



Solutions for a
Toxic-Free Tomorrow

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December 8, 2022

Maine Department of Environmental Protection
17 State House Station
Augusta, ME 04333

Dear Commissioner Loyzim,

Thank you for the opportunity to provide comments on the implementation of Maine's Extended Producer Responsibility (EPR) law. Below you will find Defend Our Health's comments on the rulemaking topic area of producer exemptions. Please don't hesitate to contact us if you have any follow up questions or would like clarifications of these comments.

The Department has requested that interested parties weigh in on "Which products, if any, should be exempt under paragraph 13(D) (38 M.R.S. § 2146(13)(D))?" We do not believe that any additional products should be exempt under the EPR law. The current EPR law already has exemptions for certain packaging categories including producers of perishable food and frozen wild Maine blueberries who sold or otherwise distributed 15 tons or less in packaging materials to consumers in Maine, packaging that is intended to provide long-term storage, and packaging that is already being collected through other existing EPR programs. If exemptions are given, those products will still be sold in the state of Maine and the packaging of those products will still need to be managed by local municipalities or the stewardship programs. This places an unfair burden on those municipalities and other entities that are on the hook to manage the packaging by the exempted producers. This is inequitable and goes against the legislative intent of the law.

Additionally, part of the legislative intent of the law was to incentivize companies to work to lower the toxicity in the packaging that is coming into the state. Legislative language states that "...payment schedule adopted under this subparagraph must delineate criteria to be used to adjust producer payments in a manner that incentivizes: the use of recycled content in and increased recyclability of packaging material, lower toxicity in packaging material..." Toxic chemicals such as per-and-poly fluoroalkyl substances (PFAS), phthalates, and antimony are in our packaging. While under Maine statute 32 M.R.S. Chapters 26-A and 26-B, phthalates are banned in food packaging and PFAS will eventually be banned in food packaging here in Maine, it is far from the only harmful chemical found in packaging and this ban only applies to food packaging. An international study found that there are more than 3,000 harmful chemicals in food packaging alone¹. If you look at all packaging that number

¹ Krupnick, M. (2022, May 19). *More than 3,000 potentially harmful chemicals found in food packaging*. The Guardian. Retrieved December 6, 2022, from <https://tinyurl.com/mr4yec83>



will most assuredly be larger. Approving exemptions for other producers disincintiveze them to deal with the issue of the toxics in their packaging, placing harmful health burdens on the people of Maine and increasing the cost of managing these programs.

We urge the Department to reject additional exemptions to the EPR bill. Thank you once again for the opportunity to provide these comments. We look forward to continuing discussions with the Department on its implementation of this critical law. Please feel free to contact Sarah Woodbury, Director of Advocacy, at SWoodbury@DefendOurHealth.org if we can provide additional information.

Sincerely,

Sarah Woodbury
Director of Advocacy
Defend Our Health