TOMRA Comments on Draft Conceptual Rules for Maine's Extended Producer Responsibility for Packaging program

October 31, 2023

Commissioner Loyzim,

Thank you for the opportunity to comment on the conceptual draft rules for Maine's Extended Producer Responsibility (EPR) for Packaging program established in Title 38-2146. TOMRA is happy to provide insights based on our experience in over 40 EPR-for-packaging and EPR-for-beverage-containers (AKA Deposit Return Systems or 'bottle bill') markets around the globe. Our goal is to contribute to helping Maine's new EPR program minimize costs for municipalities, increase the reduction, reuse and recycling of packaging, and foster an environment of innovation and continuous improvement.

About TOMRA

TOMRA is a pioneer in advanced technology for the collection and sorting for recycling, with over 50 years' experience operating in EPR and non-EPR markets, 80 in total. Our advanced optical sorting technology is often used in state-of-the-art Material Recycling Facilities to efficiently sort material so it can be recycled into high quality new products. We also provide sorting technology for retailers and redemption centers to automate the container take-back process for Maine and 40 other Deposit Return Systems. While our technology is integral to the refillable beverage markets across Europe and Canada we are also excited to launch one of the world's first city-wide reusable cup and takeout packaging program in partnership in Europe this Fall.

Comments on Draft Conceptual Rules

Estimates for equipment investments should include sorting equipment

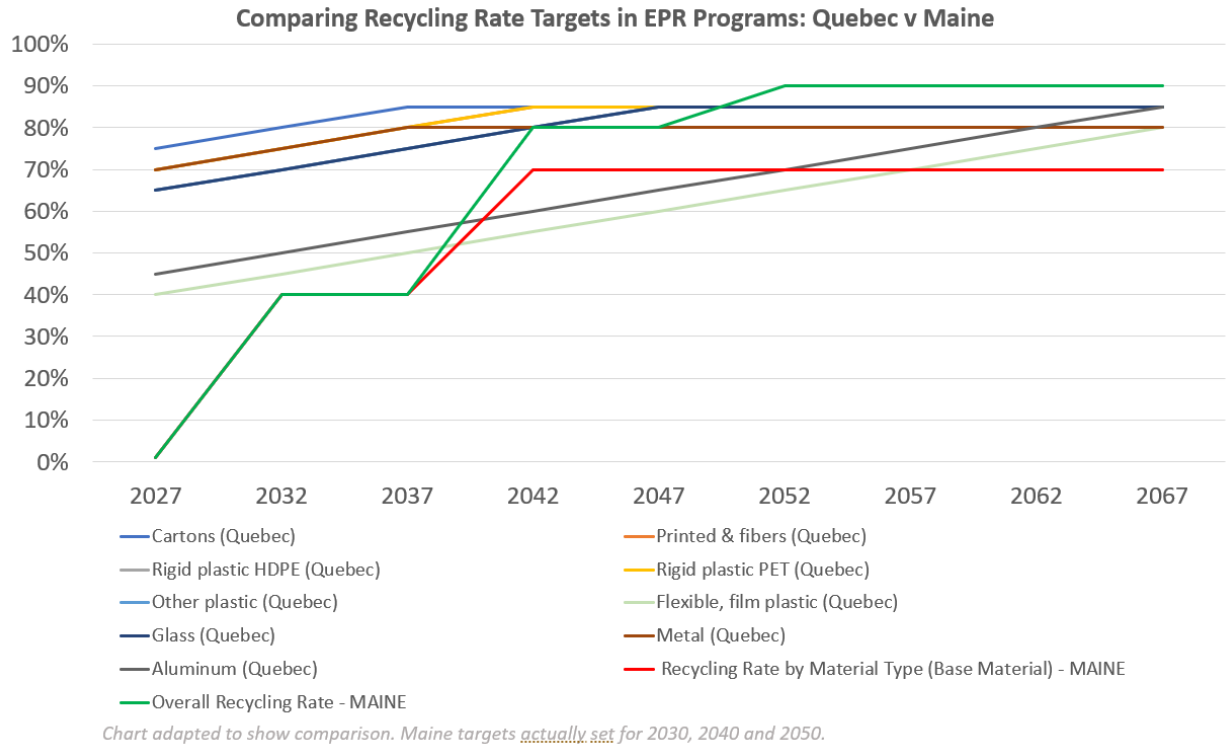
Modern material recycling and sorting facilities increasingly rely on high-speed, automated sorting technology to improve both the quality and quantity of the recycling system. "Optical sorters" and related software are as critical as the items that are explicitly mentioned in the draft methodology for estimating the price of equipment such as forklifts and compactors and as such should be explicitly included the methodology. This would avoid future debates over whether a municipality could receive reimbursement from the Stewardship Organization (SO) for investing in optical sorters which would improve both the economic and environmental performance of the local recycling facility. (Part 1. B2).

