *See* https://www.nj.gov/dep/dshw/recycled-content/recycled_content_faqs.pdf
[3] 15 U.S.C. §§ 1231–1233.

Other examples include, but are not limited to, vehicle owner's manuals, warranty guides, airbag labels and safety tags, and recall notices. Because these materials are legally required, MPCA should establish categorical exemptions for federally or state-mandated labels, warnings, instructions, and documentation rather than requiring manufacturers to seek individual approval.

Precedent for this exists in other EPR laws, such as Colorado, where paper products used to distribute legally required materials in paper form by applicable laws are exempt.[4] Including this exemption allows automakers and other manufacturers to avoid complying with conflicting state and federal laws.

As noted in question 2(a), we recommend this exemption be granted on a one-time basis and remain valid unless the underlying legal requirement or the product itself changes. Where compliance with a federal or state legal requirement clearly conflicts with Minnesota's requirements, the exemption process should be straightforward and predictable. Once the legal obligation has been documented, manufacturers should not be required to repeatedly demonstrate compliance with the same requirement. Therefore, we recommend that MPCA create a regulatory exemption for legally required products and use the same exemption process referenced in question 2(a).

6. Other Topics

Automotive manufacturers are simultaneously preparing to comply with packaging EPR programs in seven states, each with different statutory requirements, reporting obligations, implementation schedules, definitions, exemptions, Producer Responsibility Organization (PRO) structures, and administrative processes. Companies are also preparing annual producer reports, California source reduction plans, multiple state registrations, and differing reporting deadlines.

We appreciate that Minnesota's proposal generally aligns with other states by recognizing exemptions for OSHA Hazard Communication labeling and similar legal requirements. However, if Minnesota requires additional exemption applications, documentation, or administrative steps beyond those required in other jurisdictions, those differences create incremental compliance burdens without corresponding environmental benefit.

The greatest challenge for manufacturers is not compliance with any one state's requirements, but rather the cumulative complexity resulting from differences among state programs. National manufacturers cannot efficiently design unique compliance systems for every jurisdiction. Instead, they must reconcile varying definitions, exemption criteria, reporting formats, timelines, and administrative processes across multiple states.

As additional states adopt EPR legislation, unnecessary variation among programs will continue to increase compliance costs and administrative complexity while diverting resources that could

[4] *See* https://leg.colorado.gov/bill_files/97994/download. Printed paper, used to distribute financial statements, billing statements, medical documents, or other vital documents required to be provided in paper form by applicable consumer protection laws or other state or federal laws.

otherwise be invested in packaging innovation, source reduction, and circular economy initiatives.

Accordingly, we encourage MPCA to harmonize its program with existing state packaging EPR programs wherever possible. Consistent definitions, standardized reporting approaches, aligned exemption criteria, and recognition of federally required labels and documentation will reduce unnecessary administrative burden while improving overall compliance.

Conclusion

Again, we appreciate the opportunity to provide recommendations for making this program more workable for complex products. We strongly recommend that MPCA align any proposed rules for exemptions or producers with existing state and federal frameworks and requirements. We appreciate the Agency's attention to this matter. For further questions, please contact Emily Jones at ejones@autosinnovate.org.

Sincerely,

Emily Jones
Director, Energy & Environment Policy
Alliance for Automotive Innovation

american cleaning institute®

Friday, July 24, 2026

William Moore
600 North Robert Street
P.O. Box 64620
St. Paul, MN 55164-0620

Re: Possible New Rules Relating to the Packaging Waste and Cost Reduction Act, Minnesota Rules, 7035; Revisor's ID Number R-04992

The American Cleaning Institute (ACI) appreciates the opportunity to provide input on the implementation of Minnesota Statutes, section 115A.1453 (the Packaging Waste and Cost Reduction Act, or PWCRA). ACI is national trade association representing manufacturers and suppliers of household, commercial, and institutional cleaning products. ACI works to advance the growth and innovation of the U.S. cleaning products industry while advancing the health and quality of life of consumers and protecting the environment. ACI's members have a long history of using scientific research to bring safe and effective products to market, including products with packaging that must satisfy federal or state health and safety requirements. As MPCA develops the rules for the PWCRA, ACI respectfully submits the following comments in response to question 2(b), and offers related observations on definitions and exemptions that are critical to a workable rule.

ACI urges MPCA to design its rules so that federal and state health and safety determinations are given appropriate deference. Where a product, material, or package is subject to federal or state requirements intended to protect health, safety, product integrity, shelf life, transportation safety, child safety, or safe handling, producers should not be required to relitigate the underlying safety rationale in order to qualify for an exemption or limitation. MPCA should instead establish a clear, practical process that allows producers to rely on citations, classifications, registrations, standards, or other objective documentation demonstrating that the applicable requirement limits waste reduction, reuse, recyclability, compostability, or material substitution.

Recommended criteria for identifying federal and state health and safety requirements that constrain waste reduction, reuse, recycling, or composting.

A specific federal or state health and safety requirement should be found to prevent a material, proportion of material, or packaging from being waste reduced, made reusable, recyclable, or compostable when the requirement, classification, or applicable standard establishes one or more of the following. Relevant federal and state regimes include, but are not limited to, OSHA hazardous/flammable product requirements (29 CFR 1910.1200), CPSC child-resistant packaging requirements (16 CFR Part 1700), FDA product safety and shelf-life requirements, DOT hazardous materials packaging requirements (49 CFR Part 173), and comparable state health and safety requirements:

1. The requirement dictates specific packaging characteristics, performance, or format. Compliance necessitates a particular material, closure, barrier property, container type, format, or performance specification that cannot reasonably be achieved through a waste-reduced, reusable, recyclable, or compostable alternative. *Example:* the Poison Prevention Packaging Act requires "special packaging" that continues to function in contact with the substance under 16 CFR 1700.15, which is directly relevant to household cleaning products and other substances subject to child-resistant packaging. “Special packaging” is defined as a package that is designed or constructed to be significantly difficult for children under 5 years of age to open within a reasonable time and not difficult for adults to use properly.

2. The requirement restricts or prohibits reuse or refill. *Example:* Under the Poison Prevention Packaging Act (PPPA), "special packaging… shall not be reused" (16 CFR 1700.15(c)). Cleaning products, laundry products, and other household chemical products subject to child-resistant packaging cannot lawfully be moved into refill or reuse models that conflict with this federal safety standard.

3. Substituting an alternative material would compromise federal or state compliance, product safety, or product integrity. A recycled-content, compostable, or otherwise "circular" material cannot meet the applicable federal or state performance, compatibility, stability, shelf-life, or safety requirement. *Example:* Department of Transportation (DOT) hazardous-materials packaging must pass UN performance specifications and a chemical-compatibility standard addressing corrosivity, permeability, softening, aging, and embrittlement (49 CFR 173.24) which is particularly relevant to concentrated cleaners, disinfectants, and other regulated cleaning chemistries transported in UN-rated drums, totes, and pails.

4. No technically feasible and commercially available compliant alternative exists that would both satisfy the federal or state requirement and meet the waste-reduction, reuse, recyclability, or compostability objective. This mirrors the federal test at 16 CFR 1700.15(b)(2)(ii)(B), under which packaging is deemed "required" only if "no other packaging type would comply with other state or Federal regulations," "no other packaging or closure material would be compatible with the substance," or "no other suitable packaging type would provide adequate shelf-life."

5. The material or packaging presents safety or sanitation constraints in collection, sorting, processing, ruse, recycling, or composting. MPCA should recognize that certain cleaning-product formats (e.g., premoistened cleaning wipes, surface cleaning wipes, stain-remover wipes, hand-sanitizer wipes, and similar products) may become wet, chemically treated, or contaminated in ways that make them unsuitable for ordinary curbside or composting systems, consistent with the “unsafe or unsanitary” concept in Minn. Stat. § 115A.1441, subd. 24.

Information a producer should be able, but not required, to submit.

MPCA should distinguish between information a producer may submit and information a producer must submit. Where a federal or state requirement, classification, registration, or standard already establishes the relevant health or safety constraint, MPCA should not require duplicative technical demonstrations. Examples of documentation a producer should be permitted (but not required) to rely on include:

- Citation to the specific federal or state requirement.
- The product's federal or state classification, registration, Safety Data Sheet classification, or labeling status.
- Technical specifications that demonstrate the required packaging function, including child resistance, closure performance, barrier properties, compatibility, product stability, shelf life, or safe handling and transport.
- Product stability, compatibility, and shelf-life information demonstrating that the mandated packaging is necessary and that alternatives would compromise safety, efficacy, regulatory compliance, or product integrity.
- Engineering evaluations, lifecycle analyses, or supplier documentation, plus documentation that reusable, recyclable, or compostable alternatives were evaluated and cannot reasonably meet the safety, efficacy, or regulatory requirement, where such information is reasonably available to the producer.
- Third-party expert opinions or certifications, including recognized industry standards and testing protocols.

Related definitions and exemptions.

Although ACI's comments focus on question 2(b), several related definitions and exemptions warrant clarification to ensure the rules are workable for cleaning-product manufacturers and consistent with the PWCRA's intended scope.

First, MPCA should confirm that non-residential reusable business-to-business transportation packaging (e.g., closed-loop pallets, UN-rated drums, totes, and pails used to move cleaning-product ingredients and finished goods between manufacturers, distributors, and commercial customers) is treated consistently with the exempt-materials provisions in Minn. Stat. § 115A.1441, subd. 16, and is not inadvertently swept into residential covered materials. Harmonizing this treatment with other state packaging extended producer responsibility (EPR) programs will avoid confusion and duplicative reporting.

Second, MPCA should clarify that the definition of "paper product" does not inadvertently capture cleaning-product formats that are not ordinary curbside-recyclable paper. Premoistened cleaning wipes, surface-cleaner wipes, stain-remover wipes, hand-sanitizer wipes, and similar single-use wipes are designed to deliver cleaning, disinfecting, or sanitizing chemistry and are not primarily disposed of through the residential curbside paper stream. A workable definition should be limited to structured paper products understood as paper by a layperson and should exclude cellulose derivatives and wipe formats.

Summary

ACI believes that a transparent, flexible, and administratively workable process for evaluating health and safety-related packaging constraints will help ensure the long-term success of Minnesota's EPR program. MPCA can support innovation and avoid unintended consequences by recognizing existing federal and state safety determinations, allowing producers to rely on objective documentation, protecting confidential technical and commercial information, and avoiding duplicative demonstrations where compliance obligations are already established by another regulatory authority. ACI appreciates MPCA's consideration of these comments and stands ready to serve as a resource as implementation efforts move forward.

Sincerely,

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MINNESOTA MBA BEVERAGE ASSOCIATION
Representing the bottlers & distributors of non-alcoholic beverages

July 24, 2026

The Honorable Christa L. Moseng
Minnesota Court of Administrative Hearings
600 N. Robert Street
St. Paul, Minnesota 55101

Dear Judge Moseng:

RE: Possible New Rules Governing the Packaging Waste and Cost Reduction Act, Minnesota Rules, 7035; Revisor's ID Number R-4992

CAH Docket No. 22-9003-41576

Thank you for the chance to provide input on the Request for Comments concerning rulemaking under the Packaging Waste and Cost Reduction Act (PWCRA).

1. Definitions
The definitions of “packaging” and “covered materials” should be carefully aligned with the definition of “covered entities” so that the two concepts function together. Covered materials should fall within the program only when they are associated with covered entities. In Minnesota those entities are limited to residential recycling streams, schools, and public spaces. Consequently, the focus of the rules should remain on primary and secondary packaging tied to materials managed through those channels.

The rules should avoid sweeping in shipping containers, unfilled packaging, warehouse and manufacturing packaging, or other materials that are already handled through established industrial recycling systems. Including those items would create double-counting of costs and extend the program beyond its intended residential and public-space scope.

Similarly, the current definition of “paper” is overly expansive and risks capturing industrial and commercial paper. Maintaining a clear linkage between covered materials and covered entities should prevent the inadvertent inclusion of institutional, commercial, and industrial (ICI) paper; we urge the Agency to confirm that outcome in the final rules.

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2. Exemptions
As presently drafted, the exemptions appear to treat all packaging and paper supplied into Minnesota as covered materials, regardless of whether those materials ever enter the system managed by the producer responsibility organization (PRO). This approach would pull large volumes of non-residential single-use and reusable packaging—pallets, plastic trays, and similar items—into the program.

The PRO has no practical ability to influence the performance of materials that are supplied exclusively to non-covered entities. Those entities account for the majority of such packaging. Recycling and reuse targets, however, would still use a denominator that includes every covered material placed on the market. The resulting gap between what the PRO actually manages and what is counted in the performance calculation would make the statutory targets significantly harder to achieve.

The specific language of concern appears in the exemption that reads:

(14) are covered materials that:

(i) a producer distributes to another producer;

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

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

A more flexible business-to-business exemption is needed to prevent double-counting, unnecessary cost, administrative confusion, and distorted progress metrics. We recommend removing the detailed descriptive clauses; the more language that is added, the more restrictive the exemption becomes.

3. Collection Lists
Toxics and PFAS should remain outside the scope of the EPR program. The PRO is not positioned to collect the data that would be required. Source-reduction goals, toxics-reduction measures, and greenhouse-gas accounting belong in the PRO's program plan rather than in individual producer obligations or in the rules themselves. At a minimum, any limitation on toxics should be confined to substances that are "intentionally added."

We appreciate the opportunity to comment and look forward to continued constructive engagement with the Minnesota Pollution Control Agency as the rulemaking process advances.

Sincerely,

Tim Wilkin
President

MINNESOTA CHAMBER OF COMMERCE
GROWING MINNESOTA

July 24, 2026

The Honorable Christa L. Moseng
Administrative Law Judge
Minnesota Court of Administrative Hearings
600 N. Robert Street
St. Paul, Minnesota 55101

Dear Judge Moseng:

I write today on behalf of the Minnesota Chamber of Commerce (Chamber), a statewide trade association representing more than 6,300 businesses and their more than half a million employees. Chamber members include all sectors impacted by the Packaging and Waste Cost Reduction Act (PWCRA), which required creation of a paper and packaging Extended Producer Responsibility (EPR) program. This comment letter is organized by the questions and statement posed in the Minnesota Pollution Control Agency (MPCA)'s Request for Comments document. MPCA prompts are underlined for ease of differentiating between Chamber comment and prompt.

While the Chamber provides specific responses to several of the questions posed by the MPCA below, we broadly urge the EPR program to harmonize with other states, allow flexibility to ensure feasibility, and protect proprietary information. Minnesota is the fifth state in the nation to adopt an EPR program for paper and packaging. The program from the MPCA must reflect that we exist not in a vacuum, but in a complex domestic and global economy.

Flexibility is required, for example, when packaging is redesigned for product performance, safety, or customer requirements. One producer may have thousands of custom products for a massive consumer base. Harmonization across states takes many forms. Producers may be entering just one set of packaging into the waste stream or a complicated universe of packaging for infinite combinations of products and clients. A producer of a covered product seeking Minnesota as a market is also selling into other states; while weight requirements are necessary under the program for compliance, easing the different weight requirements for various different products and components would simplify the program.

While some data collection may be important to program implementation, overly burdensome requirements on program participants beyond what's allowed in statute could threaten business competition by compromising proprietary information. Litigation over overcollection or handling of data can lead to cost increases for the agency. Varying data collection requirements across EPR states is a consequence of a patchwork of laws and rules. MPCA should work to mitigate differences between Minnesota's data collection and other states.

MPCA Request for Comment Answers:

1. Definitions for terms that are not defined in statute

Definitions should provide a clear and administrable boundary for what materials are covered under the program. Broad definitions that extend beyond products commonly managed through the residential recycling system create compliance uncertainty, increase administrative burden, and risk capturing products that do not meaningfully contribute to the waste management challenges that statute was intended to address.

To support harmonization and program feasibility, Minnesota should align definitions with approaches adopted in other packaging EPR programs wherever possible.

2. Exemptions

2(a): Under *Minnesota Statutes,* section 115A.1441, subdivision 16 (11), what criteria should be used to determine that a specific hazardous or flammable products regulated by the 2012 federal OSHA CFR, title 29, section 1910.1200 that prevents a material, any proportion of material, or packaging cannot be waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?

The federal "Right to Know" law was updated in 2012 to conform with the Globally Harmonized System. Minnesota is a participant in a global economy. Any criteria required to comport with this explicit statutory directive to exempt materials covered in 115A.1441 subd. 16 (11) should go no further than other jurisdictions, including those without existing EPR laws. Therefore, producers should not be held responsible for proactively submitting information to demonstrate compliance with federal Occupational Safety and Health Administration (OSHA) requirements, which would only create unnecessary administrative burden for both producers to file the information and MPCA to review it. The legislature intended for these materials to be exempt; a criteria process that is overly burdensome would be inconsistent with legislative intent.

The commissioner has the authority to determine a product as exempt under *Minnesota Statutes*, section 115A.1453, subdivision 6. Under this authority the commissioner only has authority to classify packaging as exempt if it is determined "that a specific federal or state health and safety requirement prevents the packaging from being waste reduced or made reusable, recyclable, or compostable."

The MPCA would appreciate comments on the following question, as well as any other comments relating to a process for establishing exemptions:

2(b): Under Minnesota Statutes, section 115A.1453, subdivision 6., what criteria should be used to determine that a specific federal or state health and safety requirement prevents a material, any proportion of material, or packaging cannot be waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?

Packaging is often required to not only protect the product but also to ensure safety for transportation and use. State and federal requirements regulate what sort of packaging must be used.

A clear and workable pathway is necessary for business certainty and program feasibility. Referencing the relevant state or federal statute, regulation, guidance, or other directive, and a brief justification for why the material or packaging cannot be waste reduced, made reusable, recyclable, or compostable. For example, MPCA should defer to the U.S. Food and Drug Administration (FDA) as necessary or recommended to protect the safety and shelf life of the product. Producers should not be held responsible for proactively submitting information to demonstrate compliance with federal or state FDA requirements to claim this exemption. Another example is household and personal care products that must be packaged in child-resistant packaging to protect children from injury or illness resulting from handling, using, or ingesting household substances, as regulated by the Consumer Product Safety Commission (CPSC) under the *Poison Prevention Packaging Act*. These federal requirements exempt impacted packaging from the Minnesota requirements.

The legislature did not intend to create a de facto ban on packaging required by other state and federal requirements. Therefore, ensuring a simple and repeatable process for including criteria is necessary.

Necessity of business-to-business exemptions

The Chamber urges MPCA to interpret business-to-business exemptions broadly and consistently with legislative intent. Minn. Stat. 115A.1441 Subd. 16 P. 14 provides significant latitude for further business-to-business exemptions. The Packaging and Waste Cost Reduction Act (PWCRA) was written to capture paper and packaging that is not already recycled and must be diverted from a landfill. Business-to-business packaging is largely already managed sustainably; therefore, limiting exemptions for business-to-business only requires more cost and burden to industry for very little, if any, further landfill diversion.

Commercial and industrial packaging is generally managed through established private-sector collection and recycling systems that are funded by businesses and operate separately from the residential waste streams. Requiring these materials to participate in the EPR system would impose substantial compliance costs while producing limited additional diversion benefits.

The Chamber's deep and broad membership includes companies that sell necessary but uncomplicated and repeating items to organizations with completely customizable products branded by clients globally. Exempting business-to-business sales retains the statute's overall goal, eliminates confusion, and ensures a workable regulation. Further, sectors rely on various types of packaging, including highly advanced and engineered packaging to ensure product integrity, contamination control, and safe transport.

A broader business-to-business exemption would allow the program to focus resources on residential materials where market failures actually exist. Other possibilities include exemptions for transport packaging.

<u>*Minnesota Statutes*, section 115.1441, subdivision 24 mentions another criterion to be further established for "products that recycling or composting facilities will not accept because of the unsafe or unsanitary nature of the paper product".</u>

<u>The MPCA would appreciate comments on the following question, as well as any other comments relating to a process for defining "unsafe and unsanitary":</u>

<u>**2(c):** Should criteria be defined for "unsafe and unsanitary" in relation to *Minnesota Statutes*, section 115.1441, subdivision 24? If so, what should those criteria be? Should this be tied to what is accepted on the covered material lists?</u>

The Chamber urges MPCA to provide clear guidance regarding the statutory exemption for paper products that recycling or composting facilities will not accept because of their unsafe or unsanitary nature. This exemption should reflect the political realities of the recycling system and recognize that certain paper products, through their normal and intended use, become contaminated and are routinely excluded from recycling and composting programs.

A clear framework for identifying categories of paper products that are unsuitable for collection due to sanitation, health, or worker safety concerns will improve compliance certainty, reduce confusion for regulated entities, and help maintain the quality and value of recovered materials.

3. Collection lists

<u>The MPCA must determine what covered materials should be placed on the lists established in *Minnesota Statutes,* section 115A.1453. The creation of these lists will establish when a covered material is recyclable or compostable.</u>

<u>The MPCA must also establish a process to allow the agency to identify when a covered material can be incorporated or must be removed from the collection lists.</u>

<u>The MPCA would appreciate comments on the following questions, as well as any other comments relating to a process for determining whether a covered material should be included on a collection list or requirements for alternative collection programs:</u>

<u>**3(a):** What should the threshold for "current availability of collection" services be for recycling? For organics recycling? Should they be different or the same?</u>

Recycling and organics thresholds should be evaluated separately because collection systems, contamination limits, processing infrastructure, and end markets differ. "Current availability" should mean actual, recurring service available to the relevant generators, not a theoretical program or a distant drop-off location. Collection thresholds should be based on practical access to existing recycling systems and should align with nationally recognized standards where possible. Establishing achievable and predictable benchmarks will provide certainty for regulated entities while allowing the program to focus investments where they are most needed. MPCA should distinguish residential curbside systems from commercial and industrial pathways and should recognize existing business-to-business recovery systems when packaging does not enter the household stream. In both cases, the focus should remain on high producing and high population areas rather than adopting a one-size-fits-all program.

<u>**3(b):** What is the threshold for access to recycling and composting processing infrastructure? Should it be determined by distance to a percent of the population total coverage of a percent of the total population, or something else? Should it differ **for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?**</u>

Access to processing infrastructure should be evaluated based on whether sufficient capacity exists to produce marketable commodities rather than arbitrary geographic or numerical thresholds. Recycling markets vary significantly across material categories and over time. A flexible approach will better support long-term program success. In this framework, MPCA should permit different approaches for Greater Minnesota and the Twin Cities.

<u>**3(c):** In evaluating the capacity and technology for sorting covered materials, how much processing capacity should be set as the threshold for a covered material to be included on a collection list? Should it be set as a percentage or another measure?</u>

Processing criteria should recognize established industry specifications and market practices. Materials should be eligible for collection if adequate sorting and processing capability exists to produce a usable commodity that can move into responsible end markets. MPCA should avoid classifying a material as recyclable merely because a technology exists; Minnesota generators must be able to reasonably access that end market.

3(d): <u>What is the minimum availability of responsible markets for a covered material to be included on a collection list? Is there a threshold relating to capacity, number, distance, or some combination of thresholds?</u>

The Chamber agrees that specific market-count thresholds should not be required. Market conditions fluctuate considerably due to changing supply, demand, transportation costs, and technological developments. Regulatory requirements should focus on ensuring materials can move to responsible end markets rather than establishing arbitrary numerical requirements.

3(e): <u>What are the recommended thresholds for the presence and amount of a residual, contaminant, and/or toxic substance for a covered material to be excluded from the collection list?</u>

3(f): <u>What is the quantity of a covered material estimated to be available and recoverable that should cause a covered material to be included on a collection list?</u>

Requiring yield goes beyond statutory authority and raises serious concerns for maintaining a competitive marketplace. Yield measurements may vary significantly across facilities, technologies, and markets. Requiring detailed yield reporting may create significant compliance burdens and disclosure concerns without providing corresponding environmental benefits. The Agency should instead focus on whether materials have viable and functioning end markets.

3(g): <u>What are some examples of future conditions of these criteria to be considered?</u>

Future conditions should include significant changes in recycling markets, shifts in commodity demand, new processing technologies, economic disruptions, trade restrictions, supply-chain interruptions, and other factors outside the control of regulated entities. The regulatory framework should contain sufficient flexibility to respond to changing market conditions without requiring unnecessary rule revisions.

3(h): <u>Are there any other criteria recommended to be considered? Are there criteria mentioned above or in statute that are not recommended to be considered?</u>

The agency should consider the protective function and use context of packaging when determining whether a covered material should be included on a collection list or subject to alternative collection requirements. Packaging used for long-life durable goods, including building products, equipment, appliances, cabinetry, millwork, and other large, heavy, high-value, or damage-sensitive products, serves a different purpose than typical short-life consumer packaging. Although the packaging may be discarded after delivery or installation, it is often necessary to protect the product during handling, storage, distribution and transportation, and to satisfy consumer expectations that the item they paid for arrives in good quality condition.

Criteria should account for whether packaging reduction, material substitution, or collection-list requirements could increase likelihood of product damage. Damage to durable goods can create additional environmental impacts through disposal of damaged product, remanufacturing, replacement shipments, additional raw material use, and added transportation. These impacts may outweigh the benefit of reducing or changing packaging itself.

The Agency should therefore consider protective performance, product size and weight, distribution conditions, availability of recyclable or reuseable alternatives that provide equivalent protection, and the environmental consequences of product loss or replacement. This would support packaging optimization without unintentionally increasing total environmental impacts for Minnesota businesses and consumers.

3(i): Relating to alternative collection systems, what are the considerations for what meets "convenience" and what would the minimums be? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?

3(j): Are there any considerations to how covered materials collected through alternative collection must be accurately measured?

4. Statewide requirements and measurement

Statewide requirements are to be set by the commissioner as established in *Minnesota Statutes,* section 115A.1451, subdivision 7.

The commissioner must establish the units by which certain rates are set and may modify how a recycling performance target is met and measured as established in *Minnesota Statutes,* section 115A.1451, subdivision 6.

A service provider is required to meet performance standards, ensure that covered materials are sent to responsible markets, and provide transparency on cost relating to what is reimbursed by a producer responsibility organization by this law as established in *Minnesota Statutes,* section 115A.1449.

The commissioner must also approve when a reusable covered material meets the criteria set in *Minnesota Statutes,* section 115A.1451, subdivision 6. Return rate is also defined in *Minnesota Statutes,* section 115A.1441, subdivision 32.

The MPCA would appreciate comments on the following questions related to requirements for recycling, systems of reuse, and statewide requirements and criteria:

4(a): What criteria should be considered to set a return rate?

The Agency should evaluate reusable systems based on their actual performance, economics, and lifecycle impacts rather than assuming superior environmental results based solely on reuse. Program requirements should remain material-neutral and avoid unintentionally favoring one packaging system over another.

4(b): How might a producer or producer responsibility organization demonstrate a return rate?

4(c): Are there any considerations the agency should evaluate when determining statewide requirements?

Waste reduction goals must go further than source reduction, which is in line with statute. Anything that diverts from landfill should be credited, including recycling. MPCA also should evaluate lifecycle effects so a requirement does not increase product damage for long-lasting durable goods such as furniture.

5. Stewardship plan and annual reports

A producer responsibility organization must submit a stewardship plan by October 1, 2028, and every five years thereafter, to the commissioner that describes the proposed operation by the organization of programs to fulfill the requirements of *Minnesota Statutes*, sections 115A.144 to 115A.1463 and that incorporates the findings and results of needs assessments. The stewardship plan is required to meet the criteria established in *Minnesota Statute,* section 115A.1451, subdivision 3.

The commissioner must review and approve, deny, or request additional information for a draft stewardship plan.

The annual reports of registered producer responsibility organizations in *Minnesota Statutes,* section 115A.1456, subdivision 1 contain information used to administer the program and keep the public informed.

5(a): Are there any items within the stewardship plan requirements that may need to be further clarified?

Because market conditions, infrastructure, and technology can change rapidly, stewardship plans should include a clearly defined process for amendments between the five-year planning cycles. A mechanism for timely adjustments will improve responsiveness and reduce unnecessary compliance costs. Plan requirements must clarify producer responsibility, treatment of B2B and transport packaging, material categories, and calculation methods. The plan should also explain how the Producer Responsibility Organization (PRO) will avoid counting de minimis components and how it will harmonize data requests with other state programs.

Further, clarifying responsibility for EPR compliance is a crucial element in harmonization. For example, a distributor purchases a product and then distributes in-state. It is unclear whether the initial producer or the distributor is responsible for compliance.

5(b): Are there any items within the annual reports from registered producer responsibility organizations that may need to be further clarified?

5(c): What information should the MPCA request to verify producer responsibility organization costs and reimbursement rates in a stewardship plan and/or annual report as part of a budget and any financial and programmatic auditing?

The Chamber encourages MPCA to require meaningful transparency concerning producer responsibility organization administrative expenses, fee-setting methodologies, reimbursement calculations, and auditing practices.

Businesses subject to the program should have sufficient information to understand how fees are determined and whether expenditures are reasonably connected to achieving statutory recycling and waste-reduction goals.

Transparent cost controls and accountability measures will strengthen confidence in the program and help ensure resources are directed toward measurable outcomes.

5(d): Does any part of the stewardship plan and plan amendment approval process need to be further clarified?

6. Other topics

Additionally, the MPCA would appreciate any comments related to the PWCRA and areas where there could be clarification provided through the rulemaking. The Agency also requests any information pertaining to the cumulative effect of the possible new rule with other federal and state regulations related to the specific purpose of the rule. *Cumulative effect* means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules.

Evidence already exists that Minnesota's paper and packaging EPR statute is burdensome on both the regulated and regulating community. The cost to implement this law to the state, so far, is quite high. For example, our unique multi-stage Needs Assessment process has already moved through statutory deadlines and features multiple contractors and subcontractors.

The regulated community in Minnesota is facing compliance with a large tranche of new requirements, many of which are a result of the same omnibus legislation passed in 2023. Air regulations, reporting on product chemical compounds, and EPR for paper and packaging will all fall on businesses headquartered in or selling into Minnesota at the same time. Ultimately, the costs of these regulations are passed on to consumers of the products, driving up costs for families and businesses. The Chamber urges the Court to consider the cumulative effect of all new compliance requirements when reviewing the proposals for paper/packaging EPR. The reporting burden for EPR programs, state by state, is increasing annually with a disproportionate impact on medium and small businesses. Broad business-to-business exemptions, for example, along with other suggestions in this letter, are allowable under statute and would significantly reduce the cumulative effect burden for both the regulated and the regulating community.

Sincerely,

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July 24, 2026

Court of Administrative Hearings (CAH)

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St. Paul, MN 55164-0620

Submitted electronically via the CAH eComments website (https://minnesotaoah.granicusideas.com)

Re: Consumer Technology Association Comments on the Minnesota Pollution Control Agency's Request for Comments on Possible New Rules Relating to the Packaging Waste and Cost Reduction Act (PWCRA), Minnesota Rules Chapter 7035, Revisor's ID Number R-04992

Dear Rule Coordinator Sondrol and MPCA Staff,

On behalf of the Consumer Technology Association (CTA), we respectfully submit these comments in response to the Minnesota Pollution Control Agency's (MPCA) Request for Comments (RFC) on possible new rules to implement the Packaging Waste and Cost Reduction Act (PWCRA). We appreciate the opportunity to provide feedback at this early stage of the rulemaking process and MPCA's engagement with stakeholders.

CTA is North America's largest technology trade association. Our members are the world's leading innovators — from startups to global brands — helping support more than 18 million American jobs. Our member companies have long been recognized for their commitment and leadership in innovation and sustainability, often taking measures to exceed regulatory requirements on environmental design and product stewardship. CTA supports the overall goal of the PWCRA to increase recycling across material types and decrease the overall amount of solid waste, and we offer the following comments to help inform the possible new rule.

Throughout these comments, CTA references several state, federal, and international regulations, standards, and guidance documents to support the definitions, thresholds, exemption criteria, and measurement approaches we recommend. These references are intended to provide MPCA with administrable, already-recognized frameworks that can be used to implement the PWCRA consistently with its statutory text while avoiding unnecessary Minnesota-specific deviations. For ease of review, CTA has included a list of these references at the end of these comments.

A note on interstate harmonization: Minnesota is one of a growing number of states — including Colorado, Oregon, California, Maine, Maryland, and Washington — that have enacted packaging Extended Producer Responsibility (EPR) laws, several of which (including Minnesota) will be administered by the same producer responsibility organization (PRO), Circular Action Alliance (CAA). Throughout these comments, we draw on definitions, thresholds, and methodologies that CTA has previously advocated for in those states, and we urge MPCA to harmonize with those frameworks wherever the PWCRA's text permits. A patchwork of inconsistent state-specific definitions and thresholds increases compliance costs for producers without a corresponding environmental benefit and creates unnecessary administrative burden for the PRO and for MPCA alike.

A note on statutory scope: The rulemaking authority the Minnesota Legislature granted MPCA under §115A.1459 is to "adopt rules to implement" sections 115A.144 to 115A.1463, not to expand the PWCRA beyond the obligations, exemptions, covered materials, covered services, or reimbursement framework enacted by the Legislature. CTA raises this point because similar packaging EPR rulemakings in other states have shown how implementation rules can unintentionally narrow statutory exemptions or broaden producer responsibility beyond the statutory text. For example, in Maryland, draft regulations attempted to limit a broadly drafted statutory exemption to "primary" packaging and to include certain costs not clearly contemplated by the statute. CTA urges MPCA to avoid that approach here and to ensure that any rule provision affecting the scope of producer obligations is tied to a clear, articulable basis in the PWCRA. We raise a specific Minnesota example below with respect to producer reimbursement obligations under Section 5(c).

Section 1: Definitions for Terms Not Defined in Statute

Comment 1.1 — Define "plastic" using ASTM D883-12.

The PWCRA uses "plastic" as a covered materials type (§115A.1441, subd. 11) but does not define the term. MPCA should adopt a definition consistent with ASTM International (ASTM) D883-12 (Standard Terminology Relating to Plastics), as adapted in the Institute of Electrical and Electronics Engineers (IEEE) 1680.1-2018:

"A material that contains, as an essential ingredient, one or more organic polymeric substances of large molecular weight, is solid in its finished state, and, at some stage in its manufacture or processing into finished articles, can be shaped by flow."

Critically, this standard specifies that coatings, textiles, adhesives, inks, and paint — which may in some cases meet the polymer definition — are not considered plastics, and that fiber-based materials containing small amounts of polymeric material should not be considered plastic. This distinction is essential to the accurate classification of covered materials under §115A.1441, subd. 11. Without it, a corrugated box with a moisture-barrier coating, or a paper label with adhesive, could be misclassified as "plastic," distorting reporting data, fee assessments, and collection list determinations. Adopting the ASTM D883-12 definition would:

- Ensure fiber-based packaging with incidental polymer components (coatings, adhesives, inks) is classified under Paper/Fiber, not Plastic;

- Harmonize Minnesota with the internationally recognized standard already referenced in IEEE 1680.1 (Environmental Assessment of Personal Computers and other electronics); and
- Provide clear, established criteria for producers classifying multi-material packaging for the PRO's reporting categories.

Comment 1.2 — Clarify that B2B repair and refurbishment packaging materials serving a process-enabling function are not "packaging."

The statute defines "introduce" to include "distribute" (§115A.1441, subd. 20), and "covered material" as "packaging and paper products introduced" (§115A.1441, subd. 10). Materials such as antistatic films, protective Mylar wraps, and rigid trays used to protect components during B2B repair, refurbishment, or remanufacturing serve a process-enabling function, not a consumer-packaging function.

The European Union (EU) Packaging and Packaging Waste Regulation (PPWR) guidance recognizes this: adhesive process films that remain on semi-finished products during manufacturing, and that enable or facilitate transformation through manufacturing processes to address distinct technical needs of such processes, are not considered packaging under PPWR Article 3(1), point (1). Minnesota should adopt a parallel interpretation: materials distributed B2B that serve a technical process function during repair or remanufacturing — and/or are not introduced to the end consumer as retail packaging — are not "packaging" under the PWCRA. This interpretation is consistent with Minnesota's own Right to Repair Act (§325E.73, enacted 2024), which establishes a state policy interest in facilitating repair.

Minnesota's Digital Fair Repair Act also requires direct-to-consumer repair services. Anti-static bags, thermal films, and protective trays sent to consumers to fulfill that requirement are process-enabling repair components. These self-service repair shipments and their associated packaging materials should either be explicitly excluded from the scope of "packaging," regardless of whether they move B2B or B2C, or exempted from other program obligations through an exemption process based on technical necessity.

Comment 1.3 — MPCA should consider a broader definitional carve-out for operational packaging that never reaches the consumer, as a complement to the narrower B2B repair carve-out above.

Comment 1.2 above addresses B2B repair and refurbishment packaging specifically. CTA also asks MPCA to consider a broader, complementary approach: limiting the scope of "packaging" under the PWCRA to material that is sold or supplied with the product to the consumer for personal, noncommercial use. This language would track how Washington and Maryland have approached the same question, and would exclude industrial, commercial, and tertiary packaging that never reaches a consumer — for example, pallets, stretch wrap, gaylord boxes, and corrugated shippers used to move finished goods between distribution facilities, which are already managed through established commercial waste and recycling systems under existing state solid waste requirements (Minnesota Rules Chapter 7035).

This operational packaging does not enter the residential waste stream and already has high recovery rates through commercial channels. Layering EPR reporting and fee obligations onto materials already managed effectively through commercial systems does not advance the PWCRA's recycling goals for consumer-facing materials; it instead diverts program resources toward tracking materials that already have functioning recovery pathways. If MPCA adopts this broader consumer-facing scope for "packaging" generally, it would substantially address the B2B and operational packaging concerns raised throughout these comments in a single, more administrable definition. CTA raises this as a complement to, not a replacement for, the narrower repair-specific carve-out in Comment 1.2 and the tier-based exemption approach in Section 2 below, in case MPCA does not adopt the broader definitional change.

Relatedly, CTA recommends that MPCA read the B2B exemption at §115A.1441, subd. 16(14) with a similarly practical test in mind. As currently structured, the exemption's "production of another product" requirement can be difficult to apply to packaging — such as pallets, stretch wrap, and corrugated shippers — that moves finished goods between facilities without ever reaching a consumer, even though that packaging is already managed through existing commercial waste and recycling contracts. Colorado's statute offers a simpler, outcome-equivalent test: it excludes "packaging materials used solely in business-to-business transactions where a covered material is not intended to be distributed to the end consumer." CTA recommends MPCA consider this more intuitive, consumer-facing test as an alternative or supplement to parsing whether goods are "for the production of another product," alongside the repair- and refurbishment-specific clarifications CTA requests in Question 2(b) below.

Section 2: Exemptions

Before turning to the specific questions posed, CTA encourages MPCA to interpret the exemption criteria in light of the PWCRA's overall purpose: reducing the generation of packaging waste. Where a packaging material performs a genuine, hazard-driven protective or safety function, forcing a switch to a more recyclable, reusable, or compostable format that cannot reliably perform that function does not serve that purpose — it undermines it. A package that fails to adequately protect its contents leads to product damage, breakage, and premature disposal of the product itself, not merely the packaging. For durable goods such as consumer electronics, this outcome is particularly consequential: a damaged product becomes complex electronic waste containing batteries, circuit boards, and other materials that are far more difficult to responsibly manage than the packaging that would have protected it. The net effect of an overly narrow exemption standard, in other words, can be more total waste, not less. CTA asks that MPCA weigh this dynamic when developing exemption criteria and the information required to demonstrate eligibility under Questions 2(a) and 2(b) below, and that the criteria be calibrated to avoid creating an incentive to prioritize a packaging material's recyclability over its demonstrated ability to prevent product damage and the waste that results from it.

Question 2(a) — OSHA Hazardous/Flammable Exemption Criteria

The exemption at §115A.1441, subd. 16(11) should be interpreted to cover situations where the hazard classification of a product's contents makes it technically infeasible to design recyclable or compostable packaging that simultaneously meets applicable federal containment and shipping requirements. In practice, this exemption should turn on whether the packaging material is integral or essential to the safety function required to properly manage the applicable hazard class — for example, preventing leakage, ignition, or an adverse chemical reaction, maintaining product stability, or providing tamper resistance. A useful frame for MPCA and producers alike is the inverse of the statutory question: would changing the packaging to be recyclable, reusable, or compostable compromise a required hazard control?

A producer should be able to demonstrate eligibility through: (a) the product's Safety Data Sheet (SDS) or hazard classification; (b) applicable federal shipping requirements (e.g., 49 Code of Federal Regulations (CFR) §173.185 for lithium batteries); and (c) a technical statement explaining why alternative packaging designs cannot satisfy both the applicable safety requirement and recyclability. Where a product's SDS identifies an Occupational Safety and Health Administration (OSHA) hazard class under 29 CFR §1910.1200 (i.e., where hazard communication, "hazcom" applies), that determination should generally be sufficient on its own to support the exemption, without requiring a separate, duplicative technical showing. This exemption process should also be harmonized with other CAA-administered states to avoid duplicative submissions for the same product across states.

Question 2(b) — Federal/State Health and Safety Exemption Criteria (§115A.1453, subd. 6)

The commissioner's authority under §115A.1453, subd. 6 is broader than the OSHA-specific exemption at subd. 16(11), and MPCA should confirm that "federal or state health and safety requirement" includes, at minimum: U.S. Department of Transportation (DOT) hazardous materials shipping regulations (49 CFR Parts 171–180, particularly 49 CFR §173.185 for lithium battery packaging); Federal Communications Commission (FCC) equipment authorization requirements (47 CFR Part 15) where packaging is necessary to maintain electromagnetic compliance; and Underwriters Laboratories (UL) or other Nationally Recognized Testing Laboratory (NRTL) safety certification standards where packaging is part of a certified product configuration. As with 2(a), an SDS, hazcom classification, or integrity-testing requirement tied to one of these frameworks should generally suffice to demonstrate eligibility, again with the practical test being whether required hazard or safety controls would be compromised by an alternative, more recyclable packaging design.

CTA also requests that MPCA confirm that the B2B exemption at §115A.1441, subd. 16(14) covers repair and refurbishment supply chains. That provision exempts covered materials that (i) a producer distributes to another producer, (ii) are used to contain a product distributed to a commercial entity for "the production of another product," and (iii) are not introduced to a person other than the receiving entity. MPCA should clarify in rulemaking that "production of another product" includes repair, refurbishment, remanufacturing, and servicing, so that packaging used exclusively in B2B service channels — for example, replacement parts shipped in antistatic bags to authorized service providers — is confirmed as exempt under all three statutory prongs.

Separately, CTA notes that nothing in the PWCRA's exemption provisions — including §115A.1441, subd. 16 and §115A.1453, subd. 6 — limits exempt status to primary packaging only. Consistent with the plain text of the statute, MPCA's implementing rule should confirm that exempt status extends to secondary and tertiary packaging associated with an exempt product, not solely to a product's primary packaging. Because reimbursement rates for covered services are, under a parallel statutory construction, calculated exclusive of exempt materials, extending exempt status to the secondary and tertiary packaging associated with an already-exempt product would not create a free-rider problem: those materials simply would not contribute costs to the program, consistent with the statute's intent. This reading is also consistent with a comparative review of other state EPR frameworks, which confirms Minnesota's statutory construction supports this broader, all-tiers approach, in contrast to Maryland's draft regulations, which had improperly narrowed the exemption to primary packaging alone.

Question 2(c) — "Unsafe and Unsanitary" Criteria for Paper Products (§115.1441, subd. 24)

CTA agrees that criteria should be defined for "unsafe and unsanitary" rather than left undefined, and we recommend that this definition be developed collaboratively with multiple stakeholders rather than set unilaterally. Our principal concern is that, absent a clear definition, a processor's determination that a paper product is "unsafe or unsanitary" could be used to reject packaging outright on undefined grounds — undermining legitimate producer investment in recyclable design and negating the environmental benefits and claims associated with that packaging.

CTA recommends that "unsafe" and "unsanitary" be further defined along the following lines:

- Unsafe: poses a risk to worker health or safety, creates an operational hazard at the processing facility, or presents an undue challenge related to required regulatory handling.
- Unsanitary: presence of biological contaminants, a demonstrated public health risk, or a condition that cannot be safely processed without contaminating other material streams.

We also agree that this definition should be tied to what is accepted on the covered material lists established under Section 3 below, so that a single, consistent standard governs both determinations.

Section 3: Collection Lists

Question 3(d) — Minimum Availability of Responsible Markets

"Responsible market" should be defined using commodity specifications published by ReMA (the Recycled Materials Association, formerly the Institute of Scrap Recycling Industries), which set defined quality, handling, and end-use standards for recovered materials. Market availability should be assessed based on documented transactions at commercially viable pricing under those specifications, not theoretical processing capacity. MPCA should avoid creating a Minnesota-specific definition that diverges from these already-recognized industry standards, and should work with and defer to CAA, as the PRO administering Minnesota and several other state packaging EPR programs, to harmonize responsible end market criteria across states wherever the PWCRA's text permits. A consistent, PRO-administered approach would reduce duplicative review, provide clearer expectations for producers and recyclers, and avoid conflicting state determinations about whether the same material has a viable, responsible end market.

Question 3(e) — Contaminant/Toxic Substance Thresholds

CTA recommends that contamination thresholds reference established standards — including ASTM D7611 (resin sorting quality), International Organization for Standardization (ISO) 18604 (material recovery), and ReMA commodity specifications — rather than a Minnesota-specific methodology. Minnesota-specific thresholds not anchored to recognized standards increase compliance complexity across jurisdictions without a corresponding improvement in environmental outcomes.

With respect to the presence and amount of substances treated as toxic for purposes of this threshold, CTA recommends that MPCA align with the thresholds already established under the statutes referenced in the PWCRA's definition of toxic substances. For heavy metals specifically, existing thresholds are well established and CTA does not raise concerns with their application here. For other substances, however, CTA requests that MPCA refrain from establishing new numeric thresholds at this time, and instead allow further assessment and research to determine whether — and at what concentration — a given substance is truly a toxic contaminant that materially impacts collection or recyclability, before it is used to exclude a material from the collection list.

More generally, CTA recommends that determinations of whether a given substance is toxic should sit with the U.S. Environmental Protection Agency (EPA) under the Toxic Substances

Control Act (TSCA), rather than be independently developed by MPCA. EPA's TSCA program has access to more robust risk-assessment resources, data, and peer-reviewed science than any single state agency can develop on its own, and reliance on TSCA determinations avoids the risk of a Minnesota-specific toxicity standard that is inconsistent with the federal government's own scientific conclusions. CTA has raised this same concern in Oregon's and Maine's respective EPR rulemakings, where we similarly urged deference to TSCA and objected to open-ended state authority to designate a substance as "toxic" without a defined, peer-reviewed methodology. We ask that MPCA adopt the same approach here.

Question 3(h) — Other Criteria

CTA recommends that MPCA include cross-state consistency as an additional criterion for collection list decisions — specifically, whether the same covered material type has been accepted onto, or excluded from, collection lists administered by the same PRO in other states (e.g., Colorado, Oregon). Consistency across programs supports more efficient PRO administration and avoids packaging design decisions being driven by a single state's idiosyncratic determination.

Question 3(i) — Alternative Collection Convenience

CTA recommends that alternative collection pathways remain available for materials such as Expanded Polystyrene (EPS), certain rigid plastics, and films that are difficult to manage through traditional curbside systems. Participation in voluntary collection programs should not create an obligation for retailers or producers to serve as collection sites. However, where producers or retailers can demonstrate that covered materials are being effectively collected and recycled through alternative programs, those efforts should be recognized within the program's performance and fee-setting framework. Producers should receive proportional credits for verified recovery of covered materials outside the standard collection system to avoid duplicate cost burdens and to encourage innovation in materials recovery. CTA urges MPCA to ensure that any "convenience" threshold makes alternative collection a genuinely viable compliance pathway, rather than a theoretical option burdened by impractical requirements. We recommend these standards be developed in consultation with CAA and aligned with the approaches already taken in Oregon and Colorado.

On the specific question of whether convenience should differ between Greater Minnesota and the Twin Cities Metro Area, CTA recommends against differentiating the collection list itself along these lines. The collection list determines which materials are covered statewide, and a single, consistent statewide list is more administrable for producers operating across the state than a bifurcated list tied to geography. Regional differences in collection infrastructure and convenience are better addressed through the stewardship plan, which is the appropriate mechanism for tailoring service levels and collection approaches to regional conditions.

Section 4: Statewide Requirements and Measurement

Question 4(a) — Return Rate Criteria

Because the PRO administering Minnesota's program also administers Colorado's and Oregon's programs, and is in the process of establishing return rate methodologies for those states, CTA recommends that MPCA adopt a compatible definition and measurement unit for return rate rather than create a parallel, Minnesota-specific measurement system for what is fundamentally the same metric.

Question 4(c) — Considerations for Statewide Requirements

CTA recommends that MPCA adopt the ISO 14021 §7.8 definition of "postconsumer material" — material generated by households, or by commercial, industrial, and institutional facilities in their role as end users of a product, that can no longer be used for its intended purpose. This is consistent with Federal Trade Commission (FTC) Green Guides §260.13 and provides international harmonization; the PWCRA defines "postconsumer recycled content" (§115A.1441, subd. 25) but does not separately define "postconsumer material," and this gap should be closed. MPCA's rulemaking should also specify acceptable verification methods, including third-party certification (e.g., SCS Global Services, or UL's Environmental Claim Validation Procedure (ECVP) 2809). We request that flexibility be provided in establishing allowable forms of verification methods and third-party certifications, as noted under our comments for Question 5(a).

CTA further recommends that waste reduction be measured on a weight-per-functional-unit basis (e.g., grams of packaging per product shipped) rather than absolute tonnage, and that the methodology credit source reductions already achieved prior to the program's launch — consistent with the approach taken under the EU's Packaging and Packaging Waste Regulation. This avoids penalizing producers that have already invested in lightweighting and other reductions, and prevents a perverse incentive to switch to heavier materials simply to preserve headroom against a future reduction target.

Relatedly, CTA recommends that MPCA build flexibility into any statewide source reduction requirement to account for legitimate business growth. An absolute-reduction methodology measured only against a fixed baseline year — with no adjustment for a producer's sales or market growth — can penalize a producer that has meaningfully improved its packaging efficiency per unit but shows an increase in total packaging weight solely because its sales volume increased. MPCA should consider a measurement approach, or a supplemental efficiency-based metric, that avoids disadvantaging producers whose packaging design improvements are outpaced by legitimate business growth.

California's Senate Bill (SB) 54 offers a cautionary, real-world example of the difficulty a fixed statutory lookback or baseline year can create. SB 54 established calendar year 2023 as the baseline against which source reduction is measured. In practice, that baseline-year requirement has proven very difficult for producers to satisfy with confidence: many companies lacked sufficiently granular 2023 packaging data at the time reporting began and have had to rely on proxy methodologies to reconstruct baseline figures after the fact, raising real accuracy and verification concerns for a number that, once fixed, becomes the denominator against which years of subsequent compliance are measured. CTA urges MPCA to build flexibility into its own approach from the outset — for example, a defined window for baseline data correction, or a rolling or adjustable baseline rather than a single fixed calendar year — rather than adopting a rigid baseline-year approach and encountering the same practical difficulties California has faced, which has led to several lawsuits.

Section 5: Stewardship Plan and Annual Reports

Question 5(a) — Stewardship Plan Clarification

CTA recommends that MPCA clarify and define "third party certification" as referenced in §115A.1451, subd. 3(5). Given that CTA members operate globally and source and package products internationally, we request that any third-party certification requirement remain voluntary rather than mandatory, and that MPCA avoid any requirement — express or de facto — that limits eligible certifying entities to domestic organizations. A certification framework restricted to U.S.-based certifiers would be unworkable for global supply chains and would not improve the accuracy or reliability of the underlying certification.

Where a qualified third-party certifier is not available in a product's manufacturing region, CTA requests that MPCA accept a supplier's written declaration or certificate of compliance as sufficient to satisfy the certification requirement. CTA has raised this same concern in Maine's and California's respective EPR rulemakings, where we similarly requested that a certificate of compliance from the manufacturing supplier qualify as an alternative to mandatory third-party certification, given that many components and materials are sourced and packaged overseas in regions where accredited third-party certifiers may not operate or may not be readily accessible. Requiring third-party certification without this fallback would effectively make compliance infeasible for products manufactured in those regions, through no fault of the producer.

Question 5(b) — Annual Report Clarification

CTA recommends that the material categories, data fields, and tonnage breakdowns required in annual reports be mappable to the PRO's existing multi-state reporting taxonomy (currently eight simplified categories, transitioning to more detailed categories aligned with Colorado and Oregon). Minnesota-specific categories that do not correspond to the PRO's existing reporting system would increase producer cost without a corresponding improvement in data quality.

