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TESTIMONY BEFORE THE JOINT STANDING COMMITTEE ON
AGRICULTURE, CONSERVATION, AND FORESTRY

IN SUPPORT OF LD 130

An Act to Establish the PFAS Response Program and to Modify the Fund to Address PFAS Contamination

February 6, 2025

Senator Talbot Ross, Representative Pluecker, and members of the Joint Standing Committee on Agriculture, Conservation, and Forestry, my name is Nancy McBrady, and I am a Deputy Commissioner of the Department of Agriculture, Conservation and Forestry (DACF). I am speaking on behalf of DACF in support of LD 130, *An Act to Establish the PFAS Response Program and to Modify the Fund to Address PFAS Contamination*.

Later today we will be briefing this Joint Standing Committee on the progress and current status of DACF's PFAS Response Program and the PFAS Fund. In advance, we can assert that DACF has made significant progress over the past several years in creating a first-in-the-nation program to assist commercial farmers impacted by PFAS contamination. DACF received legislative approval to craft an organized response through the 2021 biennial budget (PL 2021 chs. 398, 635). That budget language directed DACF to utilize the funding to support affected farms and, "otherwise allows the department to strategically and effectively respond to PFAS concerns and issues as they arise." Pursuant to this directive, DACF has built a team of seven full-time PFAS Response staff that currently works with 82 farms with varying levels of contamination and offers significant technical and financial assistance to help the majority of these farms remain viable in the face of PFAS. Similarly, our three-person PFAS Fund team is breaking new ground by advancing novel and robust programs that further critical research, health monitoring assistance, and land acquisitions, among others.

PFAS Response:

This bill will codify in statute what we do on a daily basis with the PFAS Response Program. The bill enumerates the range of activities and supports we provide, including robust on-farm testing to assess sources of contamination, crafting mitigation recommendations, and providing critical financial support to farms that can, in the majority of cases to date, allow them to continue operating safely. The bill also enables DACF to establish the parameters for providing technical and financial assistance, including permitting DACF staff ongoing access to the

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property for testing and monitoring and providing essential information about farm management practices.

The bill also establishes DACF's ability to codify maximum levels for PFAS in food through a public rulemaking process. DACF's existing authority for setting action levels resides within the Maine Food Law (which generally applies to food establishments that manufacture, process, or package foods and is not a good fit for dynamic agricultural environments such as farms), and does not include a public process for adoption.¹ Establishing a statutory section specific to the nuances of PFAS response in Title 7 will better enable DACF to serve the needs of affected farmers.

This bill further provides DACF the authority to expend PFAS Response resources on research projects that inform on-farm management or regulatory decisions that support farm viability and product safety.

PFAS Fund:

In addition, L.D. 130 will make modest revisions to the PFAS Fund's statutory authority to improve the Program's effectiveness and efficiency.

The PFAS Fund (7 M.R.S. §§ 320-K-320-L) was established via the biennial budget approved in April 2022 (Public Law 2021 Chapter 635). This body allocated \$60 million to DACF to support farmers impacted by PFAS contamination and established an advisory committee composed of legislators; leadership from DACF, DEP, and DHHS; the University of Maine; and members of the public representing the agricultural, financial, and public health sectors. Since 2022, DACF has completed significant strategic planning and rulemaking processes. It is currently implementing programs to 1) provide financial and technical assistance to commercial farms impacted by PFAS contamination, 2) purchase real estate at fair market value as if it were not contaminated, 3) support scientific research that will inform on-farm management decisions, and 4) facilitate access to blood serum testing, mental health services, and other health-related initiatives.

DACF is requesting several amendments to the PFAS Fund after two years of operation. The key changes include:

- Expanding property management authority and ensuring proceeds go back to the Fund
- Strengthening healthcare information privacy protections
- Allowing Fund use for staff costs
- Modifying Advisory Committee leadership requirements to remove legislator requirement to alleviate availability challenges
- Consistently refer to the Advisory Committee's meetings as "public meetings" rather than "hearings"

¹ Under the Maine Food Law, a person may not manufacture or offer for sale any food that is adulterated. 22 MRS §2155-A(1)(a). "A food shall be deemed to be adulterated if . . . it bears or contains any poisonous or deleterious substance which may render it injurious to health. . ." *Id.* at §2156(A)(1)(A). The Maine Centers for Disease Control and Prevention (CDC) has developed two risk-based Action Levels for perfluorooctane sulfonate (PFOS) in food products. The Action Threshold for cow's milk is 210 parts per trillion (ppt) for PFOS and 3.4 parts per billion (ppb) for beef. Using these Action Thresholds as guidance, DACF can determine when to deem milk or beef adulterated pursuant to Title 22 and prevent the sale of those products within commerce.

In closing, I'd like to reiterate the significant progress made by DACF's PFAS Response Program and PFAS Fund over the past three years as our understanding of this complex issue has grown, developed, and matured. With technical and financial assistance, we have learned that most farms can remain viable despite PFAS contamination – a remarkable development that would not have been possible without the robust support of this Committee and the entire legislature to support PFAS-impacted farmers since 2021.

Thank you. I'd be happy to answer questions now or at the work session.