



Solutions for a
Toxic-Free Tomorrow

Testimony of Sarah Woodbury, Director of Advocacy, Defend Our Health
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"
Before the Agriculture, Conservation and Forestry Committee
March 15, 2022

Good morning, Senator Dill, Representative O'Neil and members of the Agriculture, Conservation and Forestry Committee: My name is Sarah Woodbury. I am the director of advocacy for Defend Our Health. Defend Our Health's mission is to make sure that everyone has equal access to safe food and drinking water, healthy homes and products that are toxic-free and climate friendly. I am here to testify 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."

Nearly every person in the US – from newborns to seniors – have toxic Per- and Polyfluoroalkyl Substances or PFAS in their blood. PFAS are persistent chemicals that do not break down and can remain both in the human body and in the environment for years. They are called "forever chemicals" for a reason. We are exposed to these toxic chemicals in a variety of every day products. They have been linked to interference with normal brain development in children, diminish response to vaccines and harm the immune system, may increase the risk of some cancers, may lower a woman's chance of getting pregnant, and have been associated with liver problems and increased cholesterol levels.

We support the intent of this bill and agree that the it should be unlawful to distribute a pesticide that has been contaminated with PFAS. Many PFAS are bioaccumulative, highly persistent, and have been found in drinking water and farmland across the state. We should do everything we can to get these toxic chemicals out of our products.

However, we are deeply concerned about the definition of PFAS used in the bill. The bill defines PFAS as "substances that include any member of the class of fluorinated organic chemicals containing at least 2 fully fluorinated carbon atoms." This definition is inconsistent with the definition of PFAS that is used in every other statute Maine's legislature has already passed and is currently considering, which only require a single fully fluorinated carbon. It is also inconsistent with definitions used in others state and in many federal programs.

Maine first defined of PFAS in 2019 under LD 1433, "An Act To Protect the Environment and Public Health by Further Reducing Toxic Chemicals in Packaging." (32 MRSA §1732). This definition has now been in Maine statute for 3 years and has been used in several different pieces of legislation across that have since become law across multiple titles including:

- LD 363, "An Act Regarding the Statute of Limitations for Injuries or Harm Resulting from Perfluoroalkyl and Polyfluoroalkyl Substances," (14 MRSA §752-F)

- LD 1503 "An Act To Stop Perfluoroalkyl and Polyfluoroalkyl Substances Pollution," (38 MRSA §1612)
- LD 1505 "An Act To Restrict the Use of Perfluoroalkyl and Polyfluoroalkyl Substances in Firefighting Foam" (38 MRSA §424-C), and
- LD 1600 "An Act To Investigate Perfluoroalkyl and Polyfluoroalkyl Substance Contamination of Land and Groundwater" (38 MRSA §1310-B-1).

The same single fully fluorinated carbon definition is also used in LD 1875 and LD 1911, which your colleagues on the ENR committee have recently recommended to pass this session. It is also used in LD 2013, the farmer funding bill which this committee is hearing today. Several other states have passed legislation utilizing the same definition of PFAS including CA, CO, CT, KY, IL, MN, NY, VT, and WA. This definition has also been used in some federal legislation.

We recognize that some federal agencies or offices have proposed other, narrower definitions of PFAS. These alternatives, most of which are broader than the two fully fluorinated definition proposed, have been vigorously opposed by many scientists.¹

However, LD 2019 is not the place to have a debate on PFAS definitions. Maine already has a consistent definition and it simply makes no sense for Maine to have multiple definitions of PFAS, especially when this bill specifically refers to the existing requirements under LD 1503 where there are overlapping authorities. Having different definitions will create confusion for both the regulators and the regulated community. Further, if the goal of this bill is to prevent potential contamination of water and soil from tainted pesticides, then it only makes sense that what we are looking for in the pesticides is the same as what we are looking for in the environment. This can only be the case if the definitions are aligned.

We therefore urge the committee to amend LD 2019 so its definition of PFAS is the same as existing Maine statutes: "Perfluoroalkyl and polyfluoroalkyl substance" or "PFAS" means any member of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

Thank you and we are happy to provide additional information for the work session if helpful.

¹ For example, the former director of the National Institute of Environmental Health Sciences and the National Toxicology Program, Linda Birnbaum who referred to the US EPA's "TSCA" definition which is broader than just two fully fluorinated carbons as "flawed" since it left out compounds that should be included. See DiGangi, Diana. "Birnbaum Says PFAS Petition Clash Shows Need For Unified Definition." *Inside EPA*. January 14, 2022. Available at <https://insideepa.com/tsca-news/birnbaum-says-pfas-petition-clash-shows-need-unified-definition>