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MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

SPEAKING IN OPPOSITION TO L.D. 1633
AN ACT TO PROMOTE THE RECYCLING AND REUSE OF CONSTRUCTION
MATERIALS

SPONSORED BY REP. WHITE

BEFORE THE JOINT STANDING COMMITTEE
ON
ENVIRONMENT AND NATURAL RESOURCES

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Senator Tepler, Representative Doudera, and members of the Committee, I am
Susanne Miller, Director of the Bureau of Remediation and Waste Management at the
Department of Environmental Protection, speaking in opposition to L.D. 1633.

LD 1633 would exempt facilities that accept, sort, refurbish and sell construction and
demolition debris (CDD) solely for reuse in construction from current solid waste facility
licensing requirements, and directs the Department to instead establish a "streamlined"

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certification process for those facilities. CDD comes from a variety of activities across the state, from home renovation projects to demolition of industrial facilities. CDD may include discarded chemical containers, asbestos, windows with PCB caulk, and many other wastes that can create worker safety and environmental hazards. Facilities that receive, store and handle these wastes are properly regulated under the Department's existing licensing authorities.

The Department supports the recycling and reuse of CDD but believes that this bill is premature. The Department will receive the results of a state-wide Waste Characterization Study this year. While we know that CDD constitutes approximately 30% of Maine's waste, and an additional amount of CDD-related fines are also used for cover material at landfills, the upcoming report will provide more detailed information about Maine's waste streams including CDD. It will discuss the "divertability" of CDD wastes. The Department plans to provide recommendations in its 2026 Waste Generation and Disposal Capacity Report based on a thorough review of the Waste Characterization Study.

Several facilities in Maine already receive CDD and process it to recover various materials such as metal, wood chips, or plastics. That being said, the process used to recover materials from CDD varies depending on what is being recovered. Overall, the ease of deconstruction and disassembly will play a major role in the quality of the material recovered and how much can be recovered during deconstruction versus demolition. Generally speaking, demolition results in a dirtier mixture of components and debris which impacts how much of the material is reusable. It is also a lot faster and cheaper. Deconstruction on the other hand is a slower, more labor-intensive process that results in cleaner components which are more likely to be reusable. The process of deconstruction is highly dependent on the timeline and finances of a given project and whether a contractor can devote the additional time and effort to conduct deconstruction as opposed to demolition. Additionally, deconstruction of a building may not be feasible and be able to be performed safely if the building is of poor quality.

Because it is faster and cheaper, most CDD today is derived from the process of heavy equipment demolition. A construction materials reclamation facility as proposed in this bill would need to be able to process and clean CDD from heavy equipment demolition while ensuring there is a market for reuse. It is not clear if the value of the reclaimed materials would adequately offset the time and labor required to process and clean the debris. Depending upon how much and what is processed at these facilities, it may be more expensive to process and clean up components from the CDD than the actual revenues obtained from sales of reusable construction products. There is also likely to be a notable percentage of CDD debris that will still be required to be disposed of at a solid waste landfill even from the most efficient processing facilities.

Hazardous components and special wastes are also commonly found in CDD. This includes adhesive glues, spray foams, universal wastes, lead, asbestos, and other hazardous waste materials. Facilities accepting CDD for reclamation would need to have processes in place to manage these materials. Typically, any facility that engages in acceptance and handling of universal, hazardous, or special waste materials must adhere to a variety of Federal and/or State laws and regulations. These facilities would not be exempt from these requirements even if they were not required to have a solid waste facility license. However, the lack of a license would make it difficult for the Department to ensure that these facilities are managing these wastes appropriately. Without the ability under a license to monitor and inspect facilities, impose conditions, and require reporting, the Department would struggle to ensure these facilities were compliant and operating in a manner that is protective of the environment and public health and safety.

As part of the proposed certification process for facilities in Section 2 of this bill, the Department would be required to establish material quality standards for use in construction of reclaimed construction materials. The Department does not have the expertise to develop standards for the wide variety of materials that could be reclaimed

from demolition. Moreover, the Department does not have the expertise to provide training for operators working in these facilities. Several additional staff, and extensive in-house training would be required before the Department could begin to implement these elements of the certification program.

Section 2, subsection 4 of this bill requires the Department to put on its website a list of contractors who have diverted to certified construction materials reclamation facilities in the prior calendar year at least 50% of the construction and demolition debris generated by the contractor. It is not clear when this specific requirement must be implemented. As the Department has not certified any construction materials reclamation facilities to date, this list would need to go up after the program has been in place for at least a year. Moreover, it is not clear how the Department would obtain this information, as contractors are not required to report this information to the Department. The Department does not certify construction contractors. As an alternative faster and cheaper option, the USEPA already has a Comprehensive Procurement Guideline Program that companies can be added to if they meet certain evaluation criteria and the Department could provide this link on its website. The Department recommends using this in lieu of what is proposed in Section 2, subsection 4 of this bill.

Section 2, subsection 5 of this bill requires that the Department submit a report on the implementation of this bill by January 1, 2026, and annually thereafter. The report must include information regarding the development and certification of construction materials reclamation facilities, funding received by and issued from the fund and the economic and workforce-related effects in the State of construction materials reclamation facilities and associated activities. It is highly unlikely that the Department will be able to report on implementation of the activities proposed in this bill by January 1, 2026 or even several years thereafter because the Department will need to stand up an entirely new program whereby staff will need to develop new expertise to implement the new certification program.

In lieu of passing LD 1633, the Department will commit to evaluate ways to streamline licensing for CDD reclamation facilities and include its findings, with any recommendations for legislation, in the Waste Generation and Disposal Capacity Report that is required to be submitted to the ENR Committee by January 15, 2026 (38 M.R.S. §2124-A).

Thank you for the opportunity to testify before you today. I would be happy to answer any questions from the Committee, both now and at the work session.