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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4721

03/07/2024 Authored by Jordan

The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy

1.1 A bill for an act  
1.2 relating to solid waste; establishing stewardship program for batteries; authorizing  
1.3 rulemaking; appropriating money; amending Minnesota Statutes 2022, sections  
1.4 115A.1310, subdivision 12c; 325E.125, subdivision 2; proposing coding for new  
1.5 law in Minnesota Statutes, chapter 115A; repealing Minnesota Statutes 2022,  
1.6 sections 115A.9155; 115A.9157, subdivisions 1, 2, 3, 5, 6, 7, 8, 9; 325E.125,  
1.7 subdivisions 3, 4, 5.

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

1.9 Section 1. Minnesota Statutes 2022, section 115A.1310, subdivision 12c, is amended to  
1.10 read:

1.11 Subd. 12c. **Portable battery.** "Portable battery" means a rechargeable battery as defined  
1.12 in section ~~115A.9157~~ 115A.9165.

1.13 Sec. 2. 115A.9165] STEWARDSHIP PROGRAM FOR BATTERIES.

1.14 Subdivision 1. Definitions. (a) As used in this section, the terms in this subdivision have  
1.15 the meanings given.

1.16 (b) "Battery" means a device that contains one or more voltaic or galvanic cells  
1.17 electrically connected to produce electric energy, together with any structural members,  
1.18 casing surrounding the cells, and electrical connectors.

1.19 (c) "Brand" means a trademark, including both a registered and an unregistered trademark;  
1.20 a logo; a name; a symbol; a word; an identifier; or a traceable mark that identifies a covered  
1.21 battery or covered product and identifies the owner or licensee of the brand as the producer  
1.22 of the battery or product.

1.23 (d) "Chemical of high concern" has the meaning given in section 116.9401.

2.1 (e) "Collection site" means a physical location where a collector collects covered batteries  
2.2 or covered products from members of the public and businesses. Collection site includes a  
2.3 location regardless of whether it is operated permanently, temporarily, or for purposes of a  
2.4 collection event.

2.5 (f) "Collector" means a person that collects covered batteries or covered products on  
2.6 behalf of an operator.

2.7 (g) "Covered battery":

2.8 (1) means:

2.9 (i) a primary lithium battery of any size or energy content;

2.10 (ii) a rechargeable battery of any size or energy content; or

2.11 (iii) a primary battery designated by rule adopted under subdivision 14; and

2.12 (2) does not include:

2.13 (i) a rechargeable battery intended to provide motive power to a motor vehicle, as defined  
2.14 in section 168.27;

2.15 (ii) a battery used for a medical device meeting the definition of a device under United  
2.16 States Code, title 21, section 321, except for such a device marketed for use in a household,  
2.17 as defined in section 115A.96; or

2.18 (iii) a battery in which the electrolyte is intended to be a free liquid.

2.19 (h) "Covered product" means a product with which a covered battery is packaged or in  
2.20 which a covered battery is contained. Covered product includes both a product with a covered  
2.21 battery that is intended for removal or replacement by the end user and a product with a  
2.22 battery not intended for removal or replacement by the end user.

2.23 (i) "Critical material" means a nonfuel mineral, element, substance, or material determined  
2.24 to be a critical material by the United States Department of Energy under United States  
2.25 Code, title 30, section 1606.

2.26 (j) "Critical mineral" means a nonfuel mineral or mineral material designated by the  
2.27 United States Department of the Interior under United States Code, title 30, section 1606.

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

2.30 (1) retained by an operator;

2.31 (2) not otherwise employed by or affiliated with the operator; and

3.1 (3) qualified to conduct the audit under subdivision 12, paragraph (b), clause (4).

3.2 (l) "Operator" means a producer or stewardship organization that implements and  
3.3 administers a stewardship program.

3.4 (m) "Participant" means a producer that meets obligations under subdivisions 4 to 12  
3.5 by acting as an operator or by contracting with a stewardship organization that meets the  
3.6 producer's obligations on the producer's behalf.

3.7 (n) "Primary battery" means a battery that is not designed or intended to be recharged.

3.8 (o) "Primary lithium battery" means a primary battery that uses lithium metal or lithium  
3.9 alloys as the anode.

3.10 (p) "Producer" means, with respect to a covered battery or covered product that is sold,  
3.11 including online sales; offered for sale or promotional purposes; or distributed in the state:

3.12 (1) a person that manufactured the covered battery or covered product and sells, including  
3.13 online sales; offers for sale; or distributes the covered battery or covered product under a  
3.14 brand that the person owns or controls;

3.15 (2) if there is no person to which clause (1) applies, any other person that owns or controls  
3.16 or is licensed to use a brand under which the covered battery or covered product is sold,  
3.17 including online sales; offered for sale; or distributed in the state; or

3.18 (3) if there is no person in the United States to which clause (1) or (2) applies, any person  
3.19 who imported or imports the covered battery or covered product into the United States to  
3.20 sell, including online sales; offer for sale; or distribute.

3.21 (q) "Rechargeable battery" means a battery that is designed and intended to be recharged  
3.22 and reused.

