



Testimony of Sarah Woodbury, Director of Advocacy, Defend Our Health
In SUPPORT of LD 2013 “An Act Relating to Perfluoroalkyl and Polyfluoroalkyl Substances
Contamination in the State”
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 works to make sure everyone has equal access to safe food, safe drinking water, healthy homes, and toxic-free, climate-friendly products. I am here to testify in strong support to LD 2013 “An Act Relating to Perfluoroalkyl and Polyfluoroalkyl Substances Contamination in the State.”

LD 2013 will provide resources for farmers impacted by PFAS contamination including income replacement, health monitoring, and farm buyback funding if necessary. It also provides funding for research to quantify the impact of PFAS on Maine’s farming community and to assess future options for farm viability, which can help provide a path forward for those farmers who are impacted.

Perfluoroalkyl and polyfluoroalkyl substances, are more commonly known as PFAS. PFAS are called “forever chemicals” meaning they don’t break down and remain in our body and in the environment for years. These chemicals are hazardous to human health and have been linked to decreased immune system function and decreased vaccine efficacy. PFAS also 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. These toxic chemicals can enter the environment and drinking water supply through a variety of sources including firefighting foam, sewer and industrial sludge spread on local farmland, and our food packaging and other products with leak-proof and grease-proof coatings.

There are at least 9 farms and hundreds of wells that have been contaminated by PFAS and that number will continue to grow as more farms and wells are tested. Several farmers have spoken out over the last few weeks about the devastating impact that PFAS contamination has had on their health and livelihood. You will hear from several of them today. They need immediate assistance to help them survive. LD 2013 will provide them with that assistance.

DEP commissioner Melanie Loyzim testified before the ENR committee back in January that the state was looking at a dollar amount of around \$10-20M PER YEAR for PFAS cleanup. This does not include costs that are associated with income replacements or buyouts for impacted farmers along with medical monitoring and healthcare costs for farmers and well owners who have been exposed to this toxic chemical for years.

Most of this contamination is due to the spreading of municipal and industrial sludge on farmland across the state. A program that the state advocated for and urged farmers to take advantage of as a way to provide inexpensive nutrients for farmland and to save the state and municipalities money on landfilling. While the state is not responsible for the PFAS ending up in

the sludge, it did authorize spreading and assure farmers that the material was safe. The state has a responsibility now to address those who have fallen victim to the state's policies in their time of need.

While we fully support this bill, we have some concerns about how the bill is currently drafted. We would encourage the committee to expand the health monitoring provisions to also include medical monitoring for impacted well owners. We fully recognize the special burden faced by farmers with ruined land and a destroyed livelihood, especially since there is no currently viable solution to removing PFAS from contaminated soil. However, farmers are not the only ones impacted by the PFAS contamination. Hundreds of families whose drinking water wells have been contaminated as a result of the sludge applications are also facing increased risks of health impacts. While DEP is currently providing water filters that are effective at removing PFAS, they also deserve access to the medical monitoring services provided by LD 2013.

Our other concerns about the draft include:

- The advisory committee established by the bill lacks public health or healthcare experts. Especially since medical monitoring is a key component, the committee should be expanded to include experts in such.
- The definition of biosolids is too narrow – it cross-references a following definition in ACF statutes that does not include industrial sludges that have been widely utilized historically and are suspected of contributing to some of the impacted farms. The more expansive definition of “sludge” utilized in the DEP statutes and regulations that drove the materials use should be referenced instead.
- The “Agricultural enterprise definition” includes those engaged in, “...further processing, storing, packing or marketing a raw product” – we are concerned that this could open this funding up to corporate processing facilities as opposed to farmers. Could a large corporation like Oakhurst, for example, seek compensation from the fund for the fall out of selling Stoneridge Farm's contaminated milk? We do not believe this would be in line with the intentions of this bill and would urge that this language be stricken from that part of the definition or otherwise clarify the scope is actual farmers.
- We believe that the the primary focus of this effort should be assisting farmers and families impacted. While we support research efforts that are directly beneficial to impacted communities, we are concerned about overly committing the funds to research programs that do not provide direct benefit. Most significantly, we would note that “Assessing current uses of PFAS” as provided for §320-K(4)(K) would be duplicative of work that the DEP is already doing in accordance with LD 1503 passed last year and should be struck.
- Given the significant investment and broad scope, we would support greater direction in providing for how the money is to be spent.

We worked with our partners at MOFGA, Maine Farmland Trust, and the Institute for Agriculture and Trade Policy to craft an amendment to address these and other concerns. We hope that the committee will utilize the language we drafted below to strengthen this important legislation.

Mainers depend on food from our farmers. We must support the farmers who the state directly harmed through its promotion of the use of contaminated sludge. The funding in this bill will show currently impacted farmers that the state is serious in helping them recover from this catastrophe and also reassure those farmers who are afraid to get their land tested that there are resources available and that coming forward will not ruin their lives. We urge the committee to unanimously pass LD 2013 with the suggested amendments.

Thank you for your time

Proposed Amendment

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §12004-I, sub-§2-H is enacted to read:

2-H.

<u>Agriculture</u>	<u>Advisory Committee on the Fund To Address PFAS Contamination</u>	<u>Expenses Only</u>	<u>7 MRSA §320-L</u>
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Sec. 2. 7 MRSA c. 10-D is enacted to read:

CHAPTER 10-D

FUND TO ADDRESS PFAS CONTAMINATION

§320-K. Fund To Address PFAS Contamination

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Advisory committee" means the Advisory Committee on the Fund To Address PFAS Contamination in section 320-L.