Program goals should match best practice ambition and timescales

Per Title 38-2146, the Department is required to define program goals including an "overall reduction by producers in the amount of packaging material used, an increased reuse by producers of packaging material and an increased amount of post-consumer recycled content in packaging material used by producers; packaging material litter reduction goals; recycling access and collection rate goals for municipalities; and overall program and material-specific recycling rate goals." Maine's neighbor to the north, Quebec, has recently overhauled its EPR for Packaging program including the setting of program goals. Quebec has established more ambitious yet realistic goals for material specific recycling rates and set increases to take place within five years rather than the decade that the draft Maine rules allow.

By adopting a slow ramp up period, Maine will experience excessive and unnecessary waste generation for the period 2027-2040. If the base material recycling rate is not updated, this too will result in disposing substantial amounts of readily recyclable packaging for the next several decades.

We strongly recommend the Department reconsider the schedule of goals to ensure continuous improvement rather than substantial improvements delayed until 2040 or 2050. We also recommend Maine matches the material specific recycling rate goals defined by Quebec's EPR for Packaging program. Given their similarities and proximity both programs can learn from one another. This current planning stage is critical to determine whether Maine will have a superior EPR program that creates a step change in waste reduction waste diversion or a mediocre program that simply shifts the cost of recycling (Part 2, Section 5, sub-G, H and I).



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[1] "Environmental Quality Act," LegisQuebec.Gouv.QC.CA. Accessed via: https://www.legisquebec.gouv.qc.ca/en/document/cr/Q-2,%20r.%2046.01