3.23 (r) "Stewardship organization" means a nonprofit organization as described in section  
3.24 501(c)(3) of the Internal Revenue Code that is appointed by one or more producers to draft,  
3.25 submit a plan for, implement, and administer a stewardship program under this section on  
3.26 the producers' behalf.

3.27 (s) "Stewardship plan" means a plan meeting the requirements of subdivision 4 that is  
3.28 submitted to the commissioner by an operator.

3.29 (t) "Stewardship program" means a system implemented by an operator that provides  
3.30 and pays for collecting, sorting, transporting, processing, and recycling covered batteries  
3.31 and covered products and disposing of residual materials under a stewardship plan approved  
3.32 by the commissioner under subdivision 10.

4.1 Subd. 2. Requirements; disposal, recycling, and collection. (a) A person may not  
4.2 place a covered battery or a covered product from which all covered batteries have not been  
4.3 removed into:

4.4 (1) solid waste; or

4.5 (2) a recycling container that a collector does not intend to use for collecting covered  
4.6 batteries or covered products.

4.7 (b) A covered battery or a covered product from which all covered batteries have not  
4.8 been removed and that is discarded must be managed by delivering the covered battery or  
4.9 covered product to a recycling facility for covered batteries or covered products or to a  
4.10 collection site.

4.11 (c) Until recycled, covered batteries and covered products that have been delivered to  
4.12 a recycling facility or collected for subsequent delivery to a recycling facility must be  
4.13 managed according to rules adopted under section 116.07 for managing hazardous waste.  
4.14 This paragraph does not exempt covered batteries and covered products that would be  
4.15 subject to those rules before collection or delivery to a recycling facility from any applicable  
4.16 requirements under the rules.

4.17 (d) A collector must ensure that covered batteries and covered products are collected  
4.18 only in appropriate containers that are:

4.19 (1) designed, constructed, and used in a manner to suppress battery fires in the container  
4.20 or to prevent ignition of materials outside the container; and

4.21 (2) held in structures compliant with the local fire code.

4.22 Subd. 3. Requirements; labeling and sale. (a) A person may not sell, including online  
4.23 sales; offer for sale or promotional purposes; or distribute in the state a covered battery or  
4.24 covered product unless the covered battery or covered product is labeled to identify the  
4.25 chemistry employed to store energy in the battery. Labeling under this paragraph must be  
4.26 permanently marked on or affixed to the covered battery or covered product and must use  
4.27 language or graphics sufficient to facilitate awareness by members of the public of the  
4.28 chemistry employed. The commissioner may, by rule adopted under subdivision 14, specify  
4.29 the manner of labeling if the commissioner determines, based on observations of or reports  
4.30 to the agency, that labeling applied by producers is insufficient to facilitate awareness. This  
4.31 paragraph is effective January 1, 2026.

4.32 (b) A person may not sell, including online sales; offer for sale or promotional purposes;  
4.33 or distribute in the state a covered battery or covered product unless the producer of the

5.1 covered battery or covered product is named as a participant in a stewardship plan published  
5.2 under subdivision 10, paragraph (f), or the brand is named as covered in a stewardship plan  
5.3 published under subdivision 10, paragraph (f), and the stewardship plan has not been  
5.4 terminated under subdivision 11. This paragraph is effective January 1, 2026.

5.5 (c) Paragraph (b) and subdivisions 4 to 13 do not apply to a covered battery or covered  
5.6 product for which the producer or the person selling, offering for sale or promotional  
5.7 purposes, or distributing the covered battery or covered product demonstrates to the  
5.8 commissioner that collecting, sorting, transporting, processing, and recycling the covered  
5.9 battery or covered product and disposing of residual materials is already fully provided and  
5.10 paid for by the producer under other state law.

5.11 (d) This subdivision does not apply to isolated and occasional sales of a covered battery  
5.12 or covered product by persons not made in the normal course of business, as exempted from  
5.13 sales tax under section 297A.67, subdivision 23.

5.14 (e) This subdivision and subdivisions 4 to 13 do not apply to sales, offers for sale, or  
5.15 distribution of a used covered battery or used covered product.

5.16 **Subd. 4. Stewardship plans; submission and required content.** (a) By January 1,  
5.17 2026, each producer, individually or through a stewardship organization that has agreed to  
5.18 act on the producer's behalf, must submit a stewardship plan or ensure a stewardship plan  
5.19 has been submitted to the commissioner for review, approval, or rejection.

5.20 (b) A submitted stewardship plan must be accompanied by payment of the review fee  
5.21 as provided in subdivision 13.

