

March 18, 2024

Brian Beneski  
17 State House Station  
Augusta, ME 04333

**RE: Chapter 428: Stewardship Program for Packaging Draft Rule Comments**

Dear Mr. Beneski:

My name is Nate Cloutier, and I am submitting comment on behalf of HospitalityMaine regarding Chapter 428: Stewardship Program for Packaging Draft Rules, publicly noticed on February 5, 2024. HospitalityMaine is a trade association representing restaurant and lodging establishments of all sizes across the state. Our comments include the perspective of restaurant and lodging operators as well as the businesses that support them.

The proposed draft rule is 62 pages long, exceptionally intricate, and challenging to grasp. Our concerns remain that the program will become excessively bureaucratic and could potentially deter existing businesses and dissuade new business from investing in the state. For businesses to successfully comply, the Department will need to streamline these rules, so that they are easy to comprehend. In talking with HospitalityMaine membership, they by and large still do not understand how this program will work. Education by the Department and from the Stewardship Organization (SO) will be critical to ensure businesses can comply with future obligations.

- We urge the Department to consider exemptions for federally regulated packaged goods, such as child-proof/safety items or medications, and instances where no readily recyclable alternatives exist. The exemption process as proposed seems arduous and unnecessarily complicated. The ultimate decision should rest with the Department without the need for public comment.
- We reiterate that including business-to-business (B2B) packaging in the program raises questions about its alignment with the law's original intent, which we interpret as applying to packaging directly reaching end consumers. B2B packaging should not be included in any final rule.
- The concept of 'readily recyclable' still presents challenges, especially regarding payment calculations based on past management costs. Reflecting true costs within the rules regarding 'readily recyclable' materials is necessary for fair payment calculations. Ensuring the determination of material types and readily recyclable lists will allow for more effective budget planning by businesses.

**Litter:**

- A packaging producer will have almost no impact on a consumer choosing to litter.

**Packaging Stewardship Fund Cap:**

- Aligning the fund cap with the structure of other state programs ensures responsible management of excess funds. Maintaining excessive funds of five times annual expenditures may indicate the appearance of potential cost management/overcollection problems.

**Audits:**

- Reducing the audit interval from 10 years to a more reasonable timeframe ensures accountability and effectiveness.

**Reporting Deadlines and Payments:**

- Extending reporting and payment deadlines and revisiting penalty structures ensure fairness and practicality for businesses. The timeframe between reporting and paying should be more practical, as should any subsequent penalties.

**Certifying Toxin Absence:**

- Providing clearer guidelines and considerations for certifying toxin absence will support smaller hospitality businesses in meeting program requirements. The ability for producers to certify that their products are free of certain toxins has proven unrelentingly difficult in PFAS compliance.

**Program Goals:**

- Revisiting program goals to ensure they are realistic and achievable, with penalties proportional to the challenges faced, is essential for successful administration.

**Producer Reporting and Payments:**

- Simplifying reporting requirements and clarifying the responsible entity for payment alleviate burdens on businesses and ensure compliance. It will be difficult for the Department/SO to maintain a list of compliant/non-compliant products. Excessive reporting will add to the cost of compliance.

**Registering Within 30 Days:**

- Extending the registration window beyond 30 days allows businesses sufficient time to comply with program requirements practically.

**Packaging Design Limitations:**

- Recognizing packaging design limitations and providing fee reductions where appropriate shows an understanding that there may be instances where the purpose of the packaging may limit the ability of the producer to limit the use or use alternative material.

We appreciate the opportunity to provide feedback on the Chapter 428 Draft Rules. We remain committed to constructive engagement in the program's development. Thank you for considering our perspective as you make changes before rule adoption.

Sincerely,  
Nate Cloutier

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