



Definition of Producer for Various Covered Material Types: Minnesota “Packaging Waste and Cost Reduction Act”

[Article 5 115A.144 to 115A.1463](#)



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Covered Material in **115A.1441 DEFINITIONS:**

Subd. 10. "Covered material" means

- packaging introduced in this state
- paper products
- covered material does not include exempt materials.

Disclaimer: This guidance is based solely on the "Packaging Waste and Cost Reduction Act", and intended to help producers determine if they are obligated for any material supplied in Minnesota. As of yet, there are no Rules or Regulations in Minnesota to provide additional specificity to the definitions in the Act, and a Draft Program Plan is not expected until 2027. Material reporting categories have not yet been defined and detailed Producer reporting will not occur until after the Plan is complete. Further guidance will be provided when these details are known. In the meantime, Producers should consider whether they supply any materials that fall within the definitions below.

Covered Product (Material) Type	Specific Scenario	Producer Hierarchy (Statute and Rules)
<p>Packaging</p> <p>115A.144 SHORT TITLE Subd. 23.</p> <p>"Packaging" has the meaning given in section 115A.03 and includes food packaging. Packaging does not include exempt materials.</p> <p>115A.03 DEFINITIONS.</p> <p>Subdivision 1. Applicability.</p> <p>Subd. 22b.Packaging.</p> <p>"Packaging" means a container and any appurtenant material that provide a means of transporting, marketing, protecting, or handling a product. "Packaging" includes pallets and packing such as blocking, bracing,</p>	<p>Packaged item supplied at a physical retail location</p>	<p>115A.144 Subd.26. Determining producers of covered products</p> <p>Producer. (a) "Producer" means the following person responsible for compliance with requirements under [sections 115A.144 to 115A.1463] for a covered material introduced:</p> <ol style="list-style-type: none"> for items sold in or with packaging at a physical retail location in this state: <ol style="list-style-type: none"> 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; 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; if there is no person to which item (i) or (ii) applies, the producer is the brand owner of the item; 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 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.

Covered Product (Material) Type	Specific Scenario	Producer Hierarchy (Statute and Rules)
<p>cushioning, weatherproofing, strapping, coatings, closures, inks, dyes, pigments, and labels.</p> <p>Subd. 17. Food packaging;</p> <p>"Food packaging" has the meaning given in section 325F.075.</p> <p>325F.075 FOOD PACKAGING PFAS.</p> <p>Subd 1 Definitions</p> <p>(a) For purposes of this section, the following terms have the meanings given.</p> <p>(b) "Food package" means a container applied to or providing a means to market, protect, handle, deliver, serve, contain, or store a food or beverage.</p> <p>Food package includes:</p>	<p>Packaged item supplied through remote distribution (e-commerce)</p>	<p>(2) For items sold or distributed in packaging in or into this state via e-commerce, remote sale or distribution:</p> <p>(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</p> <p>(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;</p> <p>(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;</p>

Covered Product (Material) Type	Specific Scenario	Producer Hierarchy (Statute and Rules)
<p>(1) a unit package, an intermediate package, and a shipping container;</p> <p>(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</p> <p>(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.</p>		

Covered Product (Material) Type	Specific Scenario	Producer Hierarchy (Statute and Rules)
Paper Products Subd. 24. Paper product "Paper product" means a product made primarily from wood pulp or other cellulosic fibers Paper product does not include exempt materials.	Paper Products	<p>(4) for paper products that are magazines, catalogs, telephone directories, or similar publications, the producer is the publisher;</p> <p>(5) for paper products not described in clause (4):</p> <p>(i) if the paper product is sold under the manufacturer's own brand, the producer is the person that manufactures the paper product;</p> <p>(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;</p> <p>(iii) if there is no person to which item (i) or (ii) applies, the producer is the brand owner of the paper product;</p> <p>(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</p> <p>(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.</p>

NOTE: For all categories of materials listed above, the statute allows for the following assignment of responsibilities as outlined in (6)(i) and also assigns responsibilities of franchisees located in Minnesota to the franchisor as described in (6)(ii):

Subd. 26. Producer

(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;
- (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.

Exempt Materials

Section 115A.1441,

Subd. 16. Exempt materials.