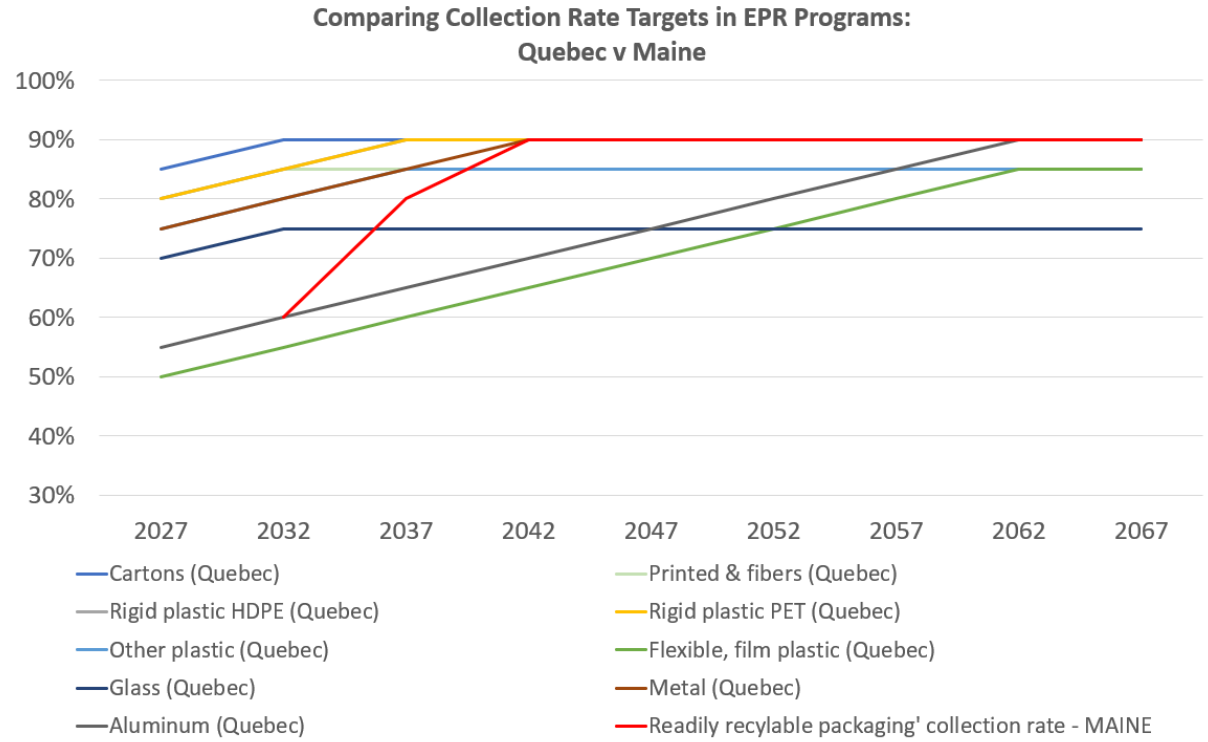

Chart adapted to show comparison. Maine targets actually set for 2030, 2040 and 2050.

For reference I will share the recycling rate targets by material type from the European Union's Circular Economy Package. The EU is generally considered the leader worldwide in terms of their ambitious yet thoughtful approach to managing waste and plastic waste in particular. You will notice the goals are not as high as Quebec, but they do demand more action much quicker than Maine's draft goals.

		Current	End 2025[4]	End 2030[5]
Packaging & Packaging Waste Dir.[3]	**Overall target**	**55%**	**65%**	**70%**
	Plastics	**22.5%**	**50%**	**55%**
	Wood	15%	25%	30%
	Glass	60%	70%	75%
	Paper & cardboard	60%	75%	85%
	Metal	50% (metal)	70% (ferrous metals)	80% (ferrous metals)
	Aluminum	-	50%	60%
Single-use Plastics Directive		2025	2029	2030
	Separate collection of beverage bottles	77%	90%	
	Recycled content in bottles	25%[7]		30%[8]

Legislated Targets: The European Union's Circular Economy Package

We support the goals' focus on fostering end market demand

Recycled content minimums as specified in Part 2 section 5, if enforced properly, will spur increased demand for high quality recycled material, which improves the overall health or business model of the recycling system.

The "Readily Recyclable" definition should be more precise so as not to exclude recycling processes that are safe for communities and the environment

As written, the draft rule for "readily recyclable" excludes recycling processes that "are known to result in the release of material into the environment." While we understand the intent to safeguard environmental and human health, virtually all recycling processes "release material into the environment" via water discharges or air exhaust. The language should be updated to exclude processes that release material in quantities that have been shown to substantially damage human or environmental health (Part 2, Section 2, C-c).

Annual Stewardship Organization report should include progress against defined goals

Title 38-2146 requires the Stewardship Organization's annual report to include "an assessment of progress made toward the achievement of any program goals required by the department". In Part 2 Section 7, the draft rules do require the SO to report progress against recycled content amounts, the amount of readily recyclable packaging sold, and reuse. However, it does not specify reporting on the "overall recycling rate" or "material specific recycling rate". These are goals which the Department is required to draft as stated in Section 13, A-5 of Title 38-2146. In order for the public to evaluate progress of the program and identify areas for improvement, it is critical for an EPR program to publicly report its progress against goals. Given recycling is the appropriate pathway for the majority of material that this resource management program will handle, it is essential for reporting to cover its performance level (Part 2, Section 7, A and B).

