

August 26, 2024
VIA ELECTRONIC MAIL
MainePackagingEPR@maine.gov

Re: IDEXX Comments on Section 13(D) of 38 M.R.S. § 2146 “*Stewardship Program for Packaging*”

Commissioner Loyzim, Mr. Beneski and the Department of Environmental Protection:

Thank you for the opportunity to comment on the Maine Department of Environmental Protection’s proposed new rule (“Chapter 428”) under Section 13(D) of 38 M.R.S. §2146 of the “*Stewardship Program for Packaging*” (the “Program”).

IDEXX Laboratories, Inc. is headquartered in Maine. Operating out of our Westbrook and Scarborough facilities are about 3,000 of our 11,000 global employees. Additionally, we conduct approximately 90% of our world-wide manufacturing and annually invest in approximately \$150 million in research and development at these facilities. Our manufactured products are essential to the functioning of society, and include veterinary diagnostic tests for infectious diseases, veterinary diagnostic instruments for blood chemistry, hematology, urology, and blood gases, and drinking water safety. Our products are sold within Maine, across the United States and exported all over the world.

Product safety and our operations require IDEXX to consider packaging materials sourced from hundreds of local and international providers. Some are procured directly and utilized in the packaging of our products while others are included in the products we use internally or in third party products we sell or distribute directly. In many cases, the packaging is integral to assuring the accuracy of the diagnostic test being sold and can be a regulated component of the product itself.

In light of our experiences working with numerous vendors, regulatory agencies and other global stewardship programs, we offer the following recommendations to assist in the successful implementation of Maine’s Program.

Ongoing Producer Registration and Reporting (Section 9)

To assure program effectiveness, we encourage the state to align the reporting obligations with analogous and highly effective national waste reporting programs in other jurisdictions which would also be in compliance with 38 M.R.S. §2146. Producers should report material types determined by the department, with the SO applying its deeper market knowledge as it manages packaging waste throughout the system. This will allow for consistent year over year information.

Further, IDEXX recommends that the DEP determine recyclability based on a recognized standard and use the fee structure to incentivize ‘readily recyclable’ material, with any future changes being published at least 270 days prior to the producer reporting window to prepare and adapt. Reporting obligations for producers should remain consistent (as discussed above) with other EPR programs.

As an example, the European EPR (Extended Producer Responsibility) Directive requires companies to register as a producer, but the reporting is defined at the Packaging Material level and does not extend to the product SKU level. In Appendix A, we offer an example of the information required to be reported under a similar program to Maine's law. To meet obligations, companies can provide data-driven reports of all packaging across the portfolio, aggregating the data to a summary of all packaging components made of the same material type.

There are several challenges with reporting at the product SKU level and not at the producer level, which is why other governing bodies have not implemented this approach. Since many of the packaging materials being considered are used in multiple products, assigning a classification to each packaging element would not be possible before knowing its final use. Yet, this imperfect determination would still require substantial manual effort and place a significant burden on companies with lengthy product catalogs. In our situation, IDEXX has more than 4,000 unique products that we manufacture or distribute to customers, and each product could contain 6-10 or more units of unique packaging supplied by multiple suppliers. Even with our existing investment in compliance software specifically for waste reporting programs, reporting at the product SKU level would be near-impossible to automate or make efficient. For IDEXX, let alone other businesses with less resources, compliance at this level will require 1,000s of manual hours to assemble information that changes frequently.

Toxicity Definition

Producers' requirement to report on intentionally added toxics in Section 9(B)7 of the proposed rule should be based on a readily available and reasonably ascertainable standard as it is highly unlikely that such certifications will be made available to Maine based Producers from a global supply chain.

Fee Structure

Transparency about the fee structure is important for both manufacturers of covered products and producers that procure packaging to make longer term decisions on selection of packaging materials, directly influencing product design. These decisions require planning in advance and have far reaching impacts on manufacturing, product handling, storage and transportation. For some categories of regulated products, packaging changes may have to be validated and notified to regulatory agencies for approval. Therefore, IDEXX recommends that the DEP publish fee changes information at least 270 days prior to the implementation date.

In the end, to achieve Program goals it is critical that companies and Operators have the benefit of consistent standards and approaches – both within the US and internationally – for information to be available, comprehensible, and useful. Accordingly, we urge that draft Chapter 428 take an approach consistent with those taken by other governing bodies so that data can be easily aggregated and not dependent on variable information including ongoing changes in the capacity and capability of Maine recyclers. Such an approach will ensure that the final Chapter 428 can be feasibly implemented and complied with, will generate accurate, consistent and recognizable data for the Maine Stewardship Operators to use, and will continue to allow critical products to remain on the market

We look forward to working with the DEP in your ongoing development of Chapter 428, and again thank the DEP for the opportunity to provide these comments.



