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TESTIMONY OF
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MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

SPEAKING IN OPPOSITION TO L.D. 359

**AN ACT TO AMEND THE STATE RECYCLING GOAL WITH RESPECT TO THE
BENEFICIAL USE OF WASTE**

SPONSORED BY REPRESENTATIVE FAULKINGHAM

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

DATE OF HEARING:

MAY 10, 2021

Senator Brenner, Representative Tucker, and members of the Committee, I am Paula Clark of the Department of Environmental Protection, speaking in opposition to L.D. 359 which would amend 38 M.R.S. §2132, sub-§3 to allow incineration of waste paper, waste plastics, waste wood, used motor vehicle tires and corrugated cardboard to constitute recycling when measuring progress toward meeting our statewide goal to divert 50% of municipal solid waste through recycling or composting and in measuring municipal reasonable progress toward that goal. Specifically, the bill proposes to eliminate the provision that requires the department to determine that there is no

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reasonably available market in the State for recycling the waste before incineration can be found to constitute recycling for these purposes.

In addition to setting Maine's emissions reduction efforts back, this bill directly conflicts with Maine's Solid Waste Management Hierarchy (38 M.R.S. § 2101) which favors recycling over incineration and broadly serves as a guiding principle in making decisions related to solid waste management. Further, the bill is inconsistent with multiple provisions in statute and rule that specifically exclude incineration or use as fuel for the generation of heat, steam, or electricity from the definition of recycling, or otherwise separate the process of recycling clearly from incineration and classify incineration as disposal, including:

- 06-096 CMR Chapter 400.4.N - Solid waste facilities must provide "evidence that demonstrates that the waste has been reduced, reused, recycled, composted, and/or processed to the maximum extent practicable prior to incineration or landfilling" when submitting licensing applications to the department.
- 38 MRSA §2133(1-A) - Municipalities are not required to meet the state recycling goal in section 2132, but they must demonstrate reasonable progress toward that goal. The department shall determine reasonable progress.
- 38 MRSA §1303-C(21) - "Recycle" means to recover, separate, collect and reprocess waste materials for sale or reuse other than use as a fuel for the generation of heat, steam or electricity.
- 38 MRSA §1303-C(22) - "Recycling" means the collection, separation, recovery and sale or reuse of materials that would otherwise be disposed of or processed as waste or the mechanized separation and treatment of waste, other than through combustion, and the creation and recovery of reusable materials other than as a fuel for the generation of electricity.

- 06-096 CMR Chapter 400.1.Qq - "Recycle" and "Recycling" means the collection, separation, recovery and sale or reuse of materials that would otherwise be disposed of or processed as waste or the mechanized separation of waste, other than through combustion, and the creation and recovery of reusable materials other than as a fuel for the generation of electricity.
- C.M.R. 06-096 Chapter 400.1.Jjj – "Solid waste disposal facility" means a solid waste facility for the incineration or landfilling of solid waste."

Paper, plastics, and cardboard are among the most common household recyclables. In 2018 and 2019, Mainers recycled 418,173 tons of these three materials, reducing greenhouse gas emissions by an estimated 1,250,361¹ metric tons of carbon dioxide equivalent (MTCO₂e, based on a mix of landfill and incineration disposal which is typical in Maine). This is equivalent to the emissions produced by 272,000 vehicles² during an entire year.

Passage of this bill would remove an important incentive for municipalities to continue recycling, and would likely increase greenhouse gas emissions by encouraging incineration of recyclable materials over recycling, and requiring the use of more virgin raw materials to produce new products.

Thank you for the opportunity to provide testimony. I will be happy to answer any questions you may have.

¹ Based on EPA WARM tool using <https://www.epa.gov/warm>

² Based on EPA's Greenhouse Gas Equivalencies Calculator <https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator>