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DEPARTMENT OF ENVIRONMENTAL PROTECTION



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COMMISSIONER

**TESTIMONY OF
MELANIE LOYZIM, COMMISSIONER**

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

SPEAKING IN OPPOSITION TO L.D. 1423

**AN ACT TO IMPROVE RECYCLING BY UPDATING THE STEWARDSHIP
PROGRAM FOR PACKAGING**

SPONSORED BY SENATOR BALDACCI

**BEFORE THE JOINT STANDING COMMITTEE
ON
ENVIRONMENT AND NATURAL RESOURCES**

DATE OF HEARING:

APRIL 23, 2025

Senator Tepler, Representative Doudera, and members of the Committee, I am Melanie Loyzim, Commissioner of the Department of Environmental Protection, speaking in opposition to L.D. 1423 as printed.

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L.D. 1423 would make significant changes to the structure of Maine's extended producer responsibility (EPR) for packaging law. When the law was enacted in 2021, the Department provided a timeline for implementation on our website¹ that we have followed. In Fall 2027 (6 years after enactment) the Department will receive the first payments from producers, for packaging material produced and sold in or into Maine during calendar year 2026, and will issue the first reimbursements to participating municipalities for the packaging waste they managed in 2026. The Department opposes changes to the law that would delay implementation, but does agree that some clarifying changes would be helpful.

Before getting into the details of the bill, I would first like to review how we got to this point. In 2018, the Department began evaluating packaging as a potential candidate for a stewardship program using the criteria outlined in Maine's Product Stewardship Law, 38 M.R.S. § 1772. In P.L. 2019, Resolve Ch. 42, the Legislature directed the Department to develop legislation establishing an extended producer responsibility ("EPR") law for packaging. In 2020, the Department's recommendations were incorporated into L.D. 2104, *An Act to Support and Increase the Recycling of Packaging*, which died at the end of the 129th Legislature. In 2021, *An Act To Support and Improve Municipal Recycling Programs and Save Taxpayer Money*² directed the Department to adopt rules and contract with a Stewardship Organization to implement an EPR for packaging program. The legislation included funding for two new staff.

In 2022, staff began program development, including stakeholder outreach and interstate coordination. Outreach included 11 visits to solid waste management and processing facilities, 6 meetings with municipal waste managers, and 14 stakeholder meetings open to the general public. These stakeholder meetings were held throughout 2023, with each meeting covering specific topics to encourage in-depth discussion. All stakeholder meetings were offered in person and virtually; publicized on the

¹ <https://www.maine.gov/dep/waste/recycle/epr.html>

² P.L. 2021, Ch. 455; L.D. 1541

Department's webpage³, and by emailed notice to the program's 842-member stakeholder list. Each meeting was recorded, transcribed, and posted online. The Department then distributed concept rule drafts for public review, also through the program's stakeholder list and webpage. Based on the comments received, the Department made numerous revisions, resulting in the routine technical rule that was proposed to the Board of Environmental Protection in early 2024.

The Board held a public hearing on March 7, 2024, and received comments from 118 interested persons. The Board then held two public deliberative sessions, in May and June, to discuss whether to proceed with adoption of the rule proposed by the Department. Similar to recent activities with California's packaging program, the Board directed the Department to revise its proposal in response to many substantive questions about how the program would work. A revised proposed rule was posted for public comment for 45 days; 47 public comments were received. The Department made additional clarifying changes to the rule and the Board finally adopted Chapter 428, *Stewardship Program for Packaging*, on December 5, 2024. The rule now provides sufficient parameters for the Department to issue a Request for Proposal this Fall to secure a contract with a vendor that will serve as the Stewardship Organization.

Chapter 428 characterizes packaging material, provides a method for determining municipal reimbursement and producer fees, provides a method and criteria for investing in infrastructure and education, details alternative collection programs, and provides mechanisms for ongoing assessment and updates to the program. The final rule contains many details required by 38 M.R.S. 2146, section 13(A), including numerical goals. Elements of the Department's rule that are not required by the statute include a definition of consumer, clarifying adjustments to the definition of producer, a process for the identification and funding of major investment needs, and a cap on the Packaging Stewardship Fund.

³ <https://www.maine.gov/dep/waste/recycle/epr.html>

Many of the changes proposed in L.D. 1423 were also recommended in public comments addressed by the Department during the rulemaking process. The Department can provide the Committee with an index and highlight for work session the sections of the Department's 100-page Chapter 428 *Basis Statement and Response to Comments*⁴ that address those details.

Amongst the many changes to Maine's packaging law proposed in L.D. 1423, the bill would change the process for calculating producer payments - from a public rulemaking decided by the Board, to inclusion in the Stewardship Organization's plan subject only to Department review. This would make Maine's approach to program implementation more like other states.

The Department supports aligning our programs with other states when we are regulating products that are distributed nationally and globally. Consistent use of terminology makes it easier for manufacturers to comply, which increases program effectiveness. However, the Department does not support changes to Maine's law that would further delay implementation, such as changing the responsibilities of the Stewardship Organization.

The Department has been working with stakeholders since the bill was printed, and does support some changes to the current law. The law does not define "consumer," although the term is used in ways that substantially affect which packaging materials are covered. The Department defined "consumer" by rule, but supports legislative review of this important term. The definition of "producer" is even more critical to determining who has to pay into the program for packaging waste, and the Department supports aligning this definition with other states. The Department also supports clarifying the definition of "post-consumer recycled material" to promote the use of waste materials to create new packaging. Lastly, the Department supports clarifying that

⁴ <https://www.maine.gov/dep/bep/2024/12-05-24/Chapter%20428%20Basis%20Statement%20and%20Response%20to%20Comments.pdf>

producer payments should be based on intentionally added toxic chemicals and not the unintentional presence of chemicals in packaging material.

Thank you for the opportunity to provide testimony. I am available to answer questions of the Committee, both now and at work session.