Question 5(c) — Verification of PRO Costs and Reimbursement Rates

Financial verification of PRO costs and reimbursement rates should rely on aggregated, PRO-level data reviewed by an independent auditor. Producer-level cost data, tonnage, and packaging design details are competitively sensitive confidential business information (CBI). MPCA should establish CBI protections at least as strong as those adopted in Colorado and Oregon, and should ensure that producer-level data is accessible only for audit purposes and is not subject to public disclosure under the Minnesota Government Data Practices Act (Chapter 13) without the producer's consent.

CTA also encourages MPCA to require meaningful transparency around the PRO's fee forecasting and reserve planning as part of the stewardship plan and annual report review. By way of illustration, CAA's own 2025 annual report for Oregon's program reflects producer fee collections of approximately $167.9 million against program expenditures of approximately $56.5 million, resulting in an accumulated reserve balance of approximately $111.4 million. CTA recognizes that reasonable reserves are an important part of sound financial management and program stability. However, producers would benefit from clear, documented expectations — built into the stewardship plan approval and annual report review process — regarding how reserve levels are justified, how they factor into future fee-setting, and what threshold might trigger a fee adjustment or rebate. We believe this transparency would also support MPCA's own review of whether producer fees are reasonably calibrated to actual program costs, consistent with the statute's cost-verification purpose.

Finally, and relatedly, CTA urges MPCA to ensure that the costs eligible for reimbursement to service providers under §115A.1449, and the costs verified through the stewardship plan and annual report process, are limited to costs attributable to the collection, transportation, and processing of covered materials as that term is defined in the PWCRA. The statute's cost-verification and transparency provisions are oriented around producer responsibility for packaging and paper products specifically — not the broader municipal solid waste stream. Folding general disposal, general municipal waste management, or facility costs unrelated to covered materials into producer reimbursement obligations would extend producer responsibility beyond what the PWCRA's text supports, and would raise the same scope concern CTA has raised in Maryland's rulemaking. We ask that any cost verification methodology MPCA adopts include an explicit check that reimbursed costs are properly allocated to covered materials management, and that any allocation methodology used where a service provider handles both covered and non-covered materials be disclosed and auditable.

This concern about cost-scope creep is not merely theoretical. In Maryland's parallel rulemaking, the draft regulations attempted to expand the definition of "covered services" to include litter cleanup activities — an addition that had no basis in Maryland's statute, does not enhance recycling, reuse, or composting, and shifts costs onto producers for activities they do not control. We ask that MPCA's rule avoid a similar expansion here: "covered services" and any costs eligible for producer reimbursement should be limited to the collection, transportation, and processing of covered materials as defined in the PWCRA, and should not be broadened by rule to include litter abatement, general municipal cleanup, or other activities not enumerated in the statute.

Section 6: Other Topics

Comment 6.1 — Multi-state harmonization is the single highest-impact action MPCA can take.

Minnesota is one of at least six states — California, Colorado, Oregon, Minnesota, Maryland, and Washington — with packaging EPR laws that are or will be administered by the same PRO. MPCA should harmonize definitions, thresholds, metrics, reporting requirements, and exemption criteria with those other states wherever the PWCRA's text permits, using the FTC Green Guides as a federal baseline, ISO 14021 and ASTM D883-12 as international baselines, and the PRO's existing operational framework as a practical baseline. Where Minnesota-specific deviations from these baselines are necessary to implement the PWCRA's particular statutory text, we ask that MPCA document and explain the basis for the deviation in the rulemaking record.

Comment 6.2 — Adopt established reference standards rather than Minnesota-specific methodologies.

CTA recommends MPCA rely on the following established standards wherever the rule requires a technical definition or measurement methodology: ASTM D883-12 (plastic definition), ASTM D7611 (resin identification), ASTM D6400/D6868 (compostability, already referenced in statute), ISO 14021 (environmental claims and postconsumer recycled content definitions), ISO 18604 (material recyclability), ReMA specifications (responsible markets), and FTC 16 CFR Part 260 (recyclability and postconsumer recycled content claims).

We also note, as a cumulative-effect matter under the RFC's Topic 6, that many of these same standards and the PRO's operational framework are already being layered onto producers through Colorado's, Oregon's, and California's respective EPR programs. A Minnesota rule that is internally consistent with those frameworks meaningfully reduces the cumulative compliance burden the RFC specifically invites comment on; a rule that diverges without a clear statutory basis compounds it.

Conclusion

Thank you again for the opportunity to provide these comments on the PWCRA's possible new rules. CTA and its member companies are committed to the overall goal of increasing packaging recycling and reducing solid waste in Minnesota, and we welcome further engagement with MPCA throughout this rulemaking process. If you have any questions about the comments above, please do not hesitate to contact me.

Respectfully submitted,

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References — Standards, Statutes, and Regulatory Citations

Attachment to Consumer Technology Association (CTA) Comments on the Minnesota Pollution Control Agency's (MPCA) Request for Comments on Possible New Rules Relating to the Packaging Waste and Cost Reduction Act (PWCRA), Revisor's ID Number R-04992.

This attachment compiles the full names, sources, and (where applicable) links for every standard, statute, and regulatory citation referenced in CTA's comment letter, organized by category.

Industry and International Standards

ASTM D883-12 — Standard Terminology Relating to Plastics, published by ASTM International (formerly the American Society for Testing and Materials).

ASTM D7611 — Standard Classification System and Basis for Specification for Resin Identification, published by ASTM International.

ASTM D6400 — Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities, published by ASTM International.

ASTM D6868 — Standard Specification for Labeling of End Items that Incorporate Plastics and Polymers as Coatings or Additives with Paper and Other Substrates Designed to be Aerobically Composted, published by ASTM International.

IEEE 1680.1-2018 — Institute of Electrical and Electronics Engineers (IEEE) Standard for Environmental and Social Responsibility Assessment of Computers and Displays.

ISO 14021 — International Organization for Standardization (ISO) 14021, Environmental labels and declarations — Self-declared environmental claims (Type II environmental labelling), §7.8 (postconsumer material).

ISO 18604 — International Organization for Standardization (ISO) 18604, Packaging and the environment — Material recycling.

ReMA Commodity Specifications — Recycled Materials Association (ReMA), formerly the Institute of Scrap Recycling Industries (ISRI); published commodity specifications for recovered/recycled materials. Available at https://www.recycledmaterialsassociation.org.

UL Environmental Claim Validation Procedure (ECVP) 2809 — Underwriters Laboratories (UL) verification program for postconsumer recycled content and related environmental claims.

SCS Global Services — Independent third-party certification and standards body referenced as an example of an acceptable postconsumer recycled content verification provider.

Federal Statutes and Regulations

FTC Green Guides — Federal Trade Commission (FTC) Guides for the Use of Environmental Marketing Claims, 16 CFR Part 260, including §260.12 (recyclable claims) and §260.13 (recycled content claims).

TSCA — Toxic Substances Control Act, 15 U.S.C. §2601 et seq., administered by the U.S. Environmental Protection Agency (EPA).

OSHA Hazard Communication Standard — Occupational Safety and Health Administration (OSHA) Hazard Communication Standard, 29 CFR §1910.1200 (2012).

DOT Hazardous Materials Regulations — U.S. Department of Transportation (DOT), Hazardous Materials Regulations, 49 CFR Parts 171–180, including §173.185 (lithium battery packaging).

FCC Equipment Authorization — Federal Communications Commission (FCC) equipment authorization requirements, 47 CFR Part 15.

UL / NRTL Safety Certification Standards — Underwriters Laboratories (UL) and other Occupational Safety and Health Administration-recognized Nationally Recognized Testing Laboratories (NRTLs) providing product safety certification.

International Regulation

EU PPWR — Regulation (EU) 2025/40 of the European Parliament and of the Council of 19 December 2024 on packaging and packaging waste (Packaging and Packaging Waste Regulation), including Article 3(1), point (1) (definition of packaging) and Article 7(4)(d) (de minimis plastic component threshold). Available at https://eur-lex.europa.eu/eli/reg/2025/40/oj.

Minnesota Statutes and Rules

PWCRA — Packaging Waste and Cost Reduction Act, Minnesota Statutes §115A.144 to §115A.1463; implementing rules to be codified at Minnesota Rules Chapter 7035.

Minnesota Right to Repair Act — Minnesota Statutes §325E.73 (enacted 2024).

Minnesota Digital Fair Repair Act — Minnesota statutory provisions establishing direct-to-consumer repair service requirements.

Minnesota Government Data Practices Act — Minnesota Statutes Chapter 13.

MPCA Rulemaking Authority — Minnesota Statutes §115A.1459 (commissioner's authority to adopt rules to implement the PWCRA).

Other State Statutes and Rulemakings Referenced

California SB 54 — Senate Bill 54, Plastic Pollution Prevention and Packaging Producer Responsibility Act, California Public Resources Code §42040 et seq.; implementing regulations at Title 14 of the California Code of Regulations.

Colorado HB22-1355 — Colorado's Producer Responsibility Program for Statewide Recycling Act; implementing regulations at 6 CCR 1007-2, Sections 18 and 1.8. The business-to-business packaging exclusion referenced in these comments ("packaging materials used solely in business-to-business transactions where a covered material is not intended to be distributed to the end consumer") appears at Colorado Revised Statutes (C.R.S.) §25-17-703(13)(b)(II).

Washington Recycling Reform Act — Washington's packaging and paper products extended producer responsibility law, enacted 2025 as E2SSB 5284 and codified at Revised Code of Washington (RCW) 70A.208. The consumer-facing packaging definition referenced in these comments appears at RCW 70A.208.020(25)(a).

Oregon RMA — Oregon's Plastic Pollution and Recycling Modernization Act; implementing regulations at Oregon Administrative Rules (OAR) 340-090.

Maine Stewardship Program for Packaging — 06-096 Code of Maine Rules (C.M.R.) Chapter 428.

Maryland SB 901 — Senate Bill 901 (2025), Extended Producer Responsibility for Packaging and Paper Products; implementing regulations at Code of Maryland Regulations (COMAR) 26.04.14.

Producer Responsibility Organization Materials

CAA Oregon 2025 Annual Report — Circular Action Alliance (CAA), 2025 Annual Report for Oregon's Recycling Modernization Act program. Available at https://www.oregon.gov/deq/recycling/Documents/CAA2025AnnualReport.pdf.

CAA California Program Plan — Circular Action Alliance (CAA), California SB 54 Producer Responsibility Organization Program Plan (public comment draft).

RECEIVED BY CAH
7/24/2026

PARTNERSHIP ON
WASTE & ENERGY
Hennepin | Ramsey | Washington

July 24, 2026

Re: Partnership on Waste and Energy Comment on Possible New Rules Relating to the Packaging Waste and Cost Reduction Act

Dear Commissioner Kessler and Assistant Commissioner Koudelka:

The Partnership on Waste and Energy (Partnership) is a Joint Powers Board consisting of Hennepin, Ramsey and Washington counties, formed to address waste management and energy issues. The Partnership seeks to end waste, promote renewable energy and enhance the health and resiliency of the communities we serve while advancing equity and responding to the challenges of a changing climate.

The Partnership played a key role in laying the groundwork for and securing passage of the Packaging Waste and Cost Reduction Act (Act). This included coordinating extensive stakeholder engagement to build support for what became the most significant waste reduction and recycling legislation passed in decades. The Partnership has a significant interest in seeing the Act is implemented effectively to achieve the important outcomes established in the Act and the goals and priorities of the Partnership to reduce waste and divert resources from landfills. It is in that spirit that the Partnership submits the following response to the Request for Comments as the agency initiates its Rulemaking Process.

Exemptions

2(a) It is first important to clarify for producers that the exemption criteria under Minnesota Statutes, section 115A.1441, subdivision 16, clause 11, relates to the ***packaging*** material and not the hazardous or flammable products themselves. Packaging should be exempt only if it cannot be addressed through any of the four pathways—reduction, reuse, recycling or composting, and a strong case can be made that redesign is not a technically feasible or allowable option due to constraints imposed under the OSHA standard cited in the statute. Producers should submit information that focuses on the health and safety issues of the packaging after removal of the contents by the user, including reasonably anticipated and expected levels of residual amounts of the contents, based on said OSHA standard.

Overall, the criteria should consider situations where the packaging must meet specific containment, barrier, or performance requirements; or there is not a technically feasible way to alter the packaging without clearly compromising safety or regulatory compliance. The point is to recognize the burden packaging places on MSW or separate management systems and not remove the incentive to redesign.

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A particular type of packaging could be considered for exemption if it becomes contaminated with hazardous substances such that recovery is not feasible, including with an alternative collection approach as allowed under 115A.1451, subd. 8, and no safe alternative packaging design exists or could be created that would allow it to be waste reduced, reused, recycled, or composted. An example of the latter could be packaging redesign to create an interior barrier/layer of packaging, such as a plastic bag, that can be removed and would be managed through methods other than reuse, recycling or composting due to residues or other health/safety factors, with exterior non-contaminated packaging components made to be recyclable or compostable.

To demonstrate that a product meets the criteria above, producers should provide, at a minimum:

- Product specifications and Safety Data Sheets (SDS).
- Information on risks of contamination of the packaging by the hazardous or flammable product it contains, including whether product residues are likely to remain on the packaging after the product is removed by the consumer such that no reuse, recycling or composting process could be used to manage the packaging or significant components of the packaging, nor packaging redesign to allow for reuse, recycling or composting of components of the packaging or the entirety of the packaging.
- Requirements of the OHSA standard referenced above specific to the packaging in question that prevent reuse, recycling or composting, or redesign for waste reduction or to allow reuse, recycling or composting.

Eligibility for exemption should not be available if an alternative collection system for reuse or recycling can reasonably be provided to collect and manage the packaging separately from MSW or commingled recycling systems, such as through government HHW programs or private collection and management systems.

2(b) Any rule developed pertaining to 115A.1453, Subd. 6 needs to be very clear that "material" being considered for exemption must be restricted to ***packaging***, including material appurtenant to the packaging, and not the contents of the packaging. As above under 2(a), packaging should be exempt only if it cannot be addressed through any of the four pathways—reduction, reuse, recycling or composting, and including redesign to allow for reuse, recycling or composting, and including reuse, recycling or composting under alternative collection systems. Producers should submit material similar to what was suggested for question 2(a), including the specific federal or

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state health and safety requirement that creates the barrier to the packaging being waste reduced, or made reusable, recyclable or compostable.

2(c) Criteria for "unsafe and unsanitary" should be defined and should distinguish between recycling and composting management pathways, as what is considered unsafe or unsanitary may be different for each. The criteria should consider health and safety risks to the employees of the recycling and composting facilities who may interact with the material.

It can be expected that the paper products successfully deemed "unsafe or unsanitary" for recycling or composting would not be included on the recyclable and/or compostable lists developed under 115A.1453. But the fact that a paper product is not on either of those lists should not by itself influence whether that product is exempt under 115A.1441, Subd. 24 as unsafe or unsanitary for recycling or composting. Any paper product that is a covered material that is on either of the lists should not be considered for exemption under the "unsafe or unsanitary" exemption opportunity.

Collection lists

3(a) Consider setting a baseline for initial program start that aligns with Recycling Education Committee guidelines, with some provisions recognizing statutory language about the agency amending the collection lists at any time.

"Current availability of collection" should be based on some measure of the share of the state's households with access through either at-home collection service or drop-off opportunities. For compostable covered materials, that includes through collection as a dedicated organics stream or bagged and co-collected with MSW or commingled recycling in ways that maintain the integrity of the organics stream and allows for later separation from the co-collected material.

The basis for availability for recycling collection should reflect statutory requirements in 115A.552 ("opportunity to recycle"), including at least one drop-off opportunity in each county and at-home and/or drop-off opportunities in cities based on population size, with the additional stipulation that all at-home service or drop-off opportunities allow for recycling of four broad material types—paper, plastic, metal and glass.

The rules should allow for initially setting different access thresholds for organics collection compared to recycling collection, with allowance for a lower threshold for organics that reflects the comparatively less developed composting infrastructure in significantly less densely populated

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areas of the state, and factoring in the likely greater tolerance in less densely populated areas for driving greater distances to a drop-off location. The rules should establish mechanisms to increase the access threshold for organics collection over time relative to the threshold for recycling, in tandem with the expansion of the number and geographic distribution (relative to population) of composting facilities in the state, the number and geographic distribution of consolidation and transfer sites to supply material to composting facilities and/or increasing vehicle fleet capacity to support either expansion of at-home collection, increased drop-off capacity or both.

3(b) The "current availability of collection" criteria discussed in 3(a) are based on an assumed level of processing capacity and capabilities supporting current levels of collection, for purposes of determining what covered materials are included on the recyclables and compostables lists. How processing infrastructure develops and expands beyond current capacity and capabilities, allowing for increased collection access justifying amendments to the collection lists per 115A.1453, Subd. 5, may best be addressed through the Stewardship Plan.

3(c) Evaluating the capacity and technology for sorting covered materials to determine which specific materials should be on the collection lists should include consideration of the percentage of the state's households that can be served by processing facilities that have the capacity and technology to process those specific covered materials. The estimation of available capacity to determine the percentage of households served should account for the estimated quantity of materials available for collection, adjusted by reasonable assumptions of capture rates. The percentage of households should be set in the Stewardship Plan to allow for it to be adjusted over time to reflect availability and quantity of material as changes occur.

3(d) To assist in determining which covered materials should be on the collection lists, the rules should establish that a minimum threshold for availability of responsible markets (as defined in 115A.1441, Subd. 31) would be based on the capacity of those markets to absorb the volume of covered materials anticipated to be collected in the state. For compostable covered materials, the capacity should be based on the capacity of processing facilities in the state or of facilities within a reasonable transportation distance outside the state. For specific covered recyclable materials, the capacity should be assessed for the discrete marketable categories of recyclable materials according to 115A.1453, Subd. 4(4) as typically processed and prepared for markets by processing facilities, regardless of distance from processing facilities to available responsible markets.

3(f) Avoid fixed statewide tonnage requirements when assessing which covered materials should be on the recyclable or compostable list. Markets shift quickly; rigid thresholds become outdated

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and can misclassify materials. A material belongs on the recyclables or compostables list if collection, sorting, and processing systems can realistically handle it, and if a material can be prepared and successfully marketed to responsible markets.

3(g) Examples of future conditions of the criteria listed in 115A.1453, Subd. 4 that should be considered when evaluating which covered materials should be on the recyclables and compostables lists include:

- State or international policy (ex. China's National Sword), which have implications that affect marketability of materials collected locally and statewide.
- Changes in packaging practices, including redesign for recyclability or composability, or consumer response to packaging practices.
- Infrastructure expansions and improvements.
- Changes in responsible market availability.

3(i) Convenience should be defined with consideration for the distance that achieves equitable access to alternative collection systems while allowing flexibility for different regions and collection models. Convenience for covered entities in less populated areas of Greater Minnesota should be considered differently than the Metro or other more densely populated areas, as those in less densely populated areas are likely to have greater tolerance for driving greater distances to a drop-off location.

3(j) Considerations for measurement of materials collected through alternative collection systems are likely best addressed in the Stewardship Plan**.**

Statewide requirements and measurement

4(a), 4(b) Criteria related to establishing and measuring return rates should be addressed in the proposed Stewardship Plan as outlined in 115A.1451, Subd. 5 and Subd. 6, and subject to public comment and final agency determination.

Stewardship plan and annual reports

5(a) While the statute establishes the reimbursement framework, the stewardship plan should provide sufficient detail for service providers to understand how reimbursement methodologies will be implemented in practice, including documentation expectations.

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5(b) The annual reports required under 115A.1456, Subd. 1(a) should include details on how non-participation by covered entities, service providers or other parties in program activities may be affecting ability to make progress toward performance targets per clause (2) or other goals articulated in the Stewardship Plan. Examples of non-participation could include lack of response to efforts to invest in infrastructure per clause (7), lack of response from service providers to the opportunity to be reimbursed for covered services per clause (10) and thus not be obligated to accept all covered materials on the recyclables or compostables lists per clause (12), lack of collaboration in efforts to conduct education and outreach activities to increase public awareness and encourage behavior change per clause (15), or other elements listed in 115A.1451, Subd. 3.

When proposing changes to reimbursement methodologies or rates, the annual reports should describe the rationale for the proposed amendment, the data or analysis supporting the change, the anticipated impacts on service providers, and how the change is expected to improve program performance or reduce costs.

(5c) Regarding reporting of program expenditures per 115A.1456, Subd. 1(a)(3), reporting of reimbursements for covered entities must be structured to ensure transparency and compliance with levels of compensation as stipulated in 115A.1455. Reporting should distinguish reimbursements by categories, such as service provider types, schools, nonprofits, and public entities (further categorized by state, county, municipalities and other entities). Reporting on the description of infrastructure investments should detail discrete categories, like type of service provider, type of infrastructure (e.g., collection, processing, responsible markets), investments to improve Minnesota infrastructure and other categories that provide insight into how these dollars are being spent.

The Partnership appreciates the opportunity to share our thoughts at the beginning of this important process. The Partnership stands ready to work with the MPCA and others to ensure that the Packaging Waste and Cost Reduction Act is implemented in a way that achieves the largest possible positive impact for Minnesotans and our environment.

Sincerely,

Debbie Goettel

Commissioner Debbie Goettel, Hennepin County Commissioner
Chair, Partnership on Waste and Energy

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GREETING CARD ASSOCIATION

Submitted via electronic public comment form

July 24, 2026

RE: Comments related to Minnesota's Packaging Waste and Cost Reduction Act Rulemaking Request for Comments

To Whom It May Concern:

The Greeting Card Association (GCA) and its Minnesota State members listed below respectfully submit the following comments regarding implementation of Minnesota's Packaging Waste and Cost Reduction Act (PWCRA) and the related rulemaking process.

GCA appreciates the Minnesota Pollution Control Agency (MPCA)'s efforts to develop an extended producer responsibility (EPR) program that reduces waste, improves recycling outcomes, and supports Minnesota's environmental goals. As the agency develops definitions, covered material lists, stewardship plan requirements, and associated regulations, it is critical that greeting cards be explicitly excluded from the scope of the program.

I. Introduction

The GCA represents manufacturers and publishers of greeting cards sold throughout Minnesota and the United States. GCA members support sustainable forestry, recyclable paper products, and responsible environmental stewardship. However, the inclusion of greeting cards within Minnesota's PWCRA framework would impose significant regulatory costs on a product category that does not meaningfully contribute to the waste management challenges this law was designed to address.

II. Greeting Cards Are Distinct from the Paper Products the Program Is Intended to Address

Greeting cards are categorically different from paper products that are typically managed through EPR programs, such as advertising flyers, catalogs, inserts, promotional mailers, and other high-volume printed materials. Greeting cards are not designed, marketed, purchased, or used as disposable products. Instead, they serve as personal expressions that commemorate meaningful life events and relationships.

Consumers frequently:

- preserve greeting cards as keepsakes;
- save cards containing handwritten messages, photographs, or signatures; and
- display or archive cards for sentimental reasons.

Because of these characteristics, greeting cards have fundamentally different lifecycle and consumer-use profiles than the paper products that drive residential recycling volumes and system costs. Treating greeting cards as equivalent to disposable printed paper would fail to account for their distinct purpose and retention behavior.

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III. Greeting Cards Do Not Meaningfully Burden the Recycling System

Minnesota's PWCRA program is intended to improve management of materials that significantly affect collection, sorting, contamination, recycling costs, and overall system performance. Greeting cards do not fit that profile.

Criterion	Greeting Card Considerations
Volume	Greeting cards represent a small, occasion-based product category rather than a high-volume material stream. They do not contribute meaningfully to the volume of paper requiring collection and processing.
Compatibility with Recycling Systems	Greeting cards are primarily paper-based products and are generally compatible with existing paper recycling infrastructure when consumers choose to recycle them.
Contamination	Greeting cards do not create meaningful contamination issues within the recycling stream and do not present the operational challenges associated with many other covered materials.
Lifecycle and Retention	Unlike disposable printed paper, greeting cards frequently remain in consumers' homes for extended periods because of their sentimental value. Their retention rates are substantially higher than flyers, catalogs, and other short-lived paper products.

For these reasons, greeting cards do not align with the types of materials that PWCRA is intended to regulate.

IV. Inclusion Would Create Regulatory Burdens Without Environmental Benefit

Applying PWCRA obligations to greeting cards would impose substantial costs on manufacturers, retailers, and consumers without producing measurable environmental gains.

Including greeting cards within the program would:

- divert program resources away from higher-impact materials;
- increase compliance and administrative costs without meaningful waste reduction
- create disproportionate burdens on small and medium-sized businesses that comprise much of the greeting card industry; and
- increase costs for consumers purchasing products intended to foster personal and family connections.

The result would be additional regulatory complexity without corresponding improvements in recycling performance, contamination reduction, or landfill diversion.

V. Consistency with Legislative Intent

Minnesota's PWCRA is designed to address materials that significantly impact the residential waste and recycling system. Products that are intentionally retained, preserved, and valued by consumers do not advance the objectives of the statute when subjected to EPR obligations.

As currently drafted, Minnesota's law uniquely places potential obligations on paper products themselves, rather than only packaging. This creates a risk that products such as greeting cards—whose intended use is long-term retention rather than disposal—could be treated in the same manner as disposable paper products despite their vastly different environmental profiles. Consistent with the goals of the law, MPCA should ensure that materials with negligible impact on the recycling system are not unnecessarily regulated.

VI. Request for Agency Action

Accordingly, the GCA respectfully requests that MPCA:

1. Explicitly clarify in rule or agency guidance that greeting cards are excluded from the definition of covered paper products.
2. Recognize greeting cards as products intended for long-term retention and preservation.
3. Confirm that greeting cards are not subject to producer fees or PWCRA obligations applicable to disposable printed paper products.
4. Reflect this distinction in all covered-material lists, stewardship plan requirements, and future program guidance.
5. Ensure that products primarily purchased as keepsakes and personal mementos remain outside the scope of the program.

VII. Conclusion

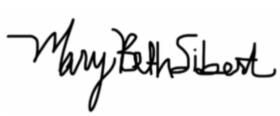
The success of Minnesota's PWCRA will depend on accurately distinguishing between materials that create meaningful recycling-system costs and materials that do not.

Greeting cards are not disposable printed paper. They are personal keepsakes purchased to celebrate important life events, frequently retained for years, and do not meaningfully contribute to recycling system burdens. Subjecting them to EPR obligations would create costs without corresponding environmental benefit.

For these reasons, the GCA respectfully requests that MPCA explicitly exempt greeting cards from Minnesota's PWCRA program.

Thank you for your consideration of these comments.

Sincerely,



Mary Beth Sibert
President
Greeting Card Association

and

Artists to Watch, St. Louis Park
Design House Greetings, Centerville
Garven, LLC, Edina

CC: Jory Kate Haslett, Chair, GCA Public Affairs Committee
Rafe Morrissey, GCA Vice President, Public Affairs
GCA Public Affairs Committee

ACC Comments on Minnesota's Packaging Waste and Cost Reduction Act

Feedback related to Request for Comment

Submitted electronically to: https://minnesotaoah.granicusideas.com/discussions/41576-minnesota-pollution-control-agency-request-for-comments-on-the-packaging-waste-and-cost-reduction-act

ACC Comments

The American Chemistry Council (ACC) appreciates the opportunity to provide comment for the Minnesota Pollution Control Agency's Request for Information ton the Packaging Waste and Cost Reduction Act ("Act").

ACC supports policies that improve recycling systems, increase recovery of valuable materials, and advance a more circular economy for packaging. Extended producer responsibility programs can play an important role in improving collection and recycling infrastructure when they are designed to promote environmental outcomes, material innovation, and efficient resource management.

As Minnesota implements its Packaging Waste and Cost Reduction Act, ACC encourages the state to ensure the program remains focused on its core objectives of waste reduction, recycling, and material recovery. Particular attention should be given to the law's chemicals-related provisions, which are broader than those found in most state packaging Extended Producer Responsibility (EPR) programs and could have significant implications for packaging design, supply chains, and material selection.

Clear, science- and risk-based implementation will be critical to providing regulatory certainty while avoiding unintended consequences for manufacturers, consumers, and the state's economy. The rules should establish clear performance expectations without prescribing operational decisions beyond those necessary to achieve the Act's objectives, allowing implementation to adapt as infrastructure, markets, technologies, and regional conditions continue to evolve. Where practicable, MPCA should also seek to harmonize definitions, reporting requirements, and implementation approaches with other state packaging EPR programs to reduce unnecessary complexity while supporting consistent environmental outcomes.

ACC offers the following comments to help inform the development of Minnesota's implementing regulations. The comments focus on feedback to the development of an EPR program, as well as concerns on the broader approach to including a vast array of chemicals. Addressing these issues will be critical to advancing an effective packaging EPR program in Minnesota.

2(b) – Criteria for Health and Safety Exemptions

Section 115A.1453 sub (6) states: "presence and amount of processing residuals, contamination, and toxic substances." Based on this text, MPCA should adopt a cautious approach when applying state and federal health and safety regulations to these criteria, as strict enforcement could block the collection of materials that are unrecyclable now but might become recyclable later.

Health and safety criteria should be applied only where they are directly relevant to protecting workers, public health, or environmental safety, and should not inadvertently restrict otherwise recyclable materials based solely on operational characteristics. Packaging that is currently difficult to recycle should not automatically be excluded when innovation, infrastructure investment, or alternative collection systems could improve recoverability over time.

Contamination should not automatically be treated as a health or safety hazard; rather, it is an operational processing issue caused by items placed in the recycling bin that a Material Recovery Facility (MRF) cannot effectively handle due to its equipment and system limitations. Broadly applying health and safety criteria to operational contamination issues may unnecessarily limit innovation, infrastructure investment, and the development of end markets that could enable these materials to become recyclable in the future.

- Residue represents material that may or may not be labeled as a residue and is frequently completely non-toxic, sanitary, and safe. It is simply the leftover material that remains after commodities flow through a MRF sorting line. Small format packaging may be screened out during the glass separation phase and may not be recovered even though it is completely recyclable. Using criteria that may exclude such items due to residue concerns may impede ongoing market development.

  Other materials become residue solely due to a temporary lack of buyers, meaning they are left unprocessed; while labeled as residue today, evolving markets could render them highly valuable in the future. Testing these benign items against state or federal toxicological and health rules is entirely unwarranted.

- "Unsafe" and "Unsanitary" – These specific definitions should be directly tied to the official collection lists. As written, this category covers materials that would actively threaten the health, safety, and physical well-being of the workers handling items inside a MRF and should be banned from the recycling bin entirely. For example, protein packaging is an inherently unsanitary material; it was never engineered for recycling, as its primary purpose is to keep meat, fish, poultry, and other food products safe during transit and storage while extending shelf life. Allowing this packaging into a MRF can easily spread dangerous pathogens and bacteria from the film surfaces, creating an immediate biological health hazard for sorting facility employees. Instead, "unsafe" and "unsanitary" materials should be defined based on the condition of the material at collection rather than the material type itself.

3(a) – Collection Availability

Separate thresholds should be considered for recycling and organics collection. Recycling infrastructure is significantly more mature than organics infrastructure, particularly outside metropolitan areas. Applying identical thresholds may unintentionally delay inclusion of compostable materials solely because collection systems remain under development.

3(b) – Threshold for access.

True access to recycling programs extends beyond merely providing bins. It should be evaluated holistically based on whether collected materials are successfully recovered, converted into feedstock, and delivered to responsible end markets. Measuring access solely by the percentage of households with collection service may overstate the effectiveness of a recycling system if materials are not ultimately recycled. Access frameworks should therefore prioritize successful material recovery while recognizing all collection methods that achieve that outcome, including curbside collection, municipal drop-off locations, retail take-back programs, and other alternative collection systems.

The Producer Responsibility Organization (PRO) should have flexibility to determine the most effective collection methods and access strategies needed to maximize the volume of material successfully recycled, considering collection performance, infrastructure, market conditions, and geographic differences. This flexibility will help ensure that program resources are directed toward collection approaches that maximize recycling outcomes while using producer resources efficiently. Where broad curbside collection is not the most practical or cost-effective solution, the rules should allow the PRO to implement alternative collection models, including municipal depots, retail take-back, subscription services, or other innovative approaches that achieve comparable recovery outcomes. When looked at from that perspective, it is not necessary to ensure every household in a state has access to a curbside recycling bin.

3(c) – Sorting Capacity

In alignment with discussions surrounding program access, processing capacity should not be evaluated independently if collected materials ultimately cannot be converted into viable feedstock and delivered to responsible end markets. Imposing rigid, artificial baseline percentages disrupts the organic economic market forces that naturally govern recycling systems. Instead, the PRO should periodically evaluate available processing capacity, market demand, and system performance to determine whether additional collection or processing investments are warranted. The rules should encourage investments that expand recycling infrastructure and improve the long-term recoverability of additional materials as markets develop. If market demand begins to outpace current supply, the PRO should have the ability to intervene with targeted measures to guarantee that processing capacity scales appropriately to fulfill that deficit. Ultimately, when these positive economic indicators are established, a clear regulatory pathway should be opened to add those specific materials to the active collection list. Likewise, the rules should provide a transparent process for periodically reviewing collection lists as market conditions, infrastructure, and end markets evolve.

3(d) – Responsible End Markets

Responsible end markets should be evaluated based on commercial demand, processing capability, environmental performance, and the availability of viable end markets. The PRO should retain flexibility to evaluate these factors while maintaining a transparent process for adding materials as markets mature and infrastructure develops.

3(e) – Residual and Contaminant Thresholds

MPCA should rely on nationally recognized industry specifications, independent third-party standards, and objective technical criteria where available to promote consistency, harmonization, and confidence in program implementation. The Agency should consider adopting thresholds consistent with nationally recognized industry specifications, including ReMA and APR guidance, to provide objective and predictable standards for contamination and residue.

3(f) – Recoverable Quantities

Recoverable quantity should be evaluated together with market demand, available processing capacity, and demonstrated recoverability. The objective should be maximizing material successfully recycled into new products rather than maximizing collection volumes alone.

3(i) - Convenience Standards

To ensure maximum public participation and program efficacy, the proposed convenience standards for alternative collection systems should be defined by four distinct, interdependent criteria: Proximity, Availability, Sorting Convenience, and Education.

We recommend MPCA structure the convenience standards as follows:

- **Proximity**: Collection points should be strategically situated to take advantage of established local transportation corridors to optimize public accessibility.

- **Availability Thresholds**: Collection points should maintain consistent, expanded operational hours—explicitly including weekends, evening hours, and holidays—to eliminate barriers for individuals with standard daytime work commitments.
- **Sorting Streamlining**: To maximize collection efficiency and minimize confusion from the public, alternative collection sites should accommodate a comprehensive stream of eligible materials. The standards should discourage frameworks that require consumers to execute multiple, material-specific trips.
- **Educational Integration**: An operator of the collection point should be required to include a robust educational outreach campaign that provides clear, standardized educational signage regarding material eligibility and operational schedules to actively drive compliance and participation.

Finally, such collection points should account for regional variations in population density. While high-density urban areas can support centralized, public-transit-aligned hubs with continuous daily operating hours, low-density rural communities require flexible frameworks that prevent undue economic burdens on local governments. For rural areas, the proximity and availability standards should pivot toward anchoring collection sites at existing regional commercial hubs and establishing predictable schedules to ensure equitable recycling access without compromising the operational viability of rural programs.

Concerns with definition of toxic substances

The Packaging Waste and Cost Reduction Act is fundamentally intended to improve waste reduction, recycling, and material recovery outcomes. As MPCA considers implementation of the statute's toxic substance provisions, packaging materials should be evaluated based on whether they improve recycling, recovery, and overall environmental performance. Restrictions that drive material substitutions without demonstrating improved recyclability, collection, processing, or recovery outcomes may increase costs while providing little benefit to the effectiveness of the EPR system. For this reason, ACC encourages MPCA to ensure that the chemical-related provisions are implemented in a manner that supports, rather than undermines, the Act's core circular economy objectives.

Minnesota's packaging EPR law incorporates by reference the state's Chemicals of High Concern (CHC) list and other chemical programs into the definition of "toxic substance." This list includes over a thousand substances many of which are not utilized in packaging or are not considered to present a risk. Furthermore, unlike a fixed statutory list, these programs are periodically updated by agencies, meaning the scope of chemicals implicated by the EPR program can expand over time without additional legislative action.

This creates significant uncertainty for manufacturers, packaging producers, and consumers. Companies making long-term investments in packaging design, product stewardship, and supply chains cannot predict with confidence which chemicals may be incorporated into the EPR framework in the future. A substance that is not a concern today could later become subject to EPR-related incentives, reporting expectations, or other program requirements if it is added to a referenced list.

The concern is heightened because Minnesota's CHC list is hazard-based rather than risk-based. Chemicals may be identified based on intrinsic hazard characteristics without consideration of actual exposure, use conditions, product performance needs, or whether the substance poses a meaningful risk in a specific packaging application. In addition, some of the chemical lists and hazard determinations incorporated through Minnesota's CHC framework are derived from regulatory programs developed under different statutory authorities and assessment methodologies. Reliance on these external determinations may create inconsistencies with other state and federal regulatory frameworks and increase compliance complexity for manufacturers. As a result, the scope of chemicals potentially implicated by the EPR program is extremely large and could expand over time in ways that were not originally contemplated during enactment of the statute.

This approach reduces regulatory certainty and limits stakeholder visibility into the future scope of the program. Policymakers, businesses, and consumers cannot fully assess the long-term costs or impacts of the EPR system because the list of chemicals that may ultimately influence packaging decisions is not fixed.

Further, MPCA should take care to avoid policies that may result in regrettable substitutions in packaging design or material selection. Packaging alternatives should not be evaluated solely on a single attribute or environmental endpoint, but rather through a comprehensive, life-cycle-based assessment that considers the full range of sustainability impacts. This includes factors such as water use, raw material consumption, greenhouse gas emissions, energy efficiency, product performance and reliability, end-of-life management, landfill impacts, and broader supply chain implications. Packaging changes that appear beneficial under a narrow metric may inadvertently increase environmental burdens elsewhere in the product lifecycle, require significantly greater resource inputs, disrupt established supply chains, or reduce product performance without delivering meaningful improvements in overall environmental outcomes. To ensure that EPR policies achieve their intended objectives, Minnesota should require a holistic, life-cycle-based evaluation of packaging alternatives rather than relying on singular metrics that may shift environmental impacts from one stage of the lifecycle to another while producing little or no net environmental benefit.

Further, the economic implications could be substantial. Future additions to the list may affect packaging material choices, supply chain sourcing, reporting obligations, product performance, and compliance costs. Those costs may ultimately be borne not only by manufacturers, but also by Minnesota businesses and consumers. Because future list additions occur outside the legislative process, there is limited opportunity for lawmakers to evaluate whether the resulting economic impacts are justified or intended within the context of the EPR program

For these reasons, implementation of the statute should prioritize transparency, predictability, and clear limits on how future additions to referenced chemical lists are incorporated into EPR requirements. The program should not allow the scope of packaging regulation to expand automatically through changes to external chemical inventories that were not specifically evaluated as part of the original legislative debate.

3(e): What are the recommended thresholds for the presence and amount of a residual, contaminant, and/or toxic substance for a covered material to be excluded from the collection list?

Establishing thresholds for residuals, contaminants, and/or specific substances that would determine whether a covered material is excluded from the collection list presents significant technical, legal, and operational challenges, as elaborated below. Any approach adopted in rulemaking must account for the substantial complexity inherent in defining, measuring, and enforcing such thresholds across diverse packaging materials and supply chains. Any approach should-also be risk-based to prioritize and focus such efforts.

1. Fundamental Challenges in Defining Thresholds

At the outset, it is unclear how “thresholds” should be conceptualized for purposes of this program. There are multiple fundamentally different approaches to defining the “presence” of a substance, including:

- Weight-based thresholds (e.g., parts per million (ppm), mg/kg, or weight percent of the material);
- Concentration-based thresholds within components (e.g., concentration in a specific layer, coating, or additive);
- Total mass per item or article (e.g., total micrograms of a substance per package);

- Detectability thresholds (e.g., above analytical detection limits, regardless of quantity);
- Intentional use vs. incidental presence (distinguishing between added substances and trace contaminants).

Each of these approaches can produce significantly different regulatory outcomes for the same material. Without clear direction on which methodology applies, stakeholders cannot assess compliance obligations or design packaging with confidence.

2. Measurement and Analytical Limitations

Even if a threshold framework is selected, measurement presents additional challenges:

- Analytical variability: Detection limits and quantification capabilities vary across laboratories, methods, and materials. A substance may be detectable in one testing scenario but not in another.
- Matrix complexity: Packaging often consists of multi-layered materials, inks, adhesives, and coatings. Measuring substances consistently across these matrices is technically difficult.
- Cost and feasibility: Comprehensive testing for a wide and evolving list of substances—particularly at very low thresholds—may be cost-prohibitive and operationally impractical, especially for small and mid-sized companies.
- Supply chain transparency: Many packaging producers rely on upstream suppliers for material composition data, which may not be available at the level of granularity needed to demonstrate compliance with low-level thresholds.

Absent standardized methods, clear detection limits, and reasonable compliance pathways, threshold requirements risk being inconsistently applied and difficult to enforce.

3. Residuals and Incidental Presence

A critical issue is how the program will treat unintentional or unavoidable presence of substances:

- Many substances may be present as trace contaminants due to raw material inputs or manufacturing processes.
- Recycled materials, in particular, may contain legacy substances at low levels that are not intentionally added and cannot be fully eliminated with current technology.
- Establishing thresholds that do not account for these realities could inadvertently penalize the use of recycled content, undermining core EPR objectives.

Determining what levels of incidental presence are acceptable—and on what basis—is therefore essential. This requires careful consideration of both technical feasibility and environmental outcomes.

4. Hazard-Based vs. Risk-Based Considerations

As noted in earlier comments, Minnesota's incorporation of hazard-based chemical lists further complicates threshold setting. Hazard-based identification does not account for:

- Actual exposure pathways in packaging use scenarios;
- Migration potential or bioavailability of substances within materials;
- The functional role of the substance in ensuring product integrity and safety.

Without a risk-informed framework, thresholds may be set at levels that do not correspond to meaningful exposure or risk, leading to exclusions of materials that are safe and necessary for product performance.

5. Governance and Program Predictability

The challenge of setting thresholds is compounded by the dynamic nature of the underlying chemical lists:

- As additional substances are added to referenced lists, threshold determinations would need to be revisited and recalibrated.
- Stakeholders would face continuous regulatory uncertainty, as both the substances of concern and applicable thresholds may evolve over time.
- There is a lack of clarity on whether thresholds would be applied uniformly across all substances or tailored on a case-by-case basis.

This raises significant concerns about the predictability and administrability of the program.

* * *

Thank you for the opportunity to provide information. ACC welcomes the opportunity to meet with MPCA to discuss our comments in greater detail.

Personal Care Products Council

July 24, 2026

Submitted electronically via the Office of Administrative Hearings public comment portal (minnesotaoah.granicusideas.com)

Office of Administrative Hearings
Attn: William Moore
600 North Robert Street, P.O. Box 64620
Saint Paul, MN 55164-0620

Re: Request for Comments on Planned Rules Governing the Packaging Waste and Cost Reduction Act, Minnesota Statutes sections 115A.144 to 115A.1463

Dear Mr. Moore:

The Personal Care Products Council ("PCPC")[1] is pleased to submit the following comments in response to the Minnesota Pollution Control Agency's ("MPCA" or "the Agency") Request for Comments, published in the State Register on May 26, 2026, regarding planned rules to implement the Packaging Waste and Cost Reduction Act ("PWCRA" or "the Act"). Our member companies are involved in the distribution and sale of over-the-counter nonprescription drug products, cosmetics, toiletries, fragrances, and ingredients in Minnesota. Many will be obligated producers under the Act and among the principal funders of the program these rules will implement; therefore, they have a strong interest in this rulemaking.

PCPC appreciates that this Request for Comments is the first of several opportunities for public input as the Agency develops rules addressing definitions, exemptions, collection lists, statewide requirements and measurement, the stewardship plan, and annual reports. The choices made at this early stage will largely determine whether the program is workable in practice, and we offer these comments in a constructive spirit. Throughout, we encourage the Agency to prioritize clarity, objective and administrable standards, and harmonization with the extended producer responsibility ("EPR") programs already in effect in other states, where the Act's text permits.

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[1] PCPC is the leading national trade association representing the global cosmetic and personal products industry. Founded in 1894, PCPC member companies manufacture, distribute, and supply the vast majority of finished cosmetic and personal care products marketed in the United States. As the makers of a diverse range of products that millions of consumers rely on every day, from sunscreens, toothpaste, and shampoo to moisturizer, lipstick, and fragrance, member companies are global leaders committed to product safety, quality, and innovation.

Definitions

"Packaging"

PCPC has significant concerns regarding the breadth of the definition of "packaging" in Minnesota Statutes section 115A.03, subdivision 22b. The definition is drawn from other legislation[2], is not limited to packaging sold or supplied with a product to a consumer, and as drafted would sweep in non-residential reusable and transport packaging, such as pallets, spools, barrels, trays, crates, and intermediate bulk containers. These materials are generally not covered by the packaging EPR laws in other states because those programs are designed to address consumer packaging entering the municipal solid waste stream. Reusable transport packaging, such as pallets, typically remains in the commercial supply chain, is reused dozens if not hundreds of times, already benefits from strong economic incentives for recovery, and rarely enters the residential curbside recycling system.

PCPC urges the Agency to clarify the intended scope of "packaging," to adopt limiting language for purposes of the PWCRA, and to harmonize the definition with the packaging EPR laws already in effect in other states so that non-residential reusable and transport packaging is not mistakenly included as a covered material.

"Paper Products"

The definition of "paper products" in Minnesota Statutes section 115A.1441, subdivision 24, raises significant concern due to its overly broad and open-ended language. The statute defines a paper product as a product "made primarily from wood pulp or other cellulosic fibers." The presence of cellulosic fibers does not inherently make an item a paper product, and without any fiber-composition limitation the definition could inadvertently capture textiles, building materials, and other durable goods that commonly contain some cellulosic fiber. The rules should describe structured paper that serves a paper-related function easily understood by a layperson, and any reference to cellulose should be defined in a manner that excludes cellulose derivatives.

Covered paper products also should not include items that are not primarily managed through the residential curbside recycling and composting system, such as toilet paper and other sanitary fiber products. It is impossible to predict with certainty how consumers have used these products, and once used they are generally not accepted by recycling or composting facilities. Clarifying

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[2] The PWCRA does not define "packaging" independently. Minnesota Statutes section 115A.1441, subdivision 22, provides that packaging "has the meaning given in section 115A.03," the general definitions section of the Minnesota Waste Management Act. That definition, drafted for broader waste-policy purposes, expressly includes "pallets and packing such as blocking, bracing, cushioning, weatherproofing, strapping, coatings, closures, inks, dyes, pigments, and labels." Minn. Stat. § 115A.03, subd. 22b.

the definition in this way would align it with the statutory intent of the PWCRA, which is focused on materials managed through residential recycling and composting systems, and would avoid unintentionally including sanitary fiber products that were not contemplated in the program's original scope or needs assessment.

Exemptions

Question 2(a): Packaging for Hazardous or Flammable Products Regulated Under the OSHA Hazard Communication Standard

The Act excludes packaging used to contain hazardous or flammable products regulated by the 2012 federal Occupational Safety and Health Administration ("OSHA") Hazard Communication Standard, 29 C.F.R. section 1910.1200, that prevents the packaging from being waste reduced or made reusable, recyclable, or compostable, as determined by the commissioner. This exclusion should operate as a categorical, self-executing exemption that defers to the existing federal framework, consistent with the approach taken in other EPR states, including California.

To ensure regulatory consistency, the Agency should align directly with the OSHA Hazard Communication Standard by utilizing the established flammable liquid threshold of a flash point at or below 93 degrees Celsius (200 degrees Fahrenheit). This uniform metric is already universally integrated into manufacturing, logistics, and safety protocols, and adopting it would ensure reporting consistency for producers and harmonize Minnesota's program with other enacted EPR states like California, Maryland, and Washington. Beyond administrative alignment, the threshold reflects the critical physical safety considerations of managing flammable formats. Highly durable, specialized barrier packaging is required to safely contain these formulations, preventing the use of standard recyclable or compostable alternatives.

Producers should not be required to proactively submit additional information or demonstrate against state-specific criteria in order to claim this exemption. The OSHA Hazard Communication Standard is a well-established federal regulatory threshold that is already applied in other jurisdictions, and requiring producer-by-producer or SKU-level submissions would create unnecessary administrative burden for both producers and the Agency without improving program outcomes.

Question 2(b): Packaging Subject to a Specific Federal or State Health and Safety Requirement

Where a specific federal or state health and safety requirement prevents packaging from being waste reduced or made reusable, recyclable, or compostable, the exemption should function as a categorical exclusion that defers to the relevant federal or state agency's existing determinations. Packaging deemed by the U.S. Food and Drug Administration ("FDA") to be necessary or recommended to protect the safety and shelf life of a product should qualify, and pre-existing federal standards should be sufficient on their own to establish the exemption for FDA-regulated items. Producers should not be required to proactively submit compliance demonstrations to the Agency, which would impose duplicative administrative burden on producers and on MPCA alike.

Cosmetics and personal care products present distinct health and safety constraints that the rules should recognize, as PCPC has explained in comments on California's SB 54 regulations. Many personal care products cannot be refilled or reused for hygiene and safety reasons, including products applied near the eye or that contact mucous membranes and products such as hair dye, and sensitive formulas are subject to FDA requirements that can conflict with redesign mandates. In addition, household and personal care products that must be packaged in child-resistant packaging under the Consumer Product Safety Commission's Poison Prevention Packaging Act regulations, 16 C.F.R. part 1700, cannot be reused consistent with the packaging standards in section 1700.15(c). These federal requirements should clearly exempt the affected packaging from any reusability requirement under the Act.

As to process, the criteria should be flexible enough to let a producer demonstrate a conflict through either a functional description of the packaging or a direct citation to the governing requirement. The rules should account for testing timelines, such as shelf-life stability and safety approvals, in the timing of exemption relief, because testing is a prerequisite to proving the feasibility of any packaging change. The Agency should also permit joint filings, including filings through trade associations, and precedent-based exemptions that carry forward determinations already made in other jurisdictions, in order to reduce duplicative filings. Finally, the exemption criteria should be established clearly and expeditiously so that the producer responsibility organization ("PRO") and producers can plan accordingly.

Question 2(c): Criteria for "Unsafe or Unsanitary"

Rather than adopting abstract criteria for what qualifies as "unsafe or unsanitary" under Minnesota Statutes section 115A.1441, subdivision 24, the Agency should survey and collect real data from in-state recycling and composting facilities regarding the products they decline to handle, and should explicitly specify in the rules which products are excluded on that basis. That approach provides certainty to producers and reflects actual facility practice. Paper products such as diapers, tissues, toilet paper, and facial, body, and cleaning wipes are either sold premoistened or become wet and contaminated during use, and in either case the used product is detrimental and unsafe or unsanitary for handling at recycling and composting facilities. Similarly, used napkins and paper towels are generally not accepted in curbside recycling or composting because it is impossible to predict how consumers used them and what contamination is present. Any criteria the Agency does adopt should be harmonized with the approaches of other jurisdictions.

Collection Lists

Question 3(e): Thresholds for Residuals, Contaminants, and Toxic Substances
The Agency has asked what thresholds are recommended for the presence and amount of a residual, contaminant, or toxic substance for a covered material to be excluded from the collection list. Before any threshold can be meaningfully discussed, PCPC believes the Agency should first clarify the process and criteria it intends to apply. The statutory language directing the commissioner to consider residuals, contamination, and toxic substances in establishing the collection lists is ambiguous as to whether it is directed at the composition of the packaging material itself or at residual product contents remaining in packaging after consumer use. These are very different inquiries with very different implications for implementation, and producers cannot offer meaningful threshold recommendations until the intended reading is clear. A product-residue reading would present significant practical difficulties, as producers have no reliable way to know how much of a product formula remains in packaging when a consumer disposes of it.

PCPC recommends that the Agency look to the material specifications already developed and used by the recycling industry, including the bale specifications published by the Association of Plastic Recyclers and the Recycled Materials Association, which define what is acceptable in a baled recycling stream and reflect the operational realities of material recovery facilities. These existing, market-tested specifications provide a workable reference point for managing residuals and contamination in the collection system. More broadly, substantive restrictions on chemical ingredients are complex policy questions that are addressed through dedicated statutory frameworks, and the collection-list process under an EPR program is not the appropriate vehicle for establishing new chemical management policy. PCPC and its member companies would welcome further dialogue with the Agency on the process and criteria before any thresholds are proposed.