5.22 (c) A stewardship plan must include:

5.23 (1) identification of and contact information for the operator of the stewardship plan;

5.24 (2) identification of and contact information for all participants in the stewardship  
5.25 program;

5.26 (3) identification of and contact information for each collector, person transporting  
5.27 covered batteries or covered products, and facility to be used by the operator under the  
5.28 stewardship program for storage, processing, recycling, and disposal;

5.29 (4) the address; county of location; and, in a form prescribed by the commissioner,  
5.30 geolocation data for each collection site to be used by the operator under the stewardship  
5.31 program;

5.32 (5) a list of the brands covered under the stewardship program;

6.1 (6) eligibility criteria for prospective collectors of covered batteries and covered products  
6.2 under the stewardship program according to subdivision 8, paragraph (b);

6.3 (7) a description of how the stewardship program will accept and provide coverage under  
6.4 the stewardship program to any household hazardous waste collection program established  
6.5 under section 115A.96 if the operator of the household hazardous waste collection program  
6.6 requests coverage;

6.7 (8) a description of how the stewardship program will provide convenient, statewide  
6.8 collection according to subdivision 5;

6.9 (9) a description of how the operator will annually monitor and ensure compliance with  
6.10 the convenience standards under subdivision 5;

6.11 (10) a description of how the operator will provide each collection site served by the  
6.12 stewardship program with the materials specified in subdivision 6, including specifications  
6.13 for appropriate containers, signage templates, and a copy of all training and educational  
6.14 materials to be provided;

6.15 (11) a description of how the stewardship program will be accessible according to  
6.16 subdivision 7;

6.17 (12) the selection criteria for persons managing covered batteries and covered products,  
6.18 and the oversight methods by which the operator will ensure compliance with subdivision  
6.19 8;

6.20 (13) a description of methods by which the operator will ensure that covered batteries  
6.21 and covered products managed under the stewardship program are accumulated and stored  
6.22 in compliance with rules adopted under section 116.07 for managing hazardous waste by  
6.23 each collector and each storage, processing, and recycling facility to be directly used or  
6.24 funded under the stewardship program;

6.25 (14) a description of methods by which the operator will ensure that collection and  
6.26 storage of covered batteries and covered products at collection sites in the state under the  
6.27 stewardship program comply with safety and health requirements administered by the  
6.28 Department of Labor and Industry and with fire protection requirements administered by  
6.29 the Department of Public Safety;

6.30 (15) a description of methods by which the operator will ensure that covered batteries  
6.31 and covered products managed under the stewardship program are transported in compliance  
6.32 with regulations for managing hazardous materials, incorporated by reference under section

7.1 221.033, by each person transporting covered batteries or covered products under the  
7.2 stewardship program;

7.3 (16) a statement of indemnification by the operator to collectors for potential liability  
7.4 for improper downstream management of covered batteries and covered products or residual  
7.5 materials by transporters or storage, processing, recycling, and disposal facilities that are  
7.6 identified in the stewardship plan and that are used by collectors;

7.7 (17) a description of how the operator will determine the mass of covered batteries and  
7.8 covered products collected, sorted, transported, processed, and recycled under the stewardship  
7.9 program by county of collection and by battery chemistry;

7.10 (18) a description of the outreach and education methods and activities that the operator  
7.11 will provide according to subdivision 9;

7.12 (19) a description of how the operator will provide at least one full-time operator  
7.13 employee who is solely dedicated to implementing the stewardship program in this state  
7.14 and serving as the primary contact between the operator and the agency;

7.15 (20) an anticipated annual budget for the stewardship program, broken down into  
7.16 administrative, collection, sorting, transportation, storage, processing, recycling, disposal,  
7.17 and communication costs, including the cost of fees under subdivision 13, but not including  
7.18 costs for lobbying, costs associated with litigation against the state related to this section,  
7.19 or penalties imposed for violating this section;

7.20 (21) a description of how the operator will provide:

7.21 (i) advance funding of or reimbursement to collectors for all costs of collecting covered  
7.22 batteries and covered products and administering the collection program, including costs  
7.23 of labor and overhead; transport performed by a collector; necessary collection and storage  
7.24 structures and containers as provided in subdivision 2; employee training; necessary safety  
7.25 equipment, including appropriate fire protection and suppression equipment and supplies;  
7.26 and employee time to collect and process covered batteries and covered products received  
7.27 by the collector; and

7.28 (ii) payment for all persons transporting covered batteries and covered products and for  
7.29 all storage, processing, recycling, and disposal facilities to be directly used or funded under  
7.30 the stewardship program;

7.31 (22) a description of how the stewardship program will be fully paid for by producers,  
7.32 without any fee, charge, surcharge, or any other cost to:

7.33 (i) members of the public;

8.1 (ii) businesses other than a producer;

8.2 (iii) collectors; persons transporting, recycling, or disposing of a covered battery or  
8.3 covered product; or any other person managing a covered battery or covered product;

8.4 (iv) the state or any political subdivision; or

8.5 (v) any other person who is not a producer;

8.6 (23) a description of how the stewardship program will ensure compliance with the  
8.7 labeling requirements of subdivision 3, paragraph (a); and

8.8 (24) a description of how the operator will ensure that covered batteries and covered  
8.9 products managed under the stewardship program are recycled to the maximum extent  
8.10 practicable in accordance with section 115A.02, paragraph (b).

8.11 Subd. 5. Convenience standards. (a) A stewardship plan must provide convenient,  
8.12 statewide collection for all covered batteries and covered products that are offered to  
8.13 collectors by members of the public and businesses in the state, irrespective of:

8.14 (1) the brand, energy capacity, or chemistry;

8.15 (2) whether the producer of a covered battery or covered product is a participant in the  
8.16 stewardship program; or

8.17 (3) whether the brand of a covered battery or covered product is covered under the  
8.18 stewardship program.

