Maine Forest Products Council

The voice of Maine's forest economy

Testimony in Support of LD 1423
"An Act to Improve Recycling by Updating the Stewardship Program for Packaging"

April 23, 2025
Krysta West, Deputy Director

Good afternoon, Senator Tepler, Representative Doudera, and members of the Environment and Natural Resources Committee. My name is Krysta West. I am a resident of Readfield and am presenting testimony today in support of LD 1423, "An Act to Improve Recycling by Updating the Stewardship Program for Packaging", and **I have attached a proposed amendment to this testimony for your consideration.**

For 65 years, the Maine Forest Products Council has served as the voice of Maine's forest economy, representing more than 300 members from all facets of the forest products industry. Our members include pulp and paper mills, sawmills, secondary wood processors, foresters, loggers and truckers. We also represent commercial landowners sustainably managing more than 8 million acres of forestland.

Here in Maine, we are fortunate to have forged strong partnerships through cross-sector initiatives such as FOR/Maine to help drive a coordinated effort to bring both public and private investment and innovation to Maine's forest products sector with an eye at developing markets for our heritage industry both now and into the future. These efforts are well supported by our state and federal government, along with our public and private institutions such as UMaine and the Roux Institute. These efforts are helping Maine's heritage industry transition into the future with new and innovative products that are derived from our sustainably managed forests and manufactured right here. Many of these products provide sustainable replacements for plastic and other packaging materials derived from non-renewable sources, all while supporting our rural economy. It is through this lens that I am offering comments today.

If designed properly, Extended Producer Responsibility programs have the potential to accelerate efforts to attract investments and innovation in our paper industry for packaging products such as molded fiber. If designed poorly, however, these programs can have chilling effects that ripple throughout the entire economy. Unfortunately, for a number of reasons, we feel that the program, as designed today, will hurt the very innovations that we have been working so diligently to encourage. We feel this to be the case for several reasons including:

1) Last week the DEP held a stakeholder group to discuss the initial draft material types list that designates materials by type as being "readily recyclable", "reusable" or "compostable", or not. This initial list lacks clarity and continuity with lists in other states and it fails to recognize molded fiber, the very material that we have been working to position as the sustainable alternative to plastic, as readily recyclable and compostable (it undoubtedly is both). The list also is out of step in its failure to recognize *any* paper material as being compostable. Our material type comparison by state is attached to this testimony. We have opted to use California's categories because they are more straightforward and comprehensive.

Failing to recognize molded fiber appropriately will have significant negative impacts on research and investments occurring in our state, and it must be resolved. There are other issues with the list as well. While this bill does not specifically speak to this list, I linked our comment to the DEP [1] in the footnote so that you can be brought up to speed with issues regarding this list that must be resolved before it is finalized. **Failure to rectify these issues would be an emergency for our industry.**

2) The definition of "consumer" in the adopted rule tags manufacturers as consumers even if they pay for the full cost to dispose of or recycle packaging materials that come into the facility. This definition is highly problematic, as it adds a new fee (tax) to every step along the manufacturing process, putting Maine businesses at a disadvantage when compared to materials and products manufactured outside of our state.

   For example, if you have a mill that manufactures pulp, all the raw materials brought into the site are assessed a fee (tax) under this program. If the pulp is then sold to a molded fiber facility within the state, another fee (tax) is assessed at that point. That second facility then makes the pulp into a finished product that is packaged for the end consumer. If that consumer happens to be in Maine, another fee (tax) is assessed. In this scenario, goods manufactured in Maine are assessed three fees (tax) into the program where goods brought into the state would only be assessed with one fee (tax), even if the waste generated by the manufacturers was handled and paid for outside of the municipal waste stream.

   This creates incentives all along the supply chain to source both materials and goods from outside of our state, creating inefficiencies that would ripple throughout Maine's economy unless this definition is fixed.