Statewide Requirements and Measurement

The Act sequences the needs assessment, due December 31, 2026, ahead of the collection lists, statewide requirements, and the PRO's first stewardship plan. The rules should preserve that sequence. Statewide requirements for recycling, composting, reuse, return, waste reduction, and postconsumer recycled content should be grounded in the needs assessment and in real Minnesota infrastructure and market data rather than set in advance of them. In assessing sorting capabilities, determinations should be based on the majority of in-state processing capacity by throughput, and market availability determinations should be based on the existence of at least one viable end market, with a preference for at least two, sized relative to the volume of material generated in Minnesota.

With respect to waste reduction and source reduction, PCPC supports material-neutral definitions that recognize reductions in packaging regardless of substrate. At the same time, because other state programs, including California's SB 54, contain plastic-specific source reduction goals, the rules should ensure that source reduction actions recognized in other states are also recognized in Minnesota, and should give the commissioner and the PRO flexibility to account for legitimate material trade-offs, for example through material-specific targets or PRO incentives, where substituting one material for another advances overall program goals.

Stewardship Plan and Annual Reports

PCPC encourages the Agency to avoid codifying prescriptive or high-volume reporting requirements in rule. Detailed reporting expectations are better situated in the stewardship plan approval process, annual reporting guidance, and audit protocols, which can evolve with the program without further rulemaking. Wherever possible, the Agency should accept the data formats, units, and material categories producers already use to report in other PRO-administered state programs, and should ensure strong protections for competitively sensitive producer-level data. Additionally, the Agency should ensure that annual reporting deadlines are harmonized with existing reporting deadlines in other PRO-administered state programs.

Other Topics

Producers today face multiple overlapping regulatory programs addressing packaging, including waste reduction, recyclability, compostability, reuse, PFAS elimination, postconsumer recycled content, and toxics reduction requirements. These objectives can present competing design considerations for a single package. PCPC encourages the Agency to build regulatory flexibility into the rules so that producers can navigate these trade-offs while advancing the goals of the PWCRA. In that spirit, the rules should give the PRO explicit authority to recognize verified historical source reduction and postconsumer recycled content integration, so that early movers are not penalized, and should avoid requirements that duplicate or conflict with obligations producers already carry in other states.

PCPC also supports technology-neutral definitions related to recycling that recognize both mechanical and advanced recycling technologies, limited to processes that convert waste back into resin or feedstock for new products and excluding processes whose output is fuel, consistent with current Minnesota statute. Definitions that work across programs and reflect real-world processing capacity will best serve the program's long-term goals.

Conclusion

PCPC shares the State's goal of a packaging system that reduces waste, expands recycling access, and works for Minnesotans, and we appreciate the Agency's early and open engagement through this Request for Comments. Clear definitions, self-executing exemptions grounded in existing federal frameworks, and harmonization with the EPR programs already operating in other states will give producers the certainty they need to comply with confidence and will let program resources flow to the infrastructure investments the Act is meant to fund. PCPC and its

Personal Care Products Council

member companies would welcome the opportunity to serve as a resource to the Agency as this rulemaking proceeds.

Thank you for the opportunity to submit comments, and we look forward to continued engagement on this important issue.

Respectfully Submitted,

Bridget Corridon

Bridget Corridon
Staff Counsel
Personal Care Products Council

IDFA
International
Dairy Foods Association

July 24, 2026

Submitted electronically to https://minnesotaoah.granicusideas.com

Minnesota Pollution Control Agency
600 North Robert Street, P.O. Box 64620,
St. Paul, MN 55164-0620,
Attn: William Moore

RE: "Request for Comments for Possible New Rules Relating to the Packaging Waste and Cost Reduction Act, Minnesota Rules, 7035; Revisor's ID Number R-04992"

The International Dairy Foods Association (IDFA), located in Washington, D.C., appreciates the opportunity to provide comments to the Minnesota Pollution Control Agency's (MPCA) Request for Comments for Possible New Rules Relating to the Packaging Waste and Cost Reduction Act." IDFA represents the nation's dairy manufacturing and marketing industry, which in Minnesota, supports more than 24,000 jobs, that generate more than $1.7 billion in wages and more than $9 billion in overall economic impact for the state. IDFA's diverse membership ranges from multinational organizations to single-plant dairy companies and also includes cooperatives, food suppliers and retailers, and those that provide a myriad of services to all of these entities. Together, our members represent most of the milk, cheese, ice cream, yogurt and cultured products, and dairy ingredients produced and marketed in the United States and sold throughout the world. More information about IDFA can be found at www.idfa.org.

IDFA recognizes that the current request for comments is the first of many opportunities we will have to inform rulemaking undertaken as the MPCA implements the Packaging Waste and Cost Reduction Act (Act). IDFA's comments are targeted at how the MPCA considers and develops rules under its section 115A.1453, subdivision 6 authority to classify packaging as exempt. The materials used for dairy product packaging, including packaging for Grade "A" milk and milk products, is critical to maintaining food safety and quality for highly perishable and nutritious dairy foods. Below, IDFA asks the MPCA to develop an exemption process and criteria that considers the limitations faced by dairy food companies in optimizing packaging materials and formats to meet federal health and safety performance standards.

COMMENTS

Section 2(b) Exemptions

The Act provides the MPCA's commissioner with authority to classify packaging as exempt if it is determined "that a specific federal or state health and safety requirement prevents the packaging from being waste reduced or made reusable, recyclable, or compostable." 115A.1453. The Request for Comments seeks responses to the following questions:

"2(b): Under Minnesota Statutes, section 115A.1453, subdivision 6., what criteria should be used to determine that a specific federal or state health and safety requirement prevents a material, any proportion of material, or packaging cannot be waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?"

- General Comments: IDFA recommends that the commissioner consider that the federal regulatory approach for food, including dairy products, does not use a command-and-control approach that dictates a particular type of packaging format and material that must be used. Instead, for dairy products, federal law sets performance standards and requires that packaging must be selected to ensure such standards are maintained throughout the supply chain, including storage, transportation and ultimately with the consumer. Federal food safety standards often do not directly dictate the use of a specific packaging material or format, but if a packaging material is unable to meet the federal standard, its use to package food would be a violation of federal law.

  For example, all food products, including all dairy products that are regulated by the FDA, must meet the adulteration and misbranding standards established in the Federal Food Drug and Cosmetic Act (FD&C Act) (21 U.S.C. § 331). The food contact notification process, independent of FDA's food additive petition process was established by an amendment to the FD&C Act in 1997 and requires the pre-market review of food contact substances. Grade "A" dairy products, including fluid milk and yogurt and cultured dairy products, must meet the standards, including packaging standards prescribed in FDA's Pasteurized Milk Ordinance, while non-Grade "A" dairy products must meet the requirements and standards established through the Food Safety Modernization Act and the Preventive Controls for Human Foods regulations (21 CFR Part 117). If the dairy food is a low acid canned food or acidified food it must meet the requirements specific to these foods found in 21 CFR Parts 113 and 114, respectively. For dairy products, there are also many standards of identity that provide recipes and "make" procedures for cheeses, yogurts, ice cream, etc. which impact packaging choices.

  These federal requirements establish standards that are considered carefully by those that make food when deciding what packaging material or components will be used to package a particular food. Packaging materials, such as flexible films, provide unique and beneficial characteristics necessary to maintain quality, shelf life and safety throughout the supply chain of certain dairy products. Given the importance of flexible films to the dairy industry, we recommend MPCA provide a reasonable exemption process if flexible films are ultimately unable to be waste reduced, made reusable, recyclable or compostable under Minnesota law.

  IDFA also requests the MPCA to consider how it will ensure the confidentiality of certain business information that may be submitted for purposes of seeking an exemption. In addition, given that many of the food safety requirements for dairy products are on a category basis, e.g., fluid milk, cheese, ice cream etc. it would be efficient to allow Producers and industry trade associations to collectively seek packaging exemptions for similar products and material categories and to state this explicitly in applicable regulations.

- Exemption Criteria: IDFA urges the commissioner to base exemption criteria on a Producer's reasonable ability to meet state and federal food safety and quality performance standards. Producers should be required to identify the federal performance standard and explain how any packaging optimized to meet the federal standard may prevent compliance with the Act from the perspective of technical feasibility and reasonable economic achievability. Impossibility should not be the criteria and criteria should not be based on theoretically available technology. Instead, we urge the commissioner to consider packaging that best balances maintaining compliance with standards and technical feasibility and economic achievability. Additionally, an exemption should be available if the packaging material has been expressly reviewed by the FDA and determined to adequately minimize the potential for microbial contamination.

- Exemption Submissions against Criteria: In submitting information to the commissioner for a decision, IDFA recommends that Producers be required to identify how the packaging material is optimized, both technically and economically, to meet any applicable federal food safety performance and quality standards. At the same time, Producers should also explain in narrative form why alternative packaging materials that are capable of being waste reduced or are reusable, recyclable or compostable (if such materials exist) would not be technically or economically feasible and still maintain a high level of food quality, safety and shelf life. Similarly, Producers should submit information to demonstrate that waste reduction would render the packaging unable to maintain food safety and quality standards. We strongly urge the commissioner not to require exhaustive proof that there are no alternative packaging materials and instead require a demonstration of the necessity of an exemption for a packaging material that is grounded in the food safety and quality, technical feasibility, reasonable economic achievability of food packaging for its use for a particular product category.

IDFA appreciates the opportunity to provide comments in this pre-rulemaking process and we look forward to providing additional comments as opportunities present themself in the future. We also welcome additional questions on the exemption process or any other topics related to EPR and dairy foods.

Regards,

Danielle Quist

Danielle Quist
Vice President, Regulatory Affairs and Counsel
International Dairy Foods Association

World Wildlife Fund
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worldwildlife.org

WWF

July 23, 2026

RE: Possible New Rules Relating to the Packaging Waste and Cost Reduction Act, Minnesota Rules, 7035; Revisor's ID Number R-04992

To Whom It May Concern:

World Wildlife Fund (WWF) appreciates the opportunity to offer our comments on the possible new rules relating to Minnesota's Packaging Waste and Cost Reduction Act. WWF is one of the world's leading conservation organizations, operating in nearly 100 countries, with over one million members in the United States and more than 15 million supporters globally. Through its international network, WWF is working to ensure a future in which both people and nature can thrive by helping to conserve our planet's biodiversity and the natural resources upon which we all rely. Our approach to conservation involves working at all levels, integrating global reach and local impact with a scientific foundation, and promoting innovative solutions to meet the needs of people and nature.

Plastic pollution is one of the greatest global environmental challenges we currently face. WWF believes that plastic has no place in nature, which is why we are working on a global scale to unite industry leaders, consumers, policymakers, and civil society to transform our systems for producing and managing plastics and other materials. Our aim is to promote the transition to a truly circular economy – one in which the plastic we discard becomes plastic we use again.

WWF commends the Minnesota Pollution Control Agency (MPCA) for taking action to mitigate plastic pollution at its source and move towards a more circular economy through an Extended Producer Responsibility (EPR) system. We appreciate that the MPCA is seeking public input on potential rules that would impact the implementation of a new EPR system in the state and that there will be multiple opportunities for providing input on this rulemaking. In the following comments, we provide recommendations for the proposed questions.

3(a): What should the threshold for "current availability of collection" services be for recycling? For organics recycling? Should they be different or the same?

WWF recommends that MPCA consider multiple criteria when determining which covered materials should be placed on recycling and organics recycling collection lists. We recommend looking at other states that are implementing packaging EPR, many of which consider compatibility with existing recycling infrastructure to help make this determination. WWF also recommends that MPCA also take processing compatibility and availability of end markets into account.

WWF does not have a specific threshold to recommend to MPCA. Minnesota has numerous recycling service providers, and the materials accepted for collection vary across them. Materials that are routinely accepted in urban recycling programs may have limited or no collection opportunities in rural areas, making it difficult to establish a single statewide threshold for when a material could be considered "currently available" for collection. Collection availability can also change dramatically year-over-year.

Since packaging recycling and organics recycling have different starting points for collection access, WWF recommends that any thresholds MPCA may institute be separate and distinct. Curbside organics collection is significantly lower, as Minnesota residents rely primarily on drop-off sites for organics recycling. Applying the same standard to both systems could disproportionately exclude compostable materials because organics collection infrastructure is less developed than traditional recycling infrastructure. Current collection availability is not static and should not be viewed as a permanent limitation when determining which materials belong on the statewide covered materials list.

3(b): What is the threshold for access to recycling and composting processing infrastructure? Should it be determined by distance to a percent of the population, total coverage of a percent of the total population, or something else? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?

As long as program accessibility is prioritized overall, geographic access to processing facilities should not be the determining factor for whether a material is included on the statewide covered materials list. If a material can be successfully processed anywhere within the state's recycling or composting system, the focus should shift toward expanding collection services, increasing sorting efficiency, and strengthening transportation networks that connect residents and businesses to existing processing facilities. The MPCA should consider consistent updates to the minimum recycling list in response to expected improvements to recycling infrastructure due to PRO investments, like the approach in Colorado.

The access threshold should be different for the Twin Cities Metropolitan Region and the rest of Greater Minnesota, due to lower facility density and longer transportation distances in Greater Minnesota. The MPCA should consider reimbursing transportation costs for covered materials that may be transported, like in Oregon, to help address geographic barriers while balancing system costs.

3(h): Are there any other criteria recommended to be considered? Are there criteria mentioned above or in statute that are not recommended to be considered?

The MPCA could consider adding criteria that take into account a material's environmental impacts, evaluating the overall environmental benefits and tradeoffs of recycling or composting a potential covered material. Economic factors such as collection, transportation, processing, and market costs to ensure materials can be managed in a financially sustainable manner should also be considered. For reference, the Washington EPR for packaging law considers both of these criteria.

Language that clarifies responsible end markets criterion would also be valuable. Revising the criterion to consider the stability, maturity, accessibility, and viability of responsible markets in addition to the availability of responsible markets would ensure that covered materials are supported by reliable and sustainable end markets, rather than simply qualifying because a market currently exists. Oregon, Washington, and Maryland EPR for packaging legislation all have language on this topic that the MPCA could refer to as examples.

Current availability of collection services and accessibility to recycling and composting infrastructure should be primary factors for consideration, and the MPCA should also consider initial investments from fees in collection service and accessibility. Consistency with other states, when reasonable, should also be one of the determining factors for the covered materials list.

3(i): Relating to alternative collection systems, what are the considerations for what meets "convenience" and what would the minimums be? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?

Convenience standards for alternative collection systems should require year-round, statewide accessibility while accounting for regional differences in population size, population density, and geography. Requirements should differ between Greater Minnesota and the Twin Cities Metro Area by adjusting service based on population size and density, like Washington's approach. Washington's EPR for packaging legislation also specifies that a plan for alternative collection must include the number, type, and location of each collection opportunity, a description of how each program requirement will be met, and performance targets for each covered material, as applicable, to be managed through an alternative collection program. WWF recommends considering Washington's example, but their specific approach is not the only way to address alternative collection systems.

Minimum convenience standards for alternative collection systems could be conceptualized like Maryland's EPR for packaging guidelines, which include at least one drop-off location per county, with additional collection sites or services scaled based on population and demand. Alternative collection systems should also be permitted where they provide equal or greater convenience than traditional drop-off networks.

Concluding Thoughts

WWF is grateful for the opportunity to share our perspective based on decades of experience as a science-based conservation organization working with partners in both government and the private sector, and at all levels, from local to global. We believe these new Rules in Minnesota are an important step towards building a more circular economy. WWF commends the MPCA for its leadership in addressing plastic pollution, including the steps taken through these new Rules to establish an effective EPR system in Minnesota. Thank you for providing an avenue for public input. We look forward to working together to ensure a sustainable future for all people and the planet.

Thank you,

Alejandro Pérez

Senior Vice President of Policy and US Government Affairs

World Wildlife Fund

Upstream

Minnesota Pollution Control Agency (MPCA)
520 Lafayette Rd N.
Saint Paul, MN 55155

July 24, 2026

Re: Request for Comments – Packaging Waste and Cost Reduction Act Rulemaking (Revisor's ID No. R-04992)

Dear Commissioner Kessler, Assistant Commissioner Koudelka, and MPCA team,

Thank you for the opportunity to submit comments on behalf of Upstream regarding the Minnesota Pollution Control Agency's regulatory concepts for the Packaging Waste and Cost Reduction Act (PWCRA). Upstream is a US-based non-profit and leading change agency for the reuse movement in the US and Canada. We accelerate the transition from our current throw-away economy to one that is regenerative, circular and equitable by normalizing reuse, growing and supporting the reuse industry, and creating an enabling policy environment for reuse.

We strongly support the spirit of Minnesota's packaging EPR law and appreciate the considerable effort MPCA has put into establishing and supporting the Advisory Board, approving and coordinating with Circular Action Alliance (CAA) as the first Producer Responsibility Organization (PRO) for the program, and otherwise rolling out implementation of the program so far. While Upstream is proud to serve on the program's Advisory Board and we stand by the comments submitted by the Board, we also wanted to offer the below suggestions from our own perspective. It is our hope that these comments add additional context and helpful details on the rule concepts through a reuse lens.

<u>Question 1, concerning definitions not in statute:</u>
As noted by the Advisory Board, we recommend clarifying what it means to be "capable of being managed in a reuse system." Section 115A.1448(c)(1) of the PWCRA is intended to prevent possible greenwashing, wherein bad actors might introduce packaging they claim is reusable without a system for collection, cleaning, and redistribution that would enable its actual reuse. It is clearly not the intention of this section to prohibit producers from introducing reusable packaging and scaling it over time. MPCA should clarify that reusables are not prohibited if they don't meet high return rates right away. Rather, reusables are "capable of being managed in a reuse system" if they are participating in a managed system that is on track to meet return rate targets in the future. Any reuse and return rates set within

the regulations should allow for a realistic timeline for reuse systems to scale - see further comments on this below (Questions 4a-4c).

We also suggest including a definition clarifying exemptions for long-term storage packaging containing durable goods. All of the other six packaging EPR laws enacted so far in the U.S. have incorporated such an exemption, but the PWCRA is not clear on this matter. MPCA should include a clause in the rules specifying that packaging used for the long-term (five or more years) storage of durable goods is exempt from the program (for instance, a cardboard box containing a puzzle; a rigid plastic case containing a power drill, etc.). Language in Washington State's statute provides a clear and unambiguous model: *Packaging used to protect or store a durable product for a period of at least five years* is exempt. This clause helps define boundaries for reusable and refillable containers by explicitly stating that reusable long-term storage packaging is not the focus of the law, and also that refill-at-home containers *are* still covered (as they are refilled with consumable goods rather than durable products).

Question 2(b), concerning health and safety requirements for exemptions:
Again as noted by the Advisory Board, we support the Agency's effort to narrowly define exemption pathways so that they remain well-justified and consistent with the intent of the law. One of the major benefits of EPR programs is to level the playing field among producers and ensure all pay their fair share into the system. Exemptions create free riders, requiring other producers to cover the costs to manage exempt packaging and products. They should be rare and only applied when there is clear, documented evidence that legal health or safety requirements make waste reduction, reuse, recycling, or composting infeasible. Where there are already alternatives on the market demonstrating that more sustainable packaging choices not only exist but are entirely viable, exemptions from the program should not be granted.

Question 3(i), concerning alternative collection systems and convenience:
Returnable reusable packaging is a unique product type and in some instances may best be managed through an alternative collection program (ACP) in Minnesota. Given that reusable packing is a developing market, the regulations should specify adjusted convenience standards for ACPs collecting reusable packaging that reflect the current production and distribution of reusable packaging in the state. For example, packaging EPR regulations adopted in Maine specify that ACPs for reusables must collect the approved materials *in counties where they are produced*, rather than every county in the state. We strongly encourage MPCA to include language in the regulations that allows for any ACPs collecting reusable covered materials to grow slowly across select geographies.

Additionally, collaboration between producers interested in collecting reusables through ACPs should be financially incentivized. We recommend specifying that ACPs collecting reusables for a group of three or more producers will have a lower registration/application fee.

Questions 4(a)–4(c), concerning statewide reuse and return rates:
MPCA should create flexible timelines with interim milestones that allow reuse programs to scale in due course. Consider requiring reuse programs to have a plan in place for growth and increased returns, and

allowing them to report progress year-over-year on these plans for the first five years of operation or the duration of the first program plan. After this, a ramp-up over time of minimum return rates, with at least three to five years between milestones, will be the most supportive avenue for larger-scale (e.g. open-loop B2C packaging) systems. No matter the dates established for reuse and return targets in the regulations, MPCA should include the ability to update these rates over time as more information (for instance via annual reporting) becomes available.

When setting reuse and return rates, MPCA may also wish to consider splitting these across distinct packaging categories and phasing each in over time. Categories could be determined by geography, type of system (e.g., closed vs. open, or B2B vs. B2C), material, format, or other factors. Upstream recommends setting distinct targets and timelines for the following categories of reuse:

- **High reuse rate (market share) and return rate:** Closed B2C foodware; covered B2B packaging (as applicable). These categories can have earlier milestones and deadlines.
- **Medium reuse rate (market share) and return rate:** Semi-closed B2C foodware (e.g., a college campus), open-loop B2C packaging for beverage, personal care, e-commerce, prepared food packaged at retailers, and small-format packaging. These categories can have longer timelines.
- **Lower reuse rate (market share) and return rate:** Open-loop B2C packaging in other categories. These categories should be afforded the longest timelines.

We also wish to note that PR3 - an ANSI-Accredited Standards Developer - has run a thorough multi-stakeholder process over the last several years to develop six reuse sector standards, with two already adopted as American National Standards. The remaining four are expected to be released by the end of 2026 or early 2027, but are currently available in draft form. The draft standard for Systems Operation and Performance directly addresses return rates and may provide a useful benchmark MPCA to consider (see Sec. 14). The draft standard also includes detailed methodologies for return rate calculation.

Reuse is a growing industry that is not yet fully standardized, but once all six standards are adopted we believe third party certification will become available for reuse providers and reusable packaging. MPCA should consider leaving room in the regulations for such programs to scale. Simply referring in the regulations to “applicable national standards” would allow flexibility over time.

Thank you again for the opportunity to submit these comments. For any questions, please feel free to contact sydney@upstreamsolutions.org. We look forward to continuing to work with MPCA to support the incorporation of a strong reuse vision in Minnesota’s packaging EPR program.

Sincerely,

Sydney Harris
Policy Director
Upstream

Collect
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National Waste
& Recycling Association®
Minnesota Chapter

July 24, 2026

VIA MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS eCOMMENTS
https://minnesotaoah.granicusideas.com/discussions

Minnesota Pollution Control Agency
Attn: Aubrey Sondrol, Rule Coordinator
7381 Airport View Dr. SW
Rochester, MN 55902

RE: Comments on Possible New Rules Relating to the Packaging Waste and Cost Reduction Act, Minnesota Rules, Chapter 7035; Revisor's ID Number R-04992

Dear Rule Coordinator Sondrol and MPCA Staff:

The National Waste & Recycling Association Minnesota Chapter (NWRA MN) appreciates the opportunity to comment on the Minnesota Pollution Control Agency's (MPCA or Agency) Request for Comments (RFC) regarding possible new rules to implement the Packaging Waste and Cost Reduction Act (PWCRA), Minnesota Statutes, sections 115A.144 to 115A.1463. NWRA MN represents the collection, processing, and recycling companies that operate the infrastructure the PWCRA depends on, and our members have been actively engaged with the Agency as the statute was developed and since its enactment as part of the needs assessment and stakeholder process.

NWRA MN offers the following comments on issues of particular importance to our members:

(1) The process for setting the reimbursement rate for service providers who voluntarily decide to participate in the PWCRA is already established in statute and should not be redefined through this rulemaking.

(2) Minimum postconsumer recycled content standards — not collection mandates alone — are the most effective tool for creating responsible, durable end markets for recovered packaging material.

(3) The Agency's request for input on defining "current availability of collection services" under RFC Question 3(a).

(4) Reframing RFC questions 3(c), 3 (d), and 3(f) to consider the business and market forces that drive recycling investment decisions.

(5) Other issues not highlighted by the MPCA in the RFC including the agency's handling of nonpublic data, contamination rates, the program's goals related to organics, and how the agency will prioritize investment and operational decisions in underserved markets.

I. The Reimbursement-Rate Framework Is Fixed by Statute, and the Statute Assigns the Rate-Setting Methodology to the Approved Stewardship Plan — Not to Agency Rulemaking

The Legislature has already established the framework for reimbursing service providers who opt into the PWCRA, and this rulemaking cannot displace or override it. This was the result of significant negotiations between the NWRA and MPCA and resulted in our Association's neutral position on the final bill language. Minnesota Statutes, section 115A.1455, subdivision 4, specifies the cost factors on which reimbursement rates must be based (collection, transfer, sorting and processing costs less the market value of recovered material, and administrative costs); the phased schedule for those rates (at least 50 percent of net cost by February 1, 2029, 75 percent by February 1, 2030, and 90 percent by February 1, 2031, and each year thereafter); and the authority to calculate rates per ton, by household, or by another unit of measurement. Subdivision 6 further requires a third-party dispute-resolution process for reimbursement disputes. These are statutory determinations, not open questions for the Agency to resolve by rule.

Within that framework, the statute is equally clear about who sets the operative methodology: the approved stewardship plan. Subdivision 4(a) provides that an approved stewardship plan "must provide a methodology for reimbursement rates", and that the methodology "must consider estimated revenue received by service providers from the sale of covered materials" and "incorporate relevant cost information identified by the needs assessment." The Legislature thus delegated the substantive methodological detail—how the enumerated cost factors are weighed, how material-sale revenue is netted, and how the resulting rates are calculated—to the stewardship plan itself and to the inputs supplied by the needs assessment. The statute designates the plan, informed by the needs assessment, as the vehicle that develops the reimbursement-rate methodology.

Because the statute assigns that role to the approved stewardship plan, the MPCA cannot use this rulemaking to displace it. A rule that established an independent, agency-defined reimbursement methodology—or that authorized the PRO or its consultants to substitute a different methodology—would override the statutory allocation the Legislature made and exceed the Agency's role in implementing sections 115A.1449 and 115A.1455. NWRA MN accordingly urges that any rule adopted here confirm, rather than supplant, the stewardship plan's statutory function of providing the reimbursement-rate methodology within the framework the Legislature already set.

To illustrate how this process would work, NWRA offers the following comments and example scenario: Minnesota Statutes, §115A.1449(3) requires a service provider receiving reimbursement to "submit invoices to the producer responsibility organization for reimbursement for services rendered," and Minn. Stat. §115A.1455 Subd. 4, (d) states that, "Reimbursement rates may be calculated per ton, by household, or by another unit of measurement under an approved stewardship plan." The Statute is quite clear that the rates approved in the stewardship plan will be reimbursed to service providers based on invoices submitted by service providers to the PRO for services rendered.

- The Producer Responsibility Organization (PRO) establishes reimbursement rates per household for unique urban and rural communities, within a specific region, including the recycling collection factors listed in Minn. Stat. 115A.1455, subd.4.
- Service providers would then invoice the PRO for reimbursement for all households collected within the specific urban or rural area over a given period of time. Service providers would bill the customer

for the actual price of the service but will subtract the applicable reimbursement and reflect the reduction on the customer's bill.

One item not determined in statute is the frequency of reimbursement by the PRO to service providers. The guidance in Minn. Stat. §115A.1447 (15) is for the PRO to "reimburse service providers in a timely manner using applicable reimbursement rates." NWRA's recommendation is for the PRO to pay service providers monthly (net 30 days), which is the industry standard.

II. Minimum Postconsumer Domestic Recycled Content Standards Are the Best Tool for Building Responsible End Markets

NWRA's national policy position on packaging EPR (enclosed) reflects a conclusion our members have reached from decades of operating recycling infrastructure: programs that focus only on the supply side — collecting more material — without a corresponding demand-side mechanism do not, by themselves, create a circular economy. The last thirty years of recycling policy have concentrated on generating supply while largely overlooking whether adequate end markets exist to absorb that material. The result has been chronic, volatile demand for recovered commodities and, at times, negative-value markets for materials that are being collected in ever greater volumes. Minimum postconsumer recycled content requirements address this directly: by requiring that packaging contain a defined percentage of recycled material, content standards create predictable, ongoing demand for the very commodities the collection and processing side of the system produces, which in turn stabilizes prices and makes continued investment in Minnesota's recycling infrastructure economically sustainable.

Furthermore, the minimum content standard must require that materials be sourced domestically. With imported rPET undercutting the domestic infrastructure, recyclables collected and processed in America are losing their end markets. Since the beginning of 2025, over 25% of the domestic capacity has been lost. National PET prices in June of this year were 2.86 cents/pound, down from 14.99 cents/pound one year ago.

As the Agency contemplates the thresholds for minimum domestic postconsumer recycled content and the timelines for implementation, it should look to frameworks used in other states and align with these principles:

- Set category-specific requirements that phase in over time and are tied to the packaging type's market conditions. For example, in Washington state, plastic beverage containers must reach 15 percent postconsumer recycled content by 2023, 25 percent by 2026, and 50 percent by 2031. Plastic trash bags, a harder-to-source material stream, follow a more gradual path of 10 percent, 15 percent, and 20 percent over roughly the same period; and household cleaning and personal care product containers follow their own 15/25/50 percent schedule.

- Authorize the Agency to adjust rates within statutory bounds based on real-world factors such as recycled-material availability and market conditions

In short, NWRA MN urges the Agency not to let this rulemaking replicate the historical imbalance between supply-side collection mandates and demand-side market development. Robust minimum content standards are the most direct and statutorily grounded way to ensure that the material Minnesota's service providers collect has somewhere responsible — and stable — to go.

III. Defining "Current Availability of Collection Services" (RFC Question 3(a))

The RFC asks what threshold should apply for the "current availability of collection" services for recycling and for organics recycling, and whether that threshold should be the same or different for the two service types (Question 3(a)), as well as how availability of processing infrastructure should be measured and whether it should differ between the Twin Cities Metro Area and Greater Minnesota (Question 3(b)). NWRA MN offers the following framework, grounded in the statute's own use of the term.

Section 115A.1453, subdivision 1, already ties list-making to what is actually available today: covered materials on the primary collection list must be collected "wherever collection services for mixed municipal solid waste are available," and subdivision 4(1) identifies "current availability of recycling and composting collection services" as a criterion the commissioner may consider. Consistent with that statutory framing, NWRA MN proposes that "current availability of collection services" be defined as: collection services for a covered material that are being actively provided, as of the applicable needs assessment date, by one or more registered service providers to covered entities within a defined service area, using existing collection routes, vehicles, and infrastructure — without requiring new capital investment, route redesign, or additional fleet. This keeps the definition anchored to present, operating service rather than to a hypothetical or planned level of service, which is consistent with how the term is used throughout section 115A.1453.

We recommend that recycling and organics recycling be evaluated against different thresholds, as the RFC itself contemplates. Curbside and community recycling collection is now widely available across Minnesota, while organics collection infrastructure remains far less developed, particularly in Greater Minnesota. Applying a single, undifferentiated availability threshold to both services risks either overstating organics availability where it does not exist or understating the maturity of recycling collection where it already meets a high standard. We similarly recommend that the rule expressly recognize the difference in service delivery models between the Twin Cities Metro Area and Greater Minnesota referenced in Question 3(b), since route density, hauler capacity, and drop-off infrastructure vary significantly between the two. The geographic regions the Agency is creating as part of the reimbursement process should be utilized when applying collection service requirements.

Finally, we recommend that the Agency rely on data sources it already collects — including SCORE data, RETRAC recycling collection data, county solid waste plans, and the Metropolitan Solid Waste Plan — to establish these thresholds, rather than requiring new, granular data collection directly from service providers. As NWRA MN has raised in prior correspondence regarding the Needs Assessment survey, this existing data is sufficient to establish a defensible availability standard without imposing new reporting burdens or raising the proprietary-data and antitrust concerns associated with route-level or facility-level data requests.

IV. Reframing RFC Questions 3(c), 3(d) and 3(f)

Related to questions 3(c,) 3(d), and 3(f)f, that MPCA provided in their RFC, from a recycling business perspective, our industry would approach these questions differently. The following applies to all three questions: 1) would we have to retrofit our facility or collect the material separately; 2) is there the technology to process this material and if so, how much would it cost to retrofit a recycling facility; 3) what is the value of the material on the commodities market and is the value sustainable to get a return on the invested capital for the retrofit; 4) are there end markets for the material and are they viable, sustainable, strong end markets to justify the investment; 5) is there another material type that producers could easily shift to that would leave recyclers with non-recoverable costs after the investment has been made.

Specifically related to question 3(c), the MPCA references a “collection list”, which is not defined in statute. The statute has a definition of “covered materials” and many references and requirements for collection, processing and end markets for “covered materials”. Is the MPCA contemplating a subset, or smaller list of materials that would have the same statutory requirements for handling that covered materials currently have in the law? The statutory definition is very broad and could result in recyclers collecting materials that do not have end markets. Can the MPCA clarify this issue?

V. Issues Not Highlighted by MPCA in the RFC

Treatment of Nonpublic Hauler Data under Minn. Stat. § 115A.1450, subd. 6(c)
Minnesota Statute §115A.1450 makes the handling of service providers’ nonpublic data mandatory: subdivision 6(c) requires that the contractor conducting the needs assessment “must aggregate and anonymize the not public data or information, excluding location data necessary to assess needs, received from all parties under this subdivision and must then include the aggregated anonymized data in the needs assessment.” Sensitive hauler data — rates, fees, costs, and route- and facility-level detail — may inform the assessment only in aggregated, anonymized form. The requirement is not satisfied merely because the retained contractor receives the data; the contractor must anonymize and aggregate it before it is used.

NWRA is concerned that the Needs Assessment, as currently structured, seeks to obtain and use identifiable, provider-level hauler data outside that requirement. Specifically, the MPCA is requesting that haulers supply their nonpublic data directly to the Agency in non-aggregated, non-anonymized form, rather than routing that data to the contractor for the aggregation and anonymization that subdivision 6(c) commands. That approach inverts the statutory sequence: it places identifiable, competitively sensitive hauler data in the Agency’s hands before, and instead of, the mandatory anonymization step, precisely the outcome subdivision 6(c) was enacted to prevent. Collecting or using non-anonymized hauler data outside the section 115A.1450 contractor mechanism—whether by the MPCA, the producer responsibility organization, or its consultants—or incorporating identifiable data into the assessment in any form other than aggregated and anonymized, conflicts with the plain terms of subdivision 6(c). NWRA therefore requests that any rule adopted in this proceeding confirm that nonpublic service-provider data will be aggregated and anonymized by a third-party contractor/consultant, not by the MPCA, before use and incorporated into the assessment only in that form, and that the rules not authorize any method of gathering or using identifiable hauler data that circumvents this requirement.

Potential for Increased Contamination
NWRA also has concerns about the increased contamination that could result with the addition of drop sites in rural Minnesota where population density doesn’t justify the costs of curbside collection. Isolated and unmanned drop sites for recyclable material often become drop sites for trash. Whomever processes this material will likely be faced with higher levels of contamination at their materials recovery facilities (MRFs). Will we be able to meet the “85:15” statutory requirement for only 15% residue? If the contamination levels exceed 15%, then our recycling facilities effectively become solid waste facilities that must follow statutes and rules for solid waste rather than for recycling.

Program Goals for Organics

Related to "organics" being part of the PWCRA, we have two concerns. First, in various discussions of the program, we are hearing the term used loosely to include actual food waste and yard waste, rather than the biodegradable packaging. In our opinion, the law focuses on packaging recovery, in this case, biodegradable packaging related to food. We request clarification of this issue. Second, we would like to note that biodegradable packaging having a high carbon content could disrupt the carbon to nitrogen ratio (C:N) if allowed to be commingled with organic or yard waste materials. Collection systems in Minnesota currently have separate yard waste and food waste systems for that reason. Adding biodegradable packaging will likely require a separate residential container and collection system so that this ratio can be maintained. Overall, this will drive up collection costs of biodegradable packaging if included in the EPR program.

Making Investment and Operational Decisions in Underserved Markets

The PWCRA, within Minn. Stat. §115A.1451, subd. 3, grants the authority for the PRO to make infrastructure investments and provide funding to address gaps in the system and increase the convenience of collection, recycling and compost services. When making these investment decisions, the PRO is required to use a competitive bidding process that gives preference to existing facilities and service providers (Minn. Stat. §115A.1455, subd. 3). The rulemaking provides an opportunity to define the process to ensure these investment and funding decisions are made in a fair and equitable manner to which all existing public and private service providers have access and opportunity.

NWRA MN appreciates the Agency's continued engagement with industry throughout this process. We remain committed to working collaboratively with the MPCA, the EPR Advisory Board, and other stakeholders to build a workable and durable EPR program for Minnesota, and we would welcome the opportunity to discuss any of the comments above in more detail. Please do not hesitate to contact us with any questions.

Sincerely,

Phillip T. Shaffer
Vice President, Chapter Relations
National Waste & Recycling Association
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Arlington, VA 22202
317-435-5976
pshaffer@wasterecycling.org

Enclosures

Cc: Kirk Koudelka, Assistant Commissioner, Minnesota Pollution Control Agency
Mallory Anderson, EPR Program, Minnesota Pollution Control Agency
Victoria Reinhardt, Chair, Packaging EPR Advisory Board

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& Recycling Association[SM]

Packaging Extended Producer Responsibility
May 2025

INTRODUCTION

The recycling industry has faced numerous challenges resulting from numerous factors impacting quality and value of materials. These challenges have resulted in increased efforts to pass legislation at both the federal and state level advocating for extended producer responsibility (EPR) for packaging. While well intentioned, many of these bills fail to address the root of the problems and also overlook existing recycling programs and their achievements.

Packaging EPR has not been shown to drive a circular economy. A circular economy is better served with content commitments which would lead to consistent demand for recovered materials and more stable recovered materials prices.

DISCUSSION

Americans want accessible and effective recycling. They want sustainable products that support the circular economy. There are five major issues facing recycling right now:

- insufficient demand for some recyclables
- volatile prices for the combined recycling stream (blended value)
- consumer behavior challenges
- public concern over plastic in the environment
- inexpensive virgin resources, particularly plastic resin

The last thirty years of legislative history on recycling has been focused primarily on creating supply – without consideration of adequate end markets. The North American recycling system has been set up to continuously generate material even when demand falls and prices drop. Any legislation that proposes to address recycling issues needs to first focus on correcting this problem by incentivizing the demand for recyclables, rather than continuing to focus only on adding supply.

Demand is key!

Until 2018, China's growing economy provided demand for recyclables from across the globe, including a significant portion of America's recyclables. This material was not dumped on China; rather Chinese companies paid to acquire these materials as feedstock to produce the products and packages that they sold to the U.S. and other countries. Chinese government import bans mixed paper and mixed plastics and quality requirements for cardboard lead to a sharp and prolong decline selling prices for these commodities The Chinese market is no longer an option for recyclables.

Recyclables can continue to be collected and sorted – but every seller needs a buyer. Without stable end market demand, material will not be recycled. Recycling legislation focused on content commitments can create demand by requiring *packaging to have post-consumer recycled content.* This will spur demand for more material, increasing the value of recyclables, strengthen the domestic recycling market, and help offset the cost of recycling.

Low prices

Prior to China's actions in 2018, the commodity value from municipal recycling programs offset much of the cost of processing the material for sale; supported a reasonable return on the capital invested in recycling processing and in some cases, municipalities saw a net benefit from the sale of recyclable commodities. Post the Chinese actions in 2018, recycling processing adopted a manufacturing model that introduce some stability in the business model. However, recycled material commodity price volatility persists even sometimes to negative levels. The recycled commodity basket is heavily weighted to fiber (cardboard) with it making up as much as 60% of the curbside recycling stream. Increased demand for paper, as well as plastic and other materials through content commitment, will stabilize prices making recycling sustainable in municipalities.

Consumer behavior

Reducing contamination will improve the viability of recycling programs and the quality of the output. This can be done by harmonizing recycling lists, reducing confusion, providing feedback to consumers through education and cart tagging, and providing clear and accurate labeling on packaging and recycled materials. Materials need to be truly recyclable. The myth that recycling is free of charge needs to be combated and consumers must understand that there is a true cost for recycling that is not mitigated by commodity values alone.

Public pressure associated with plastic waste in the environment

Ocean plastics are predominantly from developing countries with inadequate waste collection and disposal infrastructure. The Alliance to End Plastic Waste estimates that more than 90% of ocean debris originating from rivers comes from just ten rivers – eight in Asia and two in Africa. Most National Waste & Recycling Association (NWRA) members sell residential plastics domestically and many no longer export plastic recyclables. Ideally, municipal plastic recyclables should only be exported to developed countries to reduce the potential of mismanagement of exported material.

National Waste & Recycling Association℠

Collect Recycle Innovate

NWRA POSITION

NWRA efforts are focused on increasing demand for recyclable materials (content commitments) to allow market forces to incentivize recycling. Increased use of post-consumer content is an essential component to increased demand. If EPR is proposed, NWRA supports the following:

1. Recycling legislation should seek to support and invigorate existing recycling systems by strengthening them rather than upending them with duplicative and unnecessary programs. Such legislation should focus on investment in infrastructure and incentives to create new markets for recycled materials.
2. Prior to the enactment of any EPR legislation, the state should conduct a needs assessment whose input should be considered before enacting EPR. Any needs assessment should be conducted in a manner that is protective of confidential business information.
3. Recycling legislation should consider how to improve end market demand focused on inclusion of incentives for use of post-consumer materials. This extends beyond processing and mills and includes the products and goods we purchase and use every day. Prior to enactment of any EPR legislation, minimum content requirements should be established based on material type.
4. Federal, state, and local governments should incorporate post-consumer materials in their purchase requirements where appropriate.
5. State and local governments should retain control over their recycling programs. Local stakeholders understand the needs and complexities of their communities and are the most adept at finding solutions.
6. Producers should assume responsibility for their packaging by considering the end-of-life when designing packaging. Packaging should be designed to promote recycling and sustainable outcomes.
7. The structure of EPR should be a shared responsibility model between the producers, local governments, and service providers.
8. An advisory council made up of equal representation from state government, local government, recycling collectors, recycling processors and producers/brands should ensure the priorities of the EPR legislation is met.
9. State legislation should place responsibility on the Producer Responsibility Organization (PRO) to improve recycling by harmonizing lists, encouraging investments in end markets for materials, coordinating education and enforcement, supporting the improvement of existing collection and processing infrastructure, and supporting litter cleanup.
10. State regulators should also have enforcement responsibility on the PRO and on any producers that are not part of the PRO.

AdvaMed
The Medtech Association

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July 24th, 2026

Mr. William Moore
Minnesota Pollution Control Agency
600 N. Robert St., P.O. Box 64620
St. Paul, MN 55164

RE: Request for Comments on Packaging Waste and Cost Reduction Act, Minnesota Rules, 7035

Dear Mr. Moore and MPCA Rulemaking Staff,

AdvaMed appreciates the opportunity to comment on the Minnesota Pollution Control Agency (MPCA) Request for Comments on the draft rulemaking to implement and govern regulation of the Packaging Waste and Cost Reduction Act (PWCRA) (Minn. Stat. § 115A.144-115A.1463).

AdvaMed is the largest medical technology association, representing the innovators and manufacturers transforming health care through earlier disease detection, less invasive procedures, and more effective treatments. Our nearly 650 members include the full spectrum of medical technology companies, including diagnostic and imaging tools to digital health technology companies.

Packaging Exemption Definition and Scope for FDA-Regulated Products (Question 1; *115A.1441*)

We support the MPCA's goal of reducing packaging waste and achieving a circular economy.

We respectfully encourage the MPCA to maintain consistency with the definitions established by the Legislature and adopt rules clarifying that the packaging exemptions for FDA-regulated medical devices, equipment and products in Minnesota Statutes 115A.1441, subdivision 16 encompasses primary, secondary, and tertiary packaging. Medical technologies are developed, manufactured and distributed within a comprehensive, highly regulated framework that relies on packaging to maintain product quality, safety, performance, and sterility. These functions are often achieved through multiple packaging components working together throughout storage, transportation and end use. Because the packaging for FDA regulated medical devices, equipment and products operates as an integrated system, we urge the MPCA to apply the definition of "packaging" in subdivision 23 consistent with the statutory language and clarify that the exemption applies to all packaging associated with exempt medical devices and products, including primary, secondary and tertiary packaging.

Thank you for your consideration of these comments. We appreciate MPCA's engagement with stakeholders and welcome the opportunity to be a resource on this issue, please contact me at frickert@advamed.org.

Sincerely,

Fatimah Rickert
Director, State Government & Regional Affairs
AdvaMed

MN ZERO WASTE COALITION

July 24, 2026

Dear Commissioner Kessler and Assistant Commissioner Koudelka,

Thank you for the opportunity to comment on the Minnesota Pollution Control Agency's Request for Comments regarding implementation of the Packaging Waste and Cost Reduction Act (PWCRA).

The Minnesota Zero Waste Coalition is an alliance of environmental organizations, environmental justice advocates, sustainable waste service providers, and community members committed to advancing a future for Minnesota without waste. We believe zero waste means reducing waste at its source, redesigning systems to support reuse, conserving resources, and ending the disproportionate impacts that waste extraction, production, disposal, and pollution have on overburdened communities. We center environmental justice in our advocacy and work collectively to advance policies that move Minnesota toward a healthy, just, and waste-free future.

The Packaging Waste and Cost Reduction Act is one of the most significant opportunities Minnesota has to accelerate that transition. Producer responsibility should not simply improve how packaging is managed after it becomes waste. It should drive waste prevention, expand reuse, reduce unnecessary and problematic packaging, strengthen recycling where it works, and ensure producers—not communities—are responsible for the full lifecycle impacts of the packaging they place on the market.

The success of this law will not be measured simply by how much packaging is collected for recycling. It will be measured by whether Minnesota generates less waste, reduces pollution, conserves resources, builds robust systems of reuse and refill, and creates systems that are equitable, transparent, and accountable.

Our comments focus on ensuring the rules fully implement that vision. We encourage the Agency to adopt rules that prioritize waste prevention, establish meaningful reuse and waste reduction requirements, define recyclability based on demonstrated system performance, require responsible end markets, protect environmental justice communities, and measure success through real environmental outcomes rather than collection alone.

Collection Lists (Questions 3(a)–3(j))

Defining Recyclability and Responsible End Markets

The collection lists established through this rulemaking will shape producer behavior for years to come. They will determine which packaging is considered recyclable or compostable under Minnesota law and, in doing so, influence packaging design, infrastructure investments, and consumer expectations. The rules should ensure that these lists reflect the realities of Minnesota's systems and advance the state's goal of preventing waste—not simply collecting it.

A material should only be designated recyclable if it can be successfully collected, sorted, processed, and remanufactured into new products through responsible end markets. Packaging should not be considered recyclable based solely on technical possibility, limited pilot programs, or isolated markets. Rather, recyclability should be demonstrated through consistent, commercial-scale performance that delivers measurable environmental benefits.

Collection list decisions should be guided by clear, objective criteria that consider:

- Widespread and equitable access to collection across Minnesota;
- Reliable commercial-scale sorting and processing capacity;
- Verified responsible end markets that manufacture recovered materials into new products;
- Strong material recovery and yield performance;
- Protection of workers, public health, and the environment throughout the recycling process; and
- Whether the material supports Minnesota's broader waste reduction and zero waste goals.

Additionally, the rules should also establish clear standards to protect compost quality. Compostable packaging should only be processed with clean, source-separated organics and should never be mixed with residual waste streams or materials derived from mixed municipal solid waste processing, including refuse-derived fuel (RDF) fines. Allowing contaminated feedstocks into composting systems threatens soil health, undermines public confidence in compost products, and is inconsistent with the intent of the PWCRA to support high-quality composting systems and produce compost that is safe for use in soil.

Responsible End Markets

Responsible end markets are fundamental to determining whether a material is truly recycled. Recycling should be measured by what materials become—not simply where they go. A material should not be considered recycled simply because it is collected, accepted by a processing facility, or shipped to another location. Instead, recycling should be measured by the successful recycling of recovered materials into feedstocks that displace virgin resources in the manufacture of new products.

The rules should establish clear minimum performance standards for responsible end markets. At a minimum, certified recycling facilities should demonstrate that at least 60 percent of incoming recyclable material is usable recycled feedstock that is incorporated into the manufacture of new products. Facilities whose primary outputs are fuels, fuel intermediates, energy generation, disposal, or other non-manufacturing applications should not qualify as responsible end markets under the PWCRA. Material yield should be calculated by comparing the amount of incoming recyclable material with the amount of recycled feedstock incorporated into the manufacture of new products. Materials that become fuel, fuel intermediates, energy, disposal, or other non-manufacturing outputs should not count toward yield.

Responsible end markets should also be required to:

- Demonstrate compliance with applicable environmental laws, worker health and safety requirements, and labor protections;
- Minimize adverse impacts on environmental justice communities consistent with Minnesota law;
- Maintain transparent chain-of-custody documentation for recovered materials;
- Report incoming materials, recycled outputs, residuals, destinations, and independently verified material yield; and
- Disclose downstream material destinations until recovered materials are incorporated into manufacturing.

Strong responsible end market requirements are essential to maintaining public confidence in Minnesota's recycling system while ensuring producer responsibility investments deliver genuine environmental outcomes.

Problematic Packaging

Producer responsibility should encourage better packaging—not require Minnesota's recycling system to adapt to packaging that cannot be effectively recovered.

Materials that consistently fail to meet Minnesota's recyclability criteria should not be included on collection lists simply because producers continue to place them on the market. Flexible films, multi-material packaging, and other formats that lack reliable collection systems, create contamination, damage recycling equipment, or lack responsible end markets should only be designated recyclable if producers can demonstrate that they meet the same performance standards required of every other material.

Rather than lowering recycling standards to accommodate problematic packaging, the rules should create strong incentives for producers to redesign packaging, eliminate unnecessary materials, expand reusable systems, and choose packaging that can be successfully recovered through Minnesota's waste management infrastructure. Producer responsibility should accelerate the transition to better packaging—not preserve packaging that undermines a zero waste future.

Statewide Requirements (Questions 4(a)–4(c))

Driving Waste Prevention and System Change

The Packaging Waste and Cost Reduction Act was enacted to transform Minnesota's approach to packaging—not simply improve the management of packaging after it becomes waste. The statewide requirements established through this rulemaking should reflect that purpose by prioritizing waste prevention, reuse, and producer accountability while strengthening recycling for materials that can be responsibly recovered.

The rules should establish ambitious, enforceable statewide waste reduction, reuse/refill, and recycling performance standards that require measurable progress over time. These standards should drive continuous reductions in packaging placed on the market while substantially increasing the use of reusable and refillable packaging systems.

Waste Reduction and Reuse

The rules should establish clear statewide goals that reduce the overall amount of packaging placed on the market while expanding opportunities for reusable and refillable packaging systems. Statewide waste reduction and reuse requirements should be among the primary measures used to evaluate producer performance under the PWCRA.

Producer responsibility should reward companies that eliminate unnecessary packaging, reduce material use, standardize packaging formats, and invest in durable, reusable systems. Reuse performance should be measured through verified return and refill rates that demonstrate packaging is completing multiple use cycles, rather than simply counting reusable products sold into the marketplace.

Meaningful reuse targets are essential to ensuring that producer responsibility drives innovation in packaging design rather than relying solely on downstream recycling to manage waste.

Recycling Performance

For packaging that remains in the marketplace, statewide recycling requirements should measure real environmental outcomes rather than collection alone.

Performance standards should prioritize:

- Increased recovery of materials that can be effectively recycled in Minnesota;
- Higher quality recovered materials that support domestic manufacturing;
- Increased use of verified post-consumer recycled content;
- Reduced contamination throughout the recycling system; and
- Continued improvements in responsible end market performance.

Statewide recycling goals should reward producers that design packaging capable of meeting these standards rather than treating all packaging as equally recyclable.

Eliminating Problematic Packaging

The rules should create strong incentives for producers to redesign or eliminate packaging that consistently performs poorly within Minnesota's materials management system.

Packaging that cannot be effectively collected, sorted, recycled, or composted should not continue to receive the same regulatory treatment as packaging that performs well. Instead, producers should be encouraged to transition toward packaging that supports waste prevention, reuse, and high-quality recycling while reducing contamination and operational costs throughout the system.

Producer responsibility is intended to improve packaging—not perpetuate materials that impose ongoing environmental and financial costs on communities.

Measuring Success

The effectiveness of Minnesota's producer responsibility program should ultimately be measured by the environmental outcomes it achieves.

Statewide reporting should demonstrate measurable progress toward:

- Reducing overall packaging waste;
- Expanding reuse and refill systems;
- Increasing recycling of materials that meet Minnesota's recyclability standards;
- Increasing verified post-consumer recycled content;
- Reducing greenhouse gas emissions associated with packaging;
- Reducing pollution and waste burdens on environmental justice communities; and
- Conserving natural resources through waste prevention and material recovery.