B. "Agricultural land" has the same meaning as in section 32, subsection 2.

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C. Commercial farming. "Commercial farming" means the production of any farm product with the intent that that farm product be sold or otherwise disposed of to generate income.

D. Farm product. "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, grains and food crops, dairy products, poultry and poultry products, bees, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses, Christmas trees and other similar products.

E. "Fund" means the Fund To Address PFAS Contamination under subsection 2.

F. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in Title 32, section 1732, subsection 5-A.

2. Fund established. The Fund To Address PFAS Contamination is established within the department as a nonlapsing fund for the purposes specified in this chapter.

3. Sources of fund. The fund is funded from funds accepted by the commissioner or allocated or appropriated by the Legislature.

4. Purposes. Allocations from the fund may be made for the following purposes as determined by the department upon recommendation of the advisory committee and to meet the requirements of paragraph 5:

A. Monitoring the health of a person, and members of that person's household, whose drinking water or agricultural land is found to be contaminated by PFAS;

B. Relocating a commercial farm with agricultural land that is found to be contaminated by PFAS;

C. Buying and selling agricultural land found to be contaminated by PFAS;

D. Investing in equipment, facilities and infrastructure to ensure that a commercial farm with land found to be contaminated by PFAS maintains profitability while the commercial farm transitions to alternative cropping systems or other modifications to its operations in response to PFAS contamination;

E. Assisting a commercial farm with land found to be contaminated by PFAS with developing enterprise budgets for alternative cropping systems or transitioning to alternative revenue streams, including but not limited to land use systems combining agricultural use of the land with solar energy production;

F. Providing short-term assistance to a person whose commercial farm is found to be contaminated by PFAS, including but not limited to income replacement and mortgage payments;

G. Evaluating the capacity of PFAS testing and data management in the state;

H. Conducting research that supports short-term farm management decisions and assesses future options for viable uses of agricultural land that has been contaminated with PFAS;

I. Establishing food safety criteria and guidance for farm products based on the state's drinking water standard, currently set at 20 parts per trillion for the sum of six PFAS (alone or in combination).

J. Conducting research that quantifies the impact of PFAS on the State's agricultural enterprises and agricultural communities;

K. Conducting research on soil and water remediation systems and the viability of those systems for farmers;

L. Educational programs for landowners, including but not limited to determining best practices for informing residents about the potential of being near or on a site licensed or permitted by the State prior to 2019 to apply sludge or septage, and providing information and guidance on buying or selling agricultural land to which sludge or septage has been applied; and

M. Long-term monitoring of contaminated sites and establishing a corresponding centralized data repository.

5. Administration. The department shall administer the fund pursuant to a plan that establishes funding priorities, administration and oversight. The plan must be developed in consultation with the advisory committee and take into consideration the department's February 4, 2022 report "Findings and Recommendations for a PFAS Study Plan Supporting L.D. 558". The department may contract for professional services to carry out the purposes of this section. The initial plan must prioritize funding and implementation of the following programs:

A. Income replacement. The department shall establish a program as soon as practicable to provide short-term assistance to a person whose commercial farm is found to be contaminated by PFAS, including but not limited to income replacement and mortgage payments.

B. Farm assistance and buyout program. The department shall establish a program to fund longer-term assistance for commercial farms with agricultural land that is found to be contaminated by PFAS. This program must address a range of alternative strategies including assisting farmers in investing in equipment, facilities and infrastructure to maintain profitability during a transition to alternative cropping systems or other modifications to its operations; purchasing agricultural land found to be contaminated by PFAS; assistance in renegotiating mortgages and lines of credit; direct purchase of contaminated land and assistance with purchasing of alternative land where a commercial farm is irreparably contaminated by PFAS.

C. Medical monitoring and PFAS testing program. In coordination with the Maine Center for Disease Control and Prevention, the commissioner shall establish a PFAS medical monitoring and blood PFAS level testing program for persons whose drinking water or agricultural land is found to be contaminated by PFAS. To qualify for the program, a person does not need to show a present injury or disease.

1. Annual blood testing. In accordance with rules adopted by the department, the program must include payment by the department for annual blood PFAS level testing and related services and diagnostic evaluations for an affected person who does not have health coverage for PFAS testing and related services. The drawing of blood for the testing may be done in the health care provider's office or may be referred to another laboratory. A blood sample taken by a health care provider or laboratory to test for blood PFAS levels must be sent to a facility approved by the Department of Health and Human Services.

2. Medical monitoring. The department shall develop criteria for funding medical monitoring for persons found to have blood level exposure to PFAS at a rate significantly greater than the general population; where it is medically necessary to undergo periodic medical examination different from that prescribed for the general population in the absence of exposure due to increased risk; and where monitoring procedures exist that are reasonable in cost and safe for use.**6. Rules.** The department may adopt rules to implement this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§320-L. Advisory Committee on the Fund To Address PFAS Contamination

The Advisory Committee on the Fund To Address PFAS Contamination is established pursuant to Title 5, section 12004-I, subsection 2-H to make recommendations to the department regarding administration of the fund. In order to develop recommendations for the department, the advisory committee may form working groups that include and seek input from subject matter experts from the public and private sectors to deliberate issues relating to the purposes of the fund, including but not limited to health monitoring, short-