8.19 (b) A stewardship plan must meet the following convenience standards:

8.20 (1) for each county with a population of 10,000 or less, at least two permanent year-round  
8.21 collection sites;

8.22 (2) for each county with a population greater than 10,000 but less than or equal to  
8.23 100,000, at least two permanent year-round collection sites and at least one additional  
8.24 permanent year-round collection site for each additional 10,000 in population above a  
8.25 population of 10,000;

8.26 (3) for each county with a population greater than 100,000, at least 11 permanent  
8.27 year-round collection sites and at least one additional permanent year-round collection site  
8.28 for each additional 50,000 in population above a population of 100,000;

8.29 (4) a permanent year-round collection site located within ten miles of the household of  
8.30 at least 95 percent of the residents of the state; and



9.1 (5) additional convenience standards that the commissioner determines are necessary  
9.2 to provide convenient, statewide collection for covered batteries and covered products. The  
9.3 commissioner may consider data submitted according to subdivision 12, the amount of  
9.4 covered batteries and covered products collected, the estimated amount of covered batteries  
9.5 and covered products sold or disposed of in the state, and other information related to the  
9.6 effectiveness of the stewardship program.

9.7 Subd. 6. **Duties to collectors.** The operator must provide each collection site served by  
9.8 the stewardship program with:

9.9 (1) appropriate containers as described in subdivision 2;

9.10 (2) consistent signage identifying a collection site;

9.11 (3) training for collection site employees on identifying and safely handling and storing  
9.12 covered batteries and covered products, including damaged, defective, or recalled batteries,  
9.13 also known as DDR batteries; and

9.14 (4) educational materials regarding covered batteries and covered products for distribution  
9.15 to members of the public and businesses in Minnesota that address the information described  
9.16 in subdivision 9, paragraph (a), clause (3). The educational materials must be made available  
9.17 in at least English, Spanish, Somali, and Hmong.

9.18 Subd. 7. **Accessibility.** (a) An operator must provide convenient, equitable, and accessible  
9.19 service to all Minnesotans, including but not limited to people of color; Minnesota Tribal  
9.20 governments as defined in section 10.65, subdivision 2; those that are non-English speaking;  
9.21 immigrant and refugee communities; those with limited access to transportation; and those  
9.22 in environmental justice areas.

9.23 (b) The operator must include collection opportunities beyond those required under  
9.24 subdivision 5 to better serve populations under paragraph (a), such as individual pickup  
9.25 from households and temporary events to provide enhanced collection availability.

9.26 (c) The description under subdivision 4, paragraph (c), clause (11), must address the  
9.27 location of collection sites and storage, processing, and recycling facilities, including  
9.28 accessing collection sites from public transit.

9.29 Subd. 8. **Oversight; collector eligibility.** (a) The operator must ensure that covered  
9.30 batteries and covered products managed under the stewardship program are recycled to the  
9.31 maximum extent practicable in accordance with section 115A.02, paragraph (b), and that  
9.32 residual materials are managed in compliance with applicable hazardous waste or solid  
9.33 waste requirements by each person transporting covered batteries or covered products and

10.1 by each storage, processing, recycling, and disposal facility to be directly used or funded  
10.2 under the stewardship program.

10.3 (b) The operator must allow any person meeting the eligibility criteria to serve as a  
10.4 collector but may terminate a collector and cease covering the collector's costs for good  
10.5 cause. The eligibility criteria must include agreement by collectors to accept any brand of  
10.6 covered battery or covered product, but no collector may be required to accept any covered  
10.7 battery or covered product that the collector determines cannot be safely collected for any  
10.8 reason. The operator must provide a method for collecting any such covered battery or  
10.9 covered product by another collector that meets the convenience standards of subdivision  
10.10 5.

10.11 (c) If the commissioner determines that it is necessary to ensure that covered batteries  
10.12 and covered products are managed to the maximum extent practicable in accordance with  
10.13 section 115A.02, paragraph (b), the commissioner may require selection criteria and oversight  
10.14 methods in lieu of or in addition to the selection criteria and oversight methods used by an  
10.15 operator under paragraph (a) for persons managing covered batteries and covered products.  
10.16 The commissioner may consider data submitted according to subdivision 12; the availability  
10.17 and feasibility of technology, processes, and methods for managing covered batteries and  
10.18 covered products; and other information related to the effectiveness of the stewardship  
10.19 program.

10.20 Subd. 9. **Outreach and education activities; website.** (a) An operator must provide  
10.21 outreach and education to:

10.22 (1) persons that might sell, offer for sale, or distribute covered batteries or covered  
10.23 products in the state, to inform the persons of the requirements of subdivision 3;

10.24 (2) potential collectors and collectors that the operator will use to recruit, train, and  
10.25 monitor other collectors, to include instructions for collectors that are operating before the  
10.26 effective date of this section on how to request coverage by the stewardship program and  
10.27 material to encourage increased collection of covered batteries and covered products; and

10.28 (3) members of the public to raise awareness of:

10.29 (i) public health and safety and environmental risks caused by improperly charging,  
10.30 storing, and disposing of covered batteries and covered products;

10.31 (ii) methods to safely charge and store covered batteries and covered products; and

10.32 (iii) the location and convenience of collection sites in the state.

11.1 (b) The operator must maintain a publicly accessible website to locate collection sites  
11.2 through map-based and text-based searches.