These outcomes will provide a more meaningful measure of success than collection rates alone and better reflect the Legislature's intent to build a more sustainable and equitable packaging system.

Stewardship Plans and Annual Reporting (Questions 5(a)–5(c))

Transparency, Accountability, and Public Reporting

The success of Minnesota's producer responsibility program will depend not only on the actions producers commit to, but also on whether those commitments are transparent, measurable, and publicly accountable. Stewardship plans and annual reports should serve as tools for demonstrating environmental progress—not simply documenting program activities.

Stewardship plans should clearly explain how producers will achieve the goals established under the Packaging Waste and Cost Reduction Act, including reducing packaging waste, expanding reuse systems, improving recyclability, increasing the use of verified post-consumer recycled content, and investing in the infrastructure needed to support a zero waste future. Plans should include measurable performance objectives, implementation timelines, and clear descriptions of how progress will be evaluated over time.

Meaningful Performance Reporting

Annual reporting should focus on environmental outcomes rather than operational outputs. The public should be able to determine whether the program is reducing waste, improving packaging design, strengthening recycling systems, and delivering measurable environmental benefits.

At a minimum, annual reports should include standardized, independently verified information on:

- Packaging reduction and source reduction achievements;
- Reuse and refill performance, including verified return rates;
- Material-specific recycling and composting performance;
- Verified post-consumer recycled content used in packaging;
- Responsible end market performance, including material yield and downstream manufacturing outcomes;
- Investments in reuse systems, recycling infrastructure, and community-based waste reduction initiatives; and
- Progress toward statewide performance standards established through rulemaking.

Reporting requirements should be standardized across producers to allow meaningful year-to-year comparisons and evaluation of statewide progress.

Public Transparency

The Packaging Waste and Cost Reduction Act places significant responsibilities on producers while creating a statewide system intended to serve all Minnesotans. The public should have access to clear, understandable information demonstrating whether the program is achieving its intended outcomes.

The Agency should require stewardship plans, annual reports, and supporting performance data to be publicly available in formats that are accessible and easy to understand. Data should be presented in a way that allows residents, local governments, researchers, and community organizations to evaluate program performance and identify areas where additional improvements are needed.

Environmental Justice and Community Investment

Reporting should also demonstrate how producer responsibility investments are benefiting communities across Minnesota. Annual reports should describe investments in waste reduction, reuse, recycling, and composting infrastructure, particularly in communities that have historically experienced disproportionate environmental burdens or lacked access to waste reduction services.

The Agency should also require reporting on efforts to engage local governments, Tribal Nations, environmental justice organizations, reuse businesses, and community-based organizations in program implementation. Building a zero waste future requires meaningful partnerships with the communities most affected by packaging waste and pollution.

Transparent reporting and meaningful public accountability will help ensure that Minnesota's producer responsibility program continues to improve over time while maintaining public confidence in its environmental and community benefits.

Additional Rulemaking Recommendations (Question 6)

The Packaging Waste and Cost Reduction Act presents an opportunity to fundamentally improve Minnesota's approach to packaging and waste reduction. The rules should establish a framework that encourages continuous improvement, rewards innovation, and ensures producers are accountable for the environmental impacts of the packaging they place on the market.

Post-Consumer Recycled Content

Increasing the use of post-consumer recycled content (PCRC) is essential to reducing demand for virgin materials, lowering greenhouse gas emissions, and creating stable markets for materials collected through Minnesota's recycling system. However, recycled content requirements only achieve these benefits if they reflect the actual use of recycled material in new packaging.

The rules should require that all recycled content claims be based on the physical incorporation of post-consumer recycled material into packaging sold into the Minnesota market. Producers should maintain transparent chain-of-custody documentation that demonstrates recycled materials are tracked from recovery through manufacturing and are physically incorporated into finished products.

The Coalition strongly opposes accounting systems that allocate recycled content through credits, certificates, or other bookkeeping methods that do not maintain a physical relationship between recycled inputs and finished products. These approaches allow producers to claim recycled content without demonstrating that recycled materials were actually used in the products being sold. They create a significant risk of greenwashing by allowing environmental claims that are not supported by the actual use of recycled materials, undermining public confidence, distorting recycling markets, and weakening incentives to incorporate recycled feedstock into new packaging.

Minnesota's producer responsibility program should reward the actual use of recycled materials—not accounting mechanisms that generate recycled content claims without corresponding physical use of recycled feedstock. The rules should require independently verified chain-of-custody systems that preserve the physical relationship between recycled inputs and finished products and should not recognize mass balance approaches that rely on non-physical credit allocation or similar accounting methods to satisfy recycled content requirements.

Strong verification requirements are essential to maintaining the integrity of recycled content claims, supporting legitimate recycling markets, and ensuring the environmental benefits promised by producer responsibility are real, measurable, and transparent.

Environmental Justice

The implementation of producer responsibility must advance environmental justice by reducing—not shifting—the environmental burdens associated with packaging production, recycling, and disposal.

The rules should fully implement Minnesota's environmental justice requirements by ensuring that program investments, facility approvals, and responsible end market standards minimize adverse impacts on environmental justice communities. Environmental justice should be integrated throughout program implementation rather than addressed as a standalone consideration.

Producer responsibility should contribute to cleaner air, healthier communities, and equitable access to reuse, recycling, and composting services across Minnesota.

Food Service Ware

The Agency should also consider how the scope of covered materials affects contamination and public participation. Food service ware is frequently used alongside covered packaging and is commonly placed in recycling and organics collection containers despite often not meeting Minnesota's recyclability or compostability standards. The result is widespread consumer confusion, higher contamination rates, and lower-quality recovered materials.

To create a more consistent and effective producer responsibility program, food service ware should be included within the scope of covered materials. Bringing these commonly used items into the program would improve labeling, public education, and producer accountability while encouraging the design of products that better support Minnesota's waste reduction, reuse, recycling, and composting goals.

Continuous Improvement

Packaging systems, recycling technologies, and reuse infrastructure will continue to evolve over time. The rules should establish a process for regularly reviewing and updating collection lists, responsible end market requirements, statewide performance standards, and reporting requirements to reflect new information and emerging best practices.

Periodic review should prioritize measurable environmental outcomes, encourage innovation that supports waste prevention and reuse, and ensure Minnesota's producer responsibility program continues to move the state toward its long-term zero waste goals.

The Agency should also retain the flexibility to strengthen performance standards over time as markets mature, reuse systems expand, and better packaging solutions become available. Continuous improvement should be a defining feature of Minnesota's producer responsibility program, ensuring that the rules drive ongoing progress rather than locking in today's practices.

Conclusion

The Packaging Waste and Cost Reduction Act represents a historic opportunity to transform how packaging is designed, used, and managed in Minnesota. The rules adopted through this process will determine whether producer responsibility simply improves the management of packaging waste—or whether it fundamentally changes the systems that create waste in the first place.

The Minnesota Zero Waste Coalition urges the Agency to adopt rules that fully realize the Legislature's vision by prioritizing waste prevention, expanding reuse, holding producers accountable for the full lifecycle impacts of their packaging, and ensuring recycling delivers real environmental benefits. Strong standards for recyclability, responsible end markets, post-consumer recycled content verification, and transparent public reporting will help ensure the program delivers measurable reductions in waste, pollution, and greenhouse gas emissions while protecting workers, communities, and the environment.

Producer responsibility should create a future where less waste is generated, reusable systems become the norm, recycling is reserved for materials that can be responsibly recovered into new products, and producers are incentivized to design packaging that conserves resources rather than depleting them. Minnesota has the opportunity to demonstrate that producer responsibility can be more than a financing mechanism—it can be a catalyst for building a truly zero waste economy.

Thank you for the opportunity to provide these comments. We appreciate the Agency's commitment to implementing the Packaging Waste and Cost Reduction Act and look forward to continuing to work with the MPCA to move Minnesota closer to a zero waste economy.

The following MN Zero Waste Coalition organizational partners sign-on in support of these comments:

Apple Valley Eco Advocates
Beyond Plastics Mankato Area
Chowgirls Catering
Coalition for Plastic Reduction
Community Members for Environmental Justice
Elders Climate Action
Frontline Communities Protection Coalition
Green Guardian Wealth Management
Lakeville Friends of the Environment
Little Earth Residents Association
Lutheran Advocacy - Minnesota
Mankato Area Zero Waste
MN Environmental Justice Table
Native Sun Community Power Development
Northeast Metro Climate Action
Northern MN New Iron and Clean Energy
R.I.S.E. Coalition
Rainbow Research
ReusAd Bags
Shingle Creek Victory Council
Sierra Club North Star Chapter
St. Andrew's Lutheran Church
Environmental Stewardship Team
Vote Solar
WaterLegacy
Wykoff Commons

The following Minnesota residents sign-on in support of these comments:

Heidi Andermack, St Anthony, MN
Lynn Anderson, Tamarack
Alison Babb, Minneapolis, MN
Todd Henry Bartholomay, Minneapolis
Cheyenne Bennett, Minneapolis, MN
Julie Bowen, St. Paul, MN
Jacqueline Bussjaeger, Stillwater, MN
Michelle Cheuk, Saint Paul, MN
Rachel Comeaux, Minneapolis, MN
Meghan Conway, Minneapolis, MN
Quinn Crosfield, Minneapolis, MN
Angiulo Damiani, Minneapolis, MN
Leah Dunlevy, Minneapolis, MN
Rebecca W. Gaertner, Minneapolis, MN
Madisen Gittlin, St. Louis Park, MN
Leanna Goose, Federal Dam
Lucy Grina, Cohasset
Katherine Hahn, Minneapolis, MN
Stephanie Hankerson, St. Paul
Jeffrey Hanson, Babbitt, MN
Catherine Himmerich, Minneapolis, MN
Sandra Hoffman, Saint Paul, MN
Qin Jiang, Minneapolis, MN
Erin Johnson, Saint Paul, MN
Michelle Karch, Bloomington, MN
Ashley Larson, Lauderdale, MN
Susan Lasoff, Minneapolis, MN
Kathy Lee, Cohasset, MN
Tristen Lindemann, Minneapolis, MN
Lukas Lock-Scamp, Minneapolis, MN
Jen Lubow, Minneapolis, MN
Emma Lucken, Minneapolis, MN
Patrick Luke, Apple Valley
Mary Ann Lundquist, Minneapolis, MN
Arlene Mathison, Minneapolis
Madeleine Moe, Minneapolis, MN
Morgan, St. Paul, MN
Lucy Mullany, Circle Pines, MN
Leslie Myint, St. Paul, MN
Unny Nambudiripad, Minneapolis, MN
Lois Norrgard, Bloomington
Jeanne Norrgard, Bloomington, MN
David Oien, Bloomington, MN
Lori Olinger, North Oaks, MN
Steve Olinger, North Oaks, MN
Michael Overend, Cohasset, MN
Emily Pollack, Bloomington, MN
Max Pritchard, Minneapolis, MN
Thea Reilkoff, Minneapolis, MN
Jeff Riegle, Stillwater, MN
Jason Rodney, Minneapolis, MN
Amy Schneider, Hopkins, MN
Zack Schwartz, Minneapolis, MN
Daniel Shaw, Minneapolis, MN
Ruth Shaw, Roseville, MN
Shoshana, Minneapolis, MN
Andrea Siegel, Minneapolis, MN
Steve Steuber, Burnsville, MN
Zack Thompson, Apple Valley, MN
Joshua Toor, Saint Paul, MN
Michael Walker, Minneapolis, MN
Kevin Walker, Minneapolis, Man
Anika Whittington, Woodbury, MN
Kate Winsor, North Oaks, MN

Minnesota Pollution Control Agency
attn: William Moore
600 North Robert St.
P.O. Box 64620
St. Paul, MN 55164-0620

Submitted via e-Comment on July 24, 2026

Re: Possible New Rules Relating to the Packaging Waste and Cost Reduction Act, Minnesota Rules, 7035; Revisor's ID Number R-04992

Comments on – (1) Definitions for terms used that are not defined in statute

On behalf of the Natural Resources Defense Council ("NRDC"), we are submitting these brief comments on regulations that Minnesota Pollution Control Agency ("MPCA") should develop as part of its upcoming rulemaking effort to implement the Packaging Waste and Cost Reduction Act.

NRDC strongly recommends that MPCA develop further regulatory structure that is in line with the statutory definition of "responsible market," and should not rely on the process undertaken by Circular Action Alliance ("CAA") to develop a lowest-common-denominator harmonized standard that can be adopted broadly across the many EPR programs it implements. Minnesota's statute requires MPCA to, among other things, determine that a responsible market "minimizes adverse impacts to environmental justice areas," and "disposes of contaminants in a manner that protects the environment and minimizes risks to public health and worker health and safety."[1] The statute also requires an assessment that the market "complies with all applicable federal, state, and local statutes, rules, ordinances, and other laws governing environmental, health, [and] safety[.]"[2] Among many other serious flaws, the draft responsible end markets standard being put forward by CAA does not do a satisfactory job of thoroughly assessing these factors, which are core needs of a responsible market.

NRDC has significant concerns related to both the substance of draft and the process by which CAA is developing this proposal. We are attaching our full letter to CAA which details some of the problems with both the approach and the content of the draft standard, and we urge MPCA to chart a different path forward that carefully considers its statutory guidance as well as the full scope of needs and the unique circumstances in Minnesota.

Sincerely,

Renée Sharp, *Director, Plastics & Petrochemical Advocacy*
Rachel Fullmer, *Policy Advocate*
NATURAL RESOURCES DEFENSE COUNCIL

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[1] *Minnesota Statutes*, 115A.144, Subd. 31.
[2] *Id.*

Circular Action Alliance
Jeff Fielkow, Chief Executive Officer
Jason Kelroy, General Counsel
10 F Street NW, 7th Floor
Washington, D.C. 20001
legal@circularaction.org
info@circularaction.org

Transmitted via email and public comment form on July 7, 2026

Re: Circular Action Alliance's flawed "Standard for Responsible Markets"

Dear Mr. Fielkow,

On behalf of the Natural Resources Defense Council ("NRDC") and Californians Against Waste we are reaching out to you directly about the unsound effort described on your website as an attempt to derive a "Certification Standard for Responsible Markets: For Recycling of Paper, Packaging, and Food Serviceware" (or "REM standard").

Circular Action Alliance's ("CAA") attempt to create a "standard" that can be incorporated across the many packaging Extended Producer Responsibility ("EPR") laws that CAA has been designated as the Producer Responsibility Organization ("PRO") to implement is fatally flawed. CAA has described this process as an attempted nationwide harmonization of "common criteria," "to provide a consistent framework," and "support greater alignment in how statutory requirements are implemented, rather than inconsistent state-by-state approaches."[1]

Any national REM standard must ensure that it meets the most stringent state requirements on each relevant issue area whereby an end market that was considered "responsible" in one state could also be considered "responsible" in another state. That is because each state with an EPR law for packaging must assess whether a particular end market is responsible based on the unique circumstances within that state and the unique legal requirements for that state. Each policy area discussed in the draft REM standard is complex and must meet the requirements of that state's EPR law and other laws in a given state. Each state

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[1] *Press Release: Circular Action Alliance Opens Public Comment Period on Responsible Markets (REM) Standard*, (May 5, 2026) *available at:* https://circularactionalliance.org/news-feed/circular-action-alliance-opens-public-comment-period-on-responsible-markets-rem-standardnbsp

also must facilitate appropriate local public engagement into the REM identification and verification process. Yet, the proposed standard makes no attempt to ensure that it is consistent with the various different state requirements.

The issues described above are compounded by the way in which CAA has gone about developing this draft. While CAA is touting its own (private) public engagement process, the comment format is unworkable, inaccessible, and does not follow best practices for soliciting public input from diverse stakeholders. Further, the development of the draft standard was done behind closed doors and with minimal environmental NGO input and no involvement from any environmental justice or community organization. Likewise, CAA's stated expectation to provide "high-level summary of key themes" received via its website during the "consultation period"[2] fails to disclose the influence of industry and those in the room—if the standard is to be used in the service of meeting state requirements, the public in those states should know what changes were ultimately made, and who asked for them.

In addition, the proposed REM standard itself is deeply flawed. To name just a few issues, the draft standard:

- Does not incorporate *any* channels for input or public engagement in the verification process, including opportunities for fenceline or local communities, the general public, environmental justice organizations, or other NGOs;
- Does not ensure that a high standard of environmental protection is being met, as the criteria only focus on whether a facility is complying with certain laws and regulations, and not always the ones that govern EPR for packaging programs;
- Ignores when states may have their own more stringent rules and definitions, for example around hazardous waste;
- Fails to adequately incorporate meaningful protections for end markets in other countries; for example, the criteria do not consider that other countries may have extremely poor or no environmental, health, or safety protections, yet allow those facilities to somehow be labeled as "responsible" without detailing the verification process, or what standards are these facilities are meeting;
- Fails to account for the states that have higher environmental and worker protection standards than others; for example, if a state with strong regulations wants to use this standard to verify "REMs," the REMs meeting this draft standard may not come close to meeting their own state standards;
- Contains a loophole to allow the recognition of unidentified third-party certifications to be recognized as equivalent; includes no criteria, process, timeline or other details, and determinations would take place without public input or an assessment of whether these certifications are in alignment with any state statutes;

[2] *Id.*

- Establishes appeal rights only for certified (or applicant) entities, not for members of the public, local governments, or state agencies, all of whom may wish to challenge a certification decision or flag ongoing noncompliance;
- Fails to ensure products are actually recycled by omitting inclusions of thresholds for yield, or even mention of yield; the draft language merely provides that facilities should operate in a manner "consistent with recycling,"[3] rather than specifying actual recycling through a minimum verifiable yield (how much of the product is actually recycled into new plastic products);
- Fails to protect against the incorporation of deceptive accounting and chain of custody methods; for example, it would allow plastic to be turned into fuel and have "recycling credits" from this process transferred to virgin plastic and be counted as post-consumer recycled content, and that process counting as "recycling," among other chain of custody issues;
- Fails to sufficiently draw upon California's SB54 EPR for packaging statute which defines recycling and the recycling rate to exclude combustion, incineration, energy generation, fuel production, or other forms of disposal, and requires regulations to exclude recycling technologies that produce a significant amount of hazardous waste;[4]
- Fails to hold facilities accountable for violation of the proposed REM standard or of their actual permits; for example, the standard does not consider so-called "minor technical violations or minor deviations from permit conditions"[5] as noncompliance. Any violations of either this standard or permit conditions should disqualify a facility from holding REM status and they should reapply for certification; the permit conditions have either been violated or not violated—a facility is not exempted from legal requirements because a particular aspect has been deemed by CAA as "minor;"
- Overlooks that just because a facility is compliant with permits and standards in one jurisdiction does not mean that it complies with the requirements in another; for example, a standard cannot rely on compliance in one jurisdiction or under one law to indicate compliance with another jurisdiction or law unless they have the same requirements;
- Does not include an adequate emphasis on worker protections, as would be required for a facility comply with SB 54;

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[3] 10.1 Processing and Disposition Assurance section, CAA Draft REM Standard
[4] *See* Pub. Resources Code, § 42041, subd. (aa)(2), (ab), and (aa)(5). Because of these clear legal prohibitions, any REM that seeks to interface with California's program must meet these requirements, and if CAA is truly seeking to develop some kind of cross-state verification it must adhere to this same standard.
[5] 8.1 Environmental Compliance, CAA Draft REM Standard

- Contains false assumptions such as the assertion that environmental releases can be limited to “visible” releases, which is not sufficient to cover many types of uncontrolled environmental releases;
- Fails to require certain crucial information is disclosed to the public, in particular information about hazardous waste and chemicals of concern stored on site; and
- Contains flawed distinctions between “critical” and “noncritical” indicators, effectively attempting to tier existing legal and regulatory compliance requirements; as should go without saying, the PRO does not have the authority to decide which requirements facilities should prioritize compliance with.

As drafted, this standard is inconsistent with numerous state statutes or regulatory requirements, has many other fatal flaws, some of which are described above, and is wholly unsupportable for meeting state REM requirements as it stands. If you have any questions, please reach out to Renée Sharp, Director of Plastics and Petrochemical Advocacy, at rsharp@nrdc.org.

Sincerely,

Renée Sharp, Director of Plastics and Petrochemical Advocacy
Avi Kar, Senior Director, Toxics
Darby Hoover, Senior Resource Specialist
Rachel Fullmer, Policy Advocate
NATURAL RESOURCES DEFENSE COUNCIL

Nick Lapis, Director of Advocacy
Tony Hackett, Policy Associate
CALIFORNIANS AGAINST WASTE

Lori Olinger Attachment

RECEIVED BY CAH
7/24/2026

July 24, 2026

Dear Commissioner Kessler and Assistant Commissioner Koudelka,

We appreciate the opportunity to comment on the implementation of the Packaging Waste and Cost Reduction Act (PWCRA). We also appreciate the tremendous work the MCPA has done implementing this law.

The Coalition for Plastic Reduction is concerned about the impacts of plastic on our health and the environment. We support efforts to reduce waste overall and advocate for policy changes to move toward safer and more sustainable alternatives to plastic.

The PWCRA is an opportunity to reduce packaging waste and to move toward more recyclable and compostable materials that are also safer for us to use. It is also a chance to start and restart reuse/refill systems, since they will need support, especially financial, to be successful in getting started. They will be critical for reducing dependence on single-use products.

Plastic is currently being produced at an unsustainable rate. The amount produced is not driven by demand or need but production profitability. Even though we like to think more recycling of plastic is a solution, the real solution is to decrease production. Recycled plastic does not impact the production of virgin material and should not be the sole focus for solving the growing plastic problem.

A significant body of research shows that exposure to many of the chemicals in plastic are a risk to our health, especially children and babies who are exposed even before they are born. Microplastic particles are showing up in our air, water, soil, plants and in us. They have been found in blood, brain, organs, placenta and breast milk. Even smaller nano plastics are found in our cells. Research on their health impact is in early days but given the results of early studies, we should move toward reducing our exposure. Please keep this in mind when setting targets, collection lists and eco-modulated fees.

We would like to submit the following additional comments.

Question 3 Collection lists

- Under Subd. 4. Criteria (5), the availability of responsible markets is included as criteria. Based on work done by Basel Action Network, we know recycled plastic waste is being exported from the US to Canada, Mexico and many non-OECD countries like Malaysia, Vietnam and Indonesia. While Minnesota might not be exporting plastic waste currently, with increased plastic recycling, it is important to have transparent information on where our recycling ends up. If consumers are to have confidence in recycling, it is important that the full chain of control from MRF to the manufacturer using the recycled material is tracked and made available to the public.

- Under Subd. 4. Criteria (6), the presence and amount of toxic substances is included as criteria. Definition of "Toxic substance" includes a chemical of high concern identified under section 116.9402. This list includes phthalates, bisphenols and other chemicals used in plastic. Our packaging material should not include chemicals that are known to be toxic and can have an impact on our health even in small amounts. Please include this consideration in making the collection lists. This should also be a consideration for setting eco-modulated fees.

- The EU is in the process of implementing their PPWR and are using Grades A-E for determining recyclability. The Grades are used for determining what can be put on the market and for fees. Having clear information on how Grades are determined allows producers to tweak or redesign packaging to meet requirements and reduce fees. This is a great example of an implementation that is driving reduction and redesign.

  Here is a link to an explanation of the Grades and how they are used: https://regsurance.com/ppwr-recyclability-grades-explained-a-to-e-packaging-compliance-deadlines-business-action-plan/

- The multilayer flexible packaging market is expanding rapidly despite hurdles for recycling. Studies have shown that this type of packaging sheds microplastic particles and leaches chemicals. The EPR Rules should encourage producers to use alternative packaging that is safe and recyclable and not try to find a way to recycle this type of packaging. It should not be included in collection lists.

  Green Peace did a recent study "Tiny Plastics Big Problem: The Hidden Risks of Plastic Pouches for Baby Food" that illustrates this. (https://www.greenpeace.org/static/planet4-usa-stateless/2026/05/95bfb07a-tiny_plastics_big_problem.pdf)

- Flexible film is another problematic product. There are some end markets for it but these are for downcycled products like plastic lumber which will eventually end up in the waste stream. There are alternatives available for many uses and more are being developed.

Question 4 Statewide requirements and measurements

- Recycling, composting, reuse, return, PCR, and reduction rates should be reviewed yearly to determine if they are being met. If not, eco-modulated fees should be adjusted. Also, the targets themselves should be reviewed to determine if state-wide waste reduction and recycling goals are being met. The targets should be adjusted if that is not the case. There are expectations that the PWCRA will have an impact on the amount of waste generated and disposed of in Minnesota and it must be flexible to meet expectations if needed.

- (4c): PCR targets for plastic should not be included. There are more than 16,000 chemicals used to make plastics and more than 4,200 of these have been identified as hazardous. In addition to the known toxic chemicals in plastic, recycled plastic can be contaminated because of chemical reactions and non-intentionally added substances. PCR targets are important for recycling but should not include plastic because it can be potentially more toxic than virgin plastic.

Here is one review study that discusses risks from recycled plastic: "Addressing the toxic chemicals problem in plastics recycling."
https://www.cambridge.org/core/journals/cambridge-prisms-plastics/article/addressing-the-toxic-chemicals-problem-in-plastics-recycling/552E550968DC2E0119DB937925505DC6

- For reduction targets, consider quantity, weight and material type per unit sold. If a producer switched from plastic to paper packaging, the overall weight might increase but the material is more sustainable and less toxic. This should apply for calculating fees also.

- Reduction targets should be included for B2B tertiary packaging. A tremendous amount of film is used for that purpose. Recycling facilities, like MyPlas in Rogers, have tried to find end markets for film but have not been successful. Alternatives to film are being developed. For example, FedEx offers reusable boxes to retailers for B2B shipping.
https://www.packagingdive.com/news/returnity-fedex-reusable-boxes-retailers-b2b-shipping/814692/

  Also, the EU PPWR requires that starting 1/1/2030, producers must ensure that 40% of transport and sales packaging is reusable. This applies to pallets, foldable-plastic boxes, boxes, trays, plastic crates, intermediate bulk containers, pails, drums, and canisters, including pallet wrapping and straps.

  A strong reusable target will help drive alternatives for B2B film.

Question 5 Stewardship plan and annual reports

The MPCA should make the annual reports and stewardship plan available to the public in a way that is easy to understand and shows the effectiveness of the program. We think this law could have a significant impact on the amount of packaging produced and the environmental and health impacts it can have. We hope that it is successful and want to be able to follow its progress.

Thank you for considering our comments and for all your work ensuring the law is effective.

Best,
Lori Olinger
Coalition for Plastic Reduction

Circular Action Alliance®

July 24, 2026

Mr. Kirk Koudelka
Assistant Commissioner | Land Policy
Minnesota Pollution Control Agency
520 Lafayette Road N.
Saint Paul, MN 55155-4194

Sent via email to: packaging.mpca@state.mn.us

Re: Response to Request for Comments: Revisor's ID Number R-04992 Possible New Rules Relating to the Packaging Waste and Cost Reduction Act, Minnesota Rules, 7035

Circular Action Alliance (CAA) thanks the Minnesota Pollution Control Agency (the Agency) for the opportunity to submit comments on the request for comments on possible new rules related to the Packaging Waste and Cost Reduction Act (PWCRA) under Minnesota Rules Chapter 7035 of the Minnesota Administrative Code.

CAA is a U.S. Producer Responsibility Organization (PRO) dedicated to implementing effective Extended Producer Responsibility (EPR) programs for packaging and paper products. As a nonprofit, producer-led organization, CAA is committed to helping producers comply with EPR laws, delivering harmonized best-in-class compliance services and working with governments, businesses, and communities to reduce waste and recycle more. CAA was founded in 2022 and has 24 founding members representing the food, beverage, consumer goods, food service and retail industries. CAA was approved by the Agency to serve as the PRO for Minnesota's EPR program under 115A.1443. Subd.3.

Our organization is committed to advancing circular economy solutions through collaborative, producer-led stewardship programs. A well-structured producer responsibility system can drive meaningful improvements in recycling, reuse and composting while reducing environmental impacts. We share the Agency's goals to implement an effective and equitable producer responsibility program in Minnesota and offer the following comments on the regulatory framework in support of the successful implementation the state's EPR law.

In the attached submission, we outline our detailed comments and recommendations on draft regulatory proposals.

Thank you for the ongoing collaboration with our team and your consideration of our comments. We would welcome the opportunity to meet with your team to discuss our comments in more detail.

Circular Action Alliance®

Sincerely,

Kris Coperine

Kris Coperine
Minnesota State Program Manager
Circular Action Alliance Minnesota

CC: Shane Buckingham – Chief of Staff, Circular Action Alliance
Jessica Young - VP Compliance and Regulatory Affairs, Circular Action Alliance
Bridget Anderson - Director of Emerging States, Circular Action Alliance

Circular Action Alliance®

General Comments

CAA supports rules that:

- Provide clear, objective, and administrable standards
- Establish clear roles and responsibilities for all regulated parties and minimize ambiguity for producers, service providers, the producer responsibility organization, and MPCA
- Promote statewide consistency while preserving flexibility to adapt to evolving infrastructure, markets, and technologies

Definitions for terms used that are not defined in statute

Regulatory Text

> *"Covered material" (115A.1441. Subd. 10) means packaging and paper products introduced. Covered material does not include exempt materials.*
>
> *"Packaging" (115A.1441. Subd. 23) has the meaning given in section 115A.03 and includes food packaging. Packaging does not include exempt materials.*
>
> > *“Packaging” (115A.03. Subd. 22b) means a container and any appurtenant material that provide a means of transporting, marketing, protecting, or handling a product. "Packaging" includes pallets and packing such as blocking, bracing, cushioning, weatherproofing, strapping, coatings, closures, inks, dyes, pigments, and labels.*
>
> *“Food package” (325F.075. Subd. 1(b)) means a container applied to or providing a means to market, protect, handle, deliver, serve, contain, or store a food or beverage. Food package includes:*
>
> > *(1) a unit package, an intermediate package, and a shipping container;*
> >
> > *(2) unsealed receptacles, such as carrying cases, crates, cups, plates, bowls, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs; and*
> >
> > *(3) an individual assembled part of a food package, such as any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels.*
>
> *“Paper product”* (155A.1441 Subd. 24) *means a product made primarily from wood pulp or other cellulosic fibers but does not include bound books or products that recycling or composting facilities will not accept because of the unsafe or unsanitary nature of the paper product. Paper product does not include exempt materials.*

"Compostable material" (115A.1441. Subd. 6) *means a covered material that:*

> *(1) meets, and is labeled to reflect that it meets, the American Society for Testing and Materials Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities (D6400) or its successor;*
>
> *(2) meets, and is labeled to reflect that it meets, the American Society for Testing and Materials Standard Specification for Labeling of End Items that Incorporate Plastics and Polymers as Coatings or Additives with Paper and Other Substrates Designed to be Aerobically Composted in Municipal or Industrial Facilities (D6868) or its successor;*
>
> *(3) is comprised of only wood without any coatings or additives; or*
>
> *(4) is comprised of only paper without any coatings or additives.*

CAA Response

The definitions for "covered material," "packaging" and "paper product" do not explicitly limit the scope of covered materials to match the covered entities that the PRO must serve through the stewardship plan. This will complicate effective implementation of the PWCRA. It will create producer reporting and payment requirements for materials that the program is not scoped to manage, influence the performance of, or reimburse service providers for.

CAA recommends that the scope of these definitions are further clarified in rule to add specificity for what materials are covered by the program. We provide suggested language below.

CAA's main concerns center on how expansive the definitions are, the inclusion of materials for entities not covered by the PWCRA, and the potential for double-counting. These issues have implications for producer reporting, for fee-setting, and for measuring performance.

Expansive Definitions

The definitions lack necessary boundaries that clarify the scope of covered material for producers determining their obligations. Without this clarity, producers will find it difficult to assess which of their packaging and products may or may not be covered by the law.

"Paper product," for example, could include an almost endless array of items well beyond materials covered in other jurisdictions, such as building products (e.g., wallpaper, cellulose insulation, wallboard liner, paper-based wall panels), lampshades, wall art, cat scratching posts, board games, puzzles, sandpaper, water testing strips, wipes, diapers, toilet seat covers, emery boards (with a paper core), cosmetic pads, various types of filters, industrial cores, swabs, and fiber drums. As additional examples, food packaging could be interpreted to include freight shipping containers, and packaging could include reusable business-to-business transport packaging that never reaches a consumer. This expansive approach will lead to confusion amongst producers, inconsistent and duplicate reporting, and reporting on material that is managed in business-to-business arrangements that do not interface with the public.

Inclusion of Materials for Entities not Covered by the PWCRA

As currently defined, "packaging" and "paper product" include materials generated by entities that are not covered by the PWCRA. The current definitions referenced are inclusive of materials generated by:

- Residential entities (e.g., packaging associated with consumer goods and food service packaging)
- Commercial or institutional entities (e.g., display cases, transport packaging such as reusable and single-use pallets, bale wrap and strapping, ceramic serving plates, beverage glasses, bag-in-box syrup packaging for fountain drinks, kegs, and reusable beverage crates, produce and bread trays)
- Industrial and agricultural entities (e.g., shipping containers, industrial spools, intermediate bulk containers, flexible intermediate bulk containers, crates, silage bags, drums)

The PWCRA covers only a subset of these entities:

> *"Covered entity" (115A.1441. Subd. 9.) means a person or location that receives covered services for covered materials in accordance with the requirements of sections 115A.144 to 115A.1463, including:*
>
> > *(1) a single-family residence;*
> >
> > *(2) a multifamily residence;*
> >
> > *(3) a school as defined in sections 120A.22, subdivision 4, and 136A.62, subdivision 3, clauses (1) and (2); a nonpublic school as defined in section 123B.41, subdivision 9; postsecondary educational systems as defined in section 142E.01, subdivision 20; a provider as defined in section 142E.01, subdivision 20; and any other location where education or child care is provided;*
> >
> > *(4) a nonprofit corporation with annual revenue of less than $35,000,000; and*
> >
> > *(5) a state agency, political subdivision, public area, public entity as defined in section 115A.151, or other governmental unit.*

This mismatch has implications in the following areas.

Area impacted	Description
Misalignment between covered materials and covered entities	When covered material is not aligned with covered entities, some producers will be obligated to provide supply data and pay fees into a program where they receive no benefit because they are managed outside the PWCRA program's scope.
Performance Targets	When the covered material is not aligned with the covered entities funded by the PRO and includes material managed outside of this system, it inflates the total supply reported (the denominator), and therefore sets the performance measures up for failure because the same amount of material cannot be accounted for in the recycling, composting, reuse systems managed through the program (the numerator).
Fee-setting	The statute obligates the PRO to assess fees on each covered material type for each member producer (115A.1454. Subdivision 1.). The mismatch between the definition of packaging and paper products and the covered entities means some producers will be charged fees for materials for which the PRO is not reimbursing service providers. The expansive definitions, which include commercial and industrial materials with significantly different weights and attributes than consumer goods, will add significant complexity to the fee-setting process. Also of note, Minnesota statute requires these fees to incorporate incentives for packaging design changes. For commercial and industrial packaging not handled at covered entities, the PRO would be required to collect incentive fees, with limited influence on their performance.
De Minimis	Under the current definitions of packaging and paper products, more producers will exceed de minimis thresholds and therefore be obligated to meet program requirements for their respective covered materials including paying fees whether or not their materials go to covered entities. This would include a number of entities not usually covered by EPR laws such as agricultural businesses and industrial manufacturers. The inclusion of all paper products distributed by a producer and of commercial and industrial packaging that tends to be heavier that consumer goods will mean more and more types of producers would be over the one ton de minimis threshold and therefore be obligated to meet program requirements for their respective covered materials including paying fees whether or not their materials go to covered entities. This would include a number of entities not usually covered by EPR laws such as agricultural businesses and industrial manufacturers.

Double-Counting

There are two potential areas where double-counting could occur under the current definitions. First, unlike other jurisdictions, the definition of packaging does not differentiate between packaging provided with a product, and packaging that is sold empty where it *is* the product. It is not clear in the definition of "producer" (see below) how producer responsibility is assigned for a packaging item that is sold as a product and used as packaging distributed with a product. This creates the potential for multiple producers to count the same item (e.g., an empty jar supplied to a food manufacturer in Minnesota could be a covered material for the jar manufacturer and be covered again by the producer who has filled and then supplied a product in that jar to a retailer in Minnesota.)

> *Producer.* (115A.1441. Subd. 26.)
>
> *(a) "Producer" means the following person responsible for compliance with requirements under sections 115A.144 to 115A.1463 for a covered material introduced:*
>
> > *(1) for items sold in or with packaging at a physical retail location in this state:*
> >
> > > *(i) if the item is sold in or with packaging under the brand of the item manufacturer or is sold in packaging that lacks identification of a brand, the producer is the person that manufactures the item;*
> > >
> > > *(ii) if there is no person to which item (i) applies, the producer is the person that is licensed to manufacture and sell or offer for sale to consumers in this state an item with packaging under the brand or trademark of another manufacturer or person;*
> > >
> > > *(iii) if there is no person to which item (i) or (ii) applies, the producer is the brand owner of the item;*
> > >
> > > *(iv) if there is no person described in item (i), (ii), or (iii) within the United States, the producer is the person who is the importer of record for the item into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the item in this state; or*
> > >
> > > *(v) if there is no person described in items (i) to (iv), the producer is the person that first distributes the item in or into this state;*
> >
> > *(2) for items sold or distributed in packaging in or into this state via e-commerce, remote sale, or distribution:*
> >
> > > *(i) for packaging used to directly protect or contain the item, the producer of the packaging is the same as the producer identified under clause (1); and*

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

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

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

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

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

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

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

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

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

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

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

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

(b) "Producer" does not include:

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

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

(3) a de minimis producer;

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

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

CAA anticipated that the following exemption would remove much of the business-to-business activities that could lead to double counting:

(14) are covered materials that:

(i) a producer distributes to another producer;

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

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

We ran different scenarios related to this exemption and it appears it is extremely limited in its application (i.e., hindered by the need for it to be a producer-to-producer interaction, for the product to be used as an input into new product, and for the packaging to be single-use).

The second area of potential double-counting or confusion comes from the definition of "compostable materials" (115A.1441. Subd. 6) and the definitions of "packaging" (115A.1441. Subd. 23) and "paper products" (155A.1441 Subd. 24), which include some of the same materials.

The "compostable materials" definition indicates it includes materials "comprised of only wood without any coatings or additives" or "comprised of only paper without any coatings or additives." These materials would be required to be included in both packaging or paper product and compostable material categories. This potential for double-counting adds complexity and has implications for reporting, fee-setting and performance measurement.

CAA Recommendations

Clarify and narrow the scope of the definitions of packaging and paper products specifically for the purposes of the PWCRA implementation. This will help to match the covered materials to the covered entities and services for which the PRO is obligated and to reduce the potential for double-counting, which will improve the effectiveness and efficiency of the program including reporting, fee-setting and performance measurement.

To address double-counting between packaging or paper product and compostable material categories, CAA recommends that MPCA specify that paper-based covered materials should be classified and reported only once, based on the material's primary intended end-of-life pathway. Where a paper-based covered material is marketed, labeled, or otherwise substantiated (i.e., ASTM certification) by the producer as compostable and is intended to be managed through organics recycling rather than recycling, the material may be classified as compostable material, provided it is not also counted as a packaging or paper product for purposes of producer reporting, fee-setting, or performance measurement.

Recommended edits:

> *"Packaging" as defined in 115A.1441. Subd. 23, has the meaning given in section 115A.03 and includes food packaging. Packaging does not include exempt materials and for the purposes of this section, is limited to packaging that is supplied with the product to the consumer for personal, noncommercial use and that is sold, offered for sale, imported or distributed in the State.*
>
> ...
>
> *"Paper product", as defined in 115A.1441. Subd. 24. means a product made primarily from wood pulp or other cellulosic fibers ~~but~~ that is printed and unprinted paper sold, offered for sale, imported or distributed in the State to the consumer for personal, noncommercial use. It includes but is not limited to flyers, brochures, booklets, catalogs, directories, and paper used for writing or other purposes.*
>
> *It does not include bound books or products that recycling or composting facilities will not accept because of the unsafe or unsanitary nature of the paper product. Paper product does not include exempt materials.*
>
> ...
>
> *"Compostable material" (115A.1441. Subd. 6.) means a covered material that:*
>
> *(1) meets, and is labeled to reflect that it meets, the American Society for Testing and Materials Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities (D6400) or its successor;*

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

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

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

For purposes of sections 115A.144–115A.1463, a covered material that meets the definitions of "paper product" or "packaging" and also "compostable material" must be classified and reported under only one material category. A paper-based or wood-based covered material that is marketed, labeled, or otherwise substantiated by the producer as compostable and intended to be managed through organics management may be classified as compostable material and must not also be counted as a paper product or package.

Exemptions

From MPCA Request for Comments:

2(a): Under Minnesota Statutes, section 115A.1441, subdivision 16 (11), what criteria should be used to determine that a specific hazardous or flammable products regulated by the 2012 federal OSHA CFR, title 29, section 1910.1200 that prevents a material, any proportion of material, or packaging cannot be waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?

CAA Response

CAA does not have any comments at this time.

2(b): Under Minnesota Statutes, section 115A.1453, subdivision 6., what criteria should be used to determine that a specific federal or state health and safety requirement prevents a material, any proportion of material, or packaging cannot be waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?

CAA Response

CAA must establish operational plans, budgeting assumptions, and covered material management strategies well in advance of implementation deadlines. Therefore, CAA recommends that exemption determinations be subject to clearly defined review timelines and decision-making criteria with sufficient time to be incorporated into the development of the stewardship plan.

CAA also has concerns with the burden for producers, particularly smaller producers needing to have to apply individually for an exemption related to specific hazardous or flammable products regulated by the 2012 federal OSHA CFR, title 29, section 1910.1200 or based on state and federal health and safety requirements. CAA recommends that MPCA confirm exemption determinations broadly that would apply to all producers. This does not necessarily need to be in rule and may be better handled through a process that is more flexible and can provide determinations on a more timely basis.

2(c): Should criteria be defined for "unsafe and unsanitary" in relation to Minnesota Statutes, section 115.1441, subdivision 24? If so, what should those criteria be? Should this be tied to what is accepted on the covered material lists?

CAA Response

CAA recommends leveraging existing precedent from other EPR jurisdictions (e.g., Alberta, British Columbia[1], Colorado, Manitoba[2], New Brunswick, Nova Scotia[3], Ontario[4], Oregon[5], Saskatchewan, Yukon[6]) to maximize harmonization and reduce compliance burden. CAA recommends using the same items considered unsafe or unsanitary in those jurisdictions which includes toilet paper, tissues, other paper-based bathroom/cleaning products, and paper towels.

Collection lists

3(a): What should the threshold for "current availability of collection" services be for recycling? For organics recycling? Should they be different or the same?

CAA Response

[1] Recycle BC. Material List, January 2023. Available at https://www.circularmaterials.ca/wp-content/uploads/2023/06/2023-Recycle-BC-Provincial-Material-List.pdf.

[2] Multi-Material Stewardship Manitoba. Manitoba Material List, January 2023. Available at https://www.circularmaterials.ca/wp-content/uploads/2023/06/2023-MMSM-Provincial-Material-List.pdf.

[3] Divert NS. Designated Materials Guide, December 1, 2025. Available at https://divertns.ca/sites/default/files/2025-12/PPPDesignatedMaterialGuide-Dec1.pdf.

[4] Circular Materials. Designated Materials. Last updated July 24,2025. Available at https://knowledge.werecycle.ca/Producers/01_Registration/02_Obligation/03_Materials.

[5] Oregon. Summary of Producer Obligations and Definitions: Plastic Pollution and Recycling Modernization Act. Available at https://www.oregon.gov/deq/recycling/Documents/RMAProducerObligationsSummary.pdf.

[6] Government of Yukon. Obligated Products: Extended Producer Responsibility. Available at https://yukon.ca/sites/default/files/env/obligated_products.pdf.

MPCA may want to consider the Federal Trade Commission's (FTC) "Guide for the Use of Environmental Market Claims," which indicates a substantial majority of consumers is at least 60 percent. This is the same threshold that was used for availability of collection in Colorado for its EPR program. Consistency with FTC guidance promotes alignment with existing environmental marketing frameworks and reduces confusion for producers.

The threshold for availability of collection services should only apply as a criterion for recycling services and not for organics recycling services.

3(b): What is the threshold for access to recycling and composting processing infrastructure? Should it be determined by distance to a percent of the population, total coverage of a percent of the total population, or something else? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?

CAA Response

CAA recommends avoiding duplicative criteria where existing collection access thresholds can serve as proxies for practical processing availability.

3(c): In evaluating the capacity and technology for sorting covered materials, how much processing capacity should be set as the threshold for a covered material to be included on a collection list? Should it be set as a percentage or another measure?

CAA Response

CAA recommends that the assessment of sorting capabilities be based on whether the majority of processing capacity can sort the materials (i.e., based on throughput).

3(d): What is the minimum availability of responsible markets for a covered material to be included on a collection list? Is there a threshold relating to capacity, number, distance, or some combination of thresholds?

CAA Response

CAA recommends that the assessment be based on at least one market with a preference for at least two with the relative size sufficient to manage the amount of specific materials generated in Minnesota.

3(e): What are the recommended thresholds for the presence and amount of a residual, contaminant, and/or toxic substance for a covered material to be excluded from the collection list?

CAA Response

CAA recommends that this assessment be qualitative based on confirmation that end markets are willing to accept materials and the materials can be incorporated into end products. Quantitative contaminant thresholds may become quickly outdated as processing technologies evolve.

Thresholds can also be created based existing industry trading specifications (e.g., ISRI Scrap Specifications Circular, APR Design Guide). CAA would also recommend ensuring that the assessment of toxic substances should only be based on what is "intentionally added."

3(f): What is the quantity of a covered material estimated to be available and recoverable that should cause a covered material to be included on a collection list?

CAA Response

CAA suggests this consideration be removed as it will be dealt with in other criteria.

3(g): What are some examples of future conditions of these criteria to be considered?

CAA Response

CAA supports a framework that allows collection lists to be reviewed on a regular basis and updated as needed to reflect changes in technology, infrastructure, market conditions, contamination data, and end-market availability. This flexibility is important to ensure the system can respond to emerging opportunities to recover additional materials.

3(h): Are there any other criteria recommended to be considered? Are there criteria mentioned above or in statute that are not recommended to be considered?

CAA Response

CAA has no further recommendations for other criteria at this time.

3(i): Relating to alternative collection systems, what are the considerations for what meets "convenience" and what would the minimums be? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?

CAA Response

Convenience should be evaluated from the covered entity perspective and may include factors such as travel distance, operating hours, participation burden, and service consistency. Convenience standards may need to differ between Greater Minnesota and the Twin Cities Metro Area to reflect differing population density and infrastructure conditions. As is used in some jurisdictions like Canada, convenience could be evaluated based on equivalent services (e.g., garbage servicing).

3(j): Are there any considerations to how covered materials collected through alternative collection must be accurately measured?

CAA Response

Given the wide range of potential considerations related to alternative collection systems (e.g., reuse, single-use recyclable/compostable, and scale and scope of materials managed), CAA recommends maintaining flexibility in measurement so that adjustments can be made as programs are piloted, evaluated and scaled.

Statewide requirements and measurement

4(a): What criteria should be considered to set a return rate?

CAA Response

Return rates should reflect differences among business models, product categories, geographic conditions, and program maturity. A single statewide return-rate expectation may not be appropriate across all reuse and refill systems.

There should be an understanding of the existing/baseline return rate from which to compare improvements. It is difficult to achieve improvements in return rates, especially in nascent systems where new organizations may be entering the ecosystem.

Depending on the source, there may be 4-13 different types of reuse/refill models, with very different return rates. As a result, it is important to look at return rates by reuse model and by maturity. For example, reusable transport packaging in controlled environments may reach 95% or higher return rates. Whereas even an arguably closed loop food serviceware system can experience return rates as low as 50% (in corporate workplace, where employees get takeout from cafeteria and eat at their desk and there are no deposits) to 90% or higher return rates (in K-12 school where students return trays and bowls before leaving the cafeteria).

4(b): How might a producer or producer responsibility organization demonstrate a return rate?

CAA Response

Return rates should be demonstrated using objective and auditable methodologies, including sales data, deposit returns, collection records, inventory management systems, or other documented mechanisms approved by the Agency.

Additional research may be necessary given differences in access to data, depending on the reuse model. For example, a producer running its own reusable pallet wrap system may have access to data related to the starting quantity of reusable pallet wraps for a year, how many got added to inventory, and how many were left at the end of the year. For a K-12 school with a subscription to a wash service, it may be the reuse service provider who does the counting of what they drop off, and what they get back. But for a K-12 school doing on-site washing, this school will likely know it's starting and ending inventory numbers, but it is not a producer.

4(c): Are there any considerations the agency should evaluate when determining statewide requirements?

CAA Response

CAA recommends avoiding prescriptive statewide requirements before infrastructure capacity data is better understood. in addition, there will be a need to distinguish between Greater Minnesota and Twin Cities Metro Area while allowing for localized systems where there is buy in, especially where there are nodes of on-site washing facilities.

Because reuse systems often face challenging economics, with costs typically much higher than single-use alternatives, CAA's working hypothesis in California is to aggregate demand for reusable products within specific geographic areas. This approach is intended to increase scale and wash-facility utilization, reduce operating costs, and create conditions that may encourage additional venues or producers to adopt reuse. As a result, CAA is likely to advance reuse through off-site wash hubs on a geography-by-geography basis, rather than evenly across the state, except where on-site washing systems can operate independently.

Stewardship plan and annual reports

5(a): Are there any items within the stewardship plan requirements that may need to be further clarified?

CAA Response

CAA has no current items within the stewardship plan requirements that need to be further clarified in rule.

5(b): Are there any items within the annual reports from registered producer responsibility organizations that may need to be further clarified?

CAA Response

CAA has no current items within the annual report requirements that need to be further clarified in rule.

5(c): What information should the MPCA request to verify producer responsibility organization costs and reimbursement rates in a stewardship plan and/or annual report as part of a budget and any financial and programmatic auditing?

CAA Response

CAA recommends that MPCA avoid prescribing highly specific reporting requirements in rule where those needs may evolve over time. Where additional information is needed to support oversight, CAA recommends that such requests be incorporated into stewardship plan approval, annual reporting guidance, audit protocols, or other administrative mechanisms rather than codified in rule.

5(d): Does any part of the stewardship plan and plan amendment approval process need to be further clarified?

CAA Response

CAA has no current items within the stewardship plan approval or amendment approval process that need to be clarified in rule.

Other topics

6(a) Coordination with Other State and Federal Environmental Requirements

CAA Response

CAA recommends that MPCA consider the cumulative effect of the PWCRA alongside existing and emerging federal and state requirements related to:

- Per- and polyfluoroalkyl substances (PFAS);
- Toxics in packaging restrictions;
- Compostability standards;
- Recyclability requirements;
- Organics diversion mandates;
- Food-contact packaging regulations;
- Environmental marketing claims;
- Recycled content mandates; and
- EPR laws in other jurisdictions.

Many producers will be subject to multiple overlapping regulatory programs that may pursue different environmental outcomes or establish competing compliance obligations. For example, packaging redesign decisions intended to improve recyclability or compostability under one program may be constrained by PFAS restrictions, food-contact requirements, product protection requirements, recycled content mandates, or other state-specific material restrictions.

CAA encourages MPCA to evaluate implementation approaches that recognize these overlapping regulatory frameworks and avoid creating unintended conflicts between environmental objectives.

6(b) Interaction with PFAS Restrictions

CAA Response

CAA recommends that MPCA carefully consider how PWCRA requirements interact with Minnesota's PFAS restrictions and other state regulations governing intentionally added substances in packaging. Many producers are already undertaking significant packaging redesign efforts to comply with PFAS prohibitions and other chemical restrictions. These redesign efforts often require changes in material selection, barrier technologies, package performance characteristics, and supply chains.

CAA recommends the Agency consider that:

- Alternative materials may have different recyclability characteristics.
- Alternative materials may affect compostability outcomes.
- Redesign timelines may be constrained by product safety or food-contact requirements.
- Available substitute materials may vary by product category and application.

CAA recommends that PWCRA implementation remain sufficiently flexible and avoid creating situations where producers are simultaneously required to optimize for multiple potentially competing environmental objectives.

6(c) Coordination with Existing and Future Chemical Restrictions

CAA Response

CAA recommends that MPCA avoid creating duplicative or conflicting requirements between PWCRA implementation and existing or future restrictions on chemical substances used in packaging and paper products. When evaluating covered materials, collection lists, recyclability, compostability, or reuse systems, the Agency should account for regulatory requirements that may:

- Prohibit specific additives
- Require alternative materials
- Affect package durability
- Affect product protection;
- influence recyclability outcomes
- Affect end-market acceptance.

