



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 on behalf of Upstream regarding the proposed regulations for Maine's packaging Extended Producer Responsibility (EPR) law from the Department of Environmental Protection (DEP). Upstream is a non-profit and leading change agency for reuse that accelerates the transition from the throw-away economy to one that is regenerative, circular, and equitable by normalizing reuse, growing and supporting the reuse industry, and advocating for an enabling policy environment for reuse. Increased packaging reduction and reuse throughout Maine is a crucial step that can and must be taken through Maine's packaging EPR law. By shifting the costs of waste management to producers, we will alleviate these costs for Maine's municipalities and taxpayers and incentivize more sustainable packaging.

The DEP ran a robust stakeholder engagement process in drafting the rules for 38 M.R.S. § 2146. Upstream was able to provide in-depth commentary both in-person and virtually at a series of stakeholder listening sessions, and we appreciate that although not all of our suggestions were incorporated into the final proposed rules, all were thoughtfully considered by ME DEP staff.

We applaud the Department's incorporation of reuse and refill throughout the proposed rules, but advise updates to the investment provisions to secure future investments in statewide reuse systems. In the case that the program's reduction and reuse targets are not met, a requirement should be included for the Stewardship Organization (SO) to expand and improve reuse systems. A common misconception that often delays enhancements and expansions in reuse systems is that consumer or

market demand must come first or be shown through a study. However, the best way to ensure successful reuse at scale is to offer reusable packaging as the *default* to consumers, who will simply purchase materials in whatever form of packaging is available to them. If this program's reduction and reuse targets are not met, improvements must be made regardless of published data on consumer demand. We further propose clearly reinforcing the preference expressed in statute for investments to be allocated to reuse and refill infrastructure over operations lower on the waste hierarchy. Reuse systems are most successful when operated at scale and therefore these systems should be operationalized statewide. Through this program, the SO should be strongly encouraged to invest in scaled, interoperable reuse infrastructure to enable the transition to a true reuse economy.

To achieve a comprehensive packaging EPR law in Maine that benefits all communities, we strongly offer these recommendations to be approved and incorporated. Statewide reuse and recycling systems are needed to ensure Maine and its people can continue to enjoy a healthy environment and local economy.

Upstream has also supported the comments submitted by Reuse Portland on these proposed rules. For questions regarding either letter, please feel free to contact sydney@upstreamolutions.org.

Sincerely,

Sydney Harris

Policy Director, Upstream