STATEMENT OF
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ON LD 1471 and LD 1541

BEFORE THE MAINE JOINT STANDING COMMITTEE ON
ENVIRONMENT & NATURAL RESOURCES
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Members of the Committee, I respectfully submit this statement on behalf of the Institute of Scrap Recycling Industries (ISRI) and its member companies. ISRI is the trade association that represents approximately 1,300 companies that process, broker, and industrially consume recyclable commodities including metals, paper, plastics, glass, textiles, rubber, and electronics. ISRI's mission is to promote safe, economically sustainable, and environmentally responsible recycling through networking, advocacy, and education.

From its headquarters in Washington, D.C. and through its 20 regional chapters including the New England Chapter representing the state of Maine, ISRI raises public awareness of the vital role recycling plays in the economy, U.S. and global trade, the environment, and sustainable development. In the state of Maine, the recycling industry has a positive economic impact of nearly $327 million and directly supports more than 1,900 jobs. Thank you for the opportunity to submit testimony in relation to LD 1471 and LD 1541, legislation to establish a stewardship program for packaging, and to support and improve municipal recycling programs.

Upon review of both proposals, ISRI neither supports nor opposes LD 1471 or LD 1541 because there remain questions that need further discussion. ISRI is grateful to the sponsors for raising and seeking solutions to critical concerns facing Maine's residential recycling infrastructure and is eager to bring the recycling industry's expertise to the discussion. These matters go beyond the borders of Maine, and we look forward to working with the Committee to ensure the state's packaging Extended Producer Responsibility (EPR) law will not disrupt existing viable recycling markets.

Statement Summary

I. Successful recycling in the United States depends upon a market-based system in which there is minimal contamination in the stream of recyclables and there is demand for commodities post-recycling. Collection without consumption is not recycling.
   - LD 1471 and LD 1541 seek to finance residential recycling programs but more focus is needed on stimulating end market demand.

II. Producer responsibility may be appropriate in limited circumstances, but legislation must not disrupt the current recycling infrastructure or the successful recycling and consumption of certain materials and products.
   - Both LD 1471 and LD 1541 need clarification, which would be aided by incorporating recycling industry standard definitions and specifications for identifying what is recyclable material.

III. Challenges in the residential recycling stream are multifaceted and include various pressure points that require consideration of other solutions beyond program financing.

- ISRI commends the sponsors of LD 1471 and LD 1541 for encouraging recycling activities through policies that support public recycling education to maximize the recyclable product mix and to reduce contamination.
- LD 1471 and LD 1541 make some strides to promote designing products and materials for recyclability and use of recycled content, but there is room for stronger language that should be considered in combination with economic incentives to increase recycling investment and technological innovation.

I. Understanding what Makes for Successful Recycling

Recycling within the United States is a $116 billion industry directly employing more than 159,000 Americans in jobs averaging $73,000 in wages and benefits annually, while generating $13 billion in federal, state and local tax revenue. These numbers tell the story of a strong U.S. recycling industry, but not one without challenges in key segments of the industry, such as those that have arisen over the last several years within the residential recycling sector.

To understand these challenges, it is important to understand what makes for successful recycling –

1. Minimal contamination in the recycling system. Contamination can make the recyclables non-recyclable – either through quality, difficulty with existing equipment, or lack of demand for the materials.

2. Market demand for recycled commodities. If there is no end market to utilize the recycled materials that pass through the system, they will be landfilled. Collection without consumption is not recycling.

We wish to note that recycling in the United States involves far more than what is placed in the curbside bin or cart at the end of the driveway. While residential collection programs may be the most visible part of our recycling infrastructure, it represents less than 20% of the volume of material recycled in our country. The other 80% comes from the recycling of source-separated commercial and industrial materials that can be processed to higher grades with greater marketability.

Recyclable material collected through curbside programs contain a highly diverse and heterogeneous mix of materials that are collected irrespective of market conditions. Material flows into an end-market dependent infrastructure and is collected whether there is a market for it or not. This sets the residential recycling infrastructure apart from commercial and industrial recycling and that is why it demands a unique approach.

A myriad of state and local residential recycling programs around the country are funded through municipal taxes or fees and depend upon a highly sophisticated recycling infrastructure comprised of private and public resources, contracts, and oversight. In the past several years, the cost of residential recycling programs has increased while global markets for certain recyclable materials have constricted. At the same time, global attention on waste in the environment has amplified. As a result of these factors and other fiscal constraints, multiple states have proposed EPR legislation to cover the cost of local recycling programs. Thus far, EPR policies have primarily addressed hard-to-handle materials such as electronics, CFL light bulbs, paint and other materials for which there are no developed markets or end-of-life funding.