11.3 (c) Every third year after a stewardship plan is approved by the commissioner under  
11.4 subdivision 10, the operator must engage a qualified independent party to assess the  
11.5 effectiveness of the outreach and education activities implemented by the operator. The  
11.6 independent party must prepare a written assessment that must be included in the annual  
11.7 report under subdivision 12.

11.8 Subd. 10. **Review and approval of stewardship plans; implementation.** (a) Within  
11.9 30 days after receiving a stewardship plan submitted under subdivision 4, the commissioner  
11.10 must place the stewardship plan on the agency's publicly accessible website for at least 30  
11.11 days for public review and comment.

11.12 (b) Within 120 days after receiving a stewardship plan submitted under subdivision 4,  
11.13 the commissioner must determine whether the stewardship plan complies with the  
11.14 requirements of this section and provide a written notice of determination according to this  
11.15 subdivision.

11.16 (c) In conducting a review of a submitted stewardship plan, the commissioner may  
11.17 consult with the public or other stakeholders.

11.18 (d) If the commissioner determines that a submitted stewardship plan fails to meet the  
11.19 requirements of subdivision 4, the commissioner must reject the stewardship plan. The  
11.20 commissioner must provide a written notice of determination describing the reasons for the  
11.21 rejection to the submitting operator.

11.22 (e) If the commissioner determines that a submitted stewardship plan meets the  
11.23 requirements of subdivision 4, the commissioner must approve the stewardship plan. The  
11.24 commissioner must provide a written notice of determination to the submitting operator.

11.25 (f) The operator must publish an approved stewardship plan on its publicly accessible  
11.26 website within 30 days after receiving written notice of approval, but is not required to  
11.27 publish any portion of the stewardship plan that is nonpublic data under chapter 13. The  
11.28 agency must also publish the approved stewardship plan on its publicly accessible website  
11.29 within 30 days of the commissioner's approval, but must not publish any portion of the  
11.30 stewardship plan that is nonpublic data under chapter 13.

11.31 (g) The operator must implement an approved stewardship plan within 60 days after  
11.32 receiving written notice of approval.

12.1 (h) For each stewardship plan or amendment submitted to the commissioner for review  
12.2 and approval, the commissioner may consider the data submitted according to subdivision  
12.3 12 and other relevant information to establish requirements to improve the effectiveness,  
12.4 performance, and awareness of the stewardship program.

12.5 (i) An operator must comply with its approved stewardship plan and any approved  
12.6 amendments to the plan.

12.7 Subd. 11. **Amending or terminating stewardship plans.** (a) An operator may amend  
12.8 a stewardship plan approved under subdivision 10 without review or approval by the  
12.9 commissioner according to this paragraph. Within 30 days after making an amendment  
12.10 under this paragraph, the operator must notify the commissioner of the amendment and  
12.11 must publish the amended stewardship plan on the operator's publicly accessible website.

12.12 An operator may:

12.13 (1) add, terminate, or replace a collector, collection site, person transporting covered  
12.14 batteries or covered products, or facility used for storage, processing, recycling, or disposal;

12.15 (2) add or remove participants or brands covered under the stewardship plan; or

12.16 (3) change contact staff or associated contact staff information for the operator,  
12.17 participants, collectors, persons transporting covered batteries or covered products, or  
12.18 facilities to be used for storage, processing, recycling, or disposal.

12.19 (b) Except for an amendment under paragraph (a), a proposed amendment to a  
12.20 stewardship plan approved under subdivision 10 must be submitted to and reviewed and  
12.21 approved by the commissioner before it may be implemented by the operator. The  
12.22 commissioner must review and approve or deny the proposed amendment according to  
12.23 subdivision 10.

12.24 (c) An operator with an approved stewardship plan must submit an amended stewardship  
12.25 plan for review and approval at least every five years according to this subdivision and  
12.26 subdivision 4 if the operator has not during that time submitted amendments for review and  
12.27 approval under paragraph (b).

12.28 (d) An operator may terminate a stewardship plan by providing at least 90 days' written  
12.29 notice to the commissioner and to all participants in the stewardship program. Before the  
12.30 stewardship plan is terminated, each participant must meet the requirements of subdivisions  
12.31 4 to 9.

12.32 (e) The commissioner may terminate a stewardship plan for good cause, including  
12.33 significant noncompliance with this section or failure to timely submit a stewardship plan

13.1 for review and approval under subdivision 10. If the commissioner terminates a stewardship  
13.2 program, the commissioner must provide the operator with written notice of termination  
13.3 describing the good cause for termination. The commissioner must also notify all participants  
13.4 in the stewardship program in writing using the contact information for the participants  
13.5 provided in the stewardship plan.

13.6 Subd. 12. **Reporting.** (a) An operator must report to the commissioner within 30 days  
13.7 of making an amendment to the stewardship plan made under subdivision 11, paragraph  
13.8 (a).