Investment options should not be limited to government entities

The "major investment need – investment criteria" should not be limited to government entities for recycling infrastructure. In some cases, the private sector will be willing and able to assist the SO, municipality and state in reaching its recycling and solid waste management goals but local municipalities may not have the wherewithal or desire to own and/or operate the facility. This could unnecessarily limit the potential of Mainers to reach higher diversion of waste (Part 3, Section 2-a). Perhaps a way forward is to adjust the investment criteria so that the private sector is allowed to receive funding if a government entity has not made a comparable request or proposal for funds.

Investments should be evaluated based on ability to reach program goals and an ROI over a reasonable timeframe not an arbitrary dollar amount

The establishment of an EPR program specialized to handle packaging material provides a significant opportunity for Maine to think long-term with respect to its materials management approach. With that in mind, significant investments should be made based on their ability to help reach program goals (e.g. utilizing more recycled content) and a return on investment over a reasonable time period (e.g. 10-15yrs) rather than an arbitrary dollar amount. Some investments can require significant capital investments such as upgrading MRFs to utilize optical sorters. Over time such an investment pays off by

increasing throughput (and tons recycled), material quality (increase in commodity value due to effectively sorting out contamination), while reducing labor costs. An arbitrary investment cap of $2,000 per ton could disqualify wise investments that benefits the material management system in the medium to long-term (Part 3, Section 2, e-ii).

The Needs Assessment should evaluate the needs to reach the program's goals

The Needs Assessment required in Part 3 should include an evaluation of what is needed to reach the programs goals as defined in Section 5 of Part 2 of the draft rules. The draft rules require the Needs Assessment to identify the needs to offer recycling to more municipalities ("participation rate"), but it does not require an assessment of what it would take to actually recycle more. EPR programs that do not align evaluations and investment priorities with program goals do not reach their program goals. Best practice is to design the Needs Assessment to identify the needs required to reach defined program goals. It should also include the cost if all goals were to be achieved five years prior to the timescales, especially the overall recycling rate and base material recycling rate given the 10 year period between increases in expected performance is considered an excessive amount of time. The evaluation should include at least a general plan and budget (Part 3, Section 3).

Reusable packaging evaluation should include all viable scenarios

We support the idea that the Needs Assessment defined in Section 3 of Part 3 should include an evaluation of potential reuse and refills systems might be adopted in Maine. However, the evaluation of how reusable materials could be managed should not be limited to collection systems which rely on "municipal recycling systems". While it is possible, it is unlikely that a modern, scalable reusable packaging system would utilize municipal collection and recycling infrastructure. Due to requirements for convenience, integration with retailers and cafes, and food safety standards, it is more likely that an additional system would be implemented to provide return locations, and washing and refill infrastructure. Therefore, the reusable packaging evaluation should include any viable reuse infrastructure. If inclusion of municipal ownership is important then the evaluation could describe how the new reuse system could include municipal ownership, participation, or benefits (Part 3, Section 3, A-v).

Litter investments should not be limited to litter education projects alone.

The penalty stipulated for increased packaging litter is increased investment in education. Residents who litter may be aware of the environmental damage of litter and even fines and still choose to litter. Measures beyond education will be necessary in some cases. The rules should specify that litter investments can include any project that advances potential litter reduction including an assessment of the effectiveness, cost and benefits of a deposit return system for target items and/or more regular litter clean ups (Part 2, Section 5, E).

Conclusion

Thank you for the opportunity to provide comments at this important juncture in Maine's journey towards sustainable materials management. We welcome follow-up inquiry

Thank you,

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ABOUT TOMRA: TOMRA provides a range of advanced vision systems that utilize sensor-based technology to sort everything from bottles to blueberries allowing companies and consumers to reduce their waste footprint and providing a stream of clean valuable material to the 'circular economy'.

