

March 28, 2023

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

Re: Defining Readily Recyclable, Audits and Program Goals

Thank you for the opportunity of allowing concerned citizens in the participation of forming the Extended Producer Responsibility program.

Readily Recyclable

Should criteria for defining readily recyclable be set in rule? If so, what should they be?

No. The Rules should establish a process and guidelines, but allow the program participants to determine what should be recycled. Determining whether a material is readily recyclable should be a matter of practicality, with the important factors being:

1. whether there is a market for the material to be used in an environmentally positive or at least neutral way
2. whether it can be collected, processed and sold on this market in a safe and reasonably cost effective way

If criteria were determined in the annual process instead of or in addition to in rule, what would that look like?

If we assume the currently recycled materials establish a baseline for readily recyclable materials in terms of cost, we can say that new materials must not exceed a certain percentage of cost with current infrastructure over existing readily recyclable materials. This will guard against incorporating materials that are excessively costly to recycle that would leave producers feeling taken advantage of.

An estimate of the cost of a new material should be made by the SO with full public disclosure of the study. The Department should establish what a “reasonable” threshold for new materials should be. Some options would be:

- the new material’s recycling cost cannot exceed the average of currently readily recyclable materials by 25%
- the new material’s recycling cost cannot exceed the most expensive currently readily recyclable material by 10%

A process for adding new readily recyclable materials would be an annual meeting conducted by the SO and open to current reimbursement participants. The participants could propose new materials and their implementation date. The above criteria would be discussed, documented, approved by quorum, and submitted to the DEP for approval. The DEP should entertain appeals from Producers in final decision to add a readily recyclable material.

If packaging material types are not defined in rule, how should this list and these definitions be managed?

The DEP should maintain an official list, publicly accessible via website.

Should there be a fixed transitional period defined in rule?

No. As long as markets exist for the sale of the material, and all municipalities are able to safely collect and process the material, it should be recycled as soon as possible. The transition period can be established during the annual meeting between the SO and reimbursement participants who will have a better idea when they can be ready for the new material.

Program Goals

What should a goal for overall reduction in the amount of packaging material used be? How should it be measured? Should it be collective or producer specific?

Neither Producers nor the SO should be given specific reduction targets at this point in the program's infancy stage. We are creating strong incentives for reduction, and should observe the effects of those incentives before adding more complexity. To that end, the SO should make public the aggregate amounts of packaging materials by weight sold in Maine. We should be hesitant to publish producer specific numbers, as they should be carefully considered as to what these numbers provide to the DEP, public, and their competitors.

The progress of package reduction can be measured by the SO because producers will necessarily provide material types, weight, and quantity of products sold. Tracking the material types and weights of a specific product year over year will provide the data necessary to report on reduction trends. The DEP should specify by Rule that this data be provided in aggregate on a yearly basis. This report will indicate whether producer fees are having the intended effect of incentivizing packaging reduction.

The DEP has already defined incentives to reduce packaging. It should not set arbitrary reduction limits to packaging, and doing so is not in the public interest. 1) an arbitrary package reduction goal that starts measuring at a point in time and mandates packaging must be reduced by a

percentage at a later point in time negates the existing hard work of producers to reduce their packaging. Many producers are already working to reduce their packaging to minimum weight and volume, and mandating they must reduce further in the future invalidates their previous work. Meanwhile, companies that have not undertaken reduction efforts have a much easier time reducing their packaging. We should reward producers that have already taken initiative, without punishing them further. Conversely, we should not reward producers that have not reduced, or even increased their packaging in view of these sort of pending arbitrary reduction mandates. 2) producers are in a better position to decide what the optimal level of packaging to ensure the quality of the product and their marketing are. Imposing an arbitrary reduction percentage may compromise the quality of the product, its safety in transit, or the ability to market this product. None of these outcomes is a benefit to the general public.