13.9 (b) By April 1 each year, an operator must report to the commissioner on the stewardship  
13.10 organization's activities during the preceding calendar year. The report must include:

13.11 (1) the address; county of location; and, in a form prescribed by the commissioner,  
13.12 geolocation data for each collection site used by the operator under the stewardship program  
13.13 during the preceding calendar year;

13.14 (2) the number and mass of covered batteries and covered products managed under the  
13.15 stewardship program during the preceding calendar year, categorized by county of collection  
13.16 and by battery chemistry;

13.17 (3) a description of outreach and education activities performed by the operator during  
13.18 the preceding calendar year to educate members of the public and businesses in the state  
13.19 about the availability of the battery stewardship program and location of collectors and a  
13.20 copy of the independent review under subdivision 9, paragraph (d), if required;

13.21 (4) a financial report on the stewardship program, including actual costs and funding  
13.22 compared to the budget for the year contained in the stewardship plan. The financial report  
13.23 must include an audit report of the stewardship program by an independent auditor. The  
13.24 independent auditor must be selected by the operator and approved or rejected by the  
13.25 commissioner. If the commissioner rejects an independent auditor, the operator must select  
13.26 a different independent auditor for approval or rejection by the commissioner. The  
13.27 independent audit must meet the requirements of *Accounting Standards Update 2018-08,*  
13.28 *Not-for-Profit Entities (Topic 958),* Financial Accounting Standards Board, as amended;

13.29 (5) the proposed and actual budget for the year in which the report is submitted; and

13.30 (6) every fourth year after a stewardship plan is approved by the commissioner, a  
13.31 performance audit of the program. The performance audit must conform to audit standards  
13.32 established by the United States Government Accountability Office; the National Association

14.1 of State Auditors, Comptrollers and Treasurers; or another nationally recognized organization  
14.2 approved by the commissioner.

14.3 Subd. 13. **Fees.** (a) Notwithstanding section 16A.1283, the commissioner must charge  
14.4 a reasonable review fee to be paid by an operator for review of the operator's initial  
14.5 stewardship plan. Fees established under this paragraph must be based on the expected costs  
14.6 to the agency for reviewing a stewardship plan.

14.7 (b) By January 1, 2026, and by July 1 each year thereafter, the commissioner must  
14.8 calculate the annual costs that the agency incurs under this section. Notwithstanding section  
14.9 16A.1283, the commissioner must then set an annual fee at an amount that, when paid by  
14.10 every operator, is adequate to reimburse the agency's full costs of administering this section.  
14.11 The total amount of annual fees and review fees collected under this subdivision must not  
14.12 exceed the amount necessary to reimburse costs incurred by the agency to administer this  
14.13 section. Each operator must pay the annual fee.

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

14.18 Subd. 14. **Rules.** (a) The commissioner may adopt rules to implement this section. The  
14.19 18-month time limit under section 14.125 does not apply to rulemaking under this section.

14.20 (b) The commissioner may adopt rules to designate additional types of primary batteries  
14.21 as covered batteries subject to this section if the commissioner determines that the type of  
14.22 primary battery would be a hazardous waste or problem material when disposed of or that  
14.23 the battery contains a chemical of high concern, critical material, or critical mineral.

14.24 Subd. 15. **Limited private right of action.** (a) Except as provided in paragraph (d), an  
14.25 operator that spent at least \$250,000 managing covered batteries or covered products in the  
14.26 state in the previous calendar year may maintain a civil action against one or more producers  
14.27 or operators to recover a portion of the operator's costs and additional amounts according  
14.28 to this subdivision.

14.29 (b) Damages recoverable under this subdivision may not exceed a fair share of the actual  
14.30 costs incurred by the plaintiff operator in managing covered batteries or covered products  
14.31 of a defendant producer or defendant operator subject to subdivision 3, paragraph (b).  
14.32 Additional amounts recoverable under this subdivision may include an award of reasonable  
14.33 attorney fees and court costs, including expert witness fees. If a defendant producer did not  
14.34 implement or participate in a stewardship program established under this section during the

15.1 period in which covered batteries or covered products of the defendant producer were  
15.2 managed by the plaintiff, a punitive sum of up to three times the damages awarded may be  
15.3 assessed.

15.4 (c) A plaintiff operator may establish a defendant producer's or defendant operator's fair  
15.5 share of the plaintiff's actual costs by providing the court with data establishing the relative  
15.6 weight of covered batteries and covered products collected by the plaintiff for which the  
15.7 defendant was required under this section to manage under a stewardship program compared  
15.8 to the weight of other covered batteries and covered products collected by the plaintiff. This  
15.9 data may include:

15.10 (1) data generated from sorts of covered batteries or covered products involving a  
15.11 minimum of 500 pounds of covered batteries and covered products collected at each of  
15.12 three or more collection sites in the state that are found by the court to have been collected  
15.13 in an unbiased manner and to be reasonably representative of collection sites in the state;

15.14 (2) an analysis of collections by the plaintiff that are found by the court to be reasonably  
15.15 representative of total collections in the state;

15.16 (3) market share data that the court finds reasonably represents the percentage of sales  
15.17 by the defendant producer in the state; and

15.18 (4) any other data or method that the court finds reliable in establishing the defendant's  
15.19 fair share of the plaintiff's actual costs.

15.20 (d) An action may not be commenced under this subdivision against a potential defendant  
15.21 producer or defendant operator until 60 days after the plaintiff operator provides to all  
15.22 potential defendants a written notice of the claim setting forth the amount of the claim and  
15.23 the basis for the calculation of the amount.