In contrast, EPR has been used in many countries across the globe to finance residential recycling programs. On the face of it, these programs appear to be successful, with many countries achieving 60% or more recycling rates. But when one digs deeper, it is apparent that these programs provide opportunities for collecting recyclables while doing little to develop end-markets. Most of what is collected in Europe, for example, is burned for energy. This is not recycling.

LD 1471 and LD 1541 take EPR to another level that ISRI cautions could risk interruption of the robust market-based recycling infrastructure developed in the United States over the past several decades. Ultimately the success of any recycling program is driven by demand. End market manufacturing facilities determine the quality and volume of recyclable commodities they need and the price they are willing to pay. More of such demand will incentivize more recycling.

II. EPR Should Not Disrupt the Current Residential Recycling Infrastructure

Packaging EPR legislation should include consistent standard recycling industry definitions and commodity market specifications to identify recyclable materials. In addition, ISRI offers the following suggested benchmarks for the Committee to consider that will ensure the least amount of disruption. It is important to note, that ISRI does not consider appliances, electronics or other bulky materials to be included or part of the residential recycling stream that would be subject to the EPR programs under consideration today, as these are items readily recycled through a robust commercial recycling system.

Need for Common Definitions

ISRI has identified an important omission in both LD 1471 and LD 1541 that could help clarify the intent of the bills: specific definitions for recycling, recyclable and recycled materials, etc. The following definitions are offered for the Committee's and for the DEP's consideration:

- **Recycling** is the series of activities during which obsolete, previously used, off-specification, surplus, or incidentally produced materials are processed into specification-grade commodities, and consumed as raw-material feedstock, in lieu of virgin materials, in the manufacture of new products. The series of activities that make up recycling may include collection, processing, and/or brokering, and shall result in subsequent consumption by a materials manufacturer.
- **Recyclable Material** is obsolete, previously used, off-specification, surplus, or incidentally produced material for processing into a specification-grade commodity for which a market exists.
- **Recycled Material** was initially obsolete, previously used, off-specification, surplus, or incidentally produced and that has been processed into a specification-grade commodity for use in materials manufacturing.
- **Processing** is any mechanical, manual, or other method that transforms a recyclable material into a specification-grade commodity. Processing is often multi-step, with different steps at different locations.
- **Materials Recovery Facility (MRF)** is a recycling facility where primarily residential recyclables, diverted from disposal by the generator and which are collected separately from municipal solid waste are mechanically and/or manually sorted into commodities for further processing into specification-grade commodities and/or sale to end users. A solid waste management facility which may process municipal solid waste to remove recyclable materials is not a Materials Recovery Facility.

ISRI also believes any EPR legislation that intends to encourage and fund residential recycling programs should clearly delineate that incineration is not recycling. Waste-to-Energy facilities have their role in energy recovery but they have no role in recycling. ISRI applauds the sponsors of LD 1471 for specifying within its definitions that incineration and energy recovery via combustion are not recycling. Unfortunately, ISRI foresees a potential loophole in LD 1541 that could allow for recyclable material to be incinerated at the DEP's discretion under the Alternative Collection Programs.

Market Demand Utilizes Commodity Specifications

LD 1471 or LD 1541 should incorporate commodity specifications to identify the list of materials that will be collected for recycling. Specifications have proven invaluable not just in business-to-business transactions, but also in clarifying to governments and international organizations the difference between recyclable materials and waste when setting trade and public policy. Including specifications that are based on current market conditions as part of the EPR program will help facilitate the consumption of recyclable material.

ISRI established the first specifications for recyclable commodities more than 100 years ago that remain the global standard today. Most recently, ISRI established "inbound MRF" specifications for residential recyclables coming into materials recovery facilities. Each word or phrase has a definition that serves as a global standard for consistency and quality, reflecting manufacturers' tolerances for the product's size, shape, color, composition, manufacturing process, source, or other characteristics. Over the decades, the specifications have expanded to address a wide range of recycled commodities, from ferrous and nonferrous metals to glass, paper, plastics, electronics, and tires.

