



Maine
Dairy
Industry
Association

In Opposition to

LD 1600 An Act to Investigate Perfluoroalkyl and Polyfluoroalkyl Substances Contamination of Land and Groundwater

May 7, 2021

Senator Brenner, Representative Tucker, and members of the Joint Standing Committee on Environment & Natural Resources:

I am Julie-Marie Bickford, Executive Director of the Maine Dairy Industry Association – the trade group that represents all of the Maine cow dairy farms who are shipping milk for drinking or food production. Most of our farm families also grow the hay, corn, alfalfa, and other cover crops that are used to feed their animals on the over 700,000 acres of fields and forests directly under their stewardship. In addition, many other farms focus solely on producing feed for cattle and other ruminants, raise beef cattle or dairy beef (which is a way of referring to male cattle, since only female cows can give milk), or breed and raise replacement dairy cows.

Our Maine families who run the farms also live on them and earn their living from the farm. Their daily mission is to produce safe food to feed their neighbors. The category of chemicals known collectively as PFAS **was not created by farmers, and the resulting contamination that has been discovered in Maine is neither the fault of Maine dairy farmers, nor of Maine agriculture in general.** As you make decision on numerous proposals that have been brought forward to as a result of the appearance of the PFAS chemicals on Maine lands and in Maine waters, we ask that you maintain an awareness of the impacts of both preventative and remediation efforts on the existing lives and livelihoods of those who interact in a stewardship role with Maine's natural resources every day.

MDIA applauds the proactive intent of LD 1600 both in its effort to identify possible contamination sites and to help cover the costs associated with testing for PFAS contaminants on land and in water. However, because of significant concerns about the specifics of the program and funding system recommended, as well as the potential for additional negative impacts on Maine's dairy industry that reach far beyond just the physically contaminated area, MDIA is speaking in opposition to LD 1600 as currently written.

- The focus of the bill is on testing sites where sludge that potentially contained any of the PFAS group of chemical substances. Much of that sludge material – especially in the earlier years of encouraging this method of disposal – was spread on farm land, most often by dairy farmers who already were familiar with the process of determining the ratio of waste matter that could be absorbed by the soil through a liquid dressing application, since that is the standard practice for nutrient management of animal manure and milk waste. However, there is very little interaction outlined in the bill between the Department of Environmental Protection (DEP) and the Department of Agriculture, Conservation & Forestry (DACF), beyond a single communication point AFTER contamination has been confirmed. Considering that the Maine Nutrient management program is part of DACF and has maintained a strong positive working relationship with DEP in its 20+ years of existence, this is an obvious opportunity to encourage a collaborative working relationship in creating this Land Application Contaminant Monitoring Program.

In reading this bill, there was concern that the scope of the testing could include anyone who spread waste – sources either from animal manure or industrial or municipal sludge. Again, the scope is not clear. In the definition section of LD 1600, there is a definition of “residual” that mirrors the term used in agriculture and its section in MRSA Title 7 Chapter 747 that covers the Nutrient Management Act activities (which says “residuals means any material generated as a byproduct of a nonagricultural production or treatment process that has value as a source of crop nutrient or soil amendment”). This adds to the confusion about the broadness of the proposed program. A review of other definitions within Title & Ch. 747 includes other terms such as “regulated residual” - which references specific products that are used for soil amendment to add nitrogen and phosphorus and under the regulation of the DEP in Title 38, Ch. 13. The use of these terms would need significant clarification for both specificity and jurisdiction in LD 1600’s proposed program.

- Section 2 of the bill references the testing of soil and water for “perfluoroalkyl and polyfluoroalkyl substances and other contaminants and for other related activities”. This language is excessively broad and vague in its scope.
 - Various chemical substances are currently approved for use on agricultural crops and land – such as pesticides and herbicides. Those activities, their application, as well as the approval of the products used, are overseen by the Maine Board of Pesticide Control, which operates in DACF.
 - Modern fertilizers that are approved for use to restore the nutrient balance, health, and productivity of the soil may contain chemicals in their composition. Are the testing of those chemicals included in this program?
 - Even the products used by certified organic farmers can have specifically approved chemicals and man-made components in them that have been spread on agricultural land. Organic farms must undergo extensive testing of land, water, animals, and plant material in order to become certified as an organic farm. They must also follow specific operational methods and management plans to maintain this certification. Testing and identification of unspecified “contaminants” on an organically certified farm can trigger an expensive audit of organic practices and records and/or could result in temporary loss of organic certification status that could cause economic hardship by negatively impacting a farm’s ability to send their products to their regularly designated buyer or market.

The lack of specificity around the language used in this section of LD 1600 is a problem.

- Identification of the sites to be included in the proposed testing program seems to be related to or coming from the database constructed from scattered paper records dating back to the 1980s for those people or businesses that filed a request to spread material. That database does not have a component that clarifies whether or not material was actually spread on all those permitted parcels. There is a great deal of additional work that needs to be done to that database to confirm actual locations where material was spread, versus areas where that material was authorized to potentially have been spread

In order to achieve this clarification, there must be even more collaboration between the DEP and DACF – neither of which currently have the resources to devote to this level of research. In addition, since the time periods where applications were filed for permits to spread, many of the farms who requested spreading permits have gone out of business or been absorbed by other farms – who are not exclusively dairy farms now. Some sites have been converted to house lots. Some of the land is rented or leased by non-agricultural owners to farmers. Some of the land has been converted and certified organic in the years since requesting a permit option. There are lots of trails that need to be explored in order to accurately identify potentially contaminated sites.

- Testing soils, water, milk and animals for the presence of PFAS and measuring levels has a financial impact on farms that goes beyond the cost of the test. federal dollars to assist with this task. The processing plant that receives the daily production of milk – as well as the farm – has a responsibility to provide the safest products possible. Milk is one of the most highly regulated food products in the world, and Maine farms are

well known for their reputation for producing high quality, healthy milk and dairy products. Currently, when farms are awaiting the results of tests on their farms, their milk is required to be kept out of the food chain out of an abundance of caution. However, that means that the farm will have 100% of the costs of producing that milk, but will not receive the income from its sale. The financial harm could be substantial if there is no funding and consideration to help mitigate these costs.

We appreciate the work of this committee and others to look at different methods to response to the our growing awareness of the concerns regarding PFAS chemicals and the impact of their presence on our farms, in our environment, and on our health. However, the concerns raised through the bill as presented are significant enough to encourage consideration of alternative responses to what is proposed in LD 1600.

Thank you for your consideration of the items presented in this testimony.

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