CAA encourages MPCA to establish implementation frameworks that allow producers to adapt to changing chemical-management requirements without creating repeated redesign cycles or conflicting compliance expectations.

6(d) Interstate Harmonization

CAA Response

CAA encourages MPCA to consider the cumulative inefficiencies associated with differing definitions, collection criteria, reporting requirements, material categorizations, and covered-product interpretations across state EPR programs. Many producers supply products nationally and are subject to producer responsibility programs in multiple jurisdictions. Regulatory harmonization is likely to improve program effectiveness while reducing unnecessary complexity and cost.

To the extent authorized by statute, MPCA should seek alignment with established EPR frameworks where possible to:

- Reduce administrative burden
- Improve compliance consistency
- Improve data quality
- Facilitate producer participation
- Support efficient program implementation

As a summary of Section 6 (a-e), the Agency should recognize that environmental objectives, including waste reduction, recyclability, compostability, reuse, PFAS elimination, recycled content usage, and toxics reduction, may at times present competing design considerations. Regulatory flexibility will help producers navigate these tradeoffs while continuing to advance the goals of the PWCRA.

Recycled Materials Association

Cory Bloom Attachment

RECEIVED BY CAH
7/24/2026

July 24, 2026

Minnesota Pollution Control Agency
520 Lafayette Rd
Saint Paul, MN 55155-4194

Re: Request for Comments for Possible New Rules Relating to the Packaging Waste and Cost Reduction Act

To Whom It May Concern,

The Recycled Materials Association (ReMA) appreciates the opportunity to comment regarding new rules relating to the Packaging Waste and Cost Reduction Act. ReMA represents more than 1,700 companies in over 40 countries that transform end-of-life products into essential, high-quality raw materials the world relies on every day. Across metals, paper, plastics, glass, textiles, rubber, and electronics, ReMA members safely and efficiently process recycled materials into the building blocks that power manufacturing, strengthen and secure global supply chains, and conserve natural resources. In the United States alone, our members deliver $183 billion in economic activity each year and contribute 603,000 jobs in communities nationwide.

As the voice of the recycled materials industry, ReMA's responses to the questions below focus on recycling and recyclability and do not cover reuse, composting or waste reduction.

Section 2:
ReMA's ISRI Specifications provide nationally recognized commodity specifications developed through an industry consensus process which may serve as a useful resource when evaluating recyclability requirements, including materials and products that render material unsuitable for recycling in a specific commodity grade. These specifications can be found here: https://www.isrispecs.org/advanced-search/. Due to the nuances of these specifications and their primary use as an internal industry buying-and-selling tool, specifications alone do not provide a complete picture of recyclability. ReMA recommends that these specifications, especially the Inbound Specifications for MRFs, provide a starting point for criteria development under this section.

ReMA recommends that exemptions under this provision be based on objective evidence demonstrating that a specific federal or health and safety requirement directly prevents a material or package from being recycled. The producer should identify the specific statutory or regulatory requirement, explain how that requirement limits packaging design or material selection, and provide supporting technical documentation demonstrating why no commercially feasible alternative exists.

For question 2(a): ReMA supports establishing criteria for determining when the presence of a hazardous or flammable product prevents that product's packaging or materials from being recycled. Because 'hazardous' and 'flammable' are overly broad (i.e. alcoholic beverages are flammable, but their packaging is widely and commonly recycled), ReMA recommends that exemptions for 'hazardous' and 'flammable' product packaging exclude the packaging for any product used for disinfection, sanitization or cleaning purposes, human or animal consumption, or applied topically to humans or animals such as cleaning supplies, disinfectants, sanitizers, personal care products, and beverage containers.

For question 2(c): Paper packaging containing batteries (due to their fire risk), medical waste, poisons, biohazards, and radioactive materials are prohibited materials at MRF facilities and should be considered unsafe and unsanitary.

Section 3:
(A/B/F): ReMA recommends that the Agency adopt a flexible, market-based approach when establishing thresholds for the current availability of collection services and the quantity of a covered material that should qualify for inclusion on a collection list. No single factor, including distance to collection, percentage of the population served, geographic coverage, or recoverable quantity, should independently determine whether a material is considered recyclable.

For example, while volume is an important consideration, it should not be the sole determinant. Some materials generated in relatively small quantities may still support economically viable recycling because they retain significant market value. The inverse is also true: material generated in large volumes may not be recyclable due to low commodity value, low quality and/or limited end markets.

ReMA recommends that the collection lists establish a minimum statewide baseline rather than a maximum standard. Counties, regions, and local recycling programs should retain the flexibility to collect and recognize additional materials where viable processing infrastructure and responsible end markets exist. This approach acknowledges the diversity of Minnesota's recycling systems while allowing local programs to respond to changing market opportunities and commodity-specific conditions.

(D): ReMA recommends that the agency avoid establishing fixed statewide thresholds for responsible market availability based solely on the number or size of end markets, processing capacity, or transportation distance. Recyclability is not a binary state determined by crossing a specific threshold of end markets, but a continuum determined by whether the value of a material exceeds the cost of collection, processing, and transportation for that material. Market conditions can significantly vary based on a number of factors.

The state should first identify which materials are commonly accepted to have sufficient end markets as the baseline, and coordinate a system whereby MRFs and other recycling entities can identify and communicate any end market shifts that have limited or expanded the recyclability and acceptance capacity of materials issues to the agency. This approach would allow collection lists to reflect current market realities while avoiding unnecessary restrictions on materials with viable, but evolving end markets.

(E-F): Rather than establishing rigid statewide limits, rules should address how the location, type, and amount of contamination affect the recyclability of a material. Contaminants that interfere with sorting equipment or materially diminish the quality of recovered commodities may warrant different treatment than residual contents that do not adversely impact processing or end-market acceptance.

For example, a package may have a shrink sleeve of a different material type than the main package. This shrink sleeve may represent a low percentage by volume of contaminating materials, but its presence on the outside of the package means that the NIR optical sortation equipment will incorrectly read the item. The same or greater volume of contaminant material on the inside of the package would present less challenges for the recycling system. Flexible, commodity-specific standards will better reflect how modern recycling systems operate. Industry design standards and guidance, such as ReMA's Fiber Recycling Readiness Tool, APR's Design Guide, and AF&PA's Design Guidance for Recyclability can support the evaluation of these nuances. Any contamination, residual, or toxic substance threshold should address the practical realities of recovery processes.

Section 5
(D): ReMA and its members are concerned about reporting requirements that may require the disclosure of confidential business information (CBI). Public disclosure of commercially sensitive information could be used in anti-competitive ways that disrupt established recycling markets and disadvantage individual businesses. ReMA strongly recommends that any information designated as CBI be protected through appropriate safeguards, including providing CBI only to independent third parties, anonymization and aggregation into broader datasets before it is released or reported either to public entities or to the producer responsibility organization (PRO). Due to vertical integration in the industry, producers represented by the PRO may be competitors to recycling entities. These protections are essential to preserve fair competition, protect proprietary business information, and maintain the integrity and stability of recycling markets while still providing the Agency with the information necessary to administer the program.

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Erin Brower Attachment

RECEIVED BY CAH
7/24/2026

Comments of Hallmark Cards, Inc. and Crayola LLC
Minnesota Packaging Waste and Cost Reduction Act Rulemaking
Revisor's ID No. R-04992
Submitted via the Minnesota Pollution Control Agency Request for Comments Process
July 24, 2026

To Whom It May Concern:

Hallmark Cards, Inc. and Crayola LLC appreciate the opportunity to provide comments regarding implementation of Minnesota's Packaging Waste and Cost Reduction Act (PWCRA). Hallmark and Crayola support the goals of reducing waste, improving recycling outcomes, and encouraging more sustainable packaging design. We also appreciate MPCA's effort to gather stakeholder feedback early in the rulemaking process.

As MPCA develops implementing regulations, we respectfully request that MPCA clarify and adopt exemptions for products and packaging that are not appropriately addressed within an extended producer responsibility (EPR) framework because of their long-term use, educational value, gift-giving purpose, reuse characteristics, and minimal impact on the waste stream.

Specifically, we urge MPCA to exempt:

1. Packaging used for the long-term protection or storage of a product, if the packaging has a lifespan of at least five years;

2. Paper products used for greeting cards, packaged cards, invitations, notecards, or calendars;

3. Paper products used for children's education, including coloring pages, coloring books, journals, construction paper, and sticker pages; and

4. Paper products used for gift presentation, including wrapping paper, tissue paper, and gift bags.

Introduction

Hallmark believes that when you care enough, you can change the world. That's why we are dedicated to creating a more emotionally connected world and making a difference in the lives of others. Founded in 1910 by teenage entrepreneur J.C. Hall, and remaining a private company with family members on the board of directors today, Hallmark's businesses employ more than 16,000 people worldwide, including approximately 290 people in Minnesota (162 Hallmark employees plus 128 jobs through our Hallmark and Crayola licensing agreements).

Both Hallmark and Crayola have a long history of sustainable actions. In the 1940s, Hallmark began recycling all paper waste from manufacturing. Since 2015, Hallmark and Crayola have taken actions to reduce landfill waste from our North American facilities by 75%. And by 2030, as part of an approved Science Based Target commitment, Hallmark and Crayola are committed to reducing the greenhouse gas footprint of our operations by 46% and of our value chain by 27.5%. Finally, we are investing in 100% renewable energy from wind and solar power for owned US manufacturing and distribution facilities.

Our Position on EPR

Hallmark and Crayola support EPR policies that reduce paper and plastic packaging in the waste stream and encourage more sustainable packaging design. However, the PWCRA should be implemented in a way that distinguishes packaging from the underlying paper products consumers purchase, use, retain, or reuse.

Greeting cards, invitations, notecards, calendars, gift presentation products, and children's educational materials serve long term purposes. They support communication, creativity, learning, celebration, and personal connection, and many are retained as keepsakes or reused over time.

These products are also lightweight, low volume, and highly recyclable. Even when they enter the recycling stream, their presence is unlikely to materially affect mixed paper bales, collection costs, sorting operations, or overall system performance.

Applying EPR obligations to these products, in addition to their packaging, would create costs that are not closely tied to the waste-management challenges the program is intended to address. Those costs could be reflected in higher prices for consumers, including families, educators, and schools that rely on affordable creative and educational materials.

EPR Works Best When Focused on Packaging, Not Products

EPR policy makes sense when it is focused on packaging. Packaging EPR can encourage producers to use less packaging, reduce packaging weight, improve recyclability, incorporate more sustainable materials, and support collection and recycling infrastructure. Unlike products, packaging can utilize standardized labeling to simplify and standardize recycling instructions for consumers to support proper recycling. Those incentives are directly tied to the environmental objectives of the PWCRA.

However, applying EPR obligations to the product itself creates a very different incentive structure. While Producers can redesign packaging to use less material, they cannot achieve the same result by reducing the essential content of a greeting card, coloring book, journal, invitation, calendar, gift bag, or sheet of construction paper without changing the product consumers buy.

If EPR fees are applied to paper products rather than packaging, the practical incentive is to sell less product, make the product smaller, reduce quality, or remove product offerings from the market. That outcome does not further Minnesota's packaging waste goals. It instead discourages educational, creative, social-expression, and gift-giving products that provide value to families, teachers, students, and communities.

Exemption Requests

1. **Long-Term Storage Packaging**

Packaging used for long-term protection, storage, preservation, organization, or display serves a fundamentally different purpose than packaging intended for immediate disposal. These materials often remain with the product for years because they provide an ongoing function.

Examples include keepsake boxes, collector packaging, storage cases for craft and educational products, and durable packaging that protects or organizes the product throughout its useful life. These materials are not entering the waste stream in the same way as conventional disposable packaging.

We encourage MPCA to clarify in regulation that packaging used for the long-term protection, preservation, or storage of a product with an expected lifespan of at least five years is outside the scope of the program. Of the seven states that have enacted packaging EPR laws, Minnesota is the only state that does not currently recognize a long-term storage exemption. Such an exemption is consistent with the fundamental goals of EPR policy, recognizes the unique role of durable packaging, and will help ensure regulatory resources are directed toward materials with the greatest environmental impact.

2. **Greeting Cards, Invitations, Notecards, and Calendars**

Greeting cards, packaged cards, invitations, notecards, and calendars differ significantly from disposable printed paper products such as flyers, promotional mailers, and other high-volume materials commonly discarded shortly after use.

These products are designed to facilitate personal expression, commemorate important milestones, preserve memories, and strengthen social connections. Consumers often retain greeting cards, invitations, and notecards because they contain handwritten messages, photographs, signatures, or memories connected to meaningful life events. Calendars remain in use for an extended period and may also be retained afterward.

Because these products are frequently retained, displayed, stored, or archived, they do not contribute to Minnesota's waste stream in the same manner as transient paper materials. Even when they do enter the recycling stream, they are lightweight and low volume. Their presence or absence is unlikely to materially affect mixed paper bales, collection costs, sorting operations, or overall system performance.

3. **Children's Educational Products**

Crayola's educational paper products are designed to support childhood learning, creativity, artistic expression, and skill development. Products such as coloring pages, coloring books, journals, construction paper, and sticker pages are tools used by parents, teachers, caregivers, and children.

These products are not comparable to high-volume disposable paper streams. Many children's drawings, journals, school projects, and art pieces are kept by families as keepsakes. Others are used in classroom settings where affordability and accessibility are important public-interest considerations.

Including these products within Minnesota's PWCRA program would impose additional costs on educational materials without a corresponding waste-management benefit. MPCA should recognize the educational and developmental value of these products and exempt them from the program.

4. **Gift Presentation Products**

Gift presentation products, including wrapping paper, tissue paper, and gift bags serve a unique role in celebrations, holidays, birthdays, graduations, weddings, and other important occasions. These products support gift giving and personal connection rather than functioning solely as disposable packaging.

Many gift presentation products are reused multiple times. Gift bags, decorative tissue, and specialty presentation items are often saved, regifted, or used for storage and organization. This repeated use makes them materially different from packaging that is discarded immediately after purchase.

Exempting gift presentation products would recognize their reuse characteristics and ensure that PWCRA obligations remain focused on materials that create the greatest burden on recycling and waste-management systems.

Policy Rationale for Targeted Exemptions

Targeted exemptions would keep Minnesota's PWCRA program focused on materials that meaningfully burden the waste stream while preserving incentives for better packaging design. They would also help avoid unnecessary consumer costs, prevent unfair treatment of products already paired with covered packaging, recognize items that are retained or reused, and align Minnesota with other state EPR programs.

A. Align Program Obligations with Actual Waste-Management Burdens

The burden on recycling systems is generally driven by the weight, volume, contamination profile, and processing complexity of materials entering the waste stream. The products at issue here are lightweight, comparatively low volume, often retained or reused, and generally recyclable.

Greeting cards, calendars, invitations, notecards, children's educational paper products, and gift presentation products are not the same as high-volume paper streams that move quickly into residential recycling. These products should not be required to subsidize recovery and management costs for larger or more difficult-to-manage material categories that drive more significant system costs.

B. Preserve Access to Affordable Educational and Creative Materials

Including children's educational materials and creative products within Minnesota's PWCRA program would increase compliance costs that are likely to be reflected in consumer prices. This matters because products such as coloring books, coloring pages, journals, construction paper, and sticker pages are widely used by families, schools, teachers, caregivers, and community organizations.

These products support creativity, fine motor skill development, early learning, literacy, classroom participation, and hands-on engagement. They are often purchased in quantity for classrooms, child-care settings, after-school programs, and homes with young children.

At a time when families and educators are already managing tight budgets, Minnesota should avoid adding regulatory costs to basic educational and creative materials unless there is a clear and meaningful environmental benefit. Exempting children's educational paper products would help keep learning materials affordable and accessible while allowing the PWCRA program to remain focused on higher-impact materials in the waste stream.

C. Ensure PWCRA Obligations Apply Fairly to Packaging, Not Consumer Products

A fair packaging EPR framework should focus on packaging placed into the market. Hallmark and Crayola support the concept that producers should contribute to the management of packaging that enters the waste stream. The concern arises when a packaging program also applies fees to the paper products themselves.

Hallmark and Crayola already have packaging associated with their products that may be subject to EPR requirements. Applying an additional fee to the product itself creates a second layer of cost on products that are lightweight, highly recyclable, frequently retained or reused, and often are only minimally connected to the waste-management challenges the program is intended to solve.

This approach is especially inequitable for categories such as greeting cards, calendars, children's educational materials, journals, construction paper, wrapping paper, tissue paper, and gift bags. These are consumer products, not merely packaging. Treating them as covered materials in addition to their packaging would create a disproportionate burden compared with product sectors whose obligations are generally tied to packaging rather than the underlying product.

D. Align Minnesota's PWCRA with Packaging-Focused EPR Programs

Minnesota should remain aligned with other state EPR frameworks that recognize long-term storage packaging as distinct from disposable packaging. These provisions recognize that retaining packaging for years substantially changes its environmental profile and relationship to the waste stream. Moreover, states such as California, Maine, and Oregon have structured their packaging EPR programs to focus primarily on packaging rather than broadly sweeping in consumer paper products. That approach better advances the core policy purpose of packaging EPR: creating incentives to reduce unnecessary packaging, improve packaging recyclability, and fund recycling systems for materials that are most directly tied to packaging waste. Focusing on packaging also gives producers a clear and practical pathway to improve environmental outcomes through packaging redesign, material reduction, reuse, and recyclability; while avoiding fees on products whose value comes from their content, educational use, personal significance, or reuse characteristics.

Alignment with existing state approaches will promote regulatory consistency, reduce compliance complexity, and support efficient implementation of Minnesota's program.

Conclusion

Hallmark and Crayola support Minnesota's goal of improving recycling and reducing packaging waste. A successful EPR program should create incentives for better packaging choices, not penalize educational products, social-expression products, creative materials, reusable gift presentation products, or packaging that consumers retain for long-term product protection and storage.

For these reasons, we respectfully request that MPCA include exemptions for long-term storage packaging, greeting cards and related social-expression paper products, children's educational paper products, and gift presentation products. These exemptions would help keep costs down for consumers, protect access to educational materials, avoid applying PWCRA fees to both the product and its packaging, and ensure Minnesota's PWCRA program remains focused on materials that meaningfully contribute to the waste stream.

Thank you for your consideration.

Sincerely,

Erin Brower

Erin Brower
Sr. Director Government Affairs
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Jason Malcore Attachment

RECEIVED BY CAH
7/24/2026

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Association of Equipment Manufacturers

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Office of Administrative Hearings (OAH)
600 North Robert Street
P.O Box 64620, St. Paul
Minnesota 55164-0620

Re: Proposed Rules for Minnesota's Extended Producer Responsibility (EPR) Program for Packaging

Revisor's ID Number R-4992
CAH Docket No. 22-9003-41576

Dear Commissioner Kessler,

The Association of Equipment Manufacturers (AEM) appreciates the opportunity to comment on the Minnesota Pollution Control Agency's (MPCA) proposed rules implementing the state's Extended Producer Responsibility (EPR) program for packaging. We look forward to sharing the expertise and technical knowledge of our industry sectors and assisting MPCA in developing a practical and effective regulatory framework.

AEM is the North American-based international trade association representing more than 1,000 equipment manufacturers and suppliers across the construction, agriculture, mining, forestry, utility, and related industries. Our members are committed to environmental stewardship and support efforts to improve recycling systems and packaging circularity. At the same time, successful implementation of Minnesota's EPR program will require transparency, predictability, and appropriate limitations on program administration to ensure producers can make informed business decisions and effectively respond to market signals.

The non-road equipment manufacturing industry understands the value and importance of using sound science to inform future policymaking decisions. AEM strives to be a key stakeholder in these policymaking discussions. To ensure that new rules meet their objectives, AEM urges MPCA to consider taking the following actions regarding their Proposed Rule:

To help ensure the program achieves its objectives, AEM respectfully requests that MPCA consider the following recommendations:

1. Increase transparency in the fee-setting methodology
2. Clarify Limits on Corrective Actions for Source Reduction Performance Targets

Increase Transparency in the Fee-Setting Methodology

The statute requires stewardship plans to establish fees that reflect the costs associated with covered materials while also incentivizing material choices and design attributes that reduce environmental impacts. While AEM supports the concept of using economic incentives to encourage improved packaging outcomes, these incentives can only function effectively if producers understand how fees are calculated.

Section 115A.1454 requires stewardship plans to establish fees that reflect program costs for each covered material type and incentivize environmentally beneficial design decisions. To ensure these incentives operate as intended, MPCA should require the Producer Responsibility Organization (PRO) to publicly disclose, on an annual basis and before fee schedules are finalized, the factors and methodologies used to determine material-specific fees.

Specifically, AEM recommends that the PRO make public and publish the relative contribution of factors such as processing costs, sort ability, recycled material demand, material recovery facility acceptance rates, and other cost drivers used in establishing fee structures. Greater transparency will allow producers to understand the marketplace signals created by the program and focus resources on the areas where packaging improvements can deliver the most meaningful environmental benefits.

Without transparency, producers may face increased compliance costs without sufficient information to understand which design changes are being rewarded by the program.

Clarify Limits on Corrective Actions for Source Reduction Performance Targets

Minnesota law requires a PRO that fails to meet approved performance targets to submit an explanation of the factors contributing to the shortfall and propose amendments to achieve future compliance. AEM believes the rule should clearly establish appropriate boundaries regarding the operational changes that may be imposed or implemented to address missed targets.

AEM recommends that MPCA explicitly state that individual producers should not be subject to separate waste reduction mandates or individualized performance obligations outside of those established through the EPR statute and approved stewardship plan. Rather, compliance should continue to be driven through transparent and predictable program-wide mechanisms, such as simplified fee structures that encourage preferred material choices and packaging designs.

The rule should further clarify that corrective actions proposed by the PRO remain limited to reasonable program administration measures, including fee adjustments, education initiatives, outreach activities, and other incentive-based approaches. Producers need certainty that the program will not evolve into a framework that imposes unforeseen compliance mechanisms or obligations beyond those contemplated by the legislation.

Clear guardrails will provide regulatory certainty, improve program accountability, and ensure that producers can continue making long-term investment decisions with confidence.

Conclusion

AEM appreciates MPCA's time and supports the agency's goal of improving recycling outcomes and advancing packaging sustainability. By ensuring transparency in fee-setting and providing clear limitations on corrective actions associated with performance targets, MPCA can strengthen confidence in the program and promote effective participation by regulated entities.

Thank you for considering these comments. AEM looks forward to continuing to work with MPCA throughout the rulemaking process and remains available to discuss these recommendations in greater detail.

Please feel free to contact me at Jmalcore@aem.org if you have any questions or require any further information.

Best Regards,

Jason Malcore
Senior Director – Safety & Product Leadership
Association of Equipment Manufacturers (AEM)

American Coatings ASSOCIATION

July 24, 2026

Court of Administrative Hearings
Attn: William Moore
600 North Robert Street
P.O. Box 64620
St. Paul, MN 55164-0620

RE: ACA Comments in Response to the Minnesota Pollution Control Agency's Request for Comments on the Packaging Waste and Cost Reduction Act

Dear Mr. Moore:

The American Coatings Association (ACA) submits the following comments to the Minnesota Pollution Control Agency (MPCA) regarding the agency's request for comments on the development of new rules governing the implementation of the Packaging Waste and Cost Reduction Act (PWCRA). ACA is a voluntary, nonprofit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory, and judicial issues, and provides forums for the advancement and promotion of the industry and coatings science. ACA appreciates the opportunity to comment and looks forward to working with MPCA throughout the rulemaking process.

ACA provides the following recommendation to alleviate any undue burden imposed on the paint and coatings industry.

1. **Clarify that the definition under § 115A.1441(16)(12) of the PWCRA refers to packaging for products subject to the state's PaintCare program.**

To determine one's obligations under the PWCRA, members of the paint and coatings industry are required to ascertain whether they are a producer of covered material. Section 115A.1441(10) of the PWCRA specifies that the term 'covered material' does not include exempt materials, and section 115A.1441(16)(12) provides that the term 'exempt materials' includes "packaging that is being collected and properly managed through [an approved] paint stewardship plan." While ACA appreciates that this language recognizes that leftover paint and paint containers should be managed by an approved paint stewardship program, we are concerned that use of the phrase "being collected and properly managed through" could be misconstrued to exempt only a portion of the containers sold. In Minnesota's PaintCare program, leftover paint in their original containers is collected and managed responsibly. ACA and PaintCare's goal is to divert leftover paint from landfills and recycle as much as possible. Our goal with respect to paint containers is the same—to divert from landfills and recycle as much as possible. This is true for all the states with PaintCare programs.

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PaintCare's program anticipates managing the end-of-life of these containers and consequently, the PaintCare assessment is designed to cover this cost. If these containers are not clearly included within the definition of 'exempt materials' under the PWCRA, it will result in there being additional fees (fees in addition to the PaintCare assessment) imposed on these products. Thus, to avoid confusion, promote efficiency, and prevent double coverage of these containers by two different extended producer responsibility systems and the imposition of a duplicative fee, ACA urges MPCA to clarify that the definition under section 115A.1441(16)(12) of the PWCRA refers to packaging for products subject to the state's PaintCare program.

Thank you for your consideration of ACA's comments. Please do not hesitate to contact me should you have any questions and/or require further clarification.

Sincerely,

Annebelle Klein
Environmental Policy Counsel, Government Affairs
American Coatings Association
901 New York Ave NW, Ste 300 W
Washington, DC 20001
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ADVANCING COMMUNITY-CENTERED ZERO WASTE SOLUTIONS

July 24, 2026

Commissioner Katrina Kessler
Minnesota Pollution Control Agency
520 Lafayette Rd.
Saint Paul, MN 55155-4194

Submitted via Minnesota Office of Administrative Hearings

RE: Possible New Rules Governing the Minnesota Packaging Waste and Cost Reduction Act, CAH Docket No. 22-9003-41576.

Dear Commissioner Kessler,

Thank you for the opportunity to submit comments on the future rules implementing the Packaging Waste and Cost Reduction Act (PWCRA). We appreciate the opportunity to provide insight on Extended Producer Responsibility (EPR) for Packaging ahead of the agency's draft rules for a program that can have a significant impact on Minnesota's waste management system.

These comments are submitted on behalf of Just Zero. Just Zero is an environmental non-profit advocacy organization that supports community members and policy makers nationwide to implement proven, effective, and equitable policy solutions to climate-damaging and toxic production, consumption, and waste disposal practices. Just Zero has helped support the development of EPR for Packaging programs in California, Colorado, Maine, Maryland, Oregon, and Washington.

These comments urge the Minnesota Pollution Control Agency ("Agency") to:

(1) Develop a definition of "Recyclable" and "Disposal" to ensure program success.
(2) Maintain very narrow exemptions to the program to avoid free riders and negative impacts on program performance.
(3) Utilize existing strong examples to determine criteria for the covered material collection list.
(4) Prioritize plastic reduction when determining statewide requirements.

I. Definitions

We recommend developing definitions specific to the PWCRA program for "recyclable" and "disposal." Both terms are critical for the Minnesota EPR for packaging program's success and goal clarity.

Recyclable

PWCRA adopts the definition of "Recycling" as stated under MN Stat § 115A.03 Subd. 25b, "the process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use." Elsewhere in Minnesota law "recyclable material" is defined as "materials that are separated from mixed municipal solid waste for the purpose of recycling or composting, including paper, glass, plastics, metals, automobile oil, batteries, source-separated compostable materials, and sole source food waste streams that are managed through biodegradative processes. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material."[1]

PWCRA itself is silent on the definition of "recyclable" which provides an opportunity for the agency to develop a strong definition to protect the program's integrity. Namely, that the regulated packaging materials can be collected and sorted, will be purchased to produce new products and materials; and is actually used as a feedstock for the manufacturing of new products—not converted into fuels or feedstocks that are burned. This will protect the program and Minnesota from deceptive industry tactics to market toxic waste management practices like "advanced recycling"[2] as "manufacturing" and "recycling" technologies.

Though industry argues that the byproducts from advanced recycling technologies can be used to manufacture new plastic products from plastic waste, in practice they do not recycle plastic waste in a way that preserves the material for the construction of new or reconstituted products.[3] In fact, only 0-6% of the plastic processed at these facilities are retained and used to manufacture new plastics.[4] Instead, the primary output is fuel and other chemicals which are burned and mostly used during the process itself, since the technology requires very high temperatures to operate.[5]

[1] MN Stat § 115A.03 Subd. 25a.

[2] Advanced recycling—also called chemical recycling or molecular recycling—refers to an array of technology including pyrolysis, gasification, hydrolysis, and methanolysis. For the purpose of these comments, we will refer to these technologies as "advanced recycling."

[3] Renee Sharp et al., More Recycling Lies: What the Plastic Industry Isn't Telling You About Chemical Recycling, Natural Resources Defense Council (NRDC), 4. (2025).

[4] Taylor Uekert et al., Technical, Economic, and Environmental Comparison of Closed-Loop Recycling Technologies for Common Plastics, Dept' of Energy, 11 ACS Sustainable Chem. Eng. 965 (2023). Leigh Krietsch Boerner, EPA Wants to Let Plastic Pyrolysis Plants Skirt Clean Air Actv, Chemical & Engineering News (April 1, 2026).

[5] Id.

Additionally, we recommend creating public health safeguards within the definition of "recyclable" by excluding packaging materials containing harmful chemicals, such as per- or polyfluoroalkyl substances (PFAS), which inhibit the covered materials ability to be recycled. PFAS compounds are known endocrine disrupters and toxic to human health.[6] Excluding covered materials that contain PFAS from being "recyclable" will help protect Minnesotans and promote the program's aim to incentivize producers to eliminate toxic substances in covered materials.[7] To be clear, covered materials containing PFAS should not be exempt from the program, but rather producers that use this toxic chemical in their covered products should not be considered recyclable. This clarification will ensure producers who use these chemicals will be forced to pay into the program with higher fees than producers that stay away from this toxic substance. California's landmark Truth in Labeling Law explicitly blocks any product or packaging that contains intentionally added chemicals, including PFAS, from being considered recyclable.[8]

We recommend the following definition: "Recyclable" means a product or packaging material that is of a material type and form that is:

(1) Collected for recycling through programs readily available to residents throughout the state;
(2) Sorted by entities that process post-consumer materials into defined streams for sale to responsible markets;
(3) Has a consistent regional responsible market for purchase by end users in the production of new products and materials;
(4) Capable of being recycled with minimal loss of material during processing and manufacturing; and
(5) Does not contain an intentionally added chemical, including per- or polyfluoroalkyl substances (PFAS)

Disposal

This definition is important because it provides more clarity on the end-of-life management practice for packaging material that would not progress the program's goals of reduction, recycling/composting, or reusing. Here, we urge the Agency to explicitly include advanced recycling technologies. Advanced recycling is a process that subjects waste—commonly plastic—to high heat and toxic chemicals. This results in plastic waste being boiled down into gases,

[6] U.S. Agency for Toxic Substances and Disease Registry (ATSDR), U.S. Dep't of Health and Human Services, Toxicological Profile for Perfluoroalkyls, 5–6 (2021); Suzanne E. Fenton et al., Per- and Polyfluoroalkyl Substance Toxicity and Human Health Review: Current State of Knowledge and Strategies for Informing Future Research, 40 Env't Toxicology and Chemistry 606 (2020).
[7] See MN Stat § 115A.1454 Subd. 1(3)(i).
[8] CA Pub Res Code § 42355.51(d)(3).

chemicals, tars, oils, and toxic waste byproducts, which are subsequently burned.[9] Contrary to what industry proponents assert, little to no new plastics are manufactured.[10] In fact, all advanced recycling facilities operating at a commercial scale in the U.S. are using pyrolysis to create and burn plastic derived fuel.[11] Converting plastic waste into fuels is not considered recycling by national and international standards.[12] It is also inconsistent with existing Minnesota law around recycling.[13] By being explicit in designating advanced recycling as "disposal," the Agency is reaffirming the purpose of the PWCRA program, which is to reduce the harms of packaging waste on public health, the environment, and finances.

We recommend the following definition: "Disposal" means the landfilling or incineration of packaging material. "Disposal" shall also include energy recovery or energy generation by any means, including, but not limited to, combustion, pyrolysis, gasification, solvolysis, thermal desorption, waste to fuel, or any other chemical conversion process, or molecular conversion process. "Disposal" shall also include the use of materials as landfill cover.

II. Exemptions

In general, Just Zero believes that all packaging that is currently collected by municipalities should be regulated under PWCRA. Any exempted materials would still be sold into Minnesota. These materials will still be part of the municipal waste stream and will not be subject to fees if they are exempt. This is inequitable, and against the purpose of the program.

To the extent any special treatment is required to accommodate packaging that is subject to federal or state law and regulations, that should be addressed on a case-by-case basis, rather than through blanket exemptions for such packaging. The case-by-case analysis should focus on whether the federal or state health and safety requirements expressly preempt the ability of the packaging from being waste reduced or made reusable, recyclable, or compostable. If compliance with the federal or state health requirements make it impossible for the packaging to be reduced, or made reusable, recyclable, or compostable, an exemption should be granted. However, this exemption should only be from the performance standards. The covered material should still be subject to a modest fee to cover the costs of managing the material. This analysis will avoid free riders and negative impacts on program performance.

[9] Veena Singla, Recycling Lies: Chemical Recycling of Plastic is Just Greenwashing Incineration, NRDC, 2 (2022).
[10] Id. At 3.
[11] Id.
[12] See EPA's 1997 Measuring Recycling: A Guide for State and Local Governments and European Union, Directive of the European Parliament on Waste and Repealing Certain Directives, Pub. L. No. Article 3(17).
[13] MN Stat § 115A.03 Subd. 25a-b.

Additionally, exemptions should only be considered after a request by a producer. Should an exemption be necessary, it should be limited to a period of two years, with the option of extension through a subsequent request. Just Zero urges the Agency to avoid sweeping exemptions, and any exemptions made under this subdivision be highly specific to the producer's exact product request.

III. Collection Lists

The commissioner must develop a collections list which will determine what materials should be considered recyclable or compostable under PWCRA.[14] The definition of "recyclable" provided above will be helpful to this determination. Additionally, we are highlighting two important components Minnesota should consider when drafting the regulations regarding the collections list.

Threshold for availability of collection services
To determine the "current availability of collection" services for recycling, we recommend looking to California's Truth in Labeling Law, CA Pub Res Code § 42355.51. Under the law, a product or packaging may be labeled as recyclable if it meets certain criteria. One requirement is that the product or packaging must be accepted through recycling programs that are widely available to consumers. For curbside recycling, this means that the material is collected by programs collectively serving at least 60% of California's population.[15] For non-curbside recycling, Before January 1, 2030, the collection program must recover at least 60% of the product or packaging.[16] After January 1, 2030, the threshold raises to 75%.[17]

Importantly, it is not enough that a material is collected—it must also be routinely sorted into a marketable recycling stream by large-volume material recovery facilities also serving at least 60% of recycling programs statewide.[18] Those sorted materials must then be sent to legitimate reclaimers that recycle them into feedstock for new products.[19]

This approach is a sound way to initially determine the threshold for availability of collection services. By following California's example, Minnesota will ensure that the packaging materials sent to recycling are actually recycled, preserving the integrity of the program. Given that one of

[14] MN Stat § 115A.1453 Subd. 4.
[15] CA Pub Res Code § 42355.51(d)(2)(A).
[16] CA Pub Res Code § 42355.51(d)(5)(A)
[17] CA Pub Res Code § 42355.51(d)(5)(B)
[18] CA Pub Res Code § 42355.51(d)(2)(B)(i).
[19] *Id.*

the purposes of the PWCRA is to standardize and expand recycling services across the state, we recommend that this rule be revised to eventually require that only covered material that is collected by curbside recycling programs available to all residents can be considered recyclable.

Minimum availability of responsible markets

We recommend following Maine's example to determine the minimum availability of responsible end markets. In Maine's EPR for Packaging program, a material can only be included on the readily recyclable covered packaging types list if there are "at least two facilities in North America operating in accordance with applicable environmental laws that recycle the packaging material type into products that are not primarily used for fuel and are not placed into the permitted area of a landfill. Recycling processes that are inconsistent with applicable laws and conventions are examples of processes that do not safeguard the environment and human health."[20] Through conversations with Maine's Department of Environmental Protection, we learned that two facilities was chosen to ensure that there is a back-up market if one were to go offline. Maine's program also requires that the responsible end market facilities be operational and have the capacity to recycle the packaging material types in quantities equal to, or in excess of, the amount of material collectively supplied by the market.[21]

Additionally, Maine's regulation underscores the purpose of the program is to be protective of the environment and human health and explicitly excludes practices that are contrary from being considered a responsible end market. Minnesota should adopt this approach to provide clarity to producers and consumers alike.

IV. Statewide Requirements and Measurement

When determining statewide requirements prioritizing plastic reduction and prohibiting deceptive accounting methods when determining recycled content and the recycling rate is critical.

Plastic reduction requirements

Plastic is harmful to human health at every step of its existence—from creation, to use, and finally at disposal. It subjects communities close to facilities that manufacture plastics or dispose of plastics to high health risks, increasing residents' likelihood of chronic illness and cancer. Though members of the plastics and petrochemical industry claim that this material is recyclable and necessary for society, this is a lie.[22] Plastics simply are not recyclable, and there are safe

[20] 06-096 C.M.R. ch. 428, § 4(C).
[21] 06-096 C.M.R. ch. 428, § 4(C).
[22] Peter Blair, Plastic Recycling is a Lie Designed to Distract Us from Real Solutions, Just Zero (Feb. 8, 2024).

alternatives to the single use of plastic overwhelming our waste streams.[23] Therefore, when it comes to plastics, establishing statewide requirements that exclusively focus on expanding recycling access will not achieve the PWCRA's goals encouraging redesign and reduction of the environmental impact and human health impacts for managing this material.[24]

Prohibit "free allocation mass balance" as a method for calculating recycled content.

The PWCRA requires the commissioner to establish statewide requirements for "the percentage of post-consumer recycled content that covered materials must contain."[25] To promote toxic waste management practices like chemical recycling, industry stakeholders are arguing for less transparent and deceptive accounting methods for calculating recycled content such as "free allocation mass balance." Under these deceptive "free allocation" mass balance systems:

- Recycled inputs are pooled with virgin inputs;
- The total amount of recycled input is calculated at the facility level; and
- Credits representing that recycled input may then be allocated to specific products of the company's choosing—regardless of whether those particular products contain a proportional share of recycled material.

This means a facility using only 10% recycled feedstock in its entire operation could allocate that recycled content to a limited product line and market those products as containing 100% recycled content, even though the facility's overall output is overwhelmingly derived from virgin fossil inputs. The recycled content claim is therefore based on accounting allocation, not on the physical composition of the product being sold. To protect Minnesotans from the harms of plastic, source reduction is key, and deceptive accounting practices like mass balance must be unlawful under the program.

The Colorado Department of Public Health and Environment recently rejected the use of mass balance free allocation and fuel-excluded credit methods as a method for calculating recycled content in the state's EPR for Packaging Program.[26] Similarly, in 2024, the U.S. Environmental Protection Agency took the first ever federal action against bass balance when rejecting the use accounting method as a way of calculating recycled content under the Safer Choice Program.[27]

[23] Greenpeace, Plastic Merchants of Myth: Circular Claims Fall Flat, p. D-G (Dec. 3, 2025).
[24] MN Stat § 115A.1442.
[25] MN Stat § 115A.1451. Subd. 4(a)(6).
[26] Global Alliance for Incinerator Alternatives, Colorado Stands with Communities, Stops Industry's False Recycling Claims. (Sept. 30, 2025).
[27] Lisa Song, Biden EPA Rejects Plastics Industry's Fuzzy Math That Misleads Consumers About Recycled Content, ProPublica. (Aug. 29, 2024)

Performance standards in other jurisdictions

When developing statewide requirements, the PWCRA requires the commissioner to consider information from packaging and paper product producer responsibility programs operating on other jurisdictions. To assist the commissioner, we've provide a table with examples from other states in the U.S.:

Reduction Requirements	
California[28]	Reduce plastic packaging by 25% by weight and 25% by plastic component by 2032. 10% of this must be met through elimination/switching to reusable/refillable.
Maine[29]	Reduce the total weight of packaging reported by producers 15% by 2030, 30% by 2040, and 50% by 2050.
Washington	Awaiting rules but no more than 8% of a plan's plastic source reduction performance target may be met by switching from virgin covered material to postconsumer recycled content through a sliding scale alternative compliance formula developed by the department based on the ratio of virgin plastic to postconsumer recycled plastic.
Recycling Requirements	
California[30]	Plastic packaging recycling rates must be 30% by 2028, 40% by 2030, and 65% by 2032. Expanded polystyrene food service ware cannot be sold unless recycling rates are 25% by 2025, 30% by 2028, 50% by 2030, and 65% by 2032.
Colorado[31]	Recycling rates should be 40% by 2030, and 50% by 2035.
Maine[32]	Recycling rate should be 60% by 2030, 65% by 2035, 70% by 2040, and 75% by 2045.
Oregon[33]	Plastic packaging and plastic food service ware recycling rates must be 25% by 2028, 50% by 2040 (can be adjusted), and should be 75% by 2050.

[28] See, Cal. Env. Code §42057(a).
[29] See, 06-096 CMR Ch. 428 §(3)(A)(3).
[30] See, Cal. Env. Code §42050(b)-(c), §42057(i).
[31] Maria Rachal, Colorado Legislature Greenlights "Medium" Scenario for EPR Implementation, Packaging Dive. (April 22, 2024).
[32] 06-096 C.M.R. ch. 428, § 3(A)(8)
[33] See, ORS 459A.926 §27(2)(a)(A)-(C).

V. Conclusion

PWCRA has the opportunity to meaningfully address packaging waste in Minnesota. If the program is implemented correctly, it can have a significant impact on waste reduction, reuse, recycling, and composting in the State. This can be transformative for Minnesota's environment, economy, and public health. Just Zero appreciates the opportunity to engage with the Agency's rulemaking process, and we look forward to working collaboratively to make this program a success.

Thank you for your time and consideration of this comment. If you have any questions I can be reached at pblair@just-zero.org.

Respectfully submitted,

Peter Blair, Esq.	Vanessa Zapata, Esq.
Policy & Advocacy Director	Staff Attorney
Just Zero	Just Zero.

Doug Murray Attachment

RECEIVED BY CAH
7/24/2026

July 24, 2026

Katrina Kessler
Commissioner
Minnesota Pollution Control Agency

RE: Request for Comments – Packaging Waste and Cost Reduction Act Rulemaking (R-04992)

Dear Commissioner Kessler:

IKEA U.S. appreciates the opportunity to provide comments on the Minnesota Pollution Control Agency's Request for Comments regarding implementation of the Packaging Waste and Cost Reduction Act (PWCRA).

IKEA supports the goals of the PWCRA and believes well-designed extended producer responsibility (EPR) programs can help increase recycling, encourage innovation, and advance a more circular economy. As the Agency considers criteria and processes for exempting certain packaging categories from program requirements, we encourage MPCA to ensure that any exemptions do not undermine the long-term financial sustainability and effectiveness of the statewide program.

Specifically, if the Agency determines that certain packaging categories should be exempt because federal or state health and safety requirements prevent those materials from being redesigned, reduced, reused, recycled, or composted, those materials will nevertheless continue to enter the waste management system. In many cases, exempted materials will be collected, transported, sorted, and managed alongside covered materials using the same infrastructure and services funded through the producer responsibility program.

For that reason, we urge MPCA to consider requiring producers of exempted packaging categories to continue contributing financially to the system even if those materials are provided relief from certain performance obligations. Allowing exempted materials to avoid all program fees could shift costs to other producers while creating funding gaps for collection and recycling systems that must still manage those materials.

If the Agency determines that exemptions are warranted, one option would be to exempt affected materials from source reduction, recyclability, or other performance requirements where compliance is not feasible due to regulatory constraints, while continuing to require payment of producer responsibility fees to support statewide collection and management infrastructure. This approach would recognize legitimate regulatory limitations without compromising the financial viability of the overall program.

Thank you for the opportunity to comment.

Sincerely,

Doug Murray
Public Affairs Leader
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July 22, 2026

By Court of Administrative Hearings (CAH) eComments website

Re: Possible New Rules Governing the Packaging Waste and Cost Reduction Act, Minnesota Rules, 7035; Revisor's ID Number R-4992

Dear Minnesota Pollution Control Agency,

On behalf of the Association of Home Appliance Manufacturers (AHAM), I am writing to provide our comments on Minnesota's **Possible New Rules Governing the Packaging Waste and Cost Reduction Act**. I have shared below our general principles for an effective packaging EPR program, as well as specific comments on some of topic areas that were called out in your request for comment.

AHAM represents manufacturers of major, portable, and floor care home appliances. The appliance industry recognizes the need to reduce pollution from packaging materials and is committed to reducing the environmental impact of its product packaging. Achieving these goals requires regulators and Extended Producer Responsibility (EPR) program operators to develop clear rules and procedures, account for differences in product types, allow sufficient time for compliance, and consider the technical realities of packaging materials and uses.

Packaging used for durable goods, like home appliances, is primarily protective in nature, designed to safeguard products during often complex transportation and delivery processes while minimizing damage, product returns, and associated environmental impacts. Much of this packaging stays out of the residential waste stream, moving instead through well-established commercial recycling channels with strong recovery performance.

Minnesota's proposal is a framework to implement an EPR program for product packaging that enters the state's consumer waste stream. As policymakers consider EPR frameworks for packaging, it is essential that such programs reflect the structural differences between durable goods packaging and fast-moving consumer product packaging. In these comments, AHAM offers its views of a successful packaging EPR framework, which are intended to ensure that packaging EPR programs are data-driven, proportionate, and aligned with real-world material flows while supporting manufacturer innovation, competitiveness, and continued progress toward circular economy objectives. AHAM also raises challenges appliance manufacturers are facing in other states that are implementing packaging EPR programs in hopes that Minnesota will take steps to avoid similar problems.

I. AHAM's Principles For An Effective Packaging EPR Program

A. Packaging EPR Fee Structures Should Avoid Cross-Subsidization And Recognize Material Value.

Producer fees should be based on the net cost of managing covered materials, accounting for existing recovery rates and the commodity value of recyclable materials such as corrugated cardboard and metals. Necessary materials such as flexible films should be addressed separately. Durable goods packaging often has established resale value and recovery markets, and these offsets should be considered before calculating producer obligations. Fee structures should avoid cross-subsidization whereby highly recyclable, commercially recovered materials subsidize difficult-to-recycle packaging types used in other sectors. Cost allocation methodologies must be transparent, data-driven, and tied directly to measurable system expenses. The objective should be proportional responsibility aligned with actual waste management burdens rather than broad redistribution of municipal waste budgets.

B. Packaging EPR Programs Should Allocate Costs Fairly.

Packaging EPR frameworks must clearly distinguish between consumer-facing packaging and transport or commercial packaging used exclusively in distribution channels. Durable goods packaging frequently includes secondary and tertiary materials such as corrugated cartons, pallets, stretch wrap, and protective foam that are removed prior to consumer use and most often managed through commercial recycling systems. These materials should not be treated as household waste for regulatory purposes because they do not enter the consumer waste stream. Minnesota should explicitly exclude Industrial, Commercial, and Institutional (IC&I) packaging and all materials that do not enter the residential waste stream from any packaging EPR program. Accountability for the costs associated with packaging introduced into the state should lie with the party that can provide verifiable data.

C. EPR Regulations Should Recognize Shared Responsibility By Accurately Determining Waste Streams.

Durable goods packaging frequently enters the waste stream through retailers, delivery services, installers, and commercial facilities rather than directly through household curbside systems. EPR frameworks should recognize the roles and responsibilities of these actors in collection and material management, including deductions of materials that are diverted from the residential waste stream. Assigning sole financial responsibility to manufacturers without accounting for channel-specific waste handling realities creates structural imbalance. Programs should allow recognition of documented commercial recovery activities and contractual recycling arrangements already in place. A fair system reflects the shared responsibility of manufacturers, retailers, service providers, and consumers in managing packaging at end-of-life.

D. Packaging EPR Programs Must Avoid Direct Or Indirect Bans Of Extended Polystyrene, Flexible Films, And Plastic Straps.

Extended polystyrene (EPS) and flexible films, and plastic straps are key packaging components across industries because of the unique properties that allow the material to serve a variety of functions. In the appliance industry, EPS blocks provide energy absorption, compressive strength, and dimensional stability to restrain heavy appliances and prevent movement during shipping and warehouse stacking.

These packaging materials are also essential for securing appliances during transportation and storage. EPS provides high impact absorption and strong compression resistance, helping prevent damage during handling and distribution. It can be manufactured in various densities and molded into complex shapes tailored to each product design, ensuring a snug fit that minimizes movement, empty space, and excess packaging volume. There is a worker safety concern if these materials are banned, either directly or through regulatory pressures that make its use impossible. Forcing the replacement of EPS, flexible films, and plastic straps with lower performing alternatives can endanger factory, warehouse, and transport workers by increasing load shift and tip-over risk for workers and carriers. One key way to minimize the environmental impact of these materials, particularly EPS, is for the state and PRO to invest in EPS recycling, which should be part of a well-designed packaging EPR scheme.

E. PROs Must Operate In A Transparent Manner With Sufficient Producer Engagement.

Packaging EPR programs governing durable goods should ensure meaningful producer participation in the governance, advisory functions, and operational oversight of the PRO by a governmental regulator that includes meaningful opportunities for producers to appeal PRO decisions. Governance must include an equal representation of industries, including trade associations. Because manufacturers finance the system and possess technical expertise regarding packaging design, distribution channels, and material recovery pathways, they must play an active role in advising on program design, fee methodology, eco-modulation criteria, and implementation guidance. This principle applies not only to state PROs, but their parent organizations as well.

F. The PRO's Governance Structure Must Be Well-Defined By Regulation Or Statute That Allows For Multiple PROs.

The PRO should operate with clear governance structures, established by regulation or statute, that include durable goods representation and provide regular opportunities for public stakeholder input as the program evolves. Regulation or statute should also allow for multiple PROs, giving producers the option to choose among PROs that are competing for participants. In addition, the PRO must maintain transparent compliance guidance, publish clear methodologies for fee calculations and reporting, and respond in a timely and consistent manner to producer inquiries. This includes mapping costs to specific industries and the packaging that those specific industries use.

G. Eco-Modulated Fee Structures Must Be Technically Sound.

Eco-modulated fee structures must be grounded in scientifically supported, real-world recyclability criteria that reflect existing infrastructure. Durable goods packaging serves a critical protective function, preventing damage to high-value products and reducing the emissions associated with damaged products, returns, and replacements. Programs must, therefore, avoid penalizing materials necessary to meet transportation safety, product protection, and regulatory compliance requirements. Eco-modulation frameworks should balance recyclability improvements with performance standards that ensure consumer safety and shipping integrity. Incentives should promote measurable environmental improvement without encouraging under-packaging that would increase product loss or system inefficiency, resulting in unintended consequences that increase environmental harm.

H. The Assessment Of EPR Programs Must Tie Into Goals Established Under Statute Or Regulation.

Packaging EPR programs should be evaluated based on measurable environmental outcomes, including improved recovery rates, increased recycled content use, reduced contamination, and enhanced material circularity. Performance metrics must reflect actual system improvements rather than the total volume of producer fees collected. Regular review and recalibration mechanisms should adjust fee structures in response to changing material markets and infrastructure developments. Outcome-focused measurement aligns environmental objectives with operational efficiency and sustained industry participation.

I. Estimation Tools Are Necessary For A Well-Functioning Packaging EPR Program.

States are allowing for two types of estimation tools in their EPR program: sales estimation tools for products entering a state (usually based on state population) and an Average Bill of Materials (ABOM) estimation for the amount and type of packaging used for a particular product type. The former is used by manufacturers that employ multi-tiered distribution models while companies use the latter if they are unable to collect specific packaging data by given compliance dates. AHAM supports the permanent use of sales estimation tools for all home appliances, as it is impossible to calculate state-by-state sales in a multi-tiered distribution model where producers lose control of their products without knowing where they go. Additionally, packaging estimation tools for spare parts are likely a necessary permanent component for any packaging EPR program due to the variability of bundled shipments for repairers or consumers. For portable and floor care appliances, ABOM estimation tools are necessary in the short- and long-term due to the nature of their supply and distribution chains.

J. Harmonization With Existing, Well-Run EPR Programs Creates Efficiencies And Scale.

Home appliance manufacturers operate nationally and often globally, designing packaging systems that meet international shipping and safety standards. Fragmented state-by-state requirements risk creating inconsistent labeling rules, duplicative reporting burdens, and costly redesign obligations and do not benefit the environment. Packaging EPR programs should incorporate harmonized definitions, consistent reporting categories, and reciprocity mechanisms that reduce administrative complexity. Regulatory predictability and coordination are essential to support supply chain stability and maintain product affordability for consumers.

