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DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

TESTIMONY
OF
MELANIE LOYZIM, COMMISSIONER
MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

SPEAKING NEITHER FOR NOR AGAINST L.D. 1960
SPONSORED BY SEN. JACKSON

**AN ACT TO SUPPORT FARMING IN MAINE BY EXCLUDING CERTAIN
AGRICULTURAL PRODUCTS FROM THE LAW GOVERNING THE PRESENCE OF
PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES IN PRODUCTS**
(Sponsor Amendment)

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

DATE OF HEARING:
MARCH 18, 2024

Senator Brenner, Representative Gramlich, and members of the Committee, I am
Melanie Loyzim, Commissioner of the Department of Environmental Protection,
speaking neither for nor against President Jackson's amendment to L.D. 1960.

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The proposed amendment to LD 1960 would create an exemption from Maine's PFAS in Products law (38 M.R.S. §1614) for agricultural products with intentionally added PFAS under a certain set of conditions. As this Committee is aware, the PFAS in Products law prohibits the sale or distribution of all products with intentionally added PFAS in 2030, with few exceptions.

The proposed amendment relies upon, but does not define, the terms "agricultural products" and "agricultural setting." "Agricultural products" are defined in several different sections of Maine law that are not administered by the Department, and it is unclear which definition is intended to apply. For example, "agricultural products" is defined at 7 M.R.S. §152 as *"those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products, manure and compost and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products."* This would not include herbicides or pesticides. However, "agricultural products" is defined differently at 13 M.R.S. 1774 as *"floricultural, horticultural, viticultural, forestry, nut, dairy, livestock, poultry, bee and any farm products."*

The difference in the potential scope of products that would be exempted, depending on how this term is defined, is substantial. Thus the Department cannot address what effect such an exemption would have on the potential for PFAS from exempted products to contribute to environmental contamination.

The Department is not aware of any definition of "agricultural setting" in Maine law. This term should also be defined when it is the basis for determining whether a product

would be exempt. In the absence of a definition, the Department would first look in Title 38 for related definitions. Should the Department interpret an "agricultural setting" as a setting where agriculture occurs? The Shoreland Zoning Act defines "agriculture" as:

"the production, keeping or maintenance for sale or lease of plants or animals, including, but not limited to, forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables and ornamental and greenhouse products. "Agriculture" does not include forest management and timber harvesting activities." (38 M.R.S. §436-A)

This would have the effect of exempting any product I purchase for use in my small home garden but not for commercial forestry operations.

The Department recommends that the language of the bill should be clarified for the Department and product manufacturers to understand which products would no longer be subject to Maine's PFAS in Products law.

Thank you for the opportunity to testify, and I would be happy to answer any questions that you might have.