

## Office of Policy and Legal Analysis

Date: May 21, 2021

To: Joint Standing Committee on Environment and Natural Resources

From: Dan Tartakoff, Legislative Analyst

Re: LD 359, An Act To Promote Energy Production from Recyclable Plastics (Faulkingham)

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### **Summary of bill/amendment**

This bill is a concept draft, pursuant to Joint Rule 208, that proposes to enact measures that promote the production of energy by waste to-energy facilities in the State through the incineration of collected recyclable plastics that cannot be profitably sold as a recycled commodity.

Prior to the hearing, Representative Faulkingham proposed and distributed for comment an amendment to replace the concept draft. The amendment changed the title of the bill to “An Act To Amend the State Recycling Goal with Respect to the Beneficial Use of Waste” and would amend the State recycling goal to remove language that characterizes as recycling the beneficial use of waste paper, waste plastics, waste wood, including wood from demolition debris, used motor vehicle tires or corrugated cardboard as a fuel in industrial boilers or waste-to-energy facilities for the generation of heat, steam or electricity only if the DEP determines there is no reasonably available market in the State for recycling that waste.

### **Additional background – State recycling goal**

The State recycling goal in 38 MRSA §2132(1) provides:

It is the goal of the State to recycle or compost, by January 1, 2021, 50% of the municipal solid waste tonnage generated each year within the State.

Under §2133, while municipalities are not required to meet the State recycling goal, they must “demonstrate reasonable progress toward that goal,” with what constitutes “reasonable progress” to be determined by the DEP. §2132(3) allows for the production of heat, steam or electricity at industrial boilers or waste-to-energy facilities from the incineration of waste to be considered “recycling” only for the purpose of tracking the State recycling goal and municipal progress toward that goal and only if certain conditions are met as determined by the DEP.

### **List of legislators/entities that submitted written testimony and/or spoke at the hearing**

**Proponents** – Representative Faulkingham.

**Opponents** – Conservation Law Foundation, Department of Environmental Protection, Natural Resources Council of Maine, Surfrider Foundation.

**Neither for nor against** – Maine Municipal Association.

**Notes, issues and proposed amendments**

1. *Executive Order 24 FY19/20* – as noted by the sponsor, on March 26, 2020, Governor Mills issued Executive Order 24 for FY 19/20, which among other things ordered that:

The use of waste paper, waste plastics, waste wood, including wood from demolition debris, used motor vehicle tires or corrugated cardboard as a fuel in Maine waste-to-energy facilities for the generation of electricity shall constitute recycling for the purposes of determining whether the annual recycling goals in 38 M.R.S. §2132 are met and for determining municipal progress as provided in 38 M.R.S. §2133 until January 1, 2021.

The DEP noted that this Executive Order provision was intended to be temporary only and was intended to address municipal concerns raised over waste handling risks associated with COVID-19.

**Fiscal information**

Not yet available from OFPR.