



MOFGA Testimony In Support Of

*LD 1537 - An Act to Amend the Laws Relating to the Prevention of
Perfluoroalkyl and Polyfluoroalkyl Substances Pollution and to Provide Additional Funding*

and In Opposition To

- *LD 217 - An Act to Support Manufacturers Whose Products Contain Perfluoroalkyl and Polyfluoroalkyl Substances*
- *LD 304 - An Act to Establish Statewide Standards for Perfluoroalkyl and Polyfluoroalkyl Substances*
- *LD 1214 - An Act to Clarify the Laws to Combat Perfluoroalkyl and Polyfluoroalkyl Substances Contamination*
- *LD 1273 - An Act to Exempt Some Businesses from Certain Laws Relating to Perfluoroalkyl and Polyfluoroalkyl Substances in Accordance with the Size of the Business*

April 26, 2023

Good morning Senator Brenner, Representative Gramlich and members of the Joint Standing Committee on Environment and Natural Resources. My name is Heather Spalding and I am deputy director of the Maine Organic Farmers and Gardeners Association (MOFGA). MOFGA supports LD 1537, opposes LDs 217 and 1214, respectfully opposes LD 304 out of deference to ongoing research, and prefers LD 1537 to LD 1273.

A broad-based community, MOFGA is creating a food system that is healthy and fair for all of us. Through education, training and advocacy, we are helping farmers thrive, making more local, organic food available and building sustainable communities. MOFGA certifies 535 organic farms and processing operations representing roughly \$90 million in sales and we are working hard to create opportunities for Maine's next generation of farmers. Each of these farmers is a Maine businessperson for whom economic health and environmental health are interdependent.

MOFGA is so grateful to this Committee for its bold leadership to help Maine address the crisis of PFAS contamination, especially as it impacts our food and agriculture systems. At least 56 Maine farms have significant levels of PFAS contamination and hundreds more await PFAS assessment of their land and water. Several of the farms are MOFGA-certified organic operations who are struggling with the legacy effect of sewage sludge spread on the land long before they purchased their farms. Maine is going through a very painful process as it works to assess the extent of PFAS damage to farm families and our agricultural economy, but we are



setting so many examples for the rest of the country, which is just beginning to learn about the intense harm that the chemical industry unleashed on the world with impunity.

We appreciate the thoughtful approach that LD 1537 takes to ensure that our PFAS laws can be implemented in a manageable and effective way, with reasonable timelines and applying to businesses that can transform the product lines that currently have intentionally added PFAS. We prefer the clarifications that this bill provides to the exemptions suggested in LD 1273.

We oppose the intents of LDs 217 and 1214 to overturn the progress Maine has made to protect our people, environment and economy from the adverse effects of PFAS. These bills would delay reporting requirements for products with intentionally added PFAS, change the definitions of PFAS and "intentionally added PFAS"; exempt products with confidential business information; and overturn the 2030 ban on products with intentionally added PFAS. Additionally, LD 1214 takes a direct shot at Maine's law prohibiting distribution of a pesticide that has been contaminated by PFAS.

To compliment this Committee's landmark efforts to ban spreading of PFAS-laden sewage sludge on farmland, Representative Bill Pluecker worked tirelessly to address the problem of PFAS in pesticides that are applied to many thousands of acres of farmland multiple times during the growing season, year after year. Of the roughly 12,000 pesticide products commonly registered for distribution in Maine, 1300 of the products are reported to contain PFAS. Pesticide legislation does not often come before this committee but here it is today. We urge you to reject LD 1214 and to defend Maine's laws requiring pesticide manufacturers simply to acknowledge whether their products contain PFAS and whether they ever have been stored in fluorinated containers known to leach and contaminate pesticides. State law prohibits the distribution of pesticides contaminated with PFAS and also gives Maine's Board of Pesticides Control the same authority that the Department of Environmental Protection has to take action on phasing out pesticides with intentionally added PFAS before the broader sunset in 2030, unless their use is deemed essential use and for which there are no alternatives.

Over the past several months you have no doubt heard of the crisis manufactured by the pesticides industry which balked at the PFAS reporting requirements and threatened not to register their products in Maine. The Board of Pesticides Control worked hard to accommodate the concerns of the industry, and now most of the pesticide products have been registered. At the Agricultural Council of Maine meeting yesterday, many commodity sectors reported that their growers had what they generally used for pesticides. The Board of Pesticides Control also has approved continued sale of product already in the possession of retailers and previously registered – that all without disclosure. Chemical giants Corteva, Dow and Dupont still have not registered their pesticides and some farmers are concerned that they may not get the products on which they rely, whether they contain PFAS or not.

We have heard that some manufacturers are reluctant to register pesticides because they can't be sure of PFAS chemicals that may show up in their products. But pesticide companies know

exactly what's in their products. In fact the representative for CropLife America at the DEP hearing on April 20 said just that. The failure to register has nothing to do with difficulty knowing what is in the product, unlike a small Maine company putting together something like a boat that has multiple parts and components from out of state manufacturers. The pesticide manufacturers' failure to report whether PFAS is in their products is most likely because these companies do not want the public to know what is in their products.

It is crucial to acknowledge that PFAS in products, including PFAS pesticides, are ending up in wastewater, incinerators and landfills, thus exacerbating the problem of contamination of our agricultural resources – soils, water and food. Dupont is being sued by the state of Maine, because of their actions on PFAS, and they are also refusing to register some pesticides due to the affidavit requirement. We should not bend over backwards to change our laws because they don't want people to know what's in their products.

MOFGA also has concerns about ongoing conversations to exempt PFAS without an assigned Chemical Abstracts Service (CAS) Registry Number. While the Department of Environmental Protection has suggested that products without a CAS number should not be subject to reporting requirement, we believe that all products containing all PFAS, whether CAS-registered or not, should be subject to reporting and phaseout laws. We understand that 10% of PFAS chemicals do not have a CAS number as yet. The goal should be not to limit the scope of the law, it should be to promote transparency.

The pesticides industry is fighting for the right to peddle forever chemicals at the peril of human health and the environment, instead of creating safer products without PFAS that will help with the logical transformation of agriculture to organic management practices. The pesticides industry argues that their products are safe and approved by EPA, but we have to accept that EPA is currently way underfunded and heavily influenced by the chemical industry. There is a revolving door of employees moving between EPA and the pesticides industry and the sheer volume of data that goes to EPA for review overwhelms the agency's ability to adequately review product safety. As Harvard-educated agricultural economist Charles Benbrook stated, there is a "financial mismatch between the underfunded government agency and the immense corporations that continue to outfox, outmaneuver, and vastly outspend it. How can EPA fight these major chemical companies when they are willing to spend an amount of money that is roughly equivalent to the entire Office of Pesticide Programs annual budget to defend just one chemical?"

We urge you to hold firm on Maine's established law to address the escalating PFAS crisis so that we can transform our food and agriculture and the products that we rely on day to day to be free of forever chemicals.

Thank you and I'd be happy to answer questions if you have any.