15.24 (e) No action may be brought under this subdivision against a person other than a producer  
15.25 or operator.

15.26 (f) The commissioner may not be a party to or be required to provide assistance or  
15.27 otherwise participate in a civil action authorized under this subdivision unless subject to a  
15.28 subpoena before a court of jurisdiction.

15.29 Subd. 16. **Conduct authorized.** A producer or stewardship organization that organizes  
15.30 collecting, sorting, transporting, storing, processing, recycling, or disposing of covered  
15.31 batteries or covered products under this section is immune from liability for the conduct  
15.32 under state laws relating to antitrust, restraint of trade, unfair trade practices, and other  
15.33 regulation of trade or commerce only to the extent that the conduct is necessary to plan and

16.1 implement the producer's or stewardship organization's chosen organized collection, sorting,  
16.2 transport, storage, processing, recycling, and disposal system.

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

16.6 Sec. 3. Minnesota Statutes 2022, section 325E.125, subdivision 2, is amended to read:

16.7 Subd. 2. **Mercury content.** (a) Except as provided in paragraph (c), a manufacturer may  
16.8 not sell, distribute, or offer for sale in this state an alkaline manganese battery that contains  
16.9 more than 0.025 percent mercury by weight.

16.10 (b) On application, the commissioner of the Pollution Control Agency may exempt a  
16.11 specific type of battery from the requirements of paragraph (a) or (d) if there is no battery  
16.12 meeting the requirements that can be reasonably substituted for the battery for which the  
16.13 exemption is sought. A battery exempted by the commissioner under this paragraph is  
16.14 subject to the requirements of section ~~115A.9155, subdivision 2~~ 115A.9165.

16.15 (c) Notwithstanding paragraph (a), a manufacturer may not sell, distribute, or offer for  
16.16 sale in this state a button cell nonrechargeable battery not subject to paragraph (a) that  
16.17 contains more than 25 milligrams of mercury.

16.18 (d) A manufacturer may not sell, distribute, or offer for sale in this state a dry cell battery  
16.19 containing a mercuric oxide electrode.

16.20 (e) After January 1, 1996, a manufacturer may not sell, distribute, or offer for sale in  
16.21 this state an alkaline manganese battery, except an alkaline manganese button cell, that  
16.22 contains mercury unless the commissioner of the Pollution Control Agency determines that  
16.23 compliance with this requirement is not technically and commercially feasible.

16.24 Sec. 4. **REPEALER.**

16.25 Minnesota Statutes 2022, sections 115A.9155; 115A.9157, subdivisions 1, 2, 3, 5, 6, 7,  
16.26 8, and 9; and 325E.125, subdivisions 3, 4, and 5, are repealed.

16.27 **EFFECTIVE DATE.** This section is effective January 1, 2026.



**115A.9155 DISPOSING OF CERTAIN DRY CELL BATTERIES.**

Subdivision 1. **Prohibition.** A person may not place in mixed municipal solid waste a dry cell battery containing mercuric oxide electrode, silver oxide electrode, nickel-cadmium, or sealed lead-acid that was purchased for use or used by a government agency, or an industrial, communications, or medical facility.

Subd. 2. **Manufacturer responsibility.** (a) A manufacturer of batteries subject to subdivision 1 shall:

(1) ensure that a system for the proper collection, transportation, and processing of waste batteries exists for purchasers in Minnesota; and

(2) clearly inform each final purchaser of the prohibition on disposal of waste batteries and of the system or systems for proper collection, transportation, and processing of waste batteries available to the purchaser.

(b) To ensure that a system for the proper collection, transportation, and processing of waste batteries exists, a manufacturer shall:

(1) identify collectors, transporters, and processors for the waste batteries and contract or otherwise expressly agree with a person or persons for the proper collection, transportation, and processing of the waste batteries; or

(2) accept waste batteries returned to its manufacturing facility.

(c) At the time of sale of a battery subject to subdivision 1, a manufacturer shall provide in a clear and conspicuous manner a telephone number that the final consumer of the battery can call to obtain information on specific procedures to follow in returning the battery for recycling or proper disposal. The manufacturer may include the telephone number and notice of return procedures on an invoice or other transaction document held by the purchaser. The manufacturer shall provide the telephone number to the commissioner of the agency.

(d) A manufacturer shall ensure that the cost of proper collection, transportation, and processing of the waste batteries is included in the sales transaction or agreement between the manufacturer and any purchaser.

(e) A manufacturer that has complied with this subdivision is not liable under subdivision 1 for improper disposal by a person other than the manufacturer of waste batteries.

**115A.9157 RECHARGEABLE BATTERIES AND PRODUCTS.**

Subdivision 1. **Definition.** For the purpose of this section, "rechargeable battery" means a sealed nickel-cadmium battery, a sealed lead acid battery, or any other rechargeable battery, except a rechargeable battery governed by section 115A.9155 or exempted by the commissioner under subdivision 9.

Subd. 2. **Prohibition.** Effective August 1, 1991, a person may not place in mixed municipal solid waste a rechargeable battery, a rechargeable battery pack, a product with a nonremovable rechargeable battery, or a product powered by rechargeable batteries or rechargeable battery pack, from which all batteries or battery packs have not been removed.

