



March 7, 2024

Department of Environmental Protection
State of Maine
17 State House Station
Augusta, Maine 04333-0017

Re: Testimony
Stewardship Program for Packaging Rule

Dear Sir or Madam:

On behalf of Casella Waste Systems, Inc., (“Casella”) please accept the following testimony concerning the posting draft of the Department of Environmental Protection’s (the “Department”) Stewardship Program for Packaging Rule (the “Program Rule”).

For decades, Casella has invested in the Northeast’s recycling infrastructure, providing single stream collection, processing, and sorting systems, which serve thousands of municipalities and businesses and recover hundreds of thousands of tons per year of recyclable materials. We believe that the best way to improve recycling outcomes in Maine is through continued investments building off existing infrastructure, greater public outreach and education, and the strengthening of markets for recycled commodities. To that end, we offer the following comments for consideration with respect to the Program Rule:

Reporting Requirements

The detailed reporting requirements for municipalities, particularly those who operate their own facilities, may prove a significant barrier to participation. The language concerning “follow-up cost studies” *Program Rule 14(A)(2)*, exacerbates this concern in that it requires municipalities contact the Stewardship Organization within 30 days upon making “relevant changes,” which include an extensive list of factors that may change monthly if not weekly in many programs. The Stewardship Organization is required to determine whether each reported change is likely to change the cost of management by at least 10%, at which point a follow-up cost study is required. As proposed, the 10% threshold is only applied after a reported change reaches the Stewardship Organization, therefore municipalities would still be required to report to even the most minor changes in staffing, operations, or equipment.

The Stewardship Organization should provide each participating municipality with guidance on the level of “relevant changes” that would necessitate notification. Changes below this threshold should not require reporting. Without this change, municipalities will be required to provide frequent and unnecessary notices throughout the year, and the Stewardship Organization will be inundated with notifications of minor changes.

Alternative Management

The Program Rule proposes reimbursements for Alternative Management (incineration) of non-readily recyclable packaging. Casella feels strongly that incineration should not be given preferential treatment under a product stewardship program. Instead, Maine should apply its waste hierarchy to drive handling of society's solid waste materials to their highest and best use. Waste hierarchies should be used to promote continuous improvement in waste reduction, reuse, and recycling, and should not be co-opted to artificially prop up one form of disposal above another, particularly where incentives to incinerate plastic packaging would run directly counter to climate goals.

To understand how incentivizing incineration counter to Maine's climate goals is, it is important to take into account that plastics are likely to comprise a substantial percentage of non-recyclable packaging. According to Environmental Protection Agency (EPA) data, incineration of plastics emits on average 1.63 MTCO₂e per ton (EPA WARM v15.1). This is unsurprising given that plastic is essentially a fossil fuel. We estimate that Maine residential waste may contain as much as 64,000 tons per year of plastic packaging that is not currently accepted for curbside recycling. Incineration of this material would generate over 100,000 tons of greenhouse gas emissions, equivalent to the emissions from over 22,000 vehicles. Given Maine's climate goals, and the potential emissions impacts, incineration should in no way be incentivized as a sustainable solution for plastic packaging.

Rather than incentivize incineration, Casella would propose that the Program Rule be revised to provide a simple per capita reimbursement to cover select costs associated with the management of non-readily recyclable packaging. This approach was discussed and explored at stakeholder sessions, and is not in conflict with Maine's climate goals.

Finally, Casella notes that in its discussion of Alternative Management, the Program Rule does not reference the statutory requirement set out in 38 M.R.S. § 2146 (8)(B)(2) which provides reimbursement for alternative collection programs shall be subject to Department approval, with the explicit requirement that the Department may not grant approval for "disposal at an incineration facility unless... the program proposes a process to begin reuse or recycling of that type of packaging material within 3 years or less." This approval requirement is an important provision of the enabling statute, and should be codified in the Program Rule.

Readily Recyclable Criteria

The Program Rule provides criteria for packaging material types to be considered readily recyclable. These criteria do not contain any geographic consideration other than the requirement for North American processors to exist. This may be appropriate for some commodities (such as fiber and certain plastics) which currently travel long distances because they have monetary value and can be densified for shipment. However, other commodities (for example expanded polystyrene or flexible plastics) have lower value and/or do not travel well. If these materials are added to the Readily Recyclable list, and municipalities are required to collect and recycle them, overall program costs may rise considerably.

To remedy this, the Department could set the initial Readily Recyclable list based upon materials that are currently accepted in the majority of the state's curbside recycling programs. The addition of new materials to the list could be tied to the accessibility of available markets/capacity with a cost per ton equal to or less than a defined multiple of the cost of the most expensive item on the Readily Recyclable list.

Recycling beyond the Readily Recyclable list

Program Rule 13(E) proposes that innovative recycling of items beyond those listed as Readily Recyclable would be reimbursed at a rate of 2 times the median cost per ton of Alternative Management (incineration). Recycling reimbursement thresholds should be tied to the cost of recycling, not disposal. To remedy this, the Department should set the reimbursement rate for these materials at 2 times the median cost per ton of the highest cost Readily Recyclable item.

Glass Recycling

The Program Rules include the definition of “Disposal” to mean “...the final disposition of material in a manner that does not constitute reuse, composting, or recycling. Disposal includes any placement of material in the permitted area of a landfill.” This definition would preclude the use of glass in connection with construction activities within the landfill footprint. We would therefore assert that glass, when used as a construction material, whether in a landfill or elsewhere, should be recognized as being recycled, not disposed of. This could be accomplished by adding to the definition of Disposal, an exception or a carve-out, for materials that are a specified component of construction material.

Thank you for the opportunity to provide testimony in this proceeding. Please reach out if we can provide you with additional information, or if you have any questions.

Sincerely,



Bob Cappadona
Vice President