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TESTIMONY BEFORE THE JOINT STANDING COMMITTEE ON  
ENVIRONMENT AND NATURAL RESOURCES

NEITHER FOR NOR AGAINST LD 1214

*An Act to Clarify the Laws to Combat  
Perfluoroalkyl and Polyfluoroalkyl Substances Contamination*

April 26, 2023

Senator Brenner, Representative Gramlich, and members of the Joint Standing Committee on Environment and Natural Resources, my name is Megan Patterson, and I am the Director of the Division of Animal and Plant Health. I am speaking on behalf of the Department of Agriculture, Conservation and Forestry (DACF) as neither for nor against LD 1214, *An Act to Clarify the Laws to Combat Perfluoroalkyl and Polyfluoroalkyl Substances Contamination*.

Over the last several years, our Department, along with others, has been focusing on the serious issue of contamination from per- and polyfluoroalkyl substances (PFAS). For DACF, that has included work on PFAS presence in and from pesticides. In 2021, the 130th legislature passed LD 1503, "An Act To Stop Perfluoroalkyl and Polyfluoroalkyl Substances Pollution." Among its various provisions, the bill established a state definition of PFAS, required manufacturers to report if products coming into the state contain PFAS, and prohibited the sale and use of products containing PFAS by 2030. This applies to all products sold in Maine, including pesticides.

My testimony today walks through provisions of the proposed bill relating to pesticides:

- Sec. 3 removes the mirrored language between 7 M.R.S. §606 and 38 M.R.S. §1614, both of which prohibit pesticides containing PFAS from distribution in Maine by 2030.
- Sec. 5 changes the current state definition of PFAS and exempts "polymers, gases, or volatile liquids" from the definition. Gases and volatile liquids represent states of matter that can be transformed; these exemptions, if kept, should be better defined so pesticide manufacturers can understand when a product meets the exemption.
  - Note that the current definition deems 56 active ingredients as containing PFAS across 1,331 pesticide product registrations. These registrations would be banned by 2030. The proposed definition change in LD 1214 would capture fewer pesticide products, with an estimated four active ingredients across 25 registrations potentially being impacted.

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- The proposed definitional change in LD 1214 would set in motion potential confusion because the “one fully fluorinated carbon definition” is referenced in 7 M.R.S. §604 and will remain applicable to 7 M.R.S. §606.
- As of April 10, 2023, E.P.A. has published the first pesticide tolerance levels for hemp. This pesticide, Ethalfluralin, is an herbicide that already has established tolerance levels for other crops such as peanuts, potatoes, and soybeans. Under the current definition of PFAS, this pesticide would be prohibited by 2030 and would not be a resource for hemp or potato growers in Maine.

As you can see from the overview of the changes proposed by LD 1214, Maine’s existing PFAS regulation overlaps with pesticide regulation. This is a new and emerging area of scientific understanding and assessment; while FIFRA demands a test method for all pesticide active ingredients, there are limited standards for testing for PFAS contamination in pesticides. Maine has and continues to be at the forefront of PFAS response in the U.S., and DACF is working hard to stay abreast of this rapidly changing landscape. At the same time, growers are concerned about the potential impacts on their existing management techniques and future production and are concerned that they will not have enough time to find the best alternatives if current products they rely on are prohibited. For example, in 2023, the B.P.C. implemented a legislative rulemaking directive as a result of pesticide legislation that resulted in numerous pesticides not being registered in the state for this growing season—products relied upon by agricultural producers.

We recommend the deliberate and thoughtful assessment of these far-reaching and impactful PFAS legislative proposals. Thank you for the opportunity to testify. I would be happy to answer any questions now or at the work session.