Subd. 3. **Collection and management costs.** A manufacturer of rechargeable batteries or products powered by rechargeable batteries is responsible for the costs of collecting and managing its waste rechargeable batteries and waste products to ensure that the batteries are not part of the solid waste stream.

Subd. 5. **Collection and management programs.** (a) By September 20, 1995, the manufacturers or their representative organization shall implement permanent programs, based on the results of the pilot projects required in Minnesota Statutes 1994, section 115A.9157, subdivision 4, that may be reasonably expected to collect 90 percent of the waste rechargeable batteries and the participating manufacturers' products powered by rechargeable batteries that are generated in the state. The batteries and products collected must be recycled or otherwise managed or disposed of properly.

(b) In every odd-numbered year after 1995, each manufacturer or a representative organization shall provide information to the senate and house of representatives committees having jurisdiction over environment and natural resources and environment and natural resources finance that specifies at least the estimated amount of rechargeable batteries subject to this section sold in the state by each manufacturer and the amount of batteries each collected during the previous two years. A

representative organization may report the amounts in aggregate for all the members of the organization.

Subd. 6. **List of participants.** A manufacturer or its representative organization shall inform the committees listed in subdivision 5 when they begin participating in the projects and programs and immediately if they withdraw participation.

Subd. 7. **Contracts.** A manufacturer or a representative organization of manufacturers may contract with the state or a political subdivision to provide collection services under this section. The manufacturer or organization shall fully reimburse the state or political subdivision for the value of any contractual services rendered under this subdivision.

Subd. 8. **Anticompetitive conduct.** A manufacturer or organization of manufacturers and its officers, members, employees, and agents who participate in projects or programs to collect and properly manage waste rechargeable batteries or products powered by rechargeable batteries are immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce for activities related to the collection and management of batteries and products required under this section.

Subd. 9. **Exemptions.** To ensure that new types of batteries do not add additional hazardous or toxic materials to the mixed municipal solid waste stream, the commissioner of the agency may exempt a new type of rechargeable battery from the requirements of this section if it poses no unreasonable hazard when placed in and processed or disposed of as part of a mixed municipal solid waste.

### **325E.125 GENERAL AND SPECIAL PURPOSE BATTERY REQUIREMENTS.**

Subd. 3. **Rechargeable tools and appliances.** (a) A manufacturer may not sell, distribute, or offer for sale in this state a rechargeable consumer product unless:

(1) the battery can be easily removed by the consumer or is contained in a battery pack that is separate from the product and can be easily removed; and

(2) the product and the battery are both labeled in a manner that is clearly visible to the consumer indicating that the battery must be recycled or disposed of properly and the battery must be clearly identifiable as to the type of electrode used in the battery.

(b) "Rechargeable consumer product" as used in this subdivision means any product that contains a rechargeable battery and is primarily used or purchased to be used for personal, family, or household purposes.

(c) On application by a manufacturer, the commissioner of the Pollution Control Agency may exempt a rechargeable consumer product from the requirements of paragraph (a) if:

(1) the product cannot be reasonably redesigned and manufactured to comply with the requirements prior to the effective date of Laws 1990, chapter 409, section 2;

(2) the redesign of the product to comply with the requirements would result in significant danger to public health and safety; or

(3) the type of electrode used in the battery poses no unreasonable hazards when placed in and processed or disposed of as part of mixed municipal solid waste.

(d) An exemption granted by the commissioner of the Pollution Control Agency under paragraph (c), clause (1), must be limited to a maximum of two years and may be renewed.

Subd. 4. **Rechargeable batteries and products; notice.** (a) A person who sells rechargeable batteries or products powered by rechargeable batteries governed by section 115A.9157 at retail shall post the notice in paragraph (b) in a manner clearly visible to a consumer making purchasing decisions.

(b) The notice must be at least four inches by six inches and state:

"ATTENTION USERS OF RECHARGEABLE BATTERIES AND CORDLESS PRODUCTS:

Under Minnesota law, manufacturers of rechargeable batteries, rechargeable battery packs, and products powered by nonremovable rechargeable batteries will provide a special collection system for these items by April 15, 1994. It is illegal to put rechargeable batteries in the garbage. Use the special collection system that will be provided in your area. Take care of our environment.

APPENDIX  
Repealed Minnesota Statutes: 24-07502

DO NOT PUT RECHARGEABLE BATTERIES OR PRODUCTS POWERED BY  
NONREMOVABLE RECHARGEABLE BATTERIES IN THE GARBAGE."

(c) Notice is not required for home solicitation sales, as defined in section 325G.06, or for catalogue sales.

Subd. 5. **Prohibitions.** A manufacturer of rechargeable batteries or products powered by rechargeable batteries that does not participate in the pilot projects and programs required in section 115A.9157 may not sell, distribute, or offer for sale in this state rechargeable batteries or products powered by rechargeable batteries after January 1, 1992.

After January 1, 1992, a person who first purchases rechargeable batteries or products powered by rechargeable batteries for importation into the state for resale may not purchase rechargeable batteries or products powered by rechargeable batteries made by any person other than a manufacturer that participates in the projects and programs required under section 115A.9157.