TOMRA COLLECTION: With an installed base of approximately 83,000 systems in over 60 markets including all 10 U.S. states with deposit laws, TOMRA Reverse Vending is the world's leading provider of reverse vending and clearinghouse solutions. Every year TOMRA facilitates the collection of more than 40 billion empty cans and bottles and provides retailers and other customers with an effective and efficient way of collecting, sorting, and processing these containers. TOMRA's material recovery business includes the pick-up, transportation, and processing of used beverage containers in North America, as well as the subsequent brokerage of the processed material to recyclers. The revenue stream in this business area is derived from fees received from bottlers based on the volume of containers processed. Currently, TOMRA Material Recovery processes over 340,000 metric tons of containers annually. TOMRA has over five decades of experience in markets with deposit return laws in place. Throughout the Northeast TOMRA provides many services solely to power container deposit systems or 'the bottle bill'.

TOMRA SORTING: TOMRA Sorting creates sensor-based technologies for sorting and process analysis within the recycling, mining, food, and other industries. TOMRA Recycling is a global leader in its field and has pioneered the automation of waste sorting. Its flexible sorting systems perform an extensive range of sorting tasks and can both prepare and sort various types of metals and waste for either material recycling or energy recovery. Currently TOMRA Sorting Recycling has an installed base of close to 5,960 units across more than 40 markets.

TOMRA ReUse: TOMRA ReUse is a new venture to explore opportunities in the reuse of common packaging items. Current projects include launching one of the world's first city-wide pilots of reusable takeout cup and food packaging in Denmark.

www.TOMRA.com

APPENDIX

Detailed targets from Quebec and Maine's EPR for Packaging Program[2]

	Category	COLLECTION RATE								
		2027	2032	2037	2042	2047	2052	2057	2062	2067
QUEBEC	Carton	85%	90%	90%	90%	90%	90%	90%	90%	90%
	Printed & fibers	80%	85%	85%	85%	85%	85%	85%	85%	85%
	Rigid plastic HDPE	80%	85%	90%	90%	90%	90%	90%	90%	90%
	Rigid plastic PET	80%	85%	90%	90%	90%	90%	90%	90%	90%
	Other plastic	75%	80%	85%	85%	85%	85%	85%	85%	85%
	Flexible, film plastic	50%	55%	60%	65%	70%	75%	80%	85%	85%
	Glass	70%	75%	75%	75%	75%	75%	75%	75%	75%
	Metal	75%	80%	85%	90%	90%	90%	90%	90%	90%
	Aluminium	55%	60%	65%	70%	75%	80%	85%	90%	90%
MAINE	'Readily recyclable packaging' collection rate	N/A	60% (2030)	80% (2035)	90% (2040)	90%	90%	90%	90%	90%

[2] "Environmental Quality Act," LegisQuebec.Gouv.QC.CA. Accessed via: https://www.legisquebec.gouv.qc.ca/en/document/cr/Q-2,%20r.%2046.01

	Category	RECYCLING RATE								
		2027	2032	2037	2042	2047	2052	2057	2062	2067
QUEBEC	Carton	75%	80%	85%	85%	85%	85%	85%	85%	85%
	Printed & fibers	70%	75%	80%	85%	85%	85%	85%	85%	85%
	Rigid plastic HDPE	65%	70%	75%	80%	85%	85%	85%	85%	85%
	Rigid plastic PET	70%	75%	80%	85%	85%	85%	85%	85%	85%
	Other plastic	65%	70%	75%	80%	85%	85%	85%	85%	85%
	Flexible, film plastic	40%	45%	50%	55%	60%	65%	70%	75%	80%
	Glass	65%	70%	75%	80%	85%	85%	85%	85%	85%
	Metal	70%	75%	80%	80%	80%	80%	80%	80%	80%
	Aluminium	45%	50%	55%	60%	65%	70%	75%	80%	85%
MAINE	Material-specific recycling rate (base material)	N/A	40% (2030)	40%	70% (2040)	70%	70%	70%	70%	70%
	Overall recycling Rate		40% (2030)	40%	80% (2040)	80%	90% (2050)	90%	90%	90%