II. Responses to the Request for Comments Specific Topic Areas

A. Definitions

AHAM encourages MPCA to define terms in a harmonized manner with other state packaging EPR programs to reduce duplicative and inconsistent obligations for producers operating in other states with EPR obligations. Specifically on the definition of covered materials, AHAM encourages MPCA to take the opportunity to clearly define materials that end up in residential waste streams. Aligned with Principle 2 above, AHAM believes that rules around EPR responsibilities and producer fees should be fairly allocated, and that materials that are collected and handled through private, commercial channels should not bear costs to fund an infrastructure that is not handling those materials.

B. Exemptions: 2(a)(b)

AHAM supports clear, workable pathways for the two statutory exemptions mentioned in the statute, but urges MCPA to write the criteria broadly enough to allow a producer to demonstrate the case that certain materials are necessary for health and safety reasons, rather than "a specific federal or state health and safety requirement". Certain materials used in appliance packaging are chosen for worker health and safety purposes during the transportation process, even if there isn't a specific federal or state requirement stipulating that, and as such producers should be afforded the opportunity to make that case to MCPA.

C. Crediting Commercial and Alternative Collection: 3(i)(j))

For appliances, a significant portion of packaging is recovered outside of residential curbside collection. This is captured during professional delivery and installation, and routed through established commercial/private processing. If the rules define collection convenience and measure performance solely around residential access, appliance producers will pay for a system that their packaging isn't using. AHAM supports a robust alternative collection pathway and requests that MCPA defines clear rules that specify how a commercial-recovery pathway can be recognized. As other states have similar pathways, but have left it more ambiguous, AHAM encourages MCPA to take the opportunity to address it proactively and clear direction to producers on what is required to document this, rather than leave it to the PRO.

AHAM appreciates the opportunity to submit comments to MCPA ahead of your rulemaking for the Packaging Waste and Cost Reduction Act and would be glad to discuss these matters in more detail should you request.

Respectfully Submitted,

Devin O'Herron

Devin O'Herron
Director, Product Stewardship

About AHAM: AHAM represents more than 150 member companies that manufacture 90% of the major, portable and floor care appliances shipped for sale in the U.S. Home appliances are the heart of the home, and AHAM members provide safe, innovative, sustainable and efficient products that enhance consumers' lives. The home appliance industry is a significant segment of the economy, measured by the contributions of home appliance manufacturers, wholesalers, and retailers to the U.S. economy. In all, the industry drives nearly $200 billion in economic output throughout the U.S. and manufactures products with a factory shipment value of more than $50 billion.

Jon Steiner Attachment

RECEIVED BY CAH
7/24/2026

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July 24, 2026

Minnesota Pollution Control Agency
Attn: Ms. Katrina Kessler, Commissioner
520 Lafayette Rd N
St. Paul, MN 55155

RE: Packaging Waste & Cost Reduction Act – Rulemaking
Request for Comment – Revisor ID #R-04992

Dear Com. Kessler:

Polk County owns/operates an integrated solid waste management system in Northwest Minnesota which directly serves our 6 County Group. The Counties that form the 6 County Group include Beltrami, Clearwater, Hubbard, Mahnomen, Norman and Polk, as well as portions of the Tribal Nations of Leech Lake, Red Lake and White Earth. We also indirectly offer services on the fringe of the 6 County Group which extend into Becker, Cass, Marshall, Pennington and Red Lake Counties.

The integrated system in place is comprised of a Waste-to-Energy (WTE) facility, a Material Recovery Facility (MRF) that processes both Municipal Solid Waste (MSW) and Single Stream Recyclables (SSR), a Landfill Complex which includes an MSW Landfill, Construction & Demolition (C&D) Debris Landfill, an Ash Monofill and a Source Separated Organic Material (SSOM) Compost Facility. Within the service area are multiple C&D Landfills, mixed use Transfer Stations which accept various wastes, recyclables and special wastes, Household Hazardous Waste (HHW) Satellite Facilities and Reuse Centers.

The Packaging Waste & Cost Reduction Act (Act) has the potential to significantly impact each of the aforementioned communities, and the facilities and services offered to the public by them. Despite its rural nature, these communities have invested heavily into the use of waste facilities and programs which go well beyond the basic services offered in other parts of the State, and incur the additional expenses associated with them. The MPCA has shown its support for many of these initiatives by appropriating Bond funding and awarding various Grants to build out the system. The Act has the potential to positively benefit those facilities and programs, and as such these communities support those efforts.

The 6 County Group supports waste reduction, reuse, smart packaging design and toxicity reduction initiatives. These initiatives aspire to result in less material for our facilities and programs to manage. The 6 County Group also supports recycling and composting initiatives, having heavily invested in such facilities to divert materials from disposal. The 6 County Group also realized long ago that despite its best intentions, aspirations and those initiatives to divert materials from our disposal facilities, that the reality was some materials would still be sent for disposal. As such, the MRF was designed to process MSW (mixed waste processing) to extract and divert clean recyclable or compostable materials from the MSW prior to disposal. The goal of the mixed waste processing component of the integrated waste management system was not to encourage recyclable materials to be left in the MSW stream, but rather to act as a back-stop to the recycling program to provide a 'last chance' for the otherwise recyclable materials to be diverted from disposal. Polk and the 6 County Group would remind all that despite where on the waste hierarchy an activity may be found, per the Act all means of diverting packaging materials from disposal are covered and should be equally supported by any interpretation of the current Act or any subsequent change to it over time.

<u>General Comments for Consideration:</u>

- Toxicity reduction in packaging materials is a stated goal of the Act. However, the packaging regulatory framework currently does not require testing of packaging to prove that it does not contain toxins. This framework also does not provide the information necessary to determine the current level of toxicity in the waste packaging stream, nor of any individual broad category of packaging itself. The MPCA should require, as part of future waste composition studies, the determination the broad category composition of the waste stream to set a baseline for future measurements. At a minimum those broad material categories should include all covered materials on the covered material and alternative collection lists. As part of those waste composition studies, 3rd party testing of each of those broad material categories to identify any toxins present, and the toxin levels within those broad material categories found, and an overall weighted waste toxin baseline for future measurement.

- Toxicity reduction is a desired outcome of the Act. Very little incentive for the producer of covered materials to actually do so is identified. Lacking such incentive, it would be reasonable to conclude that many producers will simply pay more on the eco-modulated fee schedule rather than take meaningful actions to reduce toxicity. Eco-modulated fees to producers should increase year-over-year for packaging materials known to contain toxics when alternative packaging materials known not to contain toxics are available and feasible.

- Recommend that in the 1st 5 year Stewardship Plan period that MPCA provide a toxicity in packaging material webpage under which it lists broad category packaging materials and suspected toxins associated with them. (Ex. Plastic

Beverage Containers, Aseptic Cartons, Glass Bottles, Aluminum Cans, PP Condiment Containers, EPS Clamshells, etc. as broad categories and PFAS/PFOS, Microplastics, known carcinogens, etc. as the toxics associated with them). Under the 2nd 5 year Stewardship Plan period require the producers of those products to provide data that documents their packaging does not contain those associated toxics. Said documentation should be noted on that webpage. If the producer cannot provide that documentation a deadline should be established to require discontinuation of that packaging or the product in that packaging not be allowed to be sold into MN.

- Certified compostable utensils should be added as Covered Materials. Not covering compostable forks, spoons, knives and straws provided in order to use the covered cups, plates, clamshells and the utensil plastic wrapping in which the utensils were provided sends a mixed message. Messaging that some of these certified compostable items are covered and others are non-covered may lead to confusion, frustration and potential loss of compostable covered materials.

- A list of non-certified compostable covered materials should be created. Non-recyclable paper and OCC, soiled pizza boxes, untreated wood packaging, napkins, paper towels, etc. should be included.

- Any entity that sells produce in bulk to the public (grocery store, big-box store selling produce, fruit/vegetable vendor stands, farmers market, etc) that provides any single-use plastic film bags for their produce should be required to offer only certified compostable bag options. Preference would be on a specified color and design to be durable to support its being compatible with durable SSOM co-collection programs in existence or in the planning phase. Doing so provides a re-use to send compostable covered materials and SSOM into the composting stream and elimination of non-compostable bags entering the waste stream for disposal and entering the recycling stream as a contaminant.

- Clarify if packaging waste from farms is covered or non-covered, and whether a farm is residential or non-residential. There is a large difference between large-scale corporate farms and small, 'mom-and-pop' family farms. Many small family farms or hobby farms are operated at the residence, the waste and recyclables are managed in the residential collection stream. Materials such as pails, jugs, bale wrap, silage bags, etc. are placed in those residential material streams.

- The Act should harmonize to support, enhance and cover gaps between existing programs such as PaintCare, MN Dept of Ag Waste Pesticide Program, Triple-rinsed Pesticide Container collection, etc.

- Act should include co-collected SSOM programs (a.k.a. durable bag programs) as eligible activities for composting provided that certified and/or non-certified compostable packaging is collected under that program.

- Biochar – even if it should occur after anaerobic digestion - should be an eligible process for coverage under the Act as it mimics the eligible composting process (i.e. it takes a covered material and through thermal action and results in a valuable soil amendment).

- MPCA Annual Reports for Act-eligible facilities (Recycling, HHW, MRF, Compost, Transfer Station, etc.) and programs (SCORE) should be modified to prevent duplication with reports required under the Act.

- Access and convenience standards for covered material collection should mimic garbage service levels where ever possible, and not exceed garbage level services. Where unique and extreme circumstances occur, and such service levels may not be deemed feasible or warranted, a community-specific determination (i.e. a waiver or variance) should be allowed in concurrence with the County.

- For community-specific determinations on service levels, convenience metrics and program decisions should defer to the County. Counties are identified by MN Law as the unit of government required to ensure such access for residence and for which pass-through grants (SCORE) are managed.

- County Solid Waste Plans, which are reviewed/approved by the MPCA, should be required to address setting goals and establishing such determinations related to implementation of the Act through the Stewardship Plan. Prior approved Solid Waste Plans should require amendment to address these criteria prior to Jan 1, 2031.

- Solid Waste Plan expenses should be eligible for reimbursement under the Act. Eligible expenses should include: plan prep, drafting, consulting fees, notice and publication expenses as well as MPCA staff time to review and approve plans and any required amendment as needed.

- The Act should allow flexibility for, and encourage, new technologies and processes to come to the marketplace. Criteria and processes for requesting, evaluating and approving such changes should be codified in the Act.

- Phase-in's of new facilities, programs, materials, etc., will result in higher contamination, lower yields, greater expense and higher advertising and educational efforts. The Act should anticipate such and provide for these issues, and over time reduce those allowances for those transitional issues.

- The Act should provide, especially in the phase-in period of the first 5 years covered by the Stewardship Plan, provide incentive for processing covered materials that go beyond the standard curbside collection list.

- Evaluation of Act performance metrics should be from multiple viewpoints. Statewide, Metro v. Rural, Regional (NW, NC, Metro, SE, etc.), Population Splits and Regional Environmental Justice areas would be examples of such viewpoints for evaluation.

- The MPCA, through future grant opportunities and bond funding requests, should prioritize applications that build infrastructure or capture materials which would be on the alternative collection materials list to accelerate movement to the covered material collection list.

On behalf of Polk County, the 6 County Group and the other communities we serve we appreciate the opportunity to provide comments related to the Act and MPCA's future rulemaking initiative.

Sincerely,

Jon D. Steiner
Env. Svs. Admin.
Polk County

jon.steiner@polkcountymn.gov

Court of Administrative Hearings

July 21, 2026

Via CAH eComments Website (https://minnesotaoah.granicusideas.com)
CAH, Attn: William Moore
600 North Robert Street
P.O. Box 64620
St. Paul, MN 55164-0620

Re: Possible New Rules Relating to the Packaging Waste and Cost Reduction Act, Minnesota Rules, Chapter 7035, Revisor ID Number R-04992

To Whom it May Concern:

Imperial Bag and Paper Co. LLC, d/b/a Imperial Dade ("Imperial Dade"), is an intermediary distributor of various foodservice, janitorial and sanitation, office supplies, packaging, and personal protection & safety products across the United States, including in Minnesota. Imperial Dade is providing comments on the Minnesota Pollution Control Agency's ("MPCA") request for comments on possible new rules relating to the Packaging Waste and Cost Reduction Act ("PWCRA"), published in the State Register on May 26, 2026 (the "RFC").

Please note, language in *italics* throughout are from Minnesota's Request for Comments to guide the discussion.

1. **Definitions**

Definitions for terms used that are not defined in statute.

Imperial Dade recommends providing regulatory definitions for the following terms not defined in the statute:

- **Contamination** (term used at Minn. Stat. §§ 115A.1450, subd. 4(13), 115A.1453, subd. 4(6), § 115A.1455, subd. 4)
- Optimal level of convenience and service (§ 115A.1451 ,subd. 3, cl. 2; subd. 9, cl. iv)
- **Reuse system** (term used at *id.* §§ 115A.1444, subd. 2(a)(9), 115A.1448, subd. 1(c)(1), 115A.1451, subds. 3(2)(iii), 6(c)(1)-(2), 115A.1454, subds. 1(3)(iii), 1(5), and 115A.1458)
- **Refill system** (term used at *id.* §§ 115A.1444, subd. 2(a)(9), 115A.1448, subd. 1(c)(2), 115A.1449(1), 115A.1451, subd. 3(2)(iv), and 115A.1455, subd. 4(b)(5))
- **Marketplace** (term used at *id.* §§ 115A.1441, subd. 34, and 115A.1454, subd. 1(5))

2. **Exemptions**

There are two exemption pathways within the existing statutory language and one criterion to be further defined. The commissioner has the authority to determine if a material or any portion of material is exempt if it meets Minnesota Statutes, section 115.1441, subdivision 16 (11), "are packaging used to contain hazardous or flammable products regulated by the 2012 federal Occupational Safety and Health Administration Hazard Communication Standard, Code of Federal Regulations, title 29, section 1910.1200, that prevent the packaging from being waste reduced or made reusable, recyclable, or compostable, as determined by the commissioner." The MPCA would appreciate comments on the following question, as well as any other comments relating to a process for establishing exemptions:

2(a): Under Minnesota Statutes, section 115A.1441, subdivision 16 (11), what criteria should be used to determine that a specific hazardous or flammable products regulated by the 2012 federal OSHA CFR, title 29, section 1910.1200 that prevents a material, any proportion of material, or packaging cannot be waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?

For the sake of consistency with other states, MPCA should broadly construe this exemption given the lack of agency determination necessary for this exemption to apply in other states. For example, California exempts "[p]ackaging used to contain hazardous or flammable products classified by the 2012 federal Occupational Safety and Health Administration Hazard Communication Standard (29 C.F.R. § 1910.1200)" without any need for submission of materials by the producer or determination by the agency. California Public Resources Code § 42041(e)(2)(D).

MPCA's criteria for this exemption should recognize situations in which a packaging format is functionally unavailable for waste reduction, reuse, recycling, or composting; or whether compliance would significantly reduce the packaging's ability to safely contain, transport, store, or communicate hazards associated with the product, rather than requiring an absolute impossibility standard.

MPCA should take both a categorical and individual approach to this exemption to promote flexibility for producers. Specifically, MPCA should promulgate categories that, if any are met, means that the material is exempt and producers do not have to submit any information to secure the exemption; and MPCA should also allow for an individual producer to submit materials to MPCA for an exemption in unique circumstances in which the promulgated categories do not squarely apply.

Accordingly, MPCA should consider promulgating categories under which materials are exempt without any need to submit materials to the agency, such as situations in which:

- The packaging is necessary to prevent leakage, fire, exposure, contamination, product instability, or mislabeling;
- Federal or state law prescribes specific packaging, transportation, storage, labeling, or hazard-communication requirements; or
- The packaging is already managed through another stewardship, take-back, or specialized collection program.

For packaging that does not readily fit into a promulgated category, MPCA should consider the product's applicable OSHA hazard classification and broad criteria such as the following, and grant the exemption if any one of the criteria are met:

- whether alternative packaging formats have been evaluated and found technically infeasible, commercially unavailable, or unable to satisfy applicable safety and hazard-control requirements;
- whether waste reduction would compromise product integrity, required labeling, safe handling, shelf life, or regulatory compliance; or
- whether a reusable, recyclable, or compostable alternative would increase risks to workers, consumers, transporters, recyclers, composters, or disposal facility operators.

A producer seeking to demonstrate that the criteria are satisfied should submit materials to support the criteria it is seeking to apply, such as:

- safety data sheet(s) for the product;
- the product's applicable OSHA hazard classification and supporting hazard-communication documentation;
- a technical explanation of the packaging functions necessary to safely contain, transport, store, or communicate hazards associated with the product;
- an alternatives analysis describing the reusable, recyclable, compostable, or source-reduced packaging formats considered and why those alternatives are infeasible or would create unacceptable safety, compliance, or product-integrity risks;
- documentation from packaging suppliers, engineers, transporters, recyclers, composters, or other qualified third parties, where relevant, regarding the feasibility or risks of alternative packaging formats; and/or
- documentation demonstrating increased risks to others by use of a reusable, recyclable, or compostable alternative.

Further, MPCA should clarify that the exemptions identified in Section 115A.1441, subdivision 16 are not subject to the procedure set forth in Section 115A.1453, subdivision 6. MPCA should also establish a defined process for reconsideration, resubmission, or administrative appeal if a producer's individual exemption request is denied. Moreover, MPCA should establish a defined process for protection of proprietary, trade secret, or confidential business information that may have to be submitted to support the application.

2(b): Under Minnesota Statutes, section 115A.1453, subdivision 6., what criteria should be used to determine that a specific federal or state health and safety requirement prevents a material, any proportion of material, or packaging cannot be waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?

MPCA should broadly construe this exemption to include any federal or state health and safety requirement that interferes with or makes waste reduction, reusability, recyclability, or compostability impracticable for the packaging, material, or material component for which an exemption is sought. The criteria should recognize that the statutory standard is satisfied where compliance with the health and safety requirement would be materially impaired by waste reduction, reuse, recycling, or composting—not only where compliance is impossible—and should incorporate significant flexibility for producers to make this demonstration given the wide variety of industries that may be applying for this exemption. MPCA should also promulgate a form that producers can use to apply for this exemption for administrative efficiency.

Accordingly, MPCA could consider promulgating a list of criteria it is willing to consider with respect to this exemption, such as:

- whether a specific federal or state safety health and statute, regulation, permit condition, approval, license, waiver, modification, guidance document, or recognized standard (collectively, "Health and Safety Law") applies to the product, packaging, material, or material component;
- the specific packaging function required by that authority, such as containment, sterility, sanitation, tamper evidence, child resistance, barrier protection, shelf-life preservation, structural integrity, labeling, hazard communication, transport safety, or prevention of contamination;
- whether waste reduction would compromise, interfere with, or make impracticable the packaging's ability to satisfy that required health-and-safety function;
- whether reuse would create unacceptable risks related to cleaning, sanitation, product contamination, degradation, cross-contact, traceability, or regulatory compliance;
- whether recycling or composting is functionally unavailable because the packaging must contain materials, coatings, barriers, additives, closures, labels, or residual product characteristics that are necessary for health and safety compliance; and
- whether a source-reduced, reusable, recyclable, or compostable alternative has been evaluated and found unable to satisfy the applicable health and safety requirement.

These criteria should be treated as exemplary only, not to be construed as a prescriptive list of required criteria. A producer seeking to demonstrate that criteria are satisfied should be permitted to submit an application form accompanied by documentation to support the application, such as:

- citations to the specific Health and Safety Law on which the exemption request is based;
- a description of the product, packaging format, material composition, and specific component, layer, coating, additive, closure, label, or proportion of material for which the exemption is sought;
- an explanation of why waste reduction, recycling, reuse, or composting would compromise, interfere with, or make impracticable compliance with the identified Health and Safety Law, including any specification sheets, testing, engineering analysis, supplier documentation, regulatory approvals, or third-party assessments; and
- any alternatives analysis identifying any source-reduced, reusable, recyclable, or compostable formats considered and explaining why those alternatives would not satisfy the applicable health and safety requirement.

Any promulgated list of documentation should not be prescriptive, but rather exemplary of what *could* be submitted to support the exemption. MPCA should also establish a defined process for reconsideration, resubmission, or administrative appeal if a producer's exemption request is denied. Moreover, MPCA should establish a defined process for protection of proprietary, trade secret, or confidential business information that may have to be submitted to support the application.

2(c): Should criteria be defined for "unsafe and unsanitary" in relation to Minnesota Statutes, section 115.1441, subdivision 24? If so, what should those criteria be? Should this be tied to what is accepted on the covered material lists?

We suggest adding a definition for "unsafe and unsanitary" in relation to subdivision 24 that provides a non-exhaustive list of examples scenarios in which a paper product may be considered "unsafe" or "unsanitary," such as:

> A paper product is "unsafe or unsanitary" if, through its intended or foreseeable use, it is likely to:
>
> - Come into contact with, or become contaminated by, human bodily fluids, blood, or pathogenic materials;
> - Cause disease, bodily harm, or otherwise endanger the health of persons handling the material in the recycling or composting process;
> - Come into contact with, or become contaminated by, hazardous substances, toxic substances as defined in subdivision 39, or infectious waste;
> - Present a material risk of disease transmission, bodily harm, or health endangerment under conditions reasonably expected to be encountered at recycling or composting facilities.

Furthermore, it should be noted that "unsafe and unsanitary" paper products are excluded from the definition of "paper products" and therefore cannot be a covered material. In turn, "unsafe and unsanitary" paper products should not be included in the covered materials list nor should "unsafe and unsanitary" be factors considered when evaluating material inclusion on the covered materials list.

3. Collection Lists

The MPCA must determine what covered materials should be placed on the lists established in Minnesota Statutes, section 115A.1453. The creation of these lists will establish when a covered material is recyclable or compostable. The MPCA must also establish a process to allow the agency to identify when a covered material can be incorporated or must be removed from the collection lists. The MPCA would appreciate comments on the following questions, as well as any other comments relating to a process for determining whether a covered material should be included on a collection list or requirements for alternative collection programs:

3(a): What should the threshold for "current availability of collection" services be for recycling? For organics recycling? Should they be different or the same?

Inclusion on the recyclable or compostable covered materials list established in section 115A.1453 is a critical determination because under section 115A.1448, subd. 1(c)(3)–(4), (d)), after January 1, 2032, packaging and paper products must either be reusable/refillable or included on the recyclable or compostable covered materials list or exempt list. For that reason, related thresholds (including "current availability of collection") should be realistic, attainable, and strongly based upon the most recent Needs Assessment.

Section 115A.1453 subd. 3 currently provides that the Commissioner must consult with interested parties to develop or amend the recyclable or compostable covered materials list and "must review the requests by interested parties for addition or removal," but does not set forth the formal process for doing so. We recommend that in promulgating these rules, MPCA proscribe a formal amendment request process.

Based on the preliminary Needs Assessment, the threshold for organics recycling should be significantly lower because Minnesota's organics collection system is at a fundamentally earlier stage of development than its recycling system. MPCA should consider a phased or tiered approach for organics that recognizes where the system is today while setting a trajectory for growth. The criteria should also account for drop-off access in addition to curbside, since that is how most Minnesotans currently access organics recycling.

3(b): What is the threshold for access to recycling and composting processing infrastructure? Should it be determined by distance to a percent of the population, total coverage of a percent of the total population, or something else? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?

"Accessible" should be based on whether a covered entity's collected material can reach a facility capable of sorting or processing that material through existing collection routes and transfer logistics and not by measuring straight-line distance from the covered entity to the nearest processing facility. This approach avoids the need for separate thresholds. A distance-only measure would disadvantage rural producers and communities and could exclude materials that are otherwise viable for recycling simply because no materials recovery facility ("MRF") is located nearby, even though transfer infrastructure already moves those materials to processing.

3(c): In evaluating the capacity and technology for sorting covered materials, how much processing capacity should be set as the threshold for a covered material to be included on a collection list? Should it be set as a percentage or another measure?

Processing capacity should be evaluated based on MRF capacity and efficiency as identified in the most recent Needs Assessment. Materials that sort below the threshold should be placed on a watch list or alternative collection list pending infrastructure investment, rather than excluded entirely, taking into consideration that the goal of EPR is to drive investment in processing upgrades.

3(d): What is the minimum availability of responsible markets for a covered material to be included on a collection list? Is there a threshold relating to capacity, number, distance, or some combination of thresholds?

The minimum threshold for responsible market availability should focus on whether at least one verified responsible end market exists with sufficient capacity to absorb the anticipated volume of that material from Minnesota at an economically viable price point. Distance should not be used as a standalone disqualifier. Many recyclable commodities move through regional and national markets and restricting the analysis to in-state markets would exclude materials that are routinely and successfully recycled today.

3(e): What are the recommended thresholds for the presence and amount of a residual, contaminant, and/or toxic substance for a covered material to be excluded from the collection list?

MPCA should establish material-specific thresholds rather than a single universal contamination threshold because contamination impacts vary by material, collection method, processor, and end market. We recommend that the criteria evaluate three factors:

- **Health and safety:** Does the collection or processing of the material in a commingled stream create health or safety hazards for workers?
- **Commodity contamination:** Does the material, even when empty, contaminate end-market commodity streams and reduce their value or marketability below acceptable specifications?
- **Prohibitive content:** Is the material considered a prohibited contaminant in the commodity outputs it predominantly ends up in?

If a material scores poorly on all three factors, it should be excluded. If it scores poorly on one but not others, it should be evaluated for alternative collection methods (e.g., separate collection or drop-off) rather than outright exclusion.

MPCA should also build in a pathway for materials to move from exclusion to inclusion over time. If contamination-control measures, improved labeling, consumer education, advances in sorting technology, or changes in market requirements reduce the impact of a material's residuals to acceptable levels, there should be a clear mechanism to revisit and revise the exclusion.

3(f): What is the quantity of a covered material estimated to be available and recoverable that should cause a covered material to be included on a collection list?

The quantity threshold should not be a single absolute tonnage figure applied uniformly across all materials. Instead, it should reflect whether a material is generated in sufficient volume to justify the cost of collection and sorting. Even low-volume materials may warrant inclusion if they are easily sortable, have strong end markets, and do not create contamination issues for other streams. The threshold should be informed by the Needs Assessment and should be revisited as the program matures.

3(g): What are some examples of future conditions of these criteria to be considered?

Future conditions should include planned infrastructure investments, new or expanded processing capacity, changes in responsible markets, technology improvements, regional service expansions, and future Needs Assessment findings.

3(h): Are there any other criteria recommended to be considered? Are there criteria mentioned above or in statute that are not recommended to be considered?

MPCA should consider administrative feasibility, consumer confusion, consistency with neighboring or peer EPR states, and whether list decisions will require duplicative or inconsistent reporting categories.

3(i): Relating to alternative collection systems, what are the considerations for what meets "convenience" and what would the minimums be? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?

We recommend that convenience be defined by a combination of geographic access, hours of operation, frequency of pickup (if applicable), and general awareness of the alternative collection system.

3(j): Are there any considerations to how covered materials collected through alternative collection must be accurately measured?

The measurement should reflect net recovered material, accounting for contamination removed during processing.

4. **Statewide Requirements and Measurement**

Statewide requirements are to be set by the commissioner as established in Minnesota Statutes, section 115A.1451, subdivision 7. The commissioner must establish the units by which certain rates are set and may modify how a recycling performance target is met and measured as established in Minnesota Statutes, section 115A.1451, subdivision 6. A service provider is required to meet performance standards, ensure that covered materials are sent to responsible markets, and provide transparency on cost relating to what is reimbursed by a producer responsibility organization by this law as established in Minnesota Statutes, section 115A.1449. The commissioner must also approve when a reusable covered material meets the criteria set in Minnesota Statutes, section 115A.1451, subdivision 6. Return rate is also defined in Minnesota Statutes, section 115A.1441, subdivision 32. The MPCA would appreciate comments on the following questions related to requirements for recycling, systems of reuse, and statewide requirements and criteria:

4(a): What criteria should be considered to set a return rate?

Initial return rates should be modest and escalate over time as systems mature. Return rates should be set based on:

- the type of reusable material covered;
- the existing availability of reuse systems;
- the number of use cycles reasonably expected;
- collection access;
- consumer participation;
- loss and breakage rates;
- sanitation and safety requirements; and
- whether the material can be tracked and audited.

4(b): How might a producer or producer responsibility organization demonstrate a return rate?

A producer or PRO should be able to demonstrate a return rate through one or more of the following methods, depending on the reuse system:

- **Direct tracking**: For closed-loop systems (e.g., deposit-return, branded refill programs), item-level or batch-level tracking through unique identifiers, barcodes, RFID, or deposit redemption records.
- **System-level measurement:** For programs where items are returned through a service provider or retail location, measurement at the point of return (e.g., units returned to a collection point divided by units distributed over the same period).
- **Representative sampling or statistical estimation:** Where item-level tracking is impracticable MPCA should allow statistically valid sampling methodologies, provided the method is transparent, auditable, and disclosed.

MPCA should specify what documentation is sufficient and provide safe harbors for methodologies that meet defined statistical confidence levels, so producers have certainty about compliance.

4(c): Are there any considerations the agency should evaluate when determining statewide requirements?

When determining statewide requirements, MPCA should consider baseline data availability and whether requirements can be implemented without creating conflicting reporting systems, duplicative data submissions, or most importantly, requirements that exceed available infrastructure and are therefore overburdensome or even impracticable for producers to meet.

5. Stewardship Plan and Annual Reports

A producer responsibility organization must submit a stewardship plan by October 1, 2028, and every five years thereafter, to the commissioner that describes the proposed operation by the organization of programs to fulfill the requirements of Minnesota Statutes, sections 115A.144 to 115A.1463 and that incorporates the findings and results of needs assessments. The stewardship plan is required to meet the criteria established in Minnesota Statute, section 115A.1451, subdivision 3. The commissioner must review and approve, deny, or request additional information for a draft stewardship plan. 3 The annual reports of registered producer responsibility organizations in Minnesota Statutes, section 115A.1456, subdivision 1 contain information used to administer the program and keep the public informed.

5(a): Are there any items within the stewardship plan requirements that may need to be further clarified?

Generally, MPCA should clarify several stewardship-plan requirements, including those related to producer reporting expectations, fee-setting methodologies, reimbursement processes, compliance timelines, and documentation standards, to ensure that the stewardship plan provides producers and stakeholders with clear, transparent, and practical guidance for understanding how the program will operate and how compliance obligations will be implemented.

One specific item that MPCA should clarify is what constitutes a prohibited "consumer-facing fee" versus a permissible service charge by a service provider, and how this interacts with existing hauler rate structures.

5(b): Are there any items within the annual reports from registered producer responsibility organizations that may need to be further clarified?

MPCA should clarify how data gaps should be disclosed and treated.

5(c): What information should the MPCA request to verify producer responsibility organization costs and reimbursement rates in a stewardship plan and/or annual report as part of a budget and any financial and programmatic auditing?

We urge MPCA to require PROs to provide enough information in stewardship plans and annual reports to allow MPCA, producers, service providers, and the public to understand where producer funds are going, how those funds are being used, and how the PRO is making cost-allocation and reimbursement-rate decisions. Producers need greater certainty and transparency regarding producer responsibility dues so they can budget, plan, and allocate resources responsibly, and that transparency in fee-setting is undermined if a PRO discloses only a general methodology without enough supporting information to show how rates were actually derived.

At minimum, MPCA should require each stewardship plan and annual report to identify and separately itemize major cost categories, including service provider reimbursements, infrastructure investments, education and outreach, PRO operating and administrative costs, required payments to MPCA, costs associated with needs assessments and audits, and the amount and basis for any financial reserve. Minnesota law requires producer fees to generate revenue sufficient to pay MPCA fees, obligations under an approved stewardship plan, service provider reimbursements, PRO operating costs, and establishment and maintenance of a financially prudent reserve, and section provides that overcollections must be used to improve or enhance program outcomes or reduce producer fees. Minn. Stat. § 115A.1454.

MPCA should also require the PRO to provide the data, assumptions, and calculations used to establish producer fees and reimbursement rates, not merely a high-level description of the methodology. Requiring disclosure of the inputs and assumptions behind these categories would allow producers to anticipate and budget for their obligations.

5(d): Does any part of the stewardship plan and plan amendment approval process need to be further clarified?

MPCA should clarify how plan amendments proposed in annual reports (§ 115A.1456, subd. 1, cl. 10) interact with the formal amendment process under § 115A.1451, subd. 4.

6. Other Topics

Additionally, the MPCA would appreciate any comments related to the PWCRA and areas where there could be clarification provided through the rulemaking. The Agency also requests any information pertaining to the cumulative effect of the possible new rule with other federal and state *regulations related to the specific purpose of the rule. Cumulative effect means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules.*

Imperial Dade encourages MPCA to use this rulemaking to prioritize consistency with other state EPR programs, clear and early communication of compliance expectations, and practical implementation timelines that account for the cumulative burden of overlapping state and federal requirements. Producers need clear guidance on what they must report, when they must report it, and how the PRO will use that information, because producers need time to build internal data systems, allocate staff, and budget for compliance. To reduce cumulative compliance burdens, MPCA should require the PRO to provide sufficient advance notice of reporting requirements, producer-fee methodologies, reimbursement-rate methodologies, and any material changes to compliance expectations, along with illustrative examples, FAQs, and accessible support channels for producers of varying sizes and operational models. Where possible, MPCA should also harmonize data requests, terminology, and reporting processes with other EPR jurisdictions so producers are not required to generate duplicative or inconsistent data sets for substantively similar obligations.

Thank you for considering our comments on the RFC. Imperial Dade looks forward to working collaboratively with the MPCA and the Circular Action Alliance ("CAA") to implement an effective packaging stewardship program in Minnesota. We welcome opportunities to discuss these matters further.

Sincerely yours,

Kevin McGrath
Kevin McGrath (Jul 21, 2026 16:26:57 EDT)

Kevin McGrath
Senior Vice President, Supply Chain & Replenishment
Imperial Dade

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Imperial Dade - Minnesota RFC Comments - July 22, 2026

Final Audit Report 2026-07-21

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Submitted via: https://minnesotaoah.granicusideas.com

July 24, 2026

Mr. Moore,

Thank you for the opportunity to comment on the Minnesota Packaging Waste and Cost Reduction Act (PWCRA), Minn. Stat. §§ 115A.144–115A.1463.

The National Association of Electrical Distributors (NAED) supports extended producer responsibility policies that assign responsibility to the entities that design, manufacture, brand, package, or import covered products. In implementing the PWCRA, Minnesota should ensure that producer obligations are tied to actual control over packaging decisions, not routine wholesale distribution activity.

NAED urges Minnesota to expressly exclude ordinary wholesale distribution from producer responsibility. Distributors should not be treated as producers solely because they warehouse, transport, resell, deliver, or ship products into Minnesota when those products were packaged by another entity.

By way of example, Colorado recognizes the role of distributors and specifically acknowledges in their regulations that a distributor's packaging material is primarily used in business-to-business transactions where a covered material is not intended to be distributed to the end consumer.

Assigning responsibility to downstream distributors in those circumstances would shift obligations away from the party that selected the original packaging and place them on intermediaries with little or no control over packaging composition, recyclability, or source reduction decisions.

At the same time, NAED recognizes that responsibility may be appropriate where a distributor acts outside the ordinary distribution role. A distributor that sells products under its own private label, acts as the importer of record, or materially alters packaging may have responsibility for that packaging. The rules should make this distinction clear so that routine wholesale activity is not swept into producer obligations intended for brand owners, manufacturers, or importers.

Electrical distribution presents unusually complex data challenges. Distributors handle hundreds of thousands of stock-keeping units from numerous manufacturers. They consolidate products into shipments, split cartons, and use pallets, stretch wrap, labels, and protective materials across multiple facilities. Requiring distributors to report item-level packaging weights or assume responsibility for transportation packaging would impose substantial tracking costs and create a high risk of duplicative reporting between manufacturers, brand owners, importers, and distributors.

The rules should therefore establish a clear hierarchy that assigns responsibility first to the brand owner or manufacturer, followed by the importer where appropriate. Distributors should be responsible only for packaging they independently add and control. Minnesota should also include safeguards against double counting so that the same packaging is not reported or assessed multiple times across the supply chain.

The agency should also avoid treating theoretical recyclability as equivalent to practical recyclability. Materials should not be placed on collection or recyclability lists unless Minnesota has demonstrated collection access, sufficient processing capacity, and stable end markets. Otherwise, producers and consumers may bear costs for a recycling system that cannot actually collect, sort, or process the material at scale.

Finally, producer responsibility organization (PRO) fees and reimbursements require strong oversight. The rules should require transparent cost allocation, independent audits, appeal procedures, confidentiality protections for commercially sensitive sales data, and safeguards to ensure that PROs do not exercise unchecked regulatory authority.

These recommendations reflect a practical principle for EPR implementation: liability should track actual control over packaging. Interstate distributors should not face duplicative, extraterritorial, or disproportionate obligations for packaging decisions made by other parties.

Minnesota can strengthen its program by assigning responsibility clearly, avoiding double counting, protecting commercially sensitive data, and ensuring that compliance obligations are proportionate to each entity's role in placing packaging into commerce.

Thank you for your consideration.

Sincerely,

Bud DeFlaviis
Director of Government Relations
National Association of Electrical Distributors

Kimberly Davis Attachment

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7/24/2026

BPI

July 24, 2026

To the MPCA,

The Biodegradable Products Institute (BPI) is North America's leading organization representing certified compostable materials, products, and packaging, with over 600 member companies worldwide and tens of thousands of certified products.
BPI is the foremost association for the circular bioeconomy who convenes the compostable product value chain, and facilitates inclusive discourse to create consensus on actionable, science-backed standards, claims, and policy. Our certification program has verified tens of thousands of items using ASTM standards as a baseline, with additional requirements to prohibit PFAS, promote clear labeling, and sensible eligibility criteria, all to help to keep organic waste out of landfills.

We, BPI, appreciate the opportunity to respond to the department's request for comments in response to the questions posed with the following:

> ***The commissioner has the authority to determine a product as exempt under Minnesota Statutes, section 115A.1453, subdivision 6. Under this authority the commissioner only has authority to classify packaging as exempt if it is determined "that a specific federal or state health and safety requirement prevents the packaging from being waste reduced or made reusable, recyclable, or compostable." The MPCA would appreciate comments on the following question, as well as any other comments relating to a process for establishing exemptions:***

BPI: Several packaging formats designed to contain foods subject to specific health and safety requirements, including produce and raw meats, exist as certified compostable versions. To the extent those foods render packaging non-recyclable, we urge the department to consider compostability as a viable pathway that satisfies statewide requirements and encourages the diversion of food and organic waste.

> ***2(b): Under Minnesota Statutes, section 115A.1453, subdivision 6., what criteria should be used to determine that a specific federal or state health and safety requirement prevents a material, any proportion of material, or packaging cannot be waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria? Minnesota Statutes, section 115.1441, subdivision 24 mentions another criterion to be further established for "products that recycling or composting facilities will not accept because of the unsafe or unsanitary nature of the paper product". The***

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Website: www.bpiworld.org Product Catalog: www.products.bpiworld.org

MPCA would appreciate comments on the following question, as well as any other comments relating to a process for defining "unsafe and unsanitary":

BPI: per 2(a), certain material or packaging subject to specific health and safety requirements cannot be made recyclable or reusable for reasons related to health and safety. While switching to compostable materials or packaging may require additional time and or scale, such criteria does not prevent those materials or packaging from being made compostable in the medium to long term.

2(c): Minnesota Statutes mentions another criterion to be further established for "products that recycling or composting facilities will not accept because of the unsafe or unsanitary nature of the paper product." The MPCA would appreciate comments on the following question, as well as any other comments relating to a process for defining "unsafe and unsanitary": Should criteria be defined for "unsafe and unsanitary" in relation to Minnesota Statutes? If so, what should those criteria be? Should this be tied to what is accepted on the covered material lists?

BPI: Established third-party certifications already define what is "safe" and "sanitary" in certain terms. For example, our own certification criteria ensures products are safe to be composted by testing biodegradation, toxicity, etc.

3(a): What should the threshold for "current availability of collection" services be for recycling? For organics recycling? Should they be different or the same?

BPI: the "current availability of collection" does not represent a material's true potential, and MPCA should avoid confusing collection availability with being inherently compostable. Commercial composting or organics recycling systems, for example, have not enjoyed the same time or investment as traditional recycling. Therefore, we'd argue that the threshold for current availability of collection should be measurably lower to allow for growth and, eventually, parity. We also note that for a narrow subset of commercially certified compostable products compliant with statewide requirements that are also certified for home composting, backyards and local non-industrial compost operations offer an additional pathway for 'collection.'

3(b): What is the threshold for access to recycling and composting processing infrastructure? Should it be determined by distance to a percent of the population, total coverage of a percent of the total population, or something else? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?

BPI: Greater Minnesota and the Twin Cities Metro Area face different population densities, hauling distances, and existing infrastructure. With that said, materials should not be excluded simply because Greater Minnesota lacks access today; instead, the plan should identify practical pathways to build access through regional aggregation, transfer stations, hub-and-spoke systems, infrastructure investments, or alternative collection.

3(c): In evaluating the capacity and technology for sorting covered materials, how much processing capacity should be set as the threshold for a covered material to be included on a collection list? Should it be set as a percentage or another measure?

BPI: With regards to sorting and processing, composting or organics recycling should be treated fundamentally differently from traditional recycling as there is no separate 'sorting' step. Rather, MN should align with other states including CO and CA in defining capacity simply based on facilities accepting and processing of compostable covered products. In other words, the threshold for 'access' and 'processing capacity' for composting should be nearly identical, as there are no additional steps between collection and processing as there are traditional recycling.

3(e): What are the recommended thresholds for the presence and amount of a residual, contaminant, and/or toxic substance for a covered material to be excluded from the collection list?

BPI: Statewide law already requires independent third-party certification of compostable products. As an approved certifier in BPI, we already apply the industry's most rigorous testing for toxic additives (PFAS, heavy metals, eco toxins, carcinogens and mutagens) and non-biodegradable contaminants. We welcome the department consider aligning with the thresholds we enforce.

3(f): What is the quantity of a covered material estimated to be available and recoverable that should cause a covered material to be included on a collection list?

BPI: We recommend the inclusion of compostable covered material on the collection list not be based on overall quantity or tonnage comparable to recyclable material. Compostable products are specialists—limited as covered materials to applications and are designed to maximize the diversion of food and other organic waste they're comingled with. In other words, the quantity of compostable materials is minimal even in their own collection streams, yet their purpose impacts a much larger waste stream.

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3(g): What are some examples of future conditions of these criteria to be considered?

BPI: There are several reasons why the department might anticipate significant changes for compostable covered materials in the future: infrastructure growth, research and development advances for biodegradable materials, limits revealed for recyclable and reusable food ware and food packaging, increased consumer trust due to statewide requirements for on-product labeling, and federal regulations concerning organic agriculture might expand end markets. We encourage the department to embrace criteria that recognizes unique growth potential of these relatively novel formats, not unlike reusable covered materials.

3(i): Relating to alternative collection systems, what are the considerations for what meets "convenience" and what would the minimums be? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?

Alternative collection should be considered convenient when it's practical, understandable, reasonably accessible, and not unduly costly, and should include drop-off sites, mail-back programs, and backyards or local non-commercial outfits for home composting. As mentioned earlier, there exists a narrow subset of commercially certified compostable products compliant with statewide requirements that are also certified 'home compostable,' allowing for 'alternative collection' to more traditional curbside or dropoff collection for commercial compost operations.

3(j): Are there any considerations to how covered materials collected through alternative collection must be accurately measured?

Measuring each individual back yard or local collection pathway would be likely infeasible. The department might consider estimating a percentage of eligible households or entities in geographies where curbside access is unavailable or limited.

Please reach out with any questions or concerns.

Alex Truelove
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Flexible Packaging Association
Connecting. Advancing. Leading.

Kyla Fisher Attachment

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July 24, 2026

The Court of Administrative Hearings (CAH)
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Electronically submitted via: https://minnesotaoah.granicusideas.com/discussions

Re: Request for Comments: Possible New Rules Relating to the Packaging Waste and Cost Reduction Act, Minnesota Rules, 7035; Revisors ID Number R-04992

The Flexible Packaging Association (FPA) appreciates the opportunity to comment on this early-stage rulemaking under the Packaging Waste and Cost Reduction Act (PWCRA), Minn. Stat. §§ 115A.144–115A.1463. Our comments focus specifically on the treatment of flexible packaging—both plastic film-based formats (e.g., stand-up pouches, bags, wraps, multilayer laminates) and paper-based flexible formats (e.g., paper pouches, coated paper wraps, paper mailers). These formats present unique technical, infrastructure, and end-market challenges that differ substantially from rigid packaging (bottles, jars, cartons, boxes).

FPA represents flexible packaging manufacturers and their suppliers across the United States. Flexible packaging is the fastest-growing and second-largest segment of the U.S. packaging industry, representing $51.5 billion in annual sales and approximately 98,000 flexible packaging manufacturing workers nationally. In Minnesota specifically, our industry supports nearly 1,400 of those workers, representing a total economic impact of nearly $2.3 billion. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products.

FPA is submitting these comments to help the Minnesota Pollution Control Agency (MPCA) establish rulemaking for the PWCRA. We are only providing responses to the questions we feel relevant to our industry and which we are confident we can provide insight into. As a result, some questions within the Request for Comments have intentionally not been addressed.

Section 2: Definitions and Exemptions

2(b) – Federal/State Health and Safety Exemption (Minn. Stat. § 115A.1453, subd. 6)
This exemption pathway is critical for flexible packaging used in food safety and pharmaceutical applications (e.g., U.S. Food and Drug Administration [FDA] food-contact barrier requirements, tamper-evidence requirements, moisture-barrier requirements for shelf-stable foods). We recommend:

- Direct citation to the specific federal/state provision (e.g., FDA 21 CFR food contact substance regulations, U.S. Department of Agriculture [USDA]/ Food Safety and Inspection Service [FSIS] requirements).
- A sunset/reassessment mechanism (e.g., every 3-5 years) so exemptions are revisited as recyclable barrier technology improves, rather than remaining permanent.

Section 3: Collection Lists

FPA believes statewide collection standards should be harmonized nationally to the greatest extent possible. Consumers and products frequently move across state lines, and consistent messaging about what is recyclable or compostable is important to reduce confusion. For the past 30 years, this consistency has been provided by the U.S. Federal Trade Commission (FTC) Guides for the Use of Environmental Marketing Claims ("Green Guides"), which advise marketers on what constitutes a truthful environmental claim. Over the past decade, the standardized How2Recycle labeling program has used the FTC Green Guide thresholds to help inform consumers about the more nuanced regional differences that arise as municipalities make different decisions about recycling or composting.

3(a) – Threshold for "Current Availability of Collection"

How2Recycle has introduced labels that highlight nuances in the recycling system where curbside access is not available to all materials or communities. "Check Locally" identifies instances where some municipalities collect materials that others do not, and "Store Drop-Off" highlights the use of depot programs rather than curbside collection for unique materials like flexible films and packaging. FPA believes these are important tools that have helped provide greater consistency for consumers navigating a complex system. We urge MPCA to adopt these well-established tools rather than set unique thresholds for Minnesota. This approach will promote consistency across state lines and ease implementation and compliance costs for producers.

As the MPCA looks to define collection access, we recommend a population-coverage-based standard (e.g., percentage of state population within a defined driving distance of a facility that collects specific materials) rather than a simple distance-based standard, or reliance on curbside access only. Rural/Greater Minnesota access will always differ from that of the Twin Cities Metro area, for example.

We support differentiated thresholds for Greater Minnesota versus the Metro area, recognizing that requiring identical infrastructure density statewide could result in certain packaging failing to qualify—regardless of its technical recyclability—simply due to Minnesota's dispersed population.

3(b) – Access to Processing Infrastructure and 3(c) – Sorting Capacity/Technology Threshold

FPA urges caution in tying recyclability determinations to processing *(3(b))* or sorting *(3(c))* capacity or technology. While reprocessing and sorting technology continues to advance, setting rigid thresholds around the sorting capacity or technology available across the system could be problematic. Some materials—such as flexible films, glass, and aerosol containers—are often collected outside the materials recovery facility (MRF) system and sent directly to a reprocessor, where sorting technology is unnecessary. This approach is used for efficiency, as source-separated collection for certain materials has demonstrated better quality and lower costs. Rather than tying recycling goals to specific technological benchmarks, we believe the Producer Responsibility Organization (PRO) should have the flexibility to evaluate and encourage the most efficient recovery methods through market-based approaches.

3(d) – Responsible Market Availability

FPA has concerns about tying recyclability to the number of available end markets. While market diversity helps reduce risk and ensure stability, we recognize the significant challenge in bringing newer materials to existing and new end markets. For example, it took over 50 years for polyethylene terephthalate (PET) plastic recycling to advance to its current state, in which multiple end uses for recycled PET bottles now exist. PET recycling initially began with applications such as paint brushes and strapping before eventually turning to food-contact bottle-to-bottle reprocessing as technologies and volumes increased, generating interest in research, development, and commercial-scale demand.[1] Flexible film packaging is at a similar inflection point today.

Currently, much of the post-consumer flexible film and packaging is directed toward durable goods applications, while cleaner commercial film can be used in circular film-to-film reprocessing. As advanced recycling technology matures, opportunities to use flexible films in food-contact packaging are expected to grow.

[1] Frank Welle, (2011) "Twenty years of PET bottle to bottle recycling—An overview", Resources, Conservation and Recycling, Volume 55, Issue 11. Pages 865-875.

We further note that a study completed by AMERIPEN and Recycling Is Real identifies a gap between domestic recycling capacity and demand, indicating that more time is needed to grow recycling infrastructure across the U.S. This is of importance particularly, as extended producer responsibility (EPR) programs and recycled content mandates expand nationally—encouraging increased investment, but which will take time.[2]

FPA believes that any measure of recycling success should focus less on the diversity or size of available markets and more on the efficiency of those markets. Yield rates—measuring how much material can be captured through a given process—would be a more meaningful metric. This approach is consistent with practices used in other states with EPR laws for packaging.

3(e) – Residual/Contaminant/Toxic Substance Thresholds

FPA does not recommend that the MPCA set independent thresholds related to residual, contaminant, or toxic substances, as these are already established through market demand. We recommend MPCA defer to thresholds identified through the Recycled Materials Association (ReMA)and American Forest and Paper Association (AF&PA) specifications, as well as the Association of Plastic Recyclers (APR) Design Guide contamination limits for plastic flexible film. These standards are already adopted and used by most recyclers and composters.

3(f) – Quantity Threshold

As noted above, the federal FTC Green Guides and How2Recycle labeling program define recyclability predominantly based on access; however, we recognize that collection does not guarantee recycling once material arrives at a reprocessor. We appreciate that the MPCA is seeking to ensure materials collected for recycling are efficiently reprocessed. We

[2] Circular Matters (2024) “US Packaging Recycled Content Goals Analysis”

recommend the rule consider recoverable tonnage relative to total generation in Minnesota (a percentage-based recovery-rate threshold) rather than an absolute tonnage figure. Because flexible packaging is lightweight by design, an absolute weight-based threshold would systematically undercount and disadvantage flexible packaging formats compared to heavier rigid packaging, undermining the source-reduction goals of the PWCRA.

3(g) – Future Conditions and 3(h) – Other Criteria

As noted throughout this letter, FPA recognizes that recycling is an iterative process, and as markets grow, so too will investment in innovative recycling research and development. We encourage the MPCA to remain flexible and to empower the PRO to direct resources toward the highest and best uses.

One approach we recommend the MPCA evaluate is the use of different collection and processing technologies tailored to specific materials. As noted above, some materials can be efficiently captured through curbside systems, while others are more efficiently collected and processed through alternative collection systems We encourage the MPCA to consider the need for multiple strategies and to grant the PRO the flexibility to select these strategies to create the greatest efficiencies.

Additionally, when setting thresholds or considerations for eco-modulation, we recommend the MPCA also weigh the life-cycle/greenhouse gas (GHG) impacts of the packaging format as a whole (consistent with the Act's stated goal of reducing "environmental impacts, human health impacts, and generation of covered materials waste"). We encourage the MPCA to avoid evaluating the recyclability of a format in isolation from the environmental cost of increased food waste, product damage, or switching to a heavier, more resource-intensive rigid alternative merely because it is more "recyclable" today.

