



March 27, 2023

Maine Department of Environmental Protection
Deering Building Room 101
90 Blossom Lane
Augusta, ME 04330

RE: Maine EPR for Packaging Stakeholder Meeting – Program Goals

To whom it may concern:

Thank you for the opportunity to submit comments on behalf of Upstream regarding program goals under Maine's new EPR for Packaging law. Upstream is a non-profit organization that sparks innovative solutions to plastic pollution by helping people, businesses and communities shift from single-use to reuse. We seek to live in a world where people and the planet are treated as indisposable and communities thrive without all the waste. **We believe Maine's packaging EPR law represents a major opportunity to accelerate packaging reduction and reuse throughout the state.**

In an EPR system, program targets are a key lever for driving change within the packaging supply chain. Although the program targets in Maine's packaging EPR law are not enforceable, they provide crucial guidance for the program by informing eco-modulated fees and investments into education and infrastructure. Upstream is pleased that the statute offers clear direction for these targets to include overall packaging reduction and increased reuse.

ME DEP has posed the following questions (among others) regarding the rulemaking for program performance metrics:

- 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?
- What should a goal for increased reuse of packaging material be? How should it be measured? Should it be collective or producer specific?
- Should goals match goals set in other jurisdictions?

Goals for overall packaging reduction and reuse are increasingly entering the policy mainstream. In late 2022 the [European Commission](#) proposed rules including targets that would:

- Reduce the generation of packaging waste per capita by 5%, 10%, and 15% by 2030, 2035, and 2040, respectively (compared to a 2018 baseline); and
- Require reuse and refill targets for a variety of food and beverage packaging beginning in 2030, such as cold and hot beverages filled at the point of sale (20% by 2030, increasing to 80% by 2040), take-away ready-prepared food intended for immediate consumption (10%), alcoholic beverages (10%, and 5% for wine) and non-alcoholic beverages (10%), and packaging used to deliver online purchases (10% by 2030, increasing to 50% by 2040).

[France's circular economy directive](#) includes a 5% target for reusable packaging by 2023 (this year), increasing to 10% by 2027, and mandates that at least 2% of EPR contributions are used for the promotion of reusable packaging. [Sweden's national action plan](#) requires that of all packaging placed on the market for the first time, the proportion that is reusable (by weight) must increase by at least 20% from 2022 to 2026, and by 30% from the same baseline by 2030.

[California's new packaging EPR](#) law mandates 25% source reduction of single-use plastics by 2032, with at least 10% achieved through a shift to refillable or reusable formats or through elimination. An absolute minimum of 4% of packaging will be required to shift to reusable/refillable formats. California's law specifies that source reduction shall be measured both as a percentage of overall weight (i.e., tonnage of covered materials introduced onto the market in a given year) and as a percentage of the total number of plastic components (i.e. total individual packaging units

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introduced onto the market in a given year). This methodology is aimed at avoiding unintended consequences from a purely weight-based measurement, such as incentives for light-weighting, which can reduce both reusability and recyclability of packaging.

Consistency across jurisdictions is better for producers, consumers, and compliance agencies alike. Therefore, Upstream suggests that ME DEP aim for consistency with existing reduction and reuse targets. The simplest way to do this is to reinforce the source reduction and reuse targets established in California's packaging EPR statute: **a 25% reduction - measured by overall weight and number of individual covered packaging units - with at least 10% met through elimination or reuse.** However, we strongly recommend applying this target to all types of covered materials - not just plastics. We also suggest increasing the proportion of this source reduction target that must be met through reuse or elimination to at least 20% within another 5 years. The fact that Maine's targets are unenforceable will mean this is not a burdensome regulatory requirement for producers, and if the target covers all material types rather than just single-use plastics, there will be ample opportunity to shift supply chains in accordance with these guidelines.

We do understand that each state is unique, with distinct geographic and socioeconomic factors that may affect the rate at which packaging can be eliminated or transitioned to reuse. It may be necessary to adjust an overarching reduction and reuse target across different material types or business sectors, as is the case in the proposed targets for the European Union. **We therefore suggest including a mechanism within the rules to allow ME DEP to adjust any reduction and reuse targets as more information becomes available, such as after the publication of the statewide needs assessment or the passage of additional targets in other jurisdictions, should the Department see fit.**

Goals for overall packaging reduction and increased reuse should be collective, meaning they should be set for the SO as a whole. This is likely necessary to achieve meaningful results as not all packaging formats can be readily eliminated or converted to reusables at this time. However, it is important that in the long-term, a

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few large producers do not carry the full weight of the transition to the new reuse economy while others perpetuate the status quo. Therefore, **Upstream recommends that program targets set for the SO include a percentage of participating producers who must contribute to each goal, which can increase over time.** For example: Say the program includes our suggested target – a 25% reduction in packaging with 10% met through elimination or reuse within 5 years of implementation, increasing to 20% elimination or reuse within 10 years. Progress is measured as a percentage of all covered materials among producers participating in the SO. To ensure robust participation, the program might specify that at least 20% of participating producers must contribute to the packaging reduction target through their brands within the first 5 years, increasing to 30% by the 10-yr deadline.

DEP also asked which factors should be considered when defining packaging material types. Given that ME DEP is considering including reusable packaging management among reimbursable expenses for municipalities, as well as among eligible education and infrastructure expenses, Upstream suggests including a “reusable packaging” material type designation to further clarify which types of packaging qualify as reusable (beyond the definition in statute). Upstream’s [policy principles](#) for reuse/refill in EPR and DRS state:

“Reusable packaging must be part of an organized return or refill system that allows companies or consumers to repeatedly reuse it for its original purpose in its original form. A return/refill system, for the purposes of EPR and DRS, does not rely on individual consumer choices to achieve reuse.”

We suggest incorporating this concept into a designation for “reusable packaging” for the purposes of this Act.

Thank you again for the opportunity to comment on Maine’s new packaging EPR program. For any questions, please contact me at sydney@upstreamolutions.org.

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