



**Testimony of Sharon Treat, Institute for Agriculture and Trade Policy
Neither for nor Against of LD 2019,
“An Act To Require the Registration of Adjuvants in the State and To
Regulate the Distribution of Pesticides with Perfluoroalkyl and Polyfluoroalkyl Substances”
Before the Agriculture, Conservation and Forestry Committee
March 14, 2022**

Senator Dill, Representative O’Neill and honorable members of the Joint Standing Committee on Agriculture, Conservation and Forestry. My name is Sharon Treat and I live in Hallowell. I am Senior Attorney for the Institute for Agriculture and Trade Policy (IATP), on whose behalf I am testifying today neither for nor against LD 2019, “An Act To Require the Registration of Adjuvants in the State and To Regulate the Distribution of Pesticides with Perfluoroalkyl and Polyfluoroalkyl Substances”. IATP is a 501(c)(3) nonprofit headquartered in Minneapolis, Minnesota with offices in Hallowell, Maine and other locations. IATP works closely with farmers and seeks to promote local, sustainable and environmentally beneficial agriculture and trade policies.¹

IATP supports sections 2 and 3 of the bill, which define adjuvants as pesticides and would require registration and regulation of these substances by the Board of Pesticides Control. We also support Section 4, paragraph H, which immediately bans the sale or use of pesticides contaminated with PFAS; and Section 5, which clarifies the Board’s broad authority to regulate pesticide containers. These provisions carry out the original purpose of LD 264 which was enacted last year to better protect the public, farmers, and the environment from toxic Per- and Polyfluoroalkyl Substances (PFAS), whether from contamination of pesticides stored or sold in fluorinated containers, or from intentionally added PFAS in adjuvants and pesticide ingredients.

We cannot support the bill in its entirety, however. We strongly oppose Section 1 of the bill, which changes the definition of Per- and Polyfluoroalkyl Substances (PFAS) to be inconsistent with current state law; to exclude the majority of active pesticide ingredients containing PFAS from regulation; and to roll back protections previously enacted by the Legislature intended to “turn off the tap” of unnecessary PFAS use that has contaminated drinking water, soils, food and wildlife in Maine and elsewhere.

Since 2019, Maine law has defined PFAS as follows: "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means any member of the class of fluorinated organic chemicals containing at least one fully

¹ IATP also has offices in Washington, D.C. and Berlin, Germany (IATP Europe). For over 30 years, IATP has provided research, analysis and advocacy on a wide range of agriculture-related issues including farm to school; climate; agroecology; soil health and water quality and access; farmworker health and economic security; and trade and market policies. See www.iatp.org.

fluorinated carbon atom.”² Three other Maine laws use this same definition, as do laws in at least nine states, and it is [the definition recommended by the OECD](#).³ The consequence of changing the definition to require two, not one, fully fluorinated carbon atom will be to exclude many PFAS and pesticide ingredients from regulation by the Board of Pesticides Control (a fact specifically discussed by BPC staff at the February 25, 2022 board meeting), including the disclosure required by LD 264 and in proposed Chapter 20 BPC regulations, and the prohibition of sale and use in LD 2019 both for active, inert and adjuvant ingredients. This new PFAS definition injects confusion and uncertainty into the administration of PFAS policy by the State, reduces health and environmental protections, and is inconsistent with the intent of LD 264, which this committee bill is supposed to be further implementing.

Section 4, paragraph I, of this bill also would delay any prohibition on the sale of pesticides containing intentionally-added PFAS to January 1, 2030, even though current law being administered by the Department of Environmental Protection requires the phasing out of non-essential PFAS-containing products beginning in 2023 with all such products to be banned by January 1, 2030. The effect of this provision of LD 2019 is to remove from Maine DEP any discretion to ban one or more PFAS-containing pesticides during the next eight years, even if there is good reason to do so based on risk of health or environmental harm.

PFAS is in the blood of Maine farmers and their neighbors. PFAS exposure has been linked to health problems including kidney and testicular cancer, thyroid disease, infertility and compromised immune systems -- which means PFAS exposure can make people more susceptible to COVID-19 health consequences and may limit the effectiveness of vaccines. Indeed, recent research has found a strong association with PFAS exposure and [COVID-19 severity, antibody response, and asthma](#).

PFAS contamination is serious, which is why in other legislation being heard today (LD 2013), members of this committee are seriously contemplating spending upwards of \$100 million to help farmers deal with the overwhelming financial, health and other impacts of contaminated water and farms. PFAS need to be banned where they are not an essential use. Last year, the Legislature voted to do just that. Unfortunately, some of the provisions in LD 2019 seem designed to continue business as usual by treating PFAS in pesticides and somehow different from – and apparently not as toxic, persistent, mobile or bioaccumulative — as PFAS in other products. There’s no support in science for this proposition. The committee should strike the new definition of PFAS and the delayed ban in this bill, and direct the Board of Pesticides Control to work with DEP to ban pesticides containing nonessential PFAS sooner rather than later. Thank you.

² 32 MRSA §1732.5-A, <https://www.maine.gov/dep/safechem/packaging/LD1433-PL277.pdf>. See also Maine laws enacted in 2021: LD 1503 "An Act To Stop Perfluoroalkyl and Polyfluoroalkyl Substances Pollution", LD 1505 "An Act To Restrict the Use of Perfluoroalkyl and Polyfluoroalkyl Substances in Firefighting Foam" and LD 1600 "An Act To Investigate Perfluoroalkyl and Polyfluoroalkyl Substance Contamination of Land and Groundwater".

³ Organization for Economic Cooperation and Development, ENVIRONMENT DIRECTORATE, CHEMICALS AND BIOTECHNOLOGY COMMITTEE, OECD Environment, Health and Safety Publications Series on Risk Management No. 61: Reconciling Terminology of the Universe of Per- and Polyfluoroalkyl Substances: Recommendations and Practical Guidance (2021), [https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=ENV/CBC/MONO\(2021\)25&docLanguage=En](https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=ENV/CBC/MONO(2021)25&docLanguage=En)