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Appendix A: EU 94/62/EC Reference

- EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE 94/62/EC
of 20 December 1994 on packaging and packaging waste
Annex III, tables 1, 2, 3

TABLE 3

Quantity of packaging waste recovered and disposed of within the national territory

	Tonnage of waste produced	- Tonnage of waste exported	+ Tonnage of waste imported	= Total
Household waste				
Glass packaging				
Plastic packaging				
Paper/cardboard packaging				
Cardboard composite packaging				
► ⁽¹⁾ Ferrous metal packaging				
Aluminium packaging ◀				
Wood packaging				
Total household packaging waste				
Non-household waste				
Glass packaging				
Plastic packaging				
Paper/cardboard packaging				
Cardboard composite packaging				
► ⁽²⁾ Ferrous metal packaging				
Aluminium packaging ◀				
Wood packaging				
Total non-household packaging waste				

The EU Packaging and Packaging Waste Directive which has been in place since 1994 across all EU member states, implements reporting as per the following materials:

Cat. No	Predominant packaging material	Packaging type	Format (illustrative and non-exhaustive)	Colour / Optical transmittance
1	Glass	Glass and composite packaging, of which the majority is glass	Bottles, jars, flacons, cosmetics pots, tubs, ampoules, vials made of glass (soda lime silica), aerosol cans	-
2	Paper/cardboard	Paper/cardboard packaging	Boxes, trays, grouped packaging, flexible paper packaging (e.g. films, sheets, pouches, lidding, cones, wrappers)	-
3	Paper/cardboard	Composite packaging of which the majority is paper/cardboard	Liquid packaging board, and paper cups (i.e. laminated with polyolefin and with or without aluminium), trays, plates and cups, metallised or plastic laminated paper/cardboard, paper/cardboard with plastic liners/windows	-
4	Metal	Steel and composite packaging of which the majority is steel	Rigid formats (aerosols cans, cans, paint tins, boxes, trays, drums, tubes) made of steel, including tinplate and stainless steel	-
5	Metal	Aluminium and composite packaging of which the majority is aluminium – rigid	Rigid formats (food and beverage cans, bottles, aerosols, drums, tubes, cans, boxes, trays) made of aluminium	-
6	Metal	Aluminium and composite packaging of which the majority is aluminium – semi rigid and flexible	Semi rigid and flexible formats (containers and trays, tubes, foils, flexible foil) made of aluminium	-
7	Plastic	PET – rigid	Bottles and flasks	Transparent clear / coloured, opaque
8	Plastic	PET – rigid	Rigid formats other than bottles and flasks (Includes pots, tubs, jars, cups, mono- and multilayer trays and containers, aerosol cans)	Transparent clear / coloured, opaque

9	Plastic	PET – flexible	Films	Natural / coloured
10	Plastic	PE – rigid	Containers, bottles, trays, pots and tubes	Natural / coloured
11	Plastic	PE – flexible	Films, including multilayer and multi-material packaging	Natural / coloured
12	Plastic	PP – rigid	Containers, bottles, trays, pots and tubes	Natural / coloured
13	Plastic	PP – flexible	Films, including multilayer and multi-material packaging	Natural / coloured
14	Plastic	HDPE and PP – rigid	Crates and pallets, corrugated board plastic	Natural / coloured
15	Plastic	PS and XPS – rigid	Rigid formats (includes dairy packaging, trays, cups and other food containers)	Natural / coloured
16	Plastic	EPS – rigid	Rigid formats (includes fish boxes / white goods and trays)	Natural / coloured
17	Plastic	Other rigid plastics (e.g. PVC, PC) including multi-materials– rigid	Rigid formats, including e.g. intermediate bulk containers, drums	-
18	Plastic	Other flexible plastics including multi-materials – flexible	Pouches, blisters, thermoformed packaging, vacuum packaging, modified atmosphere/modified humidity packaging, including e.g. flexible intermediate bulk containers, bags, stretch films	-
19	Plastic	Biodegradable plastics[1] - rigid (e.g. PLA, PHB) and flexible (e.g. PLA)	Rigid and flexible formats	-
20	Wood, cork	Wooden packaging, including cork	Pallets, boxes, crates	-
21	Textile	Natural and synthetic textile fibres	Bags	-
22	Ceramics or porcelain stoneware	Clay, stone	Pots, containers, bottles, jars	-