3(i) – Alternative Collection ("Convenience") Standards and 3(j) – Measurement Accuracy for Alternative Collection

The flexible packaging industry has collaborated with retailers to operate film and flexible packaging take-back programs for more than 30 years. These programs represent one of the most well-established alternative collection infrastructures in the United States:

- In 2024, store take-back programs nationwide collected 114,000 tons of residential film—*eleven times the 10,000 tons collected through municipal curbside systems*.[3]
- Store drop-off programs deliver materially cleaner feedstock at significantly lower cost: $250–$550 per ton, compared to approximately $3,000 per ton for curbside collection.[4]
- The national How2Recycle program maintains a dedicated "Store Drop-Off" label, recognizing retail take-back as a distinct and validated recycling pathway.[5]
- PlasticFilmRecycling.org, a directory for consumers identifying flexible film collection access points, received more than 200,000 unique visitors within its first year of operation.[6]

We urge the MPCA to recognize and leverage this existing infrastructure and find ways to incorporate it into the State's alternative collection strategies . We believe that convenience for flexible packaging collected via depot should be measured by location density accessible to consumers. We note that the non-profit Sustainable Packaging Coalition (SPC) recently completed a study examining consumer access to flexible film recycling using this

[3] Eunomia for APR (2024) "How to Scale the Recycling of Flexible Film Packaging: Modelling Pyrolysis' Role in Collection, Quantity and Costs of a Comprehensive Solution"
[4] Navigate (2025) "Unlocking Curbside Recycling for Flexible Films: What Must Be True" Presentation to SPC Impact (Seattle, WA)
[5] https://how2recycle.info/about-the-how2recycle-label/store-drop-off-us-only/
[6] Per email from plasticfilmrecycling.org dated January 12, 2026 (available upon request).

metric.[7] The FPA would support differentiated standards for Greater Minnesota, where retail density is lower.

Currently, the most reliable source of data on volumes of post-consumer film collected for recycling is STINA's Plastic Film Recycling Dashboard.[8] This data is collected through surveys of reprocessors to calculate a national total of material arriving at recyclers. The Flexible Film Recycling Alliance (FFRA) is in the process of piloting a third-party validation process that would help retailers assess volumes collected at store locations or amalgamated at distribution centers, providing a more complete assessment of volumes collected rather than relying solely on what has been reported by recyclers. We believe these two approaches together will help provide assurance on measurement accuracy for alternative collection and should be recognized by any MPCA data efforts. Additionally, we note that the use of responsible end markets (REM) certified facilities would require volume reporting on materials sent for recycling. This data would be collected by the PRO.

We caution the MPCA against setting different thresholds or standards for alternative collection versus municipal curbside collection. Different targets or validation requirements would imply that one collection system is superior to the other—which, as noted previously, is not the case. Rather, different materials respond better to different systems. We also encourage the MPCA to consider multiple collection systems as additive to the overall recycling rate and thresholds as the U.S. recycling system continues to advance and identify the most effective approaches for material circularity.

[7] Sustainable Packaging Coalition (2025) "National Study Shows Widespread Access to Store Drop-off Collection for PE Film"
[8] STINA (2026) "2024 U.S. Post Consumer Plastic Recycling Data Dashboard"

4. Statewide Requirements and Measurement

4(c) – Statewide Requirements Considerations

FPA encourages the MPCA to set material-specific and format-specific performance standards rather than a single blended packaging recycling rate. Blending flexible packaging targets with rigid packaging targets—which benefit from mature, high-performing collection infrastructure—will create an unrealistic composite target that does not reflect the current technical reality for flexible formats. This could trigger unintended consequences, such as pressure to eliminate lightweight flexible packaging in favor of heavier rigid packaging, an approach counter to the Act's environmental impact reduction goals.

5. Stewardship Plan and Annual Reports

5(a) – Stewardship Plan Clarifications

An area of significant concern for FPA is the law's language around potential material bans should a material or packaging format fail to meet the MPCA's criteria for recyclability. While we appreciate that the language allows for a demonstration that progress is being made, we recommend the regulations provide further guidance on how producers of flexible packaging should report progress, given that near-term collection and recycling infrastructure for flexible film and packaging remains limited. This guidance should include allowance for phased investment plans (e.g., funding depots expansion, film-sortation MRF upgrades, or advanced recycling pilot investments) as an acceptable interim compliance pathway.

FPA would like to note that we are part of a consortium of funders that will be launching a consumer campaign in 2027 to encourage increased film packaging recycling across

Minnesota. We also plan to tie this effort to a measurement campaign so we can evaluate the campaign's impact on recycling rates.

We believe this data could help demonstrate "progress," and we would welcome the opportunity to discuss the State's desired metrics to ensure we can align our efforts with your measurement and reporting goals.

<u>Conclusion</u>

We appreciate the MPCA's collaborative approach at this early stage and encourage continued engagement with flexible packaging producers, converters, and recyclers as this rule develops. We recommend the MPCA align Minnesota's approach with emerging multi-state EPR frameworks (Oregon, Colorado, California) to support harmonized national end markets, rather than adopting a Minnesota-specific standard that could isolate the state's recycling system.

We welcome the opportunity to provide additional data, testing protocols, and case studies from existing store drop-off and film-recycling programs to inform subsequent rulemaking stages. If we can provide further information or answer any questions, please do not hesitate to contact us.

Respectfully,

Kyla Fisher
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HOUSEHOLD & COMMERCIAL PRODUCTS ASSOCIATION
Innovative Products For Home. Work. Life.

July 24, 2026

William Moore
Court of Administrative Hearings
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Subject: HCPA Comments on Minnesota Packaging Waste and Cost Reduction Act Possible New Rules

The Household & Commercial Products Association (HCPA)[1] appreciates the opportunity to provide input on the implementation of Minnesota's Packaging Waste and Cost Reduction Act (PWCRA)[2] and possible new rules for inclusion in a future rulemaking. We share Minnesota's laudable goals of reducing the environmental and human health impacts of packaging and paper materials. We are committed to developing and funding a program that achieves these aims and look forward to continuing to work with the Minnesota Pollution Control Agency (MPCA) on successful implementation.

Background

HCPA represents approximately 240 member companies engaged in the manufacture, formulation, packaging, distribution, and sale of products for household, commercial, institutional, and industrial use. HCPA members are continuously working to improve products and packaging in line with the principles of a circular economy to decrease waste and enable economic growth without greater resource use. Companies utilize several different materials for packing and shipping their products to ensure that products arrive undamaged, uncontaminated, safe for use, meet user expectations, have a lower environmental footprint, and generally enhance the quality of life of the consumers and workers who depend on these products daily. We have many members who sell products into Minnesota or otherwise have a presence in the state and are committed to ensuring that Minnesotans have access to high-quality products with reduced environmental impacts.

[1] The HCPA is the premier trade association representing companies that manufacture and sell $227 billion annually of trusted and familiar products used for cleaning, protecting, maintaining, and disinfecting homes and commercial environments. HCPA member companies employ over 300,000 people in the U.S. whose work helps consumers and workers to create cleaner, healthier and more productive lives.
[2] Minn. Stat. § 115A.144-115A.1463

In addition to representing various categories of formulated household and commercial products, HCPA represents products packaged in the aerosol delivery form. The aerosol delivery form is used to dispense a wide range of products, including but not limited to adhesives, air fresheners, antiperspirant, asthma inhalers, body spray, cleaners, degreasers, deodorant, disinfectants, dry shampoo, hair spray, insect repellant, insecticides, lubricants, paints, pan sprays, sealant, shaving creams and gels, sunscreen, and whipped cream. HCPA has represented the U.S. aerosol products industry since 1950 through its Aerosol Products Division, which includes companies that manufacture, formulate, supply, market, and recycle aerosols.

Definitions

HCPA is concerned that the current definition of "packaging" may include reusable non-residential transport packaging, such as commercial reusable pallets. Reusable pallets are not a component of the residential curbside recycling system and their reuse by businesses is a positive example of packaging circularity in action. While the statute exempts materials used to contain products that are distributed to another producer, the exemption as worded appears to require the product to be used in the production of another product.[3] Transport packaging such as pallets are not used to produce another product but rather to deliver the product to commercial entities. As such, it is possible that reusable pallets may be unintentionally in scope.

We encourage MPCA to look to other states which have clearly limited the definition of packaging to materials intended for the consumer market. For example, Maryland's definition of packaging clarifies that packaging refers to "a material, a substance, or an object that is used to protect, contain, transport, serve, or facilitate the delivery of a product *that is sold or supplied with the product to the consumer for personal, noncommercial use* and that is sold, offered for sale, imported, or distributed in the State." (emphasis added). HCPA recommends that MPCA clarify that only packaging supplied with the product to the consumer for personal, noncommercial use is considered a covered product.

HCPA is also concerned that the definition of paper products is too broad as written and may be taken to include items that are not typically understood as paper (such as textiles and building products) and items not primarily disposed of through the municipal solid waste system (such as toilet paper). HCPA encourages MCPA to explore alternate options to cellulose content for the definition of paper. The definition should exclude cellulose derivatives and any items which are typically disposed of outside of the municipal solid waste system.

[3] Minn. Stat. § 115A.1441, subdivision 16(14)

Exemptions

2(a)

HCPA recommends that MPCA exempt all packaging associated with hazardous or flammable products regulated under the federal Occupational Safety and Health Administration (OSHA) Hazard Communication Standard rather than attempting to develop specific criteria. Additionally, while producers should maintain records to demonstrate compliance, they should not be required to proactively submit information to MPCA for review in order to qualify for the exemption. This approach will avoid substantial uncertainty about what products are and are not covered material, minimize the burden placed on MPCA to review and evaluate product-by-product requests, and avoid product safety issues and disruptions to supply chains. This approach is also consistent with California's packaging Extended Producer Responsibility (EPR) program, which includes ambitious source reduction and recyclability/compostability goals similar to Minnesota's waste reduction, reuse, and recycling/composting rate targets.

2(b)

HCPA recommends that MPCA defer to other federal and state agencies where another agency requires or recommends specific packaging to protect the safety and shelf life of the product. For example, the Consumer Product Safety Commission's Poison Prevention Packaging Act of 1970 institutes specific requirements for child-resistant packaging, including that the packaging may not be reused.[4] Additionally, California's packaging EPR program exempts "plastic packaging containers that are used to contain and ship products that are classified for transportation as dangerous goods or hazardous materials under Part 178 (commencing with Section 178.0) of Subchapter C of Chapter I of Subtitle B of Title 49 of the Code of Federal Regulations." These containers are subject to specific design requirements to ensure product safety under the U.S. Department of Transportation. HCPA recommends that MPCA exempt packaging that fall into the above categories rather than attempting to develop specific criteria. As with the OSHA exemption, while producers should maintain records to demonstrate compliance, they should not be required to proactively submit information to MPCA for review in order to qualify for the exemption.

2(c)

HCPA suggests that MPCA develop and include a process based on needs assessments and/or other input from composting and recycling facilities to provide clarity on what paper products are not accepted by material recovery facilities or composting facilities because of the unsafe or unsanitary nature of the products. This process should include information on which items facilities reject and why (ex. hygiene). Based on the findings, MPCA should specify in regulation the types of products that are excluded. If MPCA follows a criteria-based process,

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[4] 16 C.F.R. § 1700(15)(c)

producers will be uncertain which products they should register and report for and how, and MPCA will be faced with a substantive product-by-product review burden, creating compliance challenges with future reporting deadlines.

Collection Lists

HCPA recommends that MPCA defer consideration of questions such as availability of collection services, access to recycling and composting infrastructure, processing capacity, and availability of responsible end markets until MPCA receives and reviews the final needs assessment. The needs assessment will provide critical information on the current state of the system and how well it is operating at the current level, which should guide MPCA in determining what performance thresholds to set.

3(e)

HCPA is concerned by the breadth of MPCA's question regarding the presence of residuals, contaminants, and toxic substances in covered material. Producers and brands will have little visibility into whether recycling processes, consumer use, or the presence of impurities introduce contaminants or toxic substances into the packaging material. Further, adhering to consistent thresholds is infeasible. Producers cannot be certain that a recycler has managed, or a consumer has used, the material in a specific way. Additionally, appropriate testing methods may not exist to show compliance with a threshold.

HCPA recommends that MPCA treat chemical restrictions separately from collection lists assignments. What materials are included on the collection list should be based on recyclability and compostability and aligned as much as possible with other programs to support consistency across states. Minnesota already has laws in place addressing the potential presence of toxic substances in materials;[5] the PWCRA should reinforce existing law, not contradict or duplicate it. Concerns about processing residuals or contaminants introduced during use are best addressed through education and outreach of the Producer Responsibility Organization (PRO) to recyclers and consumers given minimal control of producers over downstream actions.

Stewardship Plan and Annual Reports

HCPA encourages MPCA to clarify the process for the PRO to submit and receive approval for amendments to the stewardship plan. It is highly likely that as implementation realities evolve, the PRO's assumptions and plans will need to be revised. A clear process for doing so will mitigate significant uncertainty and avoid locking the system into outdated plans.

[5] Minn. Stat. § 115A.965, based on https://toxicsinpackaging.org/model-legislation/

HCPA additionally encourages MCPA to focus on processes for ensuring transparency, accountability, and auditability of the PRO's program and financial structure rather than proscriptive requirements for inclusion of specific elements. MPCA should retain a clear oversight and enforcement role while allowing for the flexibility to modify structures as necessary.

Conclusion

HCPA thanks MPCA for the opportunity to provide input on MPCA's possible new rules for implementation of PWCRA. We appreciate the care that MPCA is taking to solicit stakeholder input on developing rulemaking concepts. HCPA looks forward to continuing to engage with MPCA to support the success of Minnesota's packaging and paper EPR implementation. We invite any questions about this submission and look forward to MPCA's response.

Sincerely,

Molly R. Blessing
Vice President, Sustainability & Product Stewardship

Caitlin Hart Attachment

RECEIVED BY CAH
7/24/2026

Ocean Conservancy®

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oceanconservancy.org

July 24, 2026

Court of Administrative Hearings
ATTN: William Moore
600 North Robert Street
P.O. Box 64620
St. Paul, MN 55164-0620

Re: Possible New Rules Relating to the Packaging Waste and Cost Reduction Act, Minnesota Rules, 7035; Revisor'sID Number R-04992

To Whom It May Concern:

Thank you for the opportunity to provide public comments on the implementation and rulemaking process for Minnesota's Packaging Waste and Cost Reduction Act. As the Minnesota Pollution Control Agency (MPCA) establishes performance standards, source reduction goals, and eco-modulation fee structures, we urge the Agency to prioritize single-use plastic reduction in its waste reduction and source reduction targets, rather than applying broad, material-neutral reduction mandates across non-plastic packaging formats like glass.

Ocean Conservancy unites science, people and policy to protect our ocean, today and for generations to come. We envision a healthy ocean and a thriving planet, forever and for everyone.

Plastics production has risen exponentially over the last several decades,[1] while plastics recycling remains stagnant and low, both nationally and in Minnesota.[2] This has contributed to the growing plastic pollution crisis: a stagger 11 million metric tons of plastics are estimated to enter the ocean every year globally, equivalent to more than a garbage truck's worth of plastics every minute.[3] According to data from Ocean Conservancy's International Coastal Cleanup®, the vast majority of plastics found on beaches are unrecyclable.[4] And even small amounts of plastic pollution can be deadly to marine life: if ingested, less than two sugar cubes worth of plastic is enough to kill one in two common loons.[5]

Once in the environment, plastics continue to cause harm. From plankton to whales, nearly 1,300 species across ocean ecosystems have been documented to ingest plastics—a number that continues to rise.[6] This

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[1] Geyer, R., et al. (2017). *Science Advances.*
[2] U.S. EPA. (2021). "Advancing Sustainable Materials Management."
[3] Lau, W.W.Y., et al. (2020). *Science.*
[4] Ocean Conservancy. "Trash Information and Data for Education and Solutions (TIDES) dataset." Retrieved from: https://www.coastalcleanupdata.org/. July 2026.
[5] Murphy, E.L., et al. (2026). *Proceedings of the National Academy of Sciences.*
[6] Santos, R.G., et al. (2021). *Science*

includes every family of marine mammals, every family of seabirds, every species of sea turtles and over 750 species of fish. Plastics attract bacteria and can concentrate legacy contaminants (e.g., DDT) and other chemical contaminants (e.g., pharmaceuticals and heavy metals) from the environment up to a million times higher than surrounding seawater,[7] posing a contamination risk to marine predators and human seafood consumers.[8] Larger plastic items can break apart, resulting in microplastic and nanoplastic particles. There is increasing evidence that plastics impact human health from their production through use and disposal and can release toxic chemicals into the environment and people, including additives that disrupt endocrine function and increase risks of premature births, infertility, obesity, cardiovascular and renal disease and cancers.[9] Chemicals in plastics cost an estimated $249 billion in increased healthcare costs in the U.S. in 2018.[10] Microplastics now contaminate the human body due to inhalation of frequently contaminated air and consumption of foods and beverages such as drinking water, milk, beer, processed foods, meats and more.[11] A 2024 study led by Ocean Conservancy and University of Toronto researchers found microplastics in 88% of protein samples tested, including seafood, pork, beef, chicken, tofu and plant-based meat alternatives.[12] This study found that Americans may consume up to 3.8 million microplastics each year just from the proteins we eat.

Single-use plastics are clogging up recycling systems, accumulating in our environment, and contributing to a growing microplastics crisis. To streamline recycling operations and costs and protect Minnesotans and the environment, single-use plastics should be the focus of the state's source reduction targets.

A focus on single-use plastics for the source reduction target will enable harmonization with other states implementing reduction targets through their extended producer responsibility (EPR) laws, which will streamline producer compliance and will maximize cost-effective environmental benefits. For example, California's SB 54 requires a 25% source reduction of single-use plastic packaging and foodware by 2032. By focusing Minnesota's reduction benchmarks specifically on single-use plastics, MPCA will create regulatory harmony across state lines, reduce friction for producers, and create consistent strategies within the Producer Responsibility Organization to optimize redesign and investments.

Conclusion

Ocean Conservancy strongly encourages the MPCA to explicitly focus source reduction performance goals on single-use plastics. This approach best serves Minnesota's environmental goals while fostering nationwide consistency in producer responsibility.

Ocean Conservancy appreciates MCPA's consideration of these comments and welcomes the opportunity for further engagement.

Sincerely,

Anja Brandon, Ph.D.
Director, Plastics Policy

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[7] Mato, Y., et al. (2001). *Environmental Science & Technology*.
[8] Mercogliano, R., et al. (2020). *Journal of Agricultural and Food Chemistry*
[9] Landrigan, P.J., et al. (2023). *Annals of Global Health.*
[10] Trasande, L., et al. (2024). *Journal of the Endocrine Society*.
[11] Thompson, R.C, et al. (2024). *Science.*
[12] Milne, M.H., et al. (2024). *Environmental Pollution*.

the toy association
Inspiring Generations of Play

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July 24, 2026

Ms. Katrina Kessler
Commissioner
Minnesota Pollution Control Agency

Comments submitted via Minnesota Court of Administrate Hearings online portal

RE: Possible New Rules Governing the Packaging Waste and Cost Reduction Act, Minnesota Rules 7035; Revisor's ID No. R-04992

Dear Commissioner Kessler,

The Toy Association appreciates the opportunity to provide comments regarding implementation of Minnesota's Packaging Waste and Cost Reduction Act (PWCRA). The Toy Association is the North America-based trade association for the toy industry; our membership includes more than 800 businesses, from inventors and designers of toys to toy manufacturers and importers, retailers and safety testing labs, and our members work to bring safe & fun toys and games to children and families in Minnesota, across all 50 states, and internationally.

Our members support the goals of reducing waste, improving recycling outcomes, and encouraging more sustainable packaging design. As the Minnesota Pollution Control Agency (MPCA) develops implementing regulations for PWCRA, we respectfully urge MPCA to establish a clear exemption for packaging used for the long-term protection, preservation, storage, organization, or display of durable consumer products.

Executive Summary:

The Toy Association supports environmental sustainability efforts to reduce packaging across all consumer products, and our members have long been leaders in product safety and environmental health and safety. When it comes to sustainability of packaging, the toy industry provides a unique model as many toys are sold with packaging that is intended to be retained and not disposed of after purchase. Long-term storage packaging is a common tool for toy manufacturers to protect and store products while they are used during the product's lifetime; some packaging contributes to the products' value, extending useful life and ensuring ongoing safety of the items. Examples such as puzzles, card and board game

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boxes, collectible items' packaging, storage boxes, and more are referenced within this document.

Many states have recognized long-term storage and the benefits to sustainability it provides by offering an exemption in their extended producer responsibly (EPR) programs' rules. As described herein, The Toy Association respectfully requests that Minnesota consider implementing rules for its program that are harmonized with other states (e.g., California, Maine, Oregon, Washington, and Maryland), to ensure consistency and predictability throughout the EPR landscape.

A. Long-Term Storage Packaging Is Different from Disposable Packaging

Minnesota's PWCRA program is designed to address packaging and paper products that contribute to the residential waste stream and require management through collection, recycling, composting, or disposal systems. Unlike conventional shipping cartons, food packaging, or other packaging designed for immediate disposal, many toy products use packaging that is intentionally designed to be retained and used with the product for years after purchase.

Some examples of long-term packaging used in toys include:

- durable packaging that serves as a protective container for product organization and storage, such as for building blocks, card and board games, and puzzles;
- packaging designed to be retained by consumers for display and to preserve product value, condition, or completeness, such as that used for collectible dolls and action figures;
- packaging incorporated into the long-term use and enjoyment of the product, such as for toy modeling clays and putties that require air-tight storage;
- packaging that is designed to be part of the product and incorporated into play, such as carrying cases that serve double-duty as part of the play pattern of the toy.

As long-term toy packaging often remains in households for many years, this type of packaging would not meaningfully contribute to waste generation as packaging designed for single-use disposal would.

For many toys, packaging provides functional play value as well (e.g., a carrying case for toy cars that unfolds to become a track on which to play with the cars). Importantly, in such cases, the "packaging" is considered part of the physical product offering and is subject to the same strict federal toy safety requirements as all toys sold in the U.S. Additionally, toy

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packaging serves as a vital safeguard that ensures the product reaches consumers—children and families—in the exact same condition as when produced. Proper packaging prevents breakage, secures loose or small components, and maintains structural integrity against the physical hazards of shipping. It also may carry important instructions and safety information intended to be retained with the product. While reducing the amount and weight of packaging is important, its critical safety role is compromised if the packaging materials are no longer able to adequately protect the product within.

Given the important mandatory safety standards for toys, and while mandated minimum percentages of post-consumer recycled content may be viable for disposable packaging, such changes if applied to long-term toy packaging will present a compliance conflict and risk introducing product safety issues for children because of the important functions such toy packaging is intended to provide.

B. Long-Term Storage Packaging Does Not Burden Minnesota's Recycling System

The statutory goals of PWCRA are focused on reducing environmental impacts associated with materials entering the waste management system. Packaging retained by consumers for extended periods generates little or no immediate burden on municipal recycling or disposal infrastructure but rather important benefits. When consumers keep packaging for product protection, storage, display purposes, or as collectibles, the material remains in active use, and the packaging is diverted from the residential waste stream, not incurring collection and processing costs. Further, impacts on recycling systems and disposal are reduced, deferred, or eliminated, with long-term packaging use.

However, by not providing an exemption for long-term storage, Minnesota may *inadvertently disincentivize packaging sustainability*, as lower weight packaging would not hold up to the life of a product and would therefore be disposed of more frequently and replaced with additional storage purchased by the consumer.

Because EPR programs are designed to address materials entering waste management systems, long-term storage packaging falls outside the core policy rationale supporting producer responsibility obligations.

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C. Regulatory Consistency with Other State Packaging EPR Programs

The Toy Association respectfully urges Minnesota to consider alignment with other states' EPR frameworks that recognize long-term storage packaging as distinct from short-term, disposable packaging.

California[1], Maine, and Washington[2], for example, have enacted exemptions for long-term storage. These exemptions apply to packaging for durable products designed for a lifespan of five years or more, exempting packaging for these products from each state's EPR programs. These provisions recognize that retaining packaging for years substantially changes its environmental profile and relationship to the waste stream.

Alignment with approaches adopted in other states and currently in force will promote regulatory consistency, reduce compliance complexity, and support efficient implementation of Minnesota's program. To accomplish this, MPCA may wish to consider a regulatory exemption similar to the following used in Colorado:

> *"Packaging materials intended to be used for the long-term storage or protection of a durable product and that are intended to transport, protect, or store the product for at least five years."*[3]

Alternatively, MPCA could list criteria to exempt packaging, such as:

- the packaging is designed for continued consumer use after purchase;
- the packaging serves an ongoing storage, display, preservation, or protective function;
- the packaging is not ordinarily discarded shortly after purchase; or
- the packaging remains associated with the product for an extended period of time

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[1] California SB 54 (https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB54) exempts "Packaging used for the long-term protection or storage of a product that has a lifespan of not less than five years"
[2] Washington SB 5284 (2025) (https://lawfilesext.leg.wa.gov/biennium/2025-26/Pdf/Bills/Session%20Laws/Senate/5284-S2.SL.pdf?q=20260724093723) exempts packaging that is "used to protect or store a durable product for a period of at least five years"
[3] Colorado 6 CCR 1007-2-18 - Producer Responsibility Regulations

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Including a regulatory exemption for long-term packaging would better align regulatory obligations with actual waste stream impacts, while focusing producer responsibility resources on materials that meaningfully contribute to packaging waste. This approach, as mentioned, also importantly provides consistency with other state EPR programs, while reducing unnecessary compliance costs and encouraging innovation in reusable and durable packaging designs.

Further, consistency across all states' programs, in general, supports more efficient administration of the core principles of packaging EPR by the designated Producer Responsibility Organization (PRO), facilitating compliance -- while reducing the likelihood of non-compliance or errors driven by a single state's variant approach.

Conclusion

The Toy Association supports Minnesota's efforts to implement PWCRA in an effective and environmentally beneficial manner. To ensure the program prioritizes those packaging materials that contribute meaningfully to the waste stream, we respectfully urge MPCA to establish a clear exemption for packaging designed to be retained after purchase for long-term protection, preservation, storage, organization, or display of products.

Such an exemption is consistent with the fundamental goals of EPR policy, recognizes the unique role of durable packaging, and will help ensure regulatory resources are directed toward materials with the greatest environmental impact.

Thank you for your consideration. Please let me know if we can provide any additional background or resources.

Sincerely,
Charlotte B. Hickcox
Charlotte B. Hickcox
Senior Director, State Government Affairs
The Toy Association

<u>About The Toy Association and the toy industry:</u>

The Toy Association is the North America-based trade association representing the toy sector; our membership includes more than 800 businesses, from inventors and designers

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of toys to toy manufacturers and importers, retailers and safety testing labs, and all members are involved in bringing safe & fun toys and games to children.

Toy safety is the top priority for The Toy Association and its members. Since the 1930s, we have served as leaders in global toy safety efforts; in the 1970s we helped to create the first comprehensive toy safety standard, which was later adopted under the auspices of ASTM International as ASTM F963. The ASTM F963 Toy Safety Standard has been recognized in the United States and internationally as an effective safety standard that has been adopted as a mandatory toy safety standard for all toys sold in the U.S. under the Consumer Product Safety Improvement Act (CPSIA) in 2008. It also serves as a model for other countries looking to protect the health and safety of their citizens with protective standards for children. The 2023 revision to ASTM F963 was accepted by the Commission and came into force in April 2024. The Toy Association continues to work with medical experts, government, consumers, and industry to provide technical input to ensure that toy safety standards keep pace with innovation and potential emerging issues.

The Toy Association is committed to working with legislators and regulators around the world to reduce barriers to trade and to achieve the international alignment and harmonization of risk-based standards that will provide a high level of confidence that toys from any source can be trusted as safe for use by children.

AMERIPEN®

July 24, 2026

Submitted via public comment form at https://minnesotaoah.granicusideas.com/discussions/41576-minnesota-pollution-control-agency-request-for-comments-on-the-packaging-waste-and-cost-reduction-act

RE: Packaging Waste and Cost Reduction Act Request for Comments – AMERIPEN Comment Letter

Dear Administrative Law Judge Christa L. Moseng:

AMERIPEN – the American Institute for Packaging and the Environment – is providing feedback to the Request for Comments ("RFC") under Court of Administrative Hearings Docket No. 22-900-41576, entitled "41576 Minnesota Pollution Control Agency Request for Comments on the Packaging Waste and Cost Reduction Act". These comments ultimately are intended to inform the potential rulemaking of the Minnesota Pollution Control Agency ("the Agency" or "MPCA") to implement the Packaging Waste and Cost Reduction Act ("the Act"). AMERIPEN respectfully submits this comment letter for the Agency's consideration as it develops rulemaking language.

AMERIPEN represents the entire U.S. packaging value chain, advocating for responsible packaging policies that drive meaningful progress in packaging sustainability while supporting industry growth and consumer needs. Our membership includes materials suppliers, packaging manufacturers, retailers, consumer packaged goods companies, and end-of-life materials managers. This cross-sectional membership gives AMERIPEN a perspective on packaging policy that no single-sector commenter can offer, and it informs the technical and regulatory analysis that follows.

In this letter, AMERIPEN offers feedback and suggestions related to the topics outlined in the RFC document. The comments below are organized according to the same order as in the RFC document.

Topic One (Definitions):

Food Packaging: AMERIPEN is concerned that the definition of "food packaging" in statute is interpreted to apply overly broadly and to a wide range of materials that may never reach covered entities. This concern is addressed more fully in the "Packaging" paragraph below, which deals with a similar issue.

Packaging: AMERIPEN is concerned that the definition of "packaging" (as well as "food packaging") in statute is interpreted to apply overly broadly to a wide range of materials that may never reach residential consumers or other covered entities. Moreover, the definition is not read as limited to packaging associated with an underlying product. This puts the Act out of alignment with extended producer responsibility (EPR) laws in other states, will create substantial new costs and implementation burdens that are unjustified, and will cause implementation confusion (especially for smaller producers that may no longer be exempted as a result). Packaging limited to "back-of-house" operations and packaging "sold empty" without a product should not be treated as "covered material" because they generally will not reach the waste stream unless and until they are filled. These critical issues should be further clarified to achieve feasibility and harmony. A reasonable scope for "packaging" (and "food packaging") should clarify that the scope of types of materials referenced in the statute would only apply to those materials that contain an underlying product and that ultimately reach a covered entity.

Statewide: It would be helpful to clarify what the meaning of "statewide" is under the Act, particularly regarding the two covered materials lists. The Act refers to the lists as being "statewide,"[1] and AMERIPEN supports the EPR program maintaining lists with uniform (rather than locally tailored) application once fully implemented.

Topic Three (Collection lists):

3(a): "Current availability of collection" services for recycling can be estimated using the share of population with access to recycling, across all methods (including curbside, drop-off, and subscription), for both recycling and organics. But what qualifies as sufficient availability will likely be lower for organics, given organics recycling has less infrastructure and system maturity relative to recycling. AMERIPEN suggests setting the threshold for sufficient "availability" at no higher than 60% for recycling and potentially lower for composting; this provides some consistency with related frameworks in the federal Green Guides administered by the Federal Trade Commission while allowing for infrastructure to develop and increase rates.

3(b): The criterion in the Act that considers processing focuses only on "processing infrastructure". [2] Therefore, the MPCA commissioner should consider the existence of infrastructure rather than "access" to it. The threshold for this criterion should be whether there is sufficient infrastructure in place to create marketable commodities consistently. There is not a need to set different standards for regions, as statute talks about the recyclable and compostable list and the Alternative Collection Program (ACP) list both being "statewide".[3] In a mature EPR system, Minnesotans will be able to recycle or compost the same materials no matter where they live. The system should be designed to achieve this end, though it is important to note that thresholds across all criteria may need to start lower in order to maintain covered material on the market while infrastructure and expectations for the materials' performance ramp up.

3(c): The question in the RFC document conflates processing with sorting, but those two processes are listed separately in the statutory criteria.[4] However, industry bale specifications established by the Recycled Materials Association (ReMA) for all material types serve as broadly accepted indicators for material acceptability. Inclusion in an industry-accepted bale specification signals the capacity and existing technology to sort and reprocess the materials at recycling facilities. Consideration of these "bale specs" also addresses the responsible markets consideration under 3(d) because their existence for a given material indicates market interest. Alternatively, both processing and sortation sufficiency can be assessed by examining yield and residue amounts at the material recovery facility or composting facility. AMERIPEN suggests that sorting and processing can be considered sufficient for a given material if there is adequate yield for that material to be marketed.

3(d): AMERIPEN strongly recommends against using a specific number of end markets or similar "hard" number thresholds when evaluating this criterion. A fixed threshold is arbitrary and does not reflect differences in market maturity or stability. Moreover, there is significant variation among materials markets such that using the same threshold for every single one is an inadvisable, one-size-fits-all standard. Finally, it may unintentionally disadvantage materials with emerging but growing end markets. Instead, the responsible market

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[1] Minn. Stat. § 115A.1453, subds. 1 and 2.
[2] Minn. Stat. § 115A.1453, subd. 4, cl. (2).
[3] Minn. Stat. § 115A.1453, subds. 1 and 2.
[4] Minn. Stat. § 115A.1453, subd. 4, cls. (2) and (3).

consideration should assess the extent to which a given material is ultimately marketable to responsible markets. “Bale specs” can be helpful in this regard and would better reflect the sufficiency of markets in relation to the material collected. Focusing on material acceptability at responsible markets addresses much of the proposed criteria without unnecessarily demanding proprietary information.

3(e): AMERIPEN recommends that regulation of inputs to packaging be handled through separate regulatory frameworks rather than as a feature of EPR; this is consistent with the drafting of the Act. Objective facility performance data, including rejection rates, yield rates, and market acceptance that may be helpful are also already captured implicitly in the other criteria: a substantial number of facilities may not have adequate infrastructure to manage a covered material, and that would weigh against recyclability. It is also important for the Agency to note that contamination can occur after a covered material reaches the consumer or enters the waste stream, through no fault of the producer. Additionally, MPCA should consider the positive impact that improved performance standards will have for addressing such factors that might reduce recyclability.

3(f): The quantity of available and recoverable material could be estimated using observed collection and recovery data, including recycling and composting facility yield data and the proportion of covered material ultimately reaching responsible markets. However, AMERIPEN de-emphasizes this criterion in relation to many of the others; waste collectors and processors are in a better position to determine when there is enough material to justify pursuing it, rather than setting arbitrary thresholds that cannot keep up with changing supply and demand conditions.

3(g): The primary future condition to consider is investments and upgrades in collection, sortation, and processing infrastructure. Other conditions include changes in responsible market capacity and changes in material design that affect material acceptability.

3(h): AMERIPEN recommends against the specific criteria for residuals, contaminants, and toxic substances and for material quantity, as the other suggested measures better capture recyclability and compostability more holistically. Additionally, specific criteria for these concerns will be incredibly difficult to track, particularly during the early implementation of an EPR system in Minnesota. Other criteria to consider include:

- The potential for consumer education and outreach to increase collection rates and reduce contamination.
- The existence and development of material design standards (e.g., APR Design Guide) that increase uniformity and ability to recycle or compost materials.

3(i): ACPs are an important component of the recycling and composting system that complement other methods of collection. While the ACP list is required to be “statewide” for collection, the Agency should implement some flexibility for convenience. Convenience standards for ACPs should differ by density, and by region if usage of the material varies regionally (e.g., due to climate). AMERIPEN opposes establishing fixed numerical requirements tied to geographical boundaries (such as one site per county); instead, AMERIPEN prefers population-based requirements that could be tied to Needs Assessment regions (e.g., one site per X residents in each region). AMERIPEN recommends that consideration should be unique to the needs of each material in an ACP; some materials are easier to return than others, and some are not generated as frequently and may only need collection events rather than year-round collection.

3(j): At a minimum, ACPs should be required to measure the amount of covered materials collected, including contamination, and the amount ultimately sent to responsible markets.

Topic Four (Statewide requirements and measurement):

4(c): For all statewide requirements generally, the Agency should consider imposing the requirements at a practically feasible level rather than one that is excessively aspirational. To address affordability, the Agency should also consider the requirements' imposition of new costs for consumers and businesses alike and should prioritize their minimization.

Regarding the waste reduction statewide requirement, the Agency must consider that the Act defines "waste reduction" as more than just simple "source reduction" or material redesign. By cross-reference, it means any "activity that prevents generation of waste or the inclusion of toxic materials in waste" other than refill. [5] AMERIPEN therefore urges the Agency to clarify in rule and to accept in practice that any activities that reduce waste would be acceptable forms of "waste reduction," such as "increasing the life span of a product" and "changing procurement, consumption, or waste generation habits to result in smaller quantities or lower toxicity of waste generated".[6] Additionally, recycling and composting volumes should serve as some basis for waste reduction performance, since they reduce waste generated and sent to a landfill. Full consideration of all of true waste reduction activities affords a full suite of options to achieve the goals envisioned in the Act.

Topic Five (Stewardship plan and annual reports):

5(a): The following stewardship plan requirements in Minn. Stat. § 115A.1451 merit further clarification:

In Subd. 3:

- Generally, provide a list of covered material types with definitions so the public is aware of what they are in a central location.
- For clause (3), clarify explicitly that any producer or group of producers can submit a request for exemption to a Producer Responsibility Organization (PRO).
- For subclause (9)(ii), specify that a PRO may utilize material design guides when fulfilling its role to "foster the improved design of covered materials" through fee incentives. This will allow for recognized standards to form the basis of these incentives.
- For clause (13), require the PRO to protect information at least as stringently as would be required of the state under the law if the information were submitted to the state.
- Related to clause (15) and other requirements, allow the PRO to use existing works that can fulfill the requirements, in order to avoid duplication of effort.
- For subclause (15)(i), clarify that the labeling assistance is offered voluntarily and producers are not subject to labeling requirements under the Act.

[5] Minn. Stat. § 115A.1441, subd.40.
[6] Minn. Stat. § 115A.03, subd.36b.

In Subd. 6:

- Regarding paragraph (b), and consistent with comments above, clarify that the methodology for measuring waste reduction is broad enough to encompass the entire scope of waste reduction as defined in the Act.

In Subd. 7:

- For paragraph (e), clarify that a PRO's role to "ensure the statewide requirements are met" is fulfilled under the Act's provisions regarding fee-setting, eco-modulation, and assistance for producers. This paragraph should not be read as creating authorities beyond what is otherwise provided in the Act.

In Subd. 8:

- For paragraph (b), allow the PRO to modify ACP details once an ACP is implemented, such as by changing the number and location of collection opportunities, as long as compliance with paragraph (a) is maintained. This allows for ACPs to adapt and optimize without waiting for subsequent plan approval or amendment.

5(b): The following PRO annual report item in Minn. Stat. § 115A.1456 merits further clarification:

In Subd. 1:

- For clause (9), it is unclear what constitutes "out of compliance". AMERIPEN believes that it should be clarified to refer only to failure to perform administrative duties such as registration, reporting, and payment of fees. Including failure to meet targets would be out of step with the Act's language and would be an excessive approach, as individual producers cannot be responsible for statewide, aggregated requirements.

5(c): A PRO should annually detail its revenues and expenses, including overhead and administrative costs with line items. In its program plan budget, a PRO should provide detailed methodological information about how fees are developed, including base fees, incentive rates, and reimbursement rates.

5(d): It would be helpful to clarify that a PRO can submit plan amendments and pursue the plan amendment process at any time. This appears to be the intent in Minn. Stat. § 115A.51, subd.4, but it is not made explicit.

<u>Topic Six (Other topics):</u>

Foremost, AMERIPEN raises concerns regarding the cumulative effect of other state packaging EPR laws and the potential for conflicting policies. In particular, eco-modulation incentives and mandates under the laws may send mixed and conflicting directions to producers. For example, California's source reduction mandate requires plastic reduction, while Minnesota's waste reduction targets may promote lightweighting that encourages more plastic use. This highlights the need to maximize harmonization among state programs to the extent possible, including for definitions and categories. AMERIPEN cautions against adding any requirements in rule that would result in substantial conflicts or added burdens compared to provisions in other states, such as creating novel mandates regarding responsible markets.

AMERIPEN requests that a PRO or individual producer be allowed to delay implementation of eco-modulation incentives until the third program year. This will allow time to gather covered material supply data and to let producers adjust to fees and requirements under the Act. California adopted a similar approach via regulation.[7]

Related to the collection lists criteria discussed in Topic Three, AMERIPEN encourages the commissioner to review and potentially update the lists regularly, including at least annually during the first program plan period, to ensure they are considering the latest developments in system conditions and covered material design.

# # #

AMERIPEN strives to offer a good-faith and proactive approach to crafting packaging policies. We continue to focus on initiatives that develop and/or strengthen policies to advance the "reduce, reuse, recycle" strategies, while also underscoring the value of packaging. Our members are driving innovation, designing new packaging to be recycled, composted, or reused, and creating a more circular economy for all packaging. In our efforts to reduce environmental impact by increasing packaging circularity, our members continue to recognize the value of collaboration and the importance of working across the packaging value chain.

AMERIPEN thanks you for your consideration of these written comments regarding potential rulemaking to implement the Act and is available to provide technical assistance with any of the items raised in this letter. Please contact me (daniellew@ameripen.org) or Gregory Melkonian by email (gmelkonian@serlinhaley.com) with any further questions.

Sincerely,

Danielle F. Waterfield

Danielle F. Waterfield, Esq.

Policy Director and General Counsel

[7] 14 California Code of Regulations (CCR) § 18980.6.7

American Forest & Paper Association

Submitted via electronic public comment form
July 24, 2026

RE: Comments related to Minnesota's Packaging Waste and Cost Reduction Act Rulemaking Request for Comments

On behalf of the American Forest & Paper Association (AF&PA), thank you for the opportunity to comment on the request for comments on possible new rules to support implementation of the Minnesota Packaging Waste and Cost Reduction Act (PWCRA). These comments are submitted independently from Shoshana Micon's participation as an Advisory Board member for implementation of HF 3911.

AF&PA serves to advance public policies that foster economic growth, job creation, and global competitiveness for a vital sector that makes the essential paper and packaging products Americans use every day. The U.S. forest products industry employs more than 925,000 people, largely in rural America, and is among the top 10 manufacturing sector employers in 44 states. Our industry accounts for approximately 4.7% of the total U.S. manufacturing GDP, manufacturing more than $435 billion in products annually. AF&PA member companies are committed to making sustainable products for a sustainable future through the industry's decades-long initiative — *Better Practices, Better Planet 2030*. In Minnesota, the industry employs approximately 25,000 individuals in 106 facilities, contributes $205 million in state and local taxes, and manufactures more than $10.8 billion in products.

Paper Recycling Works

Paper recycling is essential to our industry's efforts to achieve important sustainability goals and build a more circular value chain. Paper is one of the most widely recycled materials in America, turning used paper into new, essential products Americans rely on. In fact, more than 2/3 of all paper recycled in the U.S. is turned into new products at mills nationwide. In 2024, we recycled around 46 million tons, translating to an overall paper recycling rate of 60%-64%.

Paper recycling is also vital to our national supply chain. AF&PA members own and operate more than 100 materials recovery facilities across the country. About 80% of U.S. paper mills use some recycled paper to make new, sustainable products. Our industry is scaling up the use of recycled paper. U.S. mills used 1.29 million more tons of recycled paper to make new products in 2024 – that's 32.7 million tons compared to 31.3 million tons in 2023.

Our industry has prioritized recycling for over 30 years, and we are committed to continued progress. AF&PA members are not just participants in the recycling system, we are helping build and improve it through voluntary industry investments that use more recycled paper, create jobs, and innovate in our U.S. manufacturing processes. During 2019-2025, our industry invested in projects at paper mills that will use over 4.5 million additional tons of recycled paper annually. Companies built new mills, upgraded old ones, modernized equipment, and it continues to make investments in our facilities, employees, and communities.

Please find below comments focused on areas of the request for comment that the paper and fiber-based packaging industry would like to see implemented in the PWCRA.

Comments

1: *Definitions for terms used that are not defined in statute.*

Paper products

The definition of paper products in 115A.1441 (24) of the PWCRA ("product made primarily from wood pulp or other cellulosic fibers") is overly broad and insufficient for program implementation. This language should be updated to reflect that "paper products mean paper" so that it can be easily distinguished from packaging products and understood by those obligated under the program and to make sure it is aligned with legislative intent. A wooden chair can be used as an example of how the current definition fails to stand up to scrutiny. Under the current definition, the woody fiber in a chair might be incorrectly considered a "paper product" when that is clearly not the case nor is it the intention of the law. Similarly, cellulose and its derivatives are commonly used in diapers, as thickening agents, food additives, films, and filters, none of which serve a paper-related function. Without a workable definition that can be easily understood, the proposed language risks producer confusion, programmatic dysfunction, and systematic failure due to the huge administrative burden and increased costs.

Limits are needed to ensure that the definition of "paper products" does not bring into scope materials that are not handled by the residential recycling system. The statute does not clearly define or address how such materials would be categorized and evaluated, creating potential ambiguity in implementation, and the potential for inclusion of thousands of products and administrative burdens for materials that never enter the blue bin. For example, this could bring types of wallpaper, board games, office supplies, lamp shades, window shades, cat scratching posts, and dollhouses into scope, which is outside the intent of the program. This misalignment of scope could lead to fees on materials that are not burdening the residential recycling system, raising the cost of everyday goods that Minnesotan's rely on. To solve this and harmonize with other EPR programs, the definition of paper products should include "for personal, non-commercial use that is sold or supplied to the consumer."

Paper is one of the most widely recycled materials in America, and paper recycling rates in the U.S. have consistently increased in recent decades. The supply-based recycling rate in 2024 for **paper is 60-64%** and **cardboard is 69-74%** according to AF&PA's 2024 U.S. Recycling Rates. It is unfair that, as one of the most recyclable materials in the marketplace, paper has extra burdens and obligations placed on it and could lead to a reversed incentive structure to increase plastic, rather than paper, to avoid onerous EPR fees and compliance mandates.

As currently written, this also raises questions about enforcement, as regulators cannot reasonably enforce and the PRO cannot reasonably oversee obligations on thousands of products or producers for materials they did not place on the residential market. This further increases the administrative cost of the program, which does nothing to directly improve recycling outcomes. It also risks double counting of both materials and the associated fees.

Packaging and Food Packaging
The current definitions of packaging and food packaging are also too broad. To better harmonize with other EPR states, these definitions must be changed to include language that the packaging is "for personal, non-commercial use that is sold or supplied with the product to the consumer." The huge administrative burden and increased costs that come with the imprecise language should be avoided, particularly when it is also incompatible with other state programs.

Exempt Materials: Business to Business Exemptions
The criteria to meet the business-to-business exemption laid out in 115.1441(14) are extremely limited in their application. The exemption requires producers to determine at what point in the supply chain their packaging goes from exempt to non-exempt, which is overly burdensome and too complex to implement. The regulations should clarify this definition to encompass all Industrial, Commercial, and Institutional (ICI) packaging. The PWCRA needs to be practicably implementable and should focus on improving the residential recycling system. The business-to-business exemptions included in other EPR programs are based on the recognition that these materials are already being managed responsibly and funded through established commercial operations. Businesses typically contract with service providers to collect and process these materials, creating an effective system that delivers higher recovery rates and better fiber quality than residential streams. Because the ICI stream is already functioning efficiently and funded by businesses themselves, it will not benefit from this EPR program.

Postconsumer Recycled Content
The requirement for recycled content to be from "post-consumer" recycled content doesn't reflect the realities of complex fiber recovery markets. Any distinction between post-consumer and post-industrial recycled content is extremely difficult to verify and can undermine efficient paper recycling markets. End markets do not distinguish between post-consumer and post-industrial bales of material as inputs to the system, and there is no test that can verify the distinction between pre- and post-consumer materials, or their origin. Mixed collection systems make it impossible and infeasible to determine which percentage comes solely from post-consumer sources. A requirement for only postconsumer recycled content will disrupt the already successful market driven recycled fiber markets.

Additionally, although the PWCRA should focus only on the residential recycling stream, unless the business-to-business exemption language is remedied as suggested, it is likely that most commercial material will be within scope. Should that be the case, it is unfair for producers of commercial covered material to have to pay into this program without being included in collection, processing, infrastructure improvements, and end-market development due to a limited definition of recycled content.

2a: *Under Minnesota Statutes, section 115A.1441, subdivision 16 (11), what criteria should be used to determine that specific hazardous or flammable products regulated by the 2012 federal OSHA CFR, title 29, section 1910.1200 that prevents a material, any proportion of material, or packaging cannot be waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?*

It is essential that hazardous or flammable products, such as batteries, are not a part of the recycling system. Companies that process large amounts of flammable material, such as paper facilities, need to be vigilant in managing fire safety risks and liability. The National Fire Protection Association states "the likelihood of them [batteries] overheating, catching on fire, and even leading to explosions increases when they are damaged or improperly used, charged, or stored." The environmental stressors (such as heat and water exposure) and physical manipulation of bales that can be inherent in the shipping, sorting, and processing of recyclable materials are counter to most guidelines for battery safety and best practices.

We encourage MPCA to defer to federal agencies and exempt all primary, secondary, and tertiary packaging used to package hazardous or flammable products regulated by OSHA. It will lead to greater harmonization with other EPR states if producers are not held responsible for proactively submitting information to demonstrate compliance with federal OSHA requirements to claim this exemption. This would create unnecessary administrative burden for both producers to file the information and MPCA to review it.

2c: *Should criteria be defined for "unsafe and unsanitary" in relation to Minnesota Statutes, section 115.1441, subdivision 24? If so, what should those criteria be? Should this be tied to what is accepted on the covered material lists?*

We encourage MPCA to explicitly state which products meet the exemption for "[paper] products that recycling or composting facilities will not accept, or do not enter the recycling stream because of the unsafe or unsanitary nature of the paper product" under PWCRA 115.1441(24). The exemption should apply to all paper products that, through the normal and intended course of use, become unsafe or unsanitary. Fiber-based tissue, towels, napkins, cleaning wipes, toilet paper, facial/body wipes, and similar absorbent products are routinely used in ways that result in contact with bodily fluid, cleaning agents, and other contaminants. Once used, these products are not suitable for recycling or composting and are routinely rejected by material recovery facilities and composting facilities due to safety, sanitation, and quality concerns. For recycled fiber manufacturers that produce food packaging, it is unacceptable to use packaging materials as feedstock that contact or contain biohazards, animal tissues (such as meat packing), and hazardous chemicals. Considering producers have no control over a product's use once it has entered the market, it is critical that this exemption be broad in nature. Explicitly ensuring that such products fall within the exemption will help prevent their inadvertent inclusion in the program and avoid compromising the quality of recovered fiber streams and the safety of those processing recovered material.

The state should provide further definition or require, as part of its assessments, that composting and recycling facilities specifically list items that they reject and why they reject them (i.e., hygiene issues, antimicrobials, interference with current recycling streams due to material, moisture, etc.). This will help producers clearly identify and understand which paper-based items are accepted for recycling and composting in Minnesota.

3a: *What should the threshold for "current availability of collection" services be for recycling? For organics recycling? Should they be different or the same?*
AF&PA's 2021 Access to Recycling Study found that 81.4% of the Minnesota population has access to curbside collection and 73.7% has access to drop-off collection for paper. The baseline of an acceptable threshold for "current availability of collection" should be harmonized with the U.S. Green Guides Section 260.12(b)(1) "substantial majority" of 60%.

We recommend that "composting" be used here rather than "organics recycling" for consistency between statute and regulations and to remain within scope. Organics recycling would include food scraps which are not covered under this EPR program.

3b: *What is the threshold for access to recycling and composting processing infrastructure? Should it be determined by distance to a percent of the population, total coverage of a percent of the total population, or something else? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?*

There should not be a specific threshold or number for access to recycling and composting infrastructure. This should instead be framed as having sufficient infrastructure to create marketable commodities. Standards should remain the same across all regions as statute requires statewide commingled and Alternative Collection Program lists.

3c: *In evaluating the capacity and technology for sorting covered materials, how much processing capacity should be set as the threshold for a covered material to be included on a collection list? Should it be set as a percentage or another measure?*

MPCA should align with Recycled Material Association's (ReMA) ISRI Specification Standards. Processing capacity should align with the ability to create marketable commodities that meet the ISRI bale specifications for that commodity. There should be no criteria to be processed into a single commodity bale. The Mixed Paper bale (#54) is a marketable commodity that consists of all paper and paperboard of various qualities not limited to the type of fiber content, sorted and processed at a recycling facility.

3d: *What is the minimum availability of responsible markets for a covered material to be included on a collection list? Is there a threshold relating to capacity, number, distance, or some combination of thresholds?*

A specific number of responsible markets should not be required to meet this criterion. The supply and demand dynamics for recycled materials vary widely over time. Fixed thresholds are restrictive and impede free and fair trade. It is already required by statute that service providers must ensure that covered materials are sent to responsible markets. Minimum availability should be set as the ability for marketable commodities from MRFs or composting facilities to be received and processed by responsible markets.

