October 31, 2023

Maine Department of Environmental Protection

17 State House Station

Augusta, ME 04333

Dear Commissioner Loyzim,

Thank you for the opportunity to provide comments on the draft rules of Maine’s Extended Producer Responsibility (EPR) law. Specifically we would like to weigh in on the criteria for what constitutes “readily recyclable”. Below you will find Defend Our Health’s comments on this area of the draft rules. Please don’t hesitate to contact us if you have any follow up questions or would like clarifications of these comments.

The EPR law lays out the definition of toxicity to include “with respect to packaging material, the presence in packaging material or the use in the manufacturing, recycling or disposal of packaging material of intentionally introduced metals or chemicals regulated pursuant to Title 32, chapter 26-A; food contact chemicals of high concern or priority food contact chemicals regulated pursuant to Title 32, chapter 26-B; or chemicals of concern, chemicals of high concern or priority chemicals identified pursuant to chapter 16-D”. When looking at the issue of readily recyclabe, the department needs to make clear to producers that any packaging that includes toxic chemicals listed in the definitions portion of the law do not meet the definition of ‘readily recyclable’.

Additionally, the department needs to provide a pathway to add other toxic chemicals and non-recyclable materials to this list moving forward. As scientists continue to study the health impacts of chemicals used in our packaging, they are finding more and more of them are harmful to human health. An international study found that there are more than 3,000 harmful chemicals in food packaging alone[[1]](#footnote-1). If you look at all packaging that number will most assuredly be larger. The Department needs to make sure that, as scientific information becomes available about the detrimental health impacts of toxic chemicals in packaging, there is a pathway to to add them to the law.

The Department should also provide a pathway for additional packaging that should not be included on the “readily recyclable’ list. The U.S. Plastics Pact[[2]](#footnote-2) provides a detailed list of problematic plastics that industry has already agreed are not recyclable and shouldn’t be utilized including plastic packaging that includes toxic chemicals such at per and poly fluoroalkyl substances (PFAS), polyvinyl chloride including PVDC (Polyvinylidene Chloride), Non-Detectable Pigments such as Carbon Black, polystyrene, and many other materials. We urge the department to make sure there is a process in place to add these materials.

Thank you once again for the opportunity to provide these comments. We look forward to continuing discussions with the Department on its implementation of this critical law. Please feel free to contact Sarah Woodbury, Director of Advocacy, at [swoodbury@DefendOurHealth.org](mailto:swoodbury@DefendOurHealth.org) if we can provide additional information.

Sincerely,

Sarah Woodbury

Director of Advocacy

Defend Our Health

1. Krupnick, M. (2022, May 19). *More than 3,000 potentially harmful chemicals found in food packaging*. The Guardian. Retrieved December 6, 2022, from https://tinyurl.com/mr4yec83 [↑](#footnote-ref-1)
2. *U.S. Plastics Pact’s problematic and Unnecessary Materials List - The U.S. Plastics Pact*. The U.S. Plastics Pact -. (2023, February 15). https://usplasticspact.org/problematic-materials/  [↑](#footnote-ref-2)