3) The adopted rule fails to recognize the full efforts of our industry (and we assume others) to recover materials that were scraps or defects from the manufacturing process and cycled back into the fiber stream. It would also punish manufacturers whose materials are recyclable but penalized for failure to reach PCR goals without accounting for the fact that state and federal regulations prohibit the use of PCR materials due to contamination concerns for certain applications (think packaging that comes into direct contact with food).

4) Finally, California's program contains a so-called "off-ramp" that excludes materials from the program that attain high levels of being recycled. This off-ramp is important for our industry, as it recognizes the many investments that have been made outside of these efforts to establish the infrastructure and markets for recycled materials. By setting attainable goals, off-ramps provide a powerful incentive to move away from less desirable materials, and they prevent cross-material subsidization where readily recyclable (and recycled) materials pay to offset the burden of managing

[1] https://maineforest.org/wp-content/uploads/2025/04/4.16.25-EPR-Initial-Draft-Material-Types-List-FINAL-COPY.pdf

less recyclable materials. As a state with a significant pulp and paper industry, we need to lead the nation in promoting and rewarding the use of products made from Maine's forests.

As previously mentioned, EPR programs, if done right and in coordination with other state EPR programs, can serve as a buoy for our industry. As drafted, Maine's program lacks continuity with other programs, and it fails to recognize materials derived from our forests appropriately. We fear that, unless changes are made now, Maine's EPR program will be even more costly than California's (which is now on hold due to cost concerns[2]), and it will have a chilling effect on our industry and manufacturing in Maine as a whole.

While we are supportive of LD 1423 and are appreciative of all of the hard work that went into drafting it, we recognize that the Department has concerns with the bill as presented, so the Council has worked diligently on a proposed amendment that is attached to this testimony for your consideration. This draft was pulled together in partnership with program advocates, and with input from the Department. It identifies some key changes that all sides find agreeable, and importantly, that would not cause program delays or otherwise derail the program. This amendment only speaks to the most urgent program changes that should be made as soon as possible to avoid eroding the very investments and infrastructure necessary to manufacture sustainable plastic alternatives. We feel that the timing is appropriate since the Legislature has not yet had the opportunity to weigh in on the program now that the rules have been adopted, and the implementation is still in its infancy stage.

While this amendment does not address all of our concerns, the changes reflected are the result of good-faith negotiations that are by no means insignificant. We hope that you will consider making these targeted and timely changes, and we look forward to continuing this productive dialogue moving forward.

Thank you for your consideration. I would be happy to answer any questions that you may have.

[2] https://www.packagingdive.com/news/sb54-california-newsom-packaging-epr-next-steps-new-york/742177/

Draft Initial EPR Material Types List MFPC Comments

Material Class	Material Type	Form	Recyclable OR	Recyclable CA	Recyclable ME	Compostable CA	Compostable ME
Paper and Fiber	Kraft Paper	All forms w/o plastic component	Y	Y	Y	Y	N
Paper and Fiber	Kraft Paper	All forms w/plastic component	Y	Y	?	N	N
Paper and Fiber	Molded Fiber	All forms w/o plastic component	Y	Y	N	Y	N
	Molded Fiber	Food serviceware or Flower Pots	N	Y	N	?	
Paper and Fiber	Molded Fiber	All forms w/plastic component	Y	N	N	N	N
Paper and Fiber	OCC	Waxed Cardboard w/o plastic component	N	Y	N	Y	N
Paper and Fiber	OCC	Waxed cardboard w/plastic component	N	N	N	N	N
Paper and Fiber	OCC	Cardboard w/o plastic component	Y	Y	Y	Y	N
Paper and Fiber	OCC	Cardboard w/plastic component	Y	Y	Y	N	N
Paper and Fiber	Paperboard	All forms w/plastic component	Y	Y	?	N	N
Paper and Fiber	Paperboard	All forms w/o plastic component	Y	Y	Y	Y	N
Paper and Fiber	White Paper	All forms w/o plastic component	Y	Y	Y	Y	N
Paper and Fiber	White Paper	All forms w/plastic component	Y	Y	?	N	N
Paper and Fiber	Other/Mixed Paper	All forms w/o plastic component	Y	Y	Y	Y	N
Paper and Fiber	Other/Mixed Paper	All forms w/plastic component	Y	Y	?	N	N
Paper and Fiber	Paper and Fiber	Small - two or more sides measuring 2" or less w/o plastic component	N	N	N	Y	N
Paper and Fiber	Paper and Fiber	Small - two or more sides measuring 2" or less w/plastic component	N	N	N	N	N
	Cartons	Aseptic Cartons	Y	N	N	N	N
	Cartons	Gabletop Cartons	Y	N	Y	N	N
	Cartons	Other forms w/ plastic component	Y	N	?	N	N

