



March 18, 2024

Susan Lessard, Chair
Maine Board of Environmental Protection
17 State House Station
Augusta, Maine 04333

RE: Maine EPR for Packaging Proposed Rules

Dear Chair Lessard and Members of the Board,

Thank you for the opportunity to submit comments regarding the Department of Environmental Protection's (DEP) regulations for Maine's Extended Producer Responsibility for Packaging program. The following comments are submitted on behalf of the Conservation Law Foundation's (CLF) Zero Waste Project. CLF's mission is to conserve natural resources, protect public health, and build healthy communities in Maine and throughout New England. Through its Zero Waste Project, CLF aims to protect communities and our environment from the dangers of unsustainable waste practices and advance waste reduction, diversion, and recycling.

CLF is thrilled to see Maine lead the nation with the State's new Extended Producer Responsibility (EPR) Program for Packaging. Overall, CLF strongly supports the Department of Environmental Protection's rules for this program, and respectfully requests the Board approve these rules after incorporating our minor recommendations below.

Building a strong EPR for Packaging program marks a huge advancement for recycling and packaging reduction statewide, and we were staunch proponents of LD 1541. Maine's EPR for Packaging program will shift the financial burden for managing the end-of-life disposal and recycling of packaging from residents to the producers who make the packaging. By shifting the financial cost of recycling to producers, the program will incentivize environmentally superior behavior—incorporating post-consumer recycled content, reducing the toxicity and the quantity of packaging, utilizing reusable packaging, and creating packaging that is readily recyclable in Maine. The potential benefits of a successful EPR for Packaging program are tremendous.

Implementing the EPR for Packaging program through clear, enforceable rules is critical to the program's success. The DEP diligently sought and incorporated stakeholder input on the current rules, and they have done an excellent job of using their expertise to enable a complicated and critical program. While EPR for Packaging itself is a new program, Maine's DEP already has decades of experience operating other forms of EPR programs. The Department's experience with EPR shows in the quality of their proposed rules.

EPR for Packaging will provide great relief to municipalities' recycling programs. According to the DEP, about 30 - 40% of the municipal waste stream is packaging waste.¹ Annually, Mainers pay upwards of \$16 million to manage this material through recycling or disposal.² The cost and volume of packaging waste has stressed municipal budgets across the state, leaving several communities with no option but to abandon or significantly reduce their recycling programs. Without these programs, recyclable packaging ends up filling up our landfills or burned in incinerators. The EPR for Packaging program directly addresses municipalities' struggles to afford the costs of recycling across Maine by shifting the financial burden from residents to the producers who make the packaging. Notably, while municipalities will have strong incentives to participate, they are not required to.

While supporting the majority of the proposed rules, we strongly recommend that the DEP adjust the rules to further invest in reuse systems. Specifically, in Section 17A the rules should clearly prioritize direct investments into packaging reuse and refill infrastructure. These systems should be convenient, affordable, and accessible to all residents of the state. We suggest a clear reinforcement of the statutory requirements to prioritize funding that supports the State's solid waste management hierarchy, which prioritizes reuse. The SO is the ideal entity to invest in a statewide system for reusable packaging that can meet its members' needs.

In sum, we respectfully request that the Board approve these rules after addressing our above recommendations. The EPR for Packaging program will deliver much needed support to municipalities, help our state achieve its solid waste reduction and recycling goals, and affirm Maine's leadership in sustainable solutions to waste management. Thank you for your consideration.

Respectfully submitted,



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¹ Department of Environmental Protection, Annual Product Stewardship Report, p. 15, (January 2019). Available at <https://www.nrcm.org/wp-content/uploads/2020/10/2019MDEPprodstewardshipreport.pdf>

² *Id.* at 15-16.