

October 26, 2023

Maine Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017



Electronic submittal: MainePackagingEPR@maine.gov

Subject: Johnson Controls Comments on Maine EPR Conceptual Draft Rules – Parts 1 and 2

Department of Environmental Protection Staff:

Johnson Controls, Inc. (Johnson Controls) or (JCI) is pleased to comment on the Maine Department of Environmental Protection (DEP)'s Extended Producer Responsibility (EPR) Conceptual Draft Rules – Parts 1 and 2. Johnson Controls appreciates DEP's leadership in environmental stewardship through its authority from Maine's stewardship program for packaging law.

Johnson Controls is a leading global provider of heating, ventilating and air conditioning equipment, building controls, security and fire/life safety solutions which includes brands such as York, Metasys, Simplex, Grinnell, Zettler and Tyco. The company has nearly 100,000 employees and over 1,000 locations globally and has long been a leader in sustainable and energy efficient technology. Johnson Controls first set sustainability goals in 2002, and the company has reduced its Scope 1 and 2 greenhouse gas absolute emissions by 42% in 2022 compared to a 2017 baseline year. Further, we are AAA rated by MSCI and are recognized as among the Top 100 Most Sustainable Companies by Corporate Knights, and number one in our industry segment.

We believe the responsible use and disposal of plastics starts with activating the circular economy and keeping materials in their highest utility for as long as possible. This starts with reducing the amount of plastic needed and in use, followed by maximizing the use of recycled content across all categories, and finally creating economically feasible and available recycling outlets to keep plastic pollution out of the environment.

Johnson Controls is committed to activating the circular economy through innovative product design. We use 'Design for Sustainability', our product development stage gate review process, to address our upstream carbon emissions. The sustainable indicators included in product development are:

1. Product weight reduction
2. Elimination of single-use plastic
3. Use of recycled content
4. End-of-life recyclability

Johnson Controls shares DEP's goal of environmental stewardship and is happy to share feedback on the EPR Conceptual Draft Rules – Parts 1 and 2 published September 1, 2023, and October 2, 2023, respectively. Johnson Controls is eager to see how DEP will ensure the rule is economically sound and technically feasible.

Responses by topic.

Part 1

Determining municipal reimbursement (4)

DEP's approach to 'Obtaining information' provides useful context and we believe some language should be modified to align with the municipal reimbursement criteria described later in the section. Johnson Controls recommends that DEP include some minor modifications, as noted below, to capture this alignment:

Obtaining information. The S.O. must determine the per ton cost of managing each packaging material type for recycling, the total tons of each packaging material type managed for recycling by each participating municipality, and the **market rate** per ton cost of managing packaging material for disposal. The S.O. will obtain this information through annual reporting from reporting entities, consultations with participating municipalities, and representative audits.

Johnson Controls also recommends that DEP include additional language and examples to ensure that costs are market rate and describe the economic case for recycling.

Part 2

Process for annual review of the packaging material types list and readily recyclable list (3)

Johnson Controls encourages DEP to update the section 'G. Transitional period' language to substantially shorten the time periods when the 'packaging material type's status changes from not readily recyclable to readily recyclable.' We encourage DEP to shorten the transition timeframe to a one calendar year process to encourage producers to switch to more readily recyclable materials more rapidly. If an additional runway is needed, Maine should introduce a variance process for the outliers. Producers should not be financially penalized for making a more sustainable packaging switch.

The timeline for the reverse process is appropriate and helps to address *force majeure* issues and logistical changes from a stewardship organization perspective. Keeping the time periods in this section gives producers time to develop solutions to change packaging which can take several weeks or months to change. Including this transition period will incentivize producers to use more sustainable packaging to not be affected by the higher fee structure. We note that this transition period, however, likely introduces more complexity especially in the initial years of the program.

Program Goals (5)

Johnson Controls appreciates DEP's thoughtfulness in its transition pathways to achieving Maine's EPR goals. Both the content requirements and the timelines associated with these goals seem reasonable and should be emulated by other states that implement similar schemes.

Producer reporting and payments - Base material (B) and Readily recyclable (C)

Johnson Controls supports the 60 percent threshold proposed by DEP in this draft rule, but we acknowledge this level could pose challenges for separation of materials. We encourage DEP to provide guidance on how fee structures and S.O. requirements may change depending on the complexity of separating base materials as well as the level of base material composition.

We also request that DEP clarify if the three operational facilities need to be in the state of Maine, the U.S., or world. We encourage Maine to prioritize national or regional stewardship organizations in its solicitation of bids to ensure that there is consistency across the U.S. in how its definitions apply, rather than a state-specific approach.

Fees for Producers Other than Low-Volume Producers

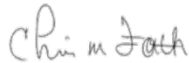
Johnson Controls urges DEP to provide examples of how the fee structure and share process will affect producers. As currently written, it is difficult to fully understand the implications of the costs to be imposed on producers. Providing examples of different scenarios DEP expects to occur will help us to better understand cost implications and anticipated activities under this ERP regulation.

Annual reporting for producers that are not low-volume producers (B)

DEP's information provided regarding packaging material details required for reporting are helpful, however we caution that tracking whether 'the component is collected for reuse in the state or elsewhere.' In the HVACR market, OEMs such as Johnson Controls ship its products to independent distributors (the midstream market) that then ships products to customers. Tracking equipment after it has been shipped to an independent distributor is nearly impossible and we recommend that DEP exclude this requirement for industries that follow this distribution model. The U.S. EPA has proposed tracking and reporting recommendations in its [Draft National Strategy to Prevent Plastic Pollution](#). We encourage DEP to align its regulation in this space by considering how a national data collection plan would help to mitigate these tracking concerns at the state level and still allow Maine to access the data it needs.

Johnson Controls appreciates DEP's thoughtful consideration of these comments. Please do not hesitate to contact me at chris.m.forth@jci.com with any questions.

Respectfully,



Chris Forth

Vice President

Codes & Standards Ducted Systems

chris.m.forth@jci.com

(405) 826-5802