

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 proposed regulations for Maine's packaging Extended Producer Responsibility (EPR) law from the Department of Environmental Protection (DEP). The following comments are submitted on behalf of Reuse Portland - a volunteer coalition of business, municipal, environmental and sustainability leaders in Portland and South Portland who are actively working to catalyze and launch reuse systems in our cities. We believe Maine's packaging EPR law represents a crucial opportunity to accelerate packaging reduction and reuse throughout the state, and we greatly appreciate the Department's incorporation of reuse and refill throughout the proposed rules. This program will also reduce the burden on Maine's municipalities, who are shouldering the costs of wasteful packaging throughout the state, by making producers responsible for the waste they create.

The DEP ran a robust stakeholder engagement process in drafting the rules for 38 M.R.S. § 2146. Reuse Portland was able to provide in-depth commentary both in-person and virtually at a series of stakeholder listening sessions. We also reviewed a draft version of the rules and submitted detailed feedback to DEP before the final proposed regulations were presented to the Board. We were pleased to see that many - though not all - of our suggestions were considered in the final proposed rules.

We encourage the Department to strengthen two key reuse provisions to ensure the SO will invest in statewide reuse systems. First, while we strongly support the inclusion of reduction and reuse targets in the program, the SO should be required to expand and improve reuse systems should these targets not be met. Delaying such investments with a study and requiring investments only should the study show "market demand" or "room for expansion" creates a potential loophole in the program that may prevent improvements from being made. Similarly, in Section 17A the rules should outline clear priority for direct investments into infrastructure to enable packaging reuse

and refill systems that are convenient, affordable, and accessible to all residents of the state. We suggest a clear reinforcement of the requirements in statute to “*ensure that preference for funding is given to proposals that support the State’s solid waste management hierarchy under section 2101 [and] promote a circular economy for packaging material types...*”. The only way to scale reusable packaging in Maine is to invest in a statewide system for collection, cleaning, and redistribution. The SO is the ideal entity to make such investments that can accommodate its member producers’ transition to reusable formats. Please ensure the program fully enables and encourages the SO to make these necessary investments.

We also encourage the Department to adjust the rules for municipal reimbursements such that reimbursement for disposal, including waste-to-energy, is provided at a lower rate than reimbursement for reuse and recycling. Landfills and waste-to-energy facilities destroy precious resources, emit hazardous pollution, and disproportionately impact lower-income communities located near these facilities. The money from Maine’s packaging EPR program should be spent on expanding reuse and improving recycling. Reimbursement for these preferred activities should be provided at a higher rate to incentivize them over disposal.

We respectfully request the Board to approve these rules after addressing our comments. This program will create a robust statewide recycling system for all Mainers and provides an opportunity to scale reusable packaging systems that support Maine’s environment and local economies. Thank you for your consideration.

Sincerely,



Sydney Harris, Policy Director,
Upstream



Suz Okie, Circularity Consultant,
Suz Okie LLC



R E F I L L

Laura Marston, Owner,
GoGo Refill



TANDEM COFFEE ROASTERS

Will Pratt, Co-owner
Tandem Coffee Roasters



Alexandra Doudera, Founder &
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Saltwater Classroom



Luke Truman, Maine Lead
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Nora Bosworth
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Maya Faulstich, Founder
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Melissa Coriaty
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Sarah Nichols
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