Furthermore, EPR legislation must not impede on a MRF operators' ability to manage the influx of materials based on what their operations can handle. Utilizing commodity specifications to identify what is recyclable material will help with clarity.

Neither LD 1471 nor LD 1541 include the clarity needed to determine what can be accepted or excluded under the program. For instance, while LD 1471 allows for best practices to be set in the Stewardship Plan, these are not set standards; and the "readily recyclable" approach in LD 1541 could confuse consumers into thinking all packaging is recyclable. Applying the ISRI specifications as a reference point for what is considered recyclable material will bring clarity and create consistency for the program.

Robust Stakeholder Involvement and Oversight Needed

An independent not-for-profit producer responsibility organization (PRO) that is advised by a diverse stakeholder board enabled with strong oversight authority is essential for any EPR program. The PRO should have responsibility to build upon the state's existing infrastructure, investments and institutional knowledge. It should develop the list of materials to be collected, establish the fee structure and interval at which the fees are reviewed, the service level, and devise how best to support improvements to existing infrastructure. The advisory board should not only provide input into the PRO plans, but should monitor development of the plan for managing recyclables collected at curbside and drop-off points. This will ensure ongoing inclusion of state and local government, recyclers and stakeholders in the development of state and municipal recycling programs, ensuring the needs of the local community are met.

Both LD 1471 and LD 1541 include a PRO concept but not necessarily the same degree of deference to, and protection for, the existing infrastructure. Of the two bills, LD 1471 appears to have more guarantees for the involvement and oversight by a diverse set of stakeholders that ISRI would support. The responsibilities of the PRO outlined in LD 1471 also appear to have stronger protections for existing infrastructure, and it includes a specific stakeholder governance structure that involves a planning committee with both binding and non-binding input authority. However, ISRI reasons the PRO should also include representation from the private sector recycling industry in addition to the waste haulers, handlers, and municipalities. Regrettably, LD 1571 appears to lack in this area because there is only a provision for a DEP rulemaking to solicit stakeholder input sometime in the future with no guarantee on how that input will be handled.

Furthermore, resources from the EPR program should be directed to where they are most needed. As such, there should be a full recycling needs assessment to aid with efficiency of the program. While LD 1471 does

include infrastructure improvement funding following a needs assessment, ISRI is concerned that LD 1541 seems to indirectly punish private infrastructure by funding a municipality's entire solid waste program, including landfilling, which could act as a disincentive to recycling.

III. Challenges Require More Consideration of Solutions beyond EPR

Challenges in the residential recycling stream are multifaceted and include various pressure points that require consideration of multiple solutions. Both LD 1471 and LD 1541 include components of solutions that go beyond the financing of collection and processing. While these are steps in the right direction, ISRI suggests much more focus on innovation and market development would bring far more lasting and permanent improvements to the residential recycling system.

ISRI commends the sponsors of LD 1471 and LD 1541 for supporting public recycling education to help reduce contamination. Consumer packaging is becoming increasingly complex as brand owners are under pressure to develop innovative designs that fulfill their sustainability goals. As these new packaging designs are released to the public, there is a need to ensure the materials can be collected, sorted and recycled properly. LD 1471 includes this funding support within the Stewardship Plan and LD 1541 includes education as part of the biannual RFP. ISRI is concerned, however, that this funding is not enough and may dissuade continuation of many successful public-private investments into recycling education and outreach that have occurred to date.

LD 1471 and LD 1541 make some strides to address promote packaging and product design for recyclability and the use of recycled content, but there needs to be stronger language combined with economic initiatives for increased recycling investment and technological innovation. LD 1471 requires producers to create a set of goals to improve recycling and environmental performance of packaging, while LD 1541 encourages the use of recycled content in its payments calculations. ISRI commends these nods to alternative solutions, but much more could be done. For instance, the legislation should affirm government procurement policies for products made with recycled content and commitments to use recycled materials in state/local transportation and infrastructure, along with curtailing efforts to ban products made from recycled content.

Conclusion

ISRI is eager to work with the sponsors of LD 1471 and LD 1541 to achieve their goals in a manner that will protect the viability of the existing residential recycling system. It is through the innovations, recycling business expertise, investment, and entrepreneurial approach of the recycling industry that has advanced recycling to the level it is today. ISRI believes any residential recycling EPR program must include this same innovative and collaborative approach to succeed in the United States. Contact ISRI at DWaterfield@ISRI.org or 202-714-3295.