"Exempt materials" means materials, or any portion of materials, that are:

Packaging for Drug, Medical Devices & Nutritional Supplements	(1) packaging for infant formula, as defined in United States Code, title 21, section 321(z); (2) packaging for medical food, as defined in United States Code, title 21, section 360ee(b)(3); (3) packaging for a fortified oral nutritional supplement used by persons who require supplemental or sole source nutrition to meet nutritional needs due to special dietary needs directly related to cancer, chronic kidney disease, diabetes, malnutrition, or failure to thrive, as those terms are defined by the International Classification of Diseases, Tenth Revision;
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	<p>(4) packaging for a product regulated as a drug or medical device by the United States Food and Drug Administration, including associated components and consumable medical equipment;</p> <p>(5) packaging for a medical equipment or product used in medical settings that is regulated by the United States Food and Drug Administration, including associated components and consumable medical equipment;</p> <p>(6) drugs, biological products, parasiticides, medical devices, or in vitro diagnostics that are used to treat, or that are administered to, animals and are regulated by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 301 et seq., by the United States Department of Agriculture under the federal Virus-Serum-Toxin Act, United States Code, title 21, section 151 et seq.;</p>
Hazardous Products	<p>(7) packaging for products regulated by the United States Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, United States Code, title 7, section 136 et seq.;</p> <p>(8) packaging used to contain liquefied petroleum gas and are designed to be refilled</p> <p>(11) 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;</p>
Products Related to Specific Industry Sectors	<p>(12) packaging that is being collected and properly managed through a paint stewardship plan approved under section 115A.1415;</p>
Paper products	<p>(9) paper products used for a newspaper's print publications, including supplements or enclosures, that include content derived from primary sources related to news and current events;</p> <p>(10) paper products used for a magazine's print publication that has a circulation of less than 95,000 and that primarily includes content derived from primary sources related to news and current events;</p>

	<ul style="list-style-type: none"> - bound books [115A.144 Subd.26] - products that recycling or composting facilities will not accept because of the unsafe or unsanitary nature of the paper product [115A.144 Subd.26]
Shipping/ Tertiary Packaging	<p>(14) are covered materials that</p> <ul style="list-style-type: none"> (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
Other	<p>(13) exempt materials, as determined by the commissioner under section 115A.1453, subdivision 6 115A.1453 Subd. 6.Exempt materials list.</p> <p>(a) A producer may request the commissioner, on a form prescribed by the commissioner, to classify as an exempt material one or more types of packaging. The commissioner must submit the request to the advisory board for review and comment before approving or denying the request.</p> <p>(b) The commissioner may approve the request only if the commissioner determines that a specific federal or state health and safety requirement prevents the packaging from being waste reduced or made reusable, recyclable, or compostable.</p> <p>(c) The commissioner must review and approve, deny, or request additional information for a request to classify packaging as an exempt material no later than 120 days after the date the commissioner receives the request.</p> <p>(d) The commissioner must post on the agency website a list of materials exempted under this subdivision.</p> <p>(e) An exemption granted under this subdivision expires two years after the date a request was approved by the commissioner. A material classified as exempt under this subdivision becomes a covered material immediately upon</p>

	expiration of the exemption. A producer may reapply according to this subdivision
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Exempt Producers

Sec. 3. Minnesota Statutes 2024, section 115A.1441,

Subd. 26. Producer.

(b) "Producer" does not include

Small Business/ de minimis	<p>(3) a de minimis producer;</p> <p>Subd. 13. De minimis producer. "De minimis producer" means a person that in their most recent fiscal year:</p> <p>(1) introduced less than one ton of covered material into this state or, (2) earned global gross revenues of less than \$2,000,000</p>
Not for Profit, government	<p>(1) a state, a federal or state agency, a political subdivision, or other governmental unit;</p> <p>(2) a registered 501(c)(3) charitable organization or 501(c)(4) social welfare organization</p>
Industry specific exemptions	<p>(4) a mill that uses any virgin wood fiber in the products it produces; or</p> <p>(5) a paper mill that produces container board derived from 100 percent postconsumer recycled content and non post-consumer recycled content.</p>