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via electronic transmission

Subject: Producer Exemption under the Maine Extended Producer Responsibility program for packaging

The Household & Commercial Products Association (HCPA)¹ appreciates the opportunity to offer comments to the Maine Department of Environmental Protection (DEP) which can be used to evaluate products that should be exempt from the *Stewardship Program for Packaging Law*, 38 M.R.S. § 2146.

HCPA members manufacture a variety of products including household cleaning products, air care products, aerosol products, floor polishes and waxes, automotive maintenance and appearance products, and consumer pesticides which includes disinfectants and sanitizers. These products are essential tools for a wide variety of functions necessary to maintain clean and healthy homes and institutional facilities.

As an industry, we have made concerted efforts and public commitments to improve the circularity of packaging materials. Moreover, HCPA is dedicated to finding policy solutions that strengthen recycling infrastructure, materials markets, and packaging innovation. The Association joined other consumer facing industry partners and non-governmental organizations (NGOs) in a call for action to address plastics in our landfills and the environment. Additionally, many of our member companies are leading the way on plastic and other packaging waste reduction and responding to consumer demand for more sustainable products. Several member companies have also joined organizations such as the Alliance to End Plastic Waste, the U.S. Plastics Pact, and The Recycling Partnership with significant investments in initiatives to advance a circular economy and reduce plastics in our landfills. Lastly, in partnership with the Can Manufacturers Institute, HCPA is leading an initiative to increase the recycling of aerosol cans with the support of companies across the aerosol value chain.

HCPA and its members are committed to advancing product stewardship efforts, and we support sensible regulation to safely improve recycling rates and divert recyclable materials

¹ The Household & Commercial Products Association (HCPA) is the premier trade association representing companies that manufacture and sell \$180 billion annually of trusted and familiar products used for cleaning, protecting, maintaining, and disinfecting homes and commercial environments. HCPA member companies employ 200,000 people in the U.S. whose work helps consumers and workers to create cleaner, healthier and more productive lives.

away from the landfills and incinerators. HCPA notes that packaging used to contain certain pesticide products regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) can present challenges to safely manage under generalized waste and recycling streams and recommends that Maine DEP exempt packaging used to contain FIFRA-regulated products from the Maine stewardship program for packaging.

First, by exempting products governed under FIFRA, DEP would avoid unintentionally inserting determinations on packaging management that may directly conflict with existing, long-standing federal pesticide regulation and hazardous waste management requirements that already include rigorous packaging standards. Further, this request would provide consistency with the State of California enacted EPR law ([Senate Bill No. 54](#)) and State of Colorado enacted EPR law ([House Bill No. 1355](#)) that specifically exempt federally regulated products requiring special handling, including all FIFRA-regulated products. For example, plastic containers for most types of pesticides need to pass a specified test procedure for chemical compatibility. This requirement may limit the ability of a manufacturer to decrease the thickness of the container or otherwise decrease the amount of packaging used to hold a pesticide product, as well as limit the manufacturer's ability to use higher levels of post-consumer recycled content or switch to a more recyclable type of plastic for the container material.

Second, certain pesticide products considered hazardous waste are not intended to be introduced into the recycling stream. Hazardous waste that is improperly managed may pose a threat to human health and the environment. There are safety concerns associated with recycling material that may contain residual substances that meet the definitions of corrosive, flammable, reactive, or toxic under the Resource Conservation and Recovery Act (RCRA). As part of the pesticide registration process, companies determine and submit to the U.S. Environmental Protection Agency (EPA) for review the hazard level of their product. The EPA must review and approve the manufacturer's determination and associated required labeling with disposal information prior to the product being placed on the market.

Third, while the vast majority of FIFRA-regulated products are eligible for recycling after the user is finished with them, consumer product manufacturers and marketers are dependent on consumers and workers properly disposing of packaging. This includes understanding the different types of container preparation that may be required prior to recycling pesticides. For example, a disinfectant surface cleaner could be recyclable when empty, but some concentrated disinfectants may need to have the container emptied and cleaned according to a specified rinse procedure before they're acceptable for the recycling stream.

Overall, HCPA does not believe Maine's stewardship program for packaging is appropriate for managing products and packaging with special handling and disposal designations. EPR programs, in addition to shifting waste management costs, generally aim to incentivize producers to design their products in a manner that accommodates a loop system and take packaging-centric actions to reduce environmental impacts. Producers manufacture household and commercial products to be used safely and in their entirety. Companies may redesign their products and packaging to address recyclability and post-consumer recycled content requirements, among other material circularity initiatives. However, certain product packaging is designed to prevent spillage or misuse and must meet specific federal requirements to be sufficiently protective, such as the packaging for most FIFRA-regulated products. Most EPR programs are inherently in conflict with packaging and labeling requirements for products deemed sensitive to human health and the environment. HCPA believes to properly manage FIFRA products, the focus of legislative and regulatory efforts should be directed toward consumer education initiatives on how to properly use and dispose of FIFRA products and

increasing (and maintaining) Household Hazardous Waste (HHW) collection sites in compliance with applicable regulations promulgated pursuant to federal and state.

HCPA and its members are supportive of efforts to increase the circularity of diversely used packaging, which do not contain products with characteristics requiring special handling. However, due to existing federal requirements and the complexity of appropriately recycling the various types of pesticide products, HCPA recommends that Maine DEP exempt packaging used to contain products regulated under FIFRA from Maine's stewardship program for packaging.

If you would like to discuss the information provided in this letter further or have questions, please do not hesitate to contact HCPA staff.

Respectfully submitted,



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