



March 18, 2024

Maine Chapter 428 Comments on Draft Rules, via email: rulecomments.dep@maine.gov
RE: Chapter 428 Stewardship Program for Packaging Act

Mr. Brian Beneski:

The Carton Council of North America (CCNA) appreciates the opportunity to provide feedback to Maine DEP on draft rules for Maine's Stewardship Program for Packaging (MRS Title 38, §2146). The Carton Council is an industry organization composed of four leading carton manufacturers: Elopak, Pactiv Evergreen, SIG, and Tetra Pak. The Carton Council works to deliver long-term collaborative solutions to divert valuable cartons from the landfill. Through a united effort, Carton Council members are committed to building a sustainable infrastructure for carton recycling nationwide and work toward the continual goal of adding access to carton recycling throughout the U.S. to expand and promote the recycling of cartons.

§3(A) Assessment, Program Goals

(8) Post-consumer Recycled Material – Measures the percent of the total weight of packaging material eligible for a post-consumer recycled material incentive fee reported by producers that is post-consumer recycled material for each base material. This percent should be no less than 10% from 2030 to 2039, no less than 20% from 2040 to 2044, and no less than 75% from 2045 onward.

§10(A)(3)(a) Post-consumer Recycled Material Fee

For a packaging material type that is not exempt from the post-consumer recycled material fee, and for which a producer does not meet post-consumer material goals, as defined in Section 3(A)(8), the producer must pay a per ton fee equal to 10% of the packaging material type fee, unless the post-consumer recycled material goal for the packaging material type's base material is unmet. Beginning the calendar year following that in which the goal is unmet, and continuing every year in which the goal remains unmet, the percentage used to determine the post-consumer recycled material incentive fee must be 10% plus the difference between the percent post-consumer recycled material goal and the realized percent post-consumer recycled material, by base material, as reported by producers, collectively, during the prior calendar year, in accordance with Section 9(B).





Comments regarding §3(A)(8), §10(A)(3)(a):

1. The Carton Council opposes mandatory recycled content requirements for fiber-based cartons and containers until high-quality, recycled materials necessary to ensure product safety, performance and food protection are available at scale in the marketplace. We suggest that conditions be placed on this requirement as is described in as follows:
 - (a) Post-consumer recycled content requirements in specific products may be waived by the Department if demonstration is made and the Department approves, in writing:
 - (1) The manufacturer cannot achieve the postconsumer recycled content requirements and remain in compliance with applicable rules and regulations adopted by the United States Food and Drug Administration, or any other State or federal law, rule, or regulation;
 - (2) It is not technologically feasible for the manufacturer to achieve the postconsumer recycled content requirements;
 - (3) The manufacturer cannot comply with the postconsumer recycled content requirements due to inadequate availability of recycled material or a substantial disruption in the supply of recycled material; or
 - (4) The manufacturer cannot comply for another reason as determined by the Agency pursuant to rule, regulation, or guidance.
2. We suggest that the postconsumer recycled material content goal include an allowance for renewable feedstock to achieve this goal.

Section 9, Ongoing Producer Registration

B. Annual Reporting for Producers Other Than Low-Volume Producers

Packaging material details must be reported for each packaging material type produced, by brand, as follows:

- (5) The total weight of the base material or, in cases where separation and recycling of more than one material is determined to be routine as designated in Appendix A, the sum of the weights of the materials that are routinely separated and recycled, and a short description of the methodology used to determine this number;

Section 10(A)(3) Incentive Fees

- (e) Weight not recycled. For packaging material that will not be recycled, as measured by the differences between the reporting points in Sections 9(B)(6) and 9(B)(5), a producer must pay a per ton fee equal to 30% of the packaging material type fee.



Comments regarding §9(B)(5) and §(10)(3)(e):

1. In the case of cartons, some markets go to a pulp market where only the base material is recycled, however, in other cases cartons may go to a whole cartons market, such as have one average yield rate, while other markets use the whole carton. We suggest that the SO have the ability to indicate the portion of cartons going to each type of market such that cartons as a packaging material type are given credit for the portion of cartons going to full-carton recycling.
2. Where does the DEP expect to “draw the line” between base material and other components of a package? For example, do labels need to be accounted for as a material other than a base material? We suggest that a clear line be drawn. For example, there could be a de minimis of 10% of total package weight that excludes producers from having to report that material separately.

Thank you again for the opportunity to comment on these draft rules.

Sincerely,

Ed Klein,

President, Carton Council North America