It should also establish a process for ongoing review and for requesting variances or alternative compliance pathways to maintain operational flexibility and ensure fair market participation.

3f: *What is the quantity of a covered material estimated to be available and recoverable that should cause a covered material to be included on a collection list?*

The quantity of covered material should be enough to support a marketable end market, in alignment with the ISRI specifications.

Yield should not be used as a metric to be included on a collection list. Yield is not required by statute and requiring it in regulation would be scope creep. Additionally, sharing individual facility yields negatively impacts each facility's strategic competitiveness in the marketplace. Instead, we support reference to existing industry standards for recyclability and repulpability. In the Approved Program Plan for the State of Oregon, Circular Action Alliance granted domestic paper mills an exemption for paper yield verification. They came to this conclusion based on input from AF&PA, the Technical Association of the Pulp and Paper Industry, and Moore & Associates that overall yield performance in the U.S. is never below 60%.

It is important to note that contamination at one mill might be considered a desired material at another one. For paper markets, desired inbound material is not always a constant. It can fluctuate depending on customer specifications, investment in technical capacity, and which output of material is being processed.

3g: *What are some examples of future conditions of these criteria to be considered?*

There needs to be enough flexibility in these regulations to adjust to external factors that MN and the industry do not have control over, such as the far spreading, global impacts that China National Sword and the Covid-19 crisis had on the recycling supply chain. Both of these events drastically impacted fiber flows but the flexibility of markets allowed companies to pivot their material to different regions (e.g., west coast material shifting east, new domestic capacity coming online) or change their protocols (e.g., temporarily retooling machinery to pandemic-specific products, adjusting sources as facilities were deemed essential or non-essential) as needed. It is imperative that if the PRO notes a market is being harmed by the EPR program, that MPCA allow changes in a fair, competitive, and timely way.

3h: *Are there any other criteria recommended to be considered? Are there criteria mentioned above or in statute that are not recommended to be considered?*

It is essential that the criteria to determine adequate service provider capacity, processing, and sorting availability is market driven. Extra layers of bureaucracy can severely hamper industry's speed and adaptability to weather changes to market dynamics. For end markets, compliance requirements should not be so burdensome that an otherwise viable end market would decide that the bureaucratic requirements and exposure to risk in participating in the program outweighs the value of the material purchased. The paper industry's strength in our global markets is harmed when US State protocols make our material less competitive through regulatorily mandated requirements. Additionally, clarity and specific guardrails on protection of trade secrets and confidential business information are needed for the responsible market requirements.

As currently drafted, there is no limit to the potential investment needed to support end markets, or recognition that capacity or technology increases may result in diminishing or negative economic or environmental returns. This puts the PRO and producers at unlimited financial liability. There should be limitations placed on the extent to which a PRO needs to support end markets. The implementation of a spending cap would will help ensure that PWCRA passes the economic feasibility analysis required by 115A.24(4)(1).

3i: *Relating to alternative collection systems, what are the considerations for what meets "convenience" and what would the minimums be? Should it differ for covered entities in Greater Minnesota versus in the Twin Cities Metro Area?*

Too much emphasis on convenience, without proper education and outreach in place, could lead to continued "wish cycling" and degradation in quality of the current recycling stream. The single-stream curbside collection and drop-off intended to enhance convenience has resulted in significant contamination of the recycling system. We recommend that a hub-and-spoke collection model be used for alternative collection systems. This could reduce duplicative facilities and unnecessary spending and increase accessibility.

4a: *What criteria should be considered to set a return rate?*

An appropriate "return rate" is one where the environmental and economic benefits of the reusable packaging are realized. Too few return cycles will negate the benefits reusable packaging may have. There needs to be criteria for comparing relative environmental performance of "reusable" and "refillable" materials against single-use but recyclable materials. Without these criteria, there may be an unfair competitive environment that could result in unintended outcomes, including regrettable substitutions for single-use recyclable materials with a superior overall sustainability profile than "reusable" or "refillable" options. Regulations should strive to avoid overtly picking winners and losers among materials.

5a: *Are there any items within the stewardship plan requirements that may need to be further clarified?*

Successful implementation of the program requires a stewardship plan that balances the goals and requirements of 115A.1451 and changes that happen quicker than the 5-year cycle of the stewardship plan and needs assessment. A structure should exist to amend the program plan as appropriate based on significant changes to the realities of on the ground recycling, market conditions, and technical innovation. For example, if a covered material changes from “not recyclable” to “recyclable” that could indicate the need for an updated stewardship plan.

5c: *What information should the MPCA request to verify producer responsibility organization costs and reimbursement rates in a stewardship plan and/or annual report as part of a budget and any financial and programmatic auditing?*

More transparency is needed on the estimated program and administrative costs of the program, and the fee setting methodology. The PRO is a contractor performing a service on behalf of the state, and full disclosure for the public on fee setting is a necessary part of government transparency requirements. As EPR programs are supply side policies that risk increasing prices for consumers, it is essential MPCA protect Minnesotans from unreasonable fees structures that lack transparency and accountability. As currently written, there are no guardrails, limits, or caps on the administrative costs for the PRO that must be paid through producer fees. Without limits, the PRO has no incentive to manage costs and can pass along any and all costs without restriction.

5d: *Does any part of the stewardship plan and plan amendment approval process need to be further clarified?*

We appreciate that there is an opportunity for public comment on the stewardship plan and plan amendment approval process.

6. *Other Topics*

Environmental Justice

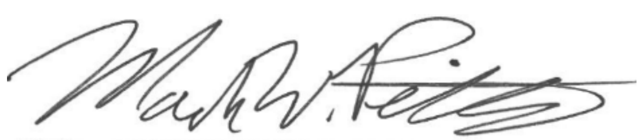
Section 115A.1450 (4)(9)(iii) requires that the cost of covered services identifies disparities in the availability of services in environmental justice areas. This transparency should be included in the ultimate cost of a final product due to collected fees. It would be beneficial to see the true impact that EPR fees have on the cost of everyday consumer goods in environmental justice areas. A cross-economy look at the price differential between pre- and post-EPR cost of living could look at how the price of a family meal from a fast-food store or other metrics reflect changes to Minnesotan's cost of living resulting from the PWCRA.

Greeting Cards
We encourage MPCA to explicitly state in regulation that greeting cards are not within the scope of this program. Greeting cards are keepsakes, that are purchased with the intention of being retained and preserved, that do not enter the residential recycling system.

Long Term Storage Exemption
We encourage MPCA to explicitly clarify in its regulations that packaging used for the long-term protection, preservation, or storage of a product—with an expected lifespan of at least five years—is not subject to the requirements of the PWCRA. Minnesota is the only state that does not currently recognize a long-term storage exemption. Establishing this exemption would align Minnesota's program with existing state EPR frameworks, promote regulatory consistency across jurisdictions, reduce unnecessary compliance complexity for producers, and support a more efficient and predictable implementation of the program. By harmonizing with approaches already adopted elsewhere, MPCA can focus EPR obligations on materials that are more likely to enter the waste stream while avoiding regulation of packaging that serves an ongoing, durable function.

Conclusion
Thank you for your consideration of our comments. We appreciate the ongoing collaboration between AF&PA and the Minnesota Pollution Control Agency to advance a sustainable recycling system. We remain available to discuss the feedback herein in greater detail and look forward to your response. Please contact Shoshana Micon, Manager, Recycling and Packaging Sustainability, at Shoshana_Micon@afandpa.org or Frazier Willman, Manager, Government Affairs, at Frazier_Willman@afandpa.org if you have any further questions.

Sincerely,



Mark Pitts
Interim Vice President, Industry Affairs
American Forest & Paper Association

Bruce Nustad Attachment

RECEIVED BY CAH
7/24/2026

Minnesota RETAILERS
driving innovation, succeeding together

July 24, 2026

Minnesota Pollution Control Agency
Attn: Aubrey Sondrol, Rule Coordinator

RE: Request for Comments – Packaging Waste and Cost Reduction Act Rulemaking (Revisor's ID No. R-04992)

Dear Commissioner and Agency Staff:

Minnesota Retailers appreciates the opportunity to provide comments regarding implementation of the Packaging Waste and Cost Reduction Act (PWCRA).

Minnesota Retailers represents retailers and key business partners operating more than 1,200 storefronts throughout Minnesota. Our members range from locally owned independent businesses to regional and national retailers serving communities across the state.

The Legislature adopted a producer responsibility framework that places primary responsibility for financing and managing the program on producers and Producer Responsibility Organizations (PROs). As the Agency develops rules, it is critical that implementation remain faithful to the statutory framework and not expand obligations beyond those established by the Legislature.

Retailers support practical approaches that improve recycling outcomes and reduce waste. However, implementation must recognize the realities of modern supply chains, the interstate nature of commerce, and the significant cumulative regulatory burden already facing businesses operating in Minnesota.

Producer Responsibility Must Remain with Producers

The Agency should ensure that all rule provisions remain consistent with the Legislature's decision to establish a producer responsibility system.

Retailers generally do not design packaging, determine material composition, select packaging specifications, negotiate recycling contracts, or control end-of-life management systems. Many retailers simply sell products packaged by manufacturers and suppliers operating across national and global supply chains.

Accordingly, the rule should clearly state that retailers that are not producers are not responsible for:

• Verifying producer registration or compliance status;

• Auditing producer reporting;

• Collecting producer fees;

• Monitoring packaging composition;

• Certifying recyclability claims; or

• Performing duties assigned by statute to producers or PROs.

Without explicit clarification, retailers may face uncertainty, duplicative compliance obligations, and increased liability despite having limited ability to influence packaging decisions.

Exemptions Must Be Broad, Predictable, and Practical

The Agency seeks input regarding exemptions for hazardous, flammable, and health- and safety-regulated products.

Minnesota Retailers strongly encourages the Agency to adopt a presumption that packaging should qualify for exemption whenever federal or state requirements materially influence packaging design, construction, safety performance, labeling, transportation, or handling requirements.

Products such as aerosols, batteries, automotive products, paints, pool chemicals, pesticides, cleaning agents, propane containers, pharmaceuticals, and food-contact products are subject to extensive federal and state regulation. Packaging often exists to satisfy safety requirements rather than marketing preferences.

The Agency should not require producers to prove that every conceivable alternative packaging design has been exhausted before granting an exemption. Such a standard would create uncertainty, generate significant administrative costs, and discourage innovation.

Similarly, exemptions should be available when packaging serves legitimate health, sanitation, contamination-prevention, tamper-resistance, spoilage-prevention, or worker-safety functions.

Additionally, the Agency should maintain consistent exemptions and material exclusions, including for business-to-business film, corrugated packaging, sanitary paper products, and other similarly regulated materials, to reduce complexity and improve compliance across states.

Recyclability Must Reflect Reality, Not Theory

The Agency is considering criteria for determining whether materials should be included on collection lists and considered recyclable or compostable.

Minnesota Retailers strongly encourages the Agency to adopt a "real-world recyclability" standard.

A material should not be designated recyclable simply because a technology exists somewhere that can process it. A material should only be designated recyclable when:

• Collection is broadly available to Minnesota residents;

• Processing infrastructure currently exists and has sufficient operating capacity;

• Responsible end markets exist and consistently purchase recovered material; and

• The material is routinely and successfully recovered through existing systems.

Minnesota consumers increasingly rely on recyclability claims when making purchasing decisions. Designating materials as recyclable when practical recycling pathways do not exist risks consumer confusion and undermines confidence in the program.

At the same time, the Agency should support continued innovation across the recycling system. Investments in sorting infrastructure, material recovery facilities, and emerging recycling technologies should be encouraged alongside packaging innovation. While future infrastructure improvements should not be presumed when determining current recyclability, the rule should create incentives for long-term improvements that expand recycling capacity and strengthen Minnesota's circular economy.

The Agency should avoid relying on future infrastructure assumptions, pilot projects, or speculative market development when making collection-list determinations.

Alternative Collection Systems Should Not Become Retail Mandates

The Agency requests input regarding alternative collection systems and convenience standards.

Minnesota Retailers strongly asks that the Agency avoid establishing requirements that effectively convert retail locations into collection sites.

Retail facilities are designed to serve customers, manage inventory, and provide safe shopping environments. Collection activities often require additional staffing, storage space, transportation arrangements, training, liability management, and safety protocols.

Any retailer participation in alternative collection programs should remain voluntary unless expressly required by statute.

The Agency should also recognize that convenience standards appropriate for densely populated metropolitan areas may be impractical in Greater Minnesota. A one-size-fits-all approach could create significant inequities and unnecessary costs.

Protect Product Availability and Consumer Choice

The Agency should carefully evaluate whether implementation decisions could inadvertently reduce product availability in Minnesota.

Many products sold in Minnesota are distributed through national supply chains. If Minnesota adopts standards that differ substantially from those used elsewhere, manufacturers may conclude that serving the Minnesota market is not economically feasible for certain products or packaging formats.

Particular attention should be given to:

• Specialty products;

• Seasonal products;

• Products sold by small manufacturers;

• Food products;

• Health and personal care products; and

• Products subject to federal safety requirements.

To help ensure continued product availability and consumer choice, the Agency should avoid creating de facto Minnesota-only packaging requirements through rulemaking.

Confidential Business Information Must Be Protected with Right-sized Reporting

The rulemaking contemplates significant reporting and disclosure requirements involving stewardship plans, annual reports, budgets, reimbursement rates, and program costs.

Producers and PROs may be required to disclose commercially sensitive information including:

• Supplier relationships;

• Packaging specifications;

• Cost structures;

• Market contracts;

• Proprietary business strategies; and

• Competitive operational information.

The rule should provide strong protections for confidential business information and establish clear procedures governing public disclosure requests.

The Agency should also limit data collection to information necessary to improve recyclability and program performance, establish clear de minimis thresholds, and avoid overly granular reporting that adds cost without environmental benefit.

Cumulative Regulatory Impacts Must Be Considered

The Agency specifically requested comments regarding cumulative impacts.

Minnesota businesses are simultaneously implementing numerous environmental, product stewardship, packaging, reporting, and product-content requirements. These include PFAS restrictions, product stewardship initiatives, reporting obligations, packaging redesign efforts, and other environmental compliance mandates. Products such as food service ware and others should be reevaluated considering their treatment in existing ERP programs.

While each program may be evaluated independently, businesses experience these requirements cumulatively.

The Agency should fully consider:

• Increased compliance costs;

• Administrative burdens;

• Product reformulation costs;

• Supply chain disruptions;

• Product availability impacts;

• Increased consumer prices; and

• Disproportionate impacts on small and medium-sized businesses.

The Agency should align Minnesota's program with other state EPR programs whenever practicable. Unnecessary differences in program scope increase compliance costs, administrative complexity, and operational burdens for businesses.

Minnesota retailers support environmental progress, but success depends on practical implementation that recognizes operational realities and avoids creating barriers to serving Minnesota consumers.

Rulemaking Should Not Expand Statutory Authority

Finally, Minnesota Retailers encourages the Agency to remain closely aligned with the authority granted by the Legislature.

Many of the questions posed in this Request for Comments involve significant policy decisions regarding recyclability standards, collection thresholds, market access, exemptions, and program administration.

The Agency should ensure that rulemaking implements legislative direction rather than creating new obligations, standards, or requirements beyond those authorized in statute.

As an example, we are greatly concerned that Minnesota's definition includes reusable, non-residential packaging like pallets, which are not included in the other states' definitions. We recommend that Minnesota harmonize its definition of "packaging" with other EPR laws and ensure that non-residential reusable packaging is not designated a "covered product."

In addition, Minnesota's definition of packaging also would include products sold to consumers, like aluminum foil, parchment paper, and plastic wrap. We recommend limiting the scope to only regulate packaging in its packaging function, not products that consumers choose to purchase.

Conclusion

Minnesota Retailers appreciates the opportunity to provide input during the early stages of this rulemaking.

We encourage the Agency to adopt rules that:

• Preserve the producer responsibility structure established by the Legislature;

• Utilize objective and measurable standards;

• Reflect real-world recycling conditions;

• Protect product availability and consumer choice;

• Recognize differences between Greater Minnesota and the metropolitan area;

• Protect confidential business information;

• Fully evaluate cumulative impacts on businesses and consumers.

• Harmonize the definition of “packaging” with other EPR laws and scope to only regulate packaging in its packaging function; and

• Fully evaluate cumulative impacts on businesses and consumers.

We look forward to continued participation as draft rule language is developed.

Sincerely,

Bruce Nustad
President
bruce@mnretail.org

Will Grassle Attachment

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7/24/2026

CONSUMER BRANDS ASSOCIATION

July 24, 2026

Ms. Katrina Kessler
Commissioner
Minnesota Pollution Control Agency ("MPCA")
520 Lafayette Road
St. Paul, MN 55155-4194
Submitted via Court of Administrative Hearings eComments Website at - Court of Administrative Hearings Comments On Rules

Re: Minnesota Pollution Control Agency's' Request for Comment to Inform the Packaging Waste and Cost Reduction Rule

Dear Ms. Kessler,

Consumer Brands Association ("Consumer Brands") is appreciative of the opportunity to submit comments regarding MPCA's request for comment (RFC) to inform the Packaging Waste and Cost Reduction Act (PWCRA) rulemaking. We are committed to supporting the goals of the PWCRA and welcome MPCA's stakeholder engagement in this preliminary rulemaking process. Our comments focus on ensuring that the regulations are designed to be administrable, aligned with statutory intent and harmonized with other state EPR programs to support efficient multi-state compliance.

The Consumer Brands Association champions the industry that makes the products consumers choose and the brands they trust. From household and personal care to food and beverage products, the consumer packaged goods (CPG) industry plays a vital role in powering the U.S. economy, contributing $2.5 trillion to U.S. GDP and supporting 22.3 million American jobs. The CPG industry's number one priority is delivering safe, affordable, and convenient products to consumers every day. But the industry also plays a crucial role in reducing packaging waste and increasing recycling in the U.S. According to recent data, industry-led source reduction efforts have decreased U.S. packaging volume by about five million metric tons between 2019 and 2024. Consumer Brands is also leading a broad-based coalition, the Recycling Leadership Council, committed to modernizing recycling standards and reducing plastic waste. Driven by innovation and collaboration, CPG companies are full-speed ahead on working towards a zero-waste, circular economy.

Consumer Brands would like to provide the following insights in relation to the questions posed in the RFC to inform the PWCRA rulemaking and subsequent regulatory language:

<u>Definitions</u> - "Packaging" and "Food Package"

Consumer Brands has significant concerns regarding the definition of "packaging" in subdivision 22b of section 115A.03 of the Minnesota statute. The current definition would include non-residential reusable packaging, such as spools, pallets, barrels, trays and more, as covered packaging, which is typically not intended to be included in packaging EPR programs. Reusable, non-residential transport packaging, like pallets, are generally not included in any of the other six EPR laws, as these programs are designed to primarily address consumer packaging entering the municipal solid waste stream, and reusable, non-residential packaging typically remains in the commercial supply chain, are reused dozens if not hundreds of times, already have strong economic incentives for recovery, and rarely enter the residential curbside recycling system. Consumer Brands urges the MPCA to harmonize its definition of "packaging" with other EPR laws and ensure that non-residential reusable packaging is not mistakenly included as a covered product.

Further, Consumer Brands is also concerned with the definition of "food packaging" in subdivision 1 of section 325F.075. Under this definition, food packaging sold itself as a product, such as sandwich bags, aluminum foil, parchment paper, mason jars, and more, would be covered under the program. No other EPR law covers food packaging that is itself a product; rather, EPR laws that cover food packaging typically focus on packaging that accompanies the product at the point of sale, think takeout clam shell containers and takeout bags. Including these products as covered food packaging runs counter to the fundamental scope of packaging EPR, which is intended to assign responsibility for packaging accompanying products placed on the market, not for packaging supplies sold as standalone consumer products. Including packaging products such as food storage bags, aluminum foil, and parchment paper expands the program's scope beyond its intended purpose, creates significant reporting complexity, and may result in duplicative producer obligations without corresponding environmental benefits. Consumer Brands recommends that the MPCA limit its scope to only regulate packaging in its packaging function, not products that consumers later choose to use as packaging.

Definitions - "Paper Product"

The definition of a "paper product" in subdivision 24 of section 115A.1441 of the Minnesota Statutes raises significant concern due to its overly broad and ambiguous language, with almost no clear guidelines identifying what would and would not count as a covered paper product. Currently, the statute defines a paper product as "a product made primarily from wood pulp or other cellulosic fibers." The inclusion of cellulosic fibers does not inherently make an item a paper product, and without any fiber-composition limitations, this definition could inadvertently cover certain textiles and building materials that commonly include some cellulosic fibers. Therefore, we recommend the MPCA remove the mention of cellulosic fibers in the definition of "paper products," and instead refine the definition to describe structured paper that serves a paper-related function easily understood by a layperson. If the MPCA decides to maintain the inclusion of cellulosic fibers in the definition of "paper products," we strongly encourage the MPCA to add a definition of cellulose that excludes all cellulose derivatives, which, at a minimum, would ensure that products like textiles won't be inadvertently covered in the PWCRA.

In addition, to further clarify the definition of paper products and reduce contamination in the recycling and composting streams, covered paper products should not include items that are not primarily disposed of through the solid waste curbside system, such as toilet paper. Clarifying this definition would ensure it aligns with the statutory intent of the PWCRA, which is focused on materials managed through residential recycling and composting systems, and would avoid unintentionally including sanitary fiber products that were not contemplated in the program's original scope or needs assessment.

<u>Exemptions</u> - 2(a): Under *Minnesota Statutes*, section 115A.1441, subdivision 16 (11), what criteria should be used to determine what specific hazardous or flammable products regulated by the 2012 federal OSHA CFR, title 29, section 1910.1200 that prevent a material, any proportion of material, or packaging cannot be waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?

Packaging EPR should not second-guess packaging designs already dictated by OSHA or other federal agencies. Rather, Consumer Brands encourages the MPCA to defer to those agencies where packaging characteristics are required to achieve compliance. Other jurisdictions, including California, have taken a broad view on exempting packaging used to contain hazardous or flammable materials regulated by the OSHA Hazard Communication Standard. To align with other states, Consumer Brands recommends that the MPCA exempt all packaging used to contain such hazardous or flammable products and should not require producers to submit information to demonstrate compliance with federal OSHA requirements to claim such exemption, as this would only create unnecessary administrative burdens for both producers to file such information and the MPCA to review and approve it.

<u>Exemptions</u> - 2(b): Under Minnesota Statutes, section 115A.1453, subdivision 6., what criteria should be used to determine that a specific federal or state health and safety requirement prevents a material, any proportion of material, or packaging cannot be waste reduced, made reusable, recyclable, or compostable? What information should be submitted by a producer to demonstrate against those criteria?

When discussing federal or state packaging requirements that conflict with the requirements of the PWCRA, it's important to remember the overall intent of these federal or state requirements – to ensure packaging adequately protects the product it encases. Packaging material changes to meet recyclability or other environmental performance requirements should not ultimately undermine the packaging's protective function.

The importance of ensuring that any packaging design or material changes needed to comply with the PWCRA don't undermine the protective nature of the packaging is even more pronounced when discussing food-contact or medical-grade packaging. Packaging for food and agricultural commodities requires unique specifications to ensure food and human safety, as well as product quality/durability; meeting these specifications is paramount in driving producers' packaging decisions. Federal food safety packaging statutes, regulations, and guidance constitute the current, widely accepted, and relied-upon compliance pathway for the food and agricultural industries to ensure their packaging meets the required specifications. Disregarding these federal health and safety requirements or even voluntary guidance will inadvertently harm current food safety best practices, which many producers voluntarily adhere to, to provide consumers with the finest and safest product possible. Further, any packaging material or design changes intended to improve a packaging's recyclability or other environmental metrics must be considered in relation to the potential unintended consequence of reducing the packaged product's shelf life, which inherently increases the likelihood of food waste, with massive environmental and greenhouse gas emissions implications. It is also imperative that the MPCA consider the unique and significant health and safety considerations for food-contact packaging intended for heating applications, such as a microwave or oven. Packaging intended for an oven, microwave, or other high-temperature application must simultaneously satisfy food safety, product performance, and federal regulatory requirements, which significantly constrain material substitution.

While industry is working hard to increase its use of recycled content to comply with multiple states' recycled content mandates, supply chain and technical challenges persist, especially for food-contact and OTC packaging, where product safety is of the utmost importance. Further, there is no industry standard or test protocol for verifying food safety with respect to PCR resin, and a recent report from the Food and Agriculture Organization (FAO), *Food Safety Implications of Recycled Plastics and Alternative Food Contact Materials*, highlighted that recycled plastics used in food-contact packaging may introduce contaminants, such as micro- and nano-plastics, not typically present in virgin plastics used for food-contact packaging. Further research must be conducted on the implications of recycled content in food-contact packaging, and third-party testing protocols must be established before any PCR mandates affecting food-contact packaging are implemented.

Further considerations must be made for household products and personal care products that must be packaged in child-resistant packaging to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting household substances under the Consumer Product Safety Commission's *Poison Prevention Packaging Act* (16 CFR Part 1700) cannot be reused under the packaging standards outlined in §1700.15(c). These federal requirements clearly exempt impacted packaging from the Minnesota requirements to make packaging reusable.

Consumer Brands encourages the MPCA to ensure that the process for requesting an exemption, outlined in subdivision 6 of section 115A.1453 of the statute, is not so onerous as to effectively prevent producers from making legitimate exemption requests necessary to protect public health and safety or to comply with state or federal law. We encourage the MPCA to limit the documentation and evidence required to justify an exemption to that which is directly necessary to evaluate the basis of the requested exemption.

<u>Exemptions</u> - 2(c): Should criteria be defined for 'unsafe or unsanitary' in relation to Minnesota Statutes, section 115.1441, subdivision 24? If so, what should those criteria be? Should this be tied to what is accepted on the covered material lists?

Instead of defining criteria for what qualifies as "unsafe or unsanitary" in regulation, Consumer Brands encourages MPCA to survey and collect real-world data from in-state recycling and composting facilities on products they deem unsafe or unsanitary to handle and utilize this information to explicitly specify in the regulation which products are excluded due to their "unsafe or unsanitary" nature. By undertaking this approach early in the regulatory process, the MCPA can enhance producer clarity on exemptions and avoid the ongoing issue in other states in qualifying product exemptions.

Although Consumer Brands encourages the MPCA to explicitly specify in the regulations which products are excluded due to their "unsafe or unsanitary" nature, rather than developing specific exemption criteria, we would also like to highlight some paper products that are likely to be deemed "unsafe or unsanitary" through their normal and intended course of use. Paper products such as diapers, tissues, toilet paper, facial/body wipes, and cleaning wipes can be premoistened with cleaning solutions or lotion and often become wet and contaminated during use with bodily fluids or cleaning fluids, which makes them detrimental and unsafe or unsanitary for handling by material recycling and composting facilities. Other paper products, such as napkins and paper towels, once used, are also not generally accepted for recycling and composting due to their unsafe and unsanitary nature.

<u>Collection Lists</u> - 3(a): What should the threshold be for 'current availability of collection' services be for recycling? For organics recycling? Should they be different or the same?

First, the MPCA should not move forward with establishing any sort of threshold criteria for collection lists until the completion of the initial needs assessment in December 2026. Collection lists or thresholds/criteria for recyclability or compostability determinations must be built from real, in-state collection, processing and end-market capacity data, all of which are currently being analyzed in the initial needs assessment. Establishing availability of collection thresholds prior to understanding the current capacity and availability of recycling infrastructure and services in Minnesota could ultimately render the thresholds useless in making recyclability and compostability determinations.

The MPCA should not adopt and rely upon a single, rigid "current availability of collection" threshold when establishing collection lists and ultimately making recyclability or compostability determinations. While the current availability of collection services is an important consideration, it should not serve as the primary determinant of whether a covered material is included on a collection list. A collection-based threshold risks freezing today's recycling infrastructure rather than encouraging investments in recycling collection and processing systems.

For organics recycling, any threshold considerations must be even more careful as composting infrastructure, contamination tolerance, local acceptance of compostable materials, and end-market quality constraints are materially different from those in traditional recycling.

<u>Collection Lists</u> - 3(c): In evaluating the capacity and technology for sorting covered materials, how much processing capacity should be set as the threshold for a covered material to be included on a collection list? Should it be set as a percentage or another measure?

Sorting capabilities should be measured by actual processing throughput, rather than by the number or percentage of recycling or composting facilities in Minnesota that can effectively sort and process packaging materials. Assessing sorting capabilities by the number of recycling or composting facilities able to effectively sort and process a packaging material inadvertently gives equal weight to facilities that may have vastly different capacities. A throughput-based approach aligns with the objectives of the PWCRA by recognizing that infrastructure capacity can expand over time through producer-funded investments, whereas facility-count inventories provide only a static snapshot of current capabilities. Further, consistent with our previous comments, Consumer Brands strongly encourages the MPCA to wait until the initial needs assessment is complete before establishing any thresholds that impact recyclability or compostability determinations.

<u>Collection Lists</u> - 3(d): What is the minimum availability of responsible markets for a covered material to be included on a collection list? Is there a threshold relating to capacity, number, distance, or some combination of thresholds?

As noted in our response to the previous questions outlined in the RFC, Consumer Brands remains concerned about the MPCA's apparent effort to establish availability thresholds as a primary determinant of inclusion on a collection list, especially given that Minnesota's initial needs assessment is not yet complete. End markets must comply with strict requirements to be deemed "responsible," and some existing end markets likely won't meet them, ultimately reducing the number of available end markets. Developing an availability threshold for responsible end markets prior to the completion of Minnesota's initial needs assessment could ultimately render commonly recyclable materials to be deemed unrecyclable, as once available end markets for these materials may no longer be viable if they cannot comply with the responsible end market requirements.

<u>Collection Lists</u> - 3(f): What is the quantity of a covered material estimated to be available and recoverable that should cause a covered material to be included on a collection list?

The quantity of a recoverable covered material should be considered as one factor in evaluating the feasibility and prioritization of statewide collection; however, it should not serve as the sole or independent threshold for determining whether a covered material can be included on a statewide collection list. A packaging material that can be consistently collected, sorted and processed at responsible end markets should not be excluded from statewide collection lists solely because it currently exists in relatively low quantities.

Basing a covered materials inclusion on a statewide collection list on the recoverable quantity of that material may ultimately disincentivize material innovation. New and innovative covered materials should not be penalized purely because they are available and recoverable at low volumes, as the low volume is a product of their commercial infancy, not to do with their protective qualities or environmental performance. If new packaging materials emerge with superior environmental outcomes compared to more conventional packaging materials, they should have a realistic pathway to inclusion on a collection list, regardless of their widespread adoption.

<u>Collection Lists</u> - 3(g): What are some examples of future conditions of these criteria to be considered?

Consumer Brands appreciates the MPCA's more forward-looking, dynamic approach to determining collection lists, which takes into account future conditions that may significantly impact recyclability and compostability determinations. At the most fundamental level, the success of the PWCRA hinges on creating incentives for continuous improvements. If collection lists are based solely on current conditions and are made difficult to update, it will ultimately put the program in a reactive position rather than driving innovation. Future conditions could include the widespread commercialization of non-mechanical recycling technologies, which could drastically impact contamination thresholds; it could also include pilot programs that support the recycling of previously unrecyclable materials. The PWCRA must always consider future conditions to ensure it spurs innovation rather than just reacting to it.

<u>Statewide Requirements and Measures</u> - 4(c): Are there any considerations the agency should evaluate when determining statewide requirements?

The Minnesota Legislature deliberately structured the PWCRA so that the needs assessments would inform program requirements. The initial needs assessment is not due until December 31, 2026, and the PRO's stewardship plan is not due until October 1, 2028. Any statewide performance requirements must be grounded in the findings of the initial assessment and in real-world Minnesota infrastructure data. Rules that lock in numeric targets before the underlying data exists risk being unworkable, inequitable, or quickly obsolete. We are already seeing this issue play out in California, where statewide requirements were set in statute, well before any real-world data could be collected via the needs assessment, and due to the requirements' infeasibility, CAA has been forced to request broad temporary exclusions for materials that have no practical way to comply with such uninformed, rigid requirements.

Consumer Brands encourages the MPCA to hold off on locking numeric performance requirements into the regulations until after the initial needs assessment and first PRO stewardship plan are complete, and instead, the MPCA should focus on establishing the process and criteria for how targets are established and, importantly, revisited. As well, Consumer Brands asks MPCA to provide producers with a reasonable lead time, a minimum of 24 to 36 months, between establishing a new statewide requirement and requiring compliance with such requirement. This timeline provides producers with adequate time to undertake shelf life and other necessary testing requirements before implementing design and supply-chain changes.

<u>Stewardship Plan and Annual Reports</u> - 5(c): What information should the MPCA request to verify producer responsibility organization costs and reimbursement rates in a

stewardship plan and/or annual report as part of a budget and any financial and programmatic auditing?

Consumer Brands urges the MPCA to avoid prescribing onerous reporting requirements in the regulations. Producer reporting requirements are best deliberated in the stewardship plan approval process and further defined in annual reporting guidance, audit protocols, or other administrative mechanisms, rather than codified in rule.

Thank you for the opportunity to provide comments on the MPCA's RFC to inform the PWCRA rulemaking. Please do not hesitate to contact me if you have any questions regarding our comments. I can be reached at amcconkey@consumerbrandsassociation.org.

Sincerely,

Amy McConkey

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July 24, 2026

William Moore
Minnesota Pollution Control Agency
600 North Robert Street
P.O. Box 64620
St. Paul, MN 55164-0620

Re: Packaging Waste and Cost Reduction Act Proposed Rulemaking

Dear William Moore:

Thank you for the opportunity to provide public comments on the first portion of the Packaging Waste and Cost Reduction Act (the "Act") draft rulemaking. We look forward to continued engagement with the Minnesota Pollution Control Agency (the "Agency") throughout the implementation of the Act.

We are submitting these comments on behalf of a client in the retail industry and request that the Agency take these comments into consideration in the final rule.

The Criteria for "Unsafe or Unsanitary" Should Be Clarified to Address Ambiguities

The definition of "Paper products" in *Minnesota Statutes*, section 115.1441, subdivision 24 excludes "products that recycling or composting facilities will not accept because of the unsafe or unsanitary nature of the paper product." While we agree with this exclusion, we believe that the way that it is drafted may invite ambiguity and misinterpretation. Paper towels, napkins and other paper products are often used for cleaning or the absorption of liquids, which typically renders such products not suitable for recycling or composting. However, instead of including a categorical exclusion for such products, the current definition of "Paper product" in the Act turns on whether recycling and composting facilities will accept the paper product. In our view, this introduces ambiguity and confusion, as unused paper towels and napkins that are not used for their intended purpose could potentially be accepted by recycling and composting facilities. Consistent with the approach taken in the Colorado extended producer responsibility regime, we request that the Agency make clear that the definition of "Paper products" in the Act excludes *paper products that, through their use, could become unsafe or unsanitary to handle*.

Thank you for the opportunity to comment on the rulemaking, and we appreciate the Agency's consideration of these comments. We look forward to continuing to work with the Agency to address these issues.

Sincerely,

Ashley Walter

COMMENTS OF THE MEAT INSTITUTE

Minnesota Pollution Control Agency

Packaging Waste and Cost Reduction Act Rulemaking

July 2026

Executive Summary

The Meat Institute appreciates the opportunity to comment on the Minnesota Pollution Control Agency's ("MPCA") implementation of the Packaging Waste and Cost Reduction Act. The Meat Institute supports Minnesota's goals of reducing packaging waste and improving material recovery, and we offer these comments as a partner in achieving those goals in a manner that also protects public health.

Meat packaging is not ordinary packaging. It is a food-safety system engineered to prevent leakage, cross-contamination, spoilage, and unnecessary food waste. Accordingly, the Meat Institute recommends that MPCA's implementing rules:

- Provide regulatory flexibility where packaging serves a food-safety function;
- Establish a clear exemption or alternative-compliance pathway for specialized food-contact packaging;
- Base recyclability, compostability, reuse, and collection-list determinations on real-world infrastructure, end markets, and performance under actual meat-processing conditions; and
- Include additional, direct stakeholder consultation with meat processors, food manufacturers, packaging suppliers, retailers, recyclers, composters, and food-safety experts before final rules are adopted.

Introduction

The Meat Institute represents meat and poultry processors that operate under comprehensive federal food-safety oversight. In this sector, packaging decisions are not discretionary design choices – they are driven by contamination prevention, product integrity, regulatory compliance, cold-chain performance, and shelf-life requirements. For meat and poultry products, packaging functions as public-health infrastructure, and changes to that infrastructure frequently require validation studies, operational testing, equipment modification, supplier qualification, and regulatory review.

MPCA's implementation framework should distinguish specialized food-safety packaging from ordinary consumer packaging and should avoid requirements that compromise food safety, increase food waste, reduce affordability, or impair consumer access to nutrient-dense foods.

General Comments

The Meat Institute recognizes the environmental objectives of the Act, including waste reduction and improved material recovery. We urge MPCA to structure its rules around actual environmental and public-health outcomes rather than assumptions about material categories. Meat packaging presents food-safety, food-waste, and contamination-control considerations that are not present in many other packaging formats, and the final rules should reflect that distinction.

Response to Question 2(a): Hazardous and Flammable Product Exemptions

For purposes of Minn. Stat. § 115A.1441, subd. 16(11), MPCA should determine exemption eligibility using objective, performance-based criteria that demonstrate packaging is necessary to satisfy applicable federal or state health, safety, or regulatory requirements – including requirements under OSHA's Hazard Communication Standard (29 CFR § 1910.1200). An exemption should be available where:

1. The product requires specific packaging performance characteristics to protect health, safety, product integrity, or regulatory compliance;
2. Those required performance characteristics are incompatible with otherwise applicable waste-reduction, reuse, recyclability, or compostability requirements; and
3. No commercially available, technically feasible alternative provides equivalent performance under reasonably foreseeable manufacturing, distribution, storage, retail, consumer-use, and end-of-life conditions.

Producers should be permitted to demonstrate eligibility through objective technical documentation, including engineering specifications, packaging validation studies, safety and performance testing, supplier certifications, regulatory compliance documentation, and risk assessments. The exemption process should evaluate currently available technologies and should not require producers to prove that no future alternative could ever exist. This approach gives MPCA an evidence-based framework that supports the Act's waste-reduction objectives while avoiding substitutions that could compromise worker safety, consumer protection, product integrity, or compliance with federal and state law.

Response to Question 2(b): Health and Safety Exemptions

MPCA should interpret state and federal health-and-safety requirements broadly enough to account for the food-safety functions performed by meat and poultry packaging. Raw meat packaging must be evaluated through a food-safety, food-waste, and public-health lens rather than as ordinary consumer packaging. It preserves shelf life, prevents leakage of blood and purge, limits cross-contamination across retail and distribution systems, and helps ensure that nutrient-dense food reaches consumers safely. USDA FSIS explains that meat and poultry packaging is regulated because it contacts food and can affect safety, and FDA separately regulates food-contact substances and packaging materials for their intended use.

Minnesota should provide a clear exemption pathway for specialized food-contact packaging where no technically feasible alternative provides equivalent food-safety, shelf-life, leak-prevention, and contamination-control performance. A material that is theoretically recyclable, compostable, reusable, or refillable should not be treated as a viable substitute if it absorbs blood or purge, loses seal or barrier integrity, increases microbial risk, shortens shelf life, or causes more meat to be discarded. Substitution that increases spoilage, recalls, landfill methane, or replacement-production impacts would create the appearance of sustainability without delivering meaningful environmental progress.

Response to Question 2(c): Unsafe and Unsanitary Materials

MPCA should define “unsafe” and “unsanitary” using objective criteria tied to biological contamination, worker safety, facility contamination risks, and actual acceptance standards at recycling and composting facilities. Packaging contaminated with raw meat residues, blood, purge, or similar biological material is materially different from packaging that is merely wet or soiled, and the Agency's definitions should reflect that distinction rather than theoretical acceptance assumptions.

Raw meat packaging functions as a blood-containment and microbial-control barrier. Alternative materials should not be deemed acceptable substitutes unless they can maintain leak-proof, non-porous, cold-chain, seal-integrity, puncture-resistance, and contamination-control performance under actual meat-processing, distribution, retail, and consumer-use conditions. Emerging technologies – including biobased multilayer films, advanced barrier coatings, and antimicrobial materials – may become part of future solutions. MPCA should allow this innovation to mature through phased compliance, technical review, and periodic reassessment, rather than forcing premature substitutions that increase foodborne-illness risk or conflict with federal safety mandates.

Blood Is Not Generic Moisture

Blood and purge are chemically and biologically distinct from ordinary moisture. They are protein-rich, fat-containing, reactive, and capable of supporting microbial growth, creating food-safety and sanitation concerns that generic moisture-resistance testing does not capture. Federal frameworks, including EPA's treatment of blood-contaminated materials in medical settings and federal occupational health standards, recognize blood as a contamination hazard requiring robust containment and engineering controls. Meat-contact surfaces are, in effect, blood-contact surfaces, and packaging must function as a containment barrier accordingly.

Plastics are currently the only packaging materials that reliably meet the performance thresholds required for raw meat, including oxygen- and water-vapor-transmission (OTR/WVTR) barrier requirements, leak-proof seals under chilling and transport, non-porous and non-absorbent surfaces, and resistance to fat, moisture, and protein degradation. Given current engineering and regulatory requirements, packaging that is simultaneously compliant with federal food-safety and blood-containment expectations and fully recyclable or compostable is not yet technically feasible. Meat-contact packaging should therefore be eligible for exemption under Minnesota's health-and-safety criteria.

Advance Notice for Collection-List and Covered-Materials Changes

Unsafe-and-unsanitary criteria should be tied directly to what is accepted on the covered-materials list and collection lists, and MPCA should publish those lists, and any changes to them, as far in advance as possible. Meat processors must make significant investments to update packaging lines – retrofitting equipment, qualifying new materials, and conducting food-safety validation – and adequate lead time between a signaled change and its effective date will materially improve compliance outcomes across the industry.

Response to Questions 3(a)–3(j): Collection Lists

The Meat Institute recommends that collection-list determinations be based on actual collection access, actual sorting capability, actual processing capacity, and actual responsible end markets. Materials should not be treated as recyclable solely because a technical recycling process exists somewhere. Collection thresholds should account for differences between rural and urban infrastructure, and compostability determinations should likewise reflect available collection and processing systems rather than theoretical capability.

Recyclable and Compostable Alternatives Must Perform Under Meat Conditions

Materials should not be placed on collection lists, or treated as practical substitutes for meat packaging, unless they can perform under actual meat-processing conditions. For raw meat and poultry, that means resistance to blood and purge absorption, wet-strength failure, cold-chain delamination, microbial growth, seal failure, and puncture from bones or sharp product edges.

Single-Use Packaging Can Be a Food-Safety Control

For raw meat and poultry, single-use packaging is often a deliberate food-safety control rather than a convenience feature. It prevents reuse of contaminated surfaces, limits pathogen transfer, maintains chain-of-custody integrity, and simplifies risk management for high-risk perishable products. MPCA should account for this distinction when evaluating reuse, refill, recyclability, and waste-reduction requirements, and should preserve as many viable end-of-life pathways for packaging as possible.

International Example: Expanding Sorting Infrastructure

Norway's new Områ facility, jointly owned by TOMRA and Plastretur, illustrates how expanded sorting capacity can improve recovery rates when paired with strong upstream waste-separation systems; the facility is designed to process large volumes of plastic packaging waste into uniform polymer fractions suitable for recycling. Peer-reviewed analysis of Norway's plastics-recycling system similarly finds that increased sorting capacity delivers climate benefits only when paired with improved separation of packaging waste at the source – without it, added sorting capacity alone can increase overall climate impact. This underscores the Meat Institute's broader recommendation that collection-list and infrastructure decisions be grounded in real-world system performance, not the existence of a technical process alone.

Recommended Additional Collection-List Criteria

In addition to the statutory factors, the Meat Institute recommends that MPCA weigh the following when evaluating materials for collection lists:

- Food-safety necessity and the material's ability to prevent contamination;
- Food-waste prevention performance relative to incumbent materials;
- Availability of technically feasible alternatives under real-world (not laboratory) conditions;
- Consumer-behavior realism, including how materials are actually handled, stored, and disposed of; and
- Potential conflicts with other federal or state regulatory requirements.

MPCA should also build periodic reassessment into the collection-list process so that emerging technologies – such as new barrier coatings or biobased films – can be evaluated for inclusion as they mature, without displacing performance-tested materials prematurely.

Reuse and Refill Systems (Question 3(j))

Raw meat can carry pathogens such as Salmonella, Campylobacter, E. coli O157:H7, Listeria, and Staphylococcus aureus, and the blood and purge that accumulate in meat packaging are high-risk contamination vectors. Reusable containers require industrial-grade sanitization between uses that consumers cannot reliably perform at home; typical residential dishwashing does not reach the temperatures or chemical concentrations needed to eliminate pathogens present in raw meat blood, and repeated exposure to high heat can also degrade the integrity of some plastic polymers over time.

Refill or bring-your-own-container systems raise similar concerns, since consumer-owned containers may carry residual blood, biofilms, or cross-contamination from other foods, and retailers generally cannot sanitize customer-owned containers in a manner consistent with FSIS and FDA requirements, including the FDA Food Code. Federal food-safety requirements mandate non-porous, leak-proof, single-use packaging for raw meat to prevent contamination and foodborne illness. For these reasons, reuse or refill systems would meaningfully increase consumer exposure to pathogens and would be difficult to reconcile with federal sanitation standards for raw meat and poultry packaging.

Response to Questions 4(a)–4(c): Statewide Requirements and Return Rates

Reusable and refill systems should be evaluated in light of food-safety realities for perishable products. Return-rate metrics should be based on demonstrated recovery and reuse performance, including contamination controls, consumer handling behavior, sanitization requirements, and operational feasibility. For raw meat and poultry specifically, reuse and refill systems are not currently equivalent to validated single-use packaging systems that provide leakage control, contamination prevention, and cold-chain performance.

Any reuse or refill requirement applicable to raw meat packaging should be required to demonstrate that it does not increase exposure to pathogens such as Salmonella, Campylobacter, E. coli O157:H7, or Listeria; does not increase cross-contamination in stores, homes, transport, or processing environments; and does not shorten shelf life or increase discarded food. MPCA's USDA FSIS resources on meat and poultry packaging provide helpful background on why particular packaging formats are used and how they should be properly disposed of, and we encourage the Agency to reference that guidance directly.

Foodborne-illness risk is not distributed evenly across all consumers. Requirements that reduce packaging integrity, increase leakage, or shift sanitation burdens onto households and retailers could create disproportionate risk for consumers with fewer resources to manage food spoilage, sanitation, or replacement costs. MPCA should weigh these public-health impacts before requiring reuse, refill, or less protective packaging formats for meat and poultry products.

Response to Questions 5(a)–5(d): Stewardship Plans and Reporting

Stewardship plans and annual reports should include transparency regarding assumptions, cost-allocation methodologies, infrastructure investments, and environmental performance metrics. MPCA could require plans to account for food-waste reduction, lifecycle impacts, greenhouse-gas consequences, infrastructure readiness, and food-safety constraints.

The Meat Institute recommends that MPCA establish a Protein Packaging Technical Advisory Group and conduct additional stakeholder consultation before final rules are adopted, with direct participation from meat processors, food manufacturers, packaging suppliers, retailers, recyclers, composters, and food-safety experts.

Technical Discussion

Food waste should be considered alongside packaging waste. Packaging that extends shelf life and reduces spoilage delivers environmental benefits that are lost if rules focus only on packaging weight, material category, or theoretical recyclability. For meat and poultry products, packaging changes that increase spoilage, leakage, recalls, or discarded product can undermine the Act's own waste-reduction goals and increase lifecycle impacts.

Food Waste Context

- Approximately 29% of food produced in the United States goes unsold or uneaten each year, with most of that surplus ending up in landfills, incineration, or otherwise discarded.
- Wasted food accounts for roughly 24% of material entering landfills – the single largest category – where it generates methane, a greenhouse gas roughly 80 times more potent than carbon dioxide over a 20-year period.
- An estimated 58% of landfill methane emissions are attributable to food waste.

Packaging requirements that inadvertently increase spoilage or discarded product therefore carry a real risk of increasing food waste and associated methane emissions – an outcome the Meat Institute and its members are actively working to avoid through supply-chain initiatives aimed at reducing food waste and increasing the amount of nutrient-dense food that reaches consumers' plates.

Federal Regulatory Context

Food-contact packaging for meat and poultry operates within USDA FSIS and FDA regulatory frameworks. USDA FSIS oversees packaging materials because they contact food and can affect safety, and federal regulations require that packaging materials be safe for their intended use and supported by supplier assurances. FDA separately maintains a regulatory framework governing food-contact substances and packaging materials. High-barrier films, vacuum packaging, modified-atmosphere packaging, and related technologies are widely used to preserve product quality, manage microbial risk, and extend shelf life.

MPCA should maintain technology neutrality, provide flexibility where packaging serves a food-safety function, and establish a clear exemption pathway for specialized food-contact packaging. Final rules should not force substitutions before safer recyclable, compostable, reusable, or recoverable technologies are commercially available and validated for meat and poultry applications.

Recommended Definitions for Rulemaking

To support consistent implementation, the Meat Institute recommends that MPCA adopt the following definitions:

Specialized Food-Safety Packaging: Packaging whose design, material composition, barrier properties, or performance characteristics are necessary to maintain food safety, product integrity, contamination prevention, or shelf-life performance.

Technically Feasible: Capable of maintaining equivalent food safety, regulatory compliance, product quality, operational performance, and commercial-scale viability.

No Technically Feasible Alternative: No commercially available packaging alternative can provide equivalent food-safety, shelf-life, quality, and compliance outcomes.

Significant Food Waste Consequence: A demonstrated increase in spoilage, shrink, disposal, recalls, or food loss attributable to a packaging change.

The Meat Institute further recommends that MPCA align any state-specific packaging terminology with USDA FSIS's Glossary of Packaging Terms, given that food products routinely move across state lines and consistent national terminology reduces compliance burden for multi-state operators.

Summary of Recommendations

- Recognize that meat packaging is not ordinary packaging and serves a public-health function.
- Adopt science-based, technology-neutral implementation standards.
- Provide regulatory flexibility where packaging serves a food-safety function.
- Establish a clear exemption or alternative-compliance pathway for specialized food-contact packaging.
- Base recyclability, compostability, reuse, and collection-list determinations on actual infrastructure, end markets, and performance under meat-use conditions.

- Incorporate food waste, lifecycle impacts, greenhouse-gas consequences, and food-safety constraints into rule implementation.
- Allow phased implementation timelines where packaging changes require validation, regulatory review, equipment changes, or operational transition.
- Establish a Protein Packaging Technical Advisory Group and conduct additional stakeholder consultation before final rules are adopted.
- Periodically reassess technological advancements and infrastructure capabilities.

Conclusion

Implementation of Minnesota's Packaging Waste and Cost Reduction Act must account for the fact that meat packaging is not ordinary packaging. The Act's waste-reduction and recovery objectives can be advanced without weakening food-safety protections – but only if MPCA provides flexibility for packaging that performs a food-safety function, establishes a clear exemption pathway for specialized food-contact packaging, and continues to consult with affected stakeholders before final rules are adopted.

The Meat Institute welcomes the opportunity to serve as a technical resource and partner to MPCA throughout this process, and we look forward to continued engagement as the Agency develops its implementing rules.

Respectfully submitted,

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Sources and Authorities

Minn. Stat. §§ 115A.144–115A.1463

MPCA Request for Comments (R-04992)

USDA FSIS Meat and Poultry Packaging Guidance – fsis.usda.gov/food-safety/safe-food-handling-and-preparation/food-safety-basics/meat-and-poultry-packaging

USDA FSIS Glossary of Packaging Terms – fsis.usda.gov/food-safety/safe-food-handling-and-preparation/food-safety-basics/glossary-packaging-terms

9 CFR Part 416; 9 CFR § 317.24; 9 CFR § 381.144

FDA Food-Contact Regulations, 21 CFR Parts 174–178; FDA guidance on determining the regulatory status of food-contact material components

FDA Food Code – fda.gov/food/retail-food-protection/fda-food-code

EPA Landfill Methane Outreach Program; EPA RCRA medical-waste guidance (epa.gov/rcra/medical-waste)

ReFED, Food Waste in the United States

Federal Meat Inspection Act, 21 U.S.C. § 678

Yeh, T.Y. & Turan, D. (2026). Mapping gas permeability of sustainable packaging materials to link food barrier needs by clustering algorithms. PMID: 41663388.

Comprehensive review of biodegradable food-packaging films: material source, mechanical and water vapor barrier properties, and improvement strategies (2025), ScienceDirect.

Norwegian plastic packaging recycling system analysis, ScienceDirect (S0956053X23005512).