An Act to Improve Recycling by Updating the Stewardship Program for Packaging

Strike everything after the title and replace with the following:

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §2146, sub-§1, ¶C-2 is enacted to read:

C-2. ~~"Consumer" means a residential customer or residential household that receives packaging material.~~ "Consumer" means all single-family or multi-family residences, schools, municipal and state government facilities, public spaces, and commercial businesses that utilize or otherwise partner with a municipal or state waste management service. "Consumer" does not include an entity that manufactures products to the extent that the covered packaging material is used for transportation to other non-consumers or is used for or generated as part of the manufacturing process and is managed and paid for exclusively by the manufacturer or producer.

Sec. 2. 38 MRSA §2146, sub-§1, ¶N, as enacted by PL 2021, c. 455, §2, is amended to read:

N. "Post-consumer recycled material" means new material produced using material resulting from the recovery, separation, collection and reprocessing of material that would otherwise be disposed of or processed as waste and that was originally intended to be sold for consumption. ~~"Post-consumer recycled material" does not include post-industrial material or pre-consumer material.~~

Penalties shall not be assessed on the amount of packaging materials that are subject to federal or state regulations that effectively prohibit the use of PCR materials.

Sec. 3. 38 MRSA §2146, sub-§1, ¶O, as enacted by PL 2021, c. 455, §2, is repealed and the following enacted in its place:

O. "Producer" means a person that:

(1) Manufactures a product that is sold, in or with packaging, under a brand or trademark owned by the manufacturer, or lacks identification of a brand, at a physical retail location in this State;

(2) If subparagraph (1) does not apply, is licensed to manufacture and sell, or offer for sale, a product, in or with packaging, under a brand or trademark at a physical retail location in this State;

(3) If subparagraphs (1) and (2) do not apply, is the brand or trademark owner, licensee or entity that has a direct relationship with the manufacturer of a product sold, in or with packaging, at a physical retail location in this State;

(4) If there is no person described in subparagraphs (1) to (3) located within the United States, is the person that first distributes a product, in or with packaging, for sale at a physical retail location in this State;

(5) Manufactures a product that is sold, in or with packaging, under a brand or trademark owned by the manufacturer, or lacks identification of a brand, if the packaging is used to directly protect or contain a product sold in this State via the Internet, remote sale or remote distribution; or

(6) Packages a product to be shipped to a customer in this State that is sold via the Internet, by remote sale or remote distribution.

If a person described under this paragraph is a business operated wholly or in part as a franchisor that has franchisees with a commercial presence within the State, the person is considered a producer.

"Producer" includes a low-volume producer. "Producer" does not include a nonprofit organization exempt from taxation under the United States Internal Revenue Code of 1986, Section 501(c)(3).

Sec. 4. 38 MRSA §2146, sub-§1, ¶U, as enacted by PL 2021, c. 455, §2, is amended to read:

U. "Toxicity" means, with respect to packaging material, the ~~presence~~ intentional addition in packaging material or the use in the manufacturing, recycling or disposal of packaging material of intentionally introduced metals or chemicals regulated pursuant to Title 32, chapter 26-A; food contact chemicals of high concern or priority food contact chemicals regulated pursuant to Title 32, chapter 26-B; or chemicals of concern, chemicals of high concern or priority chemicals identified pursuant to chapter 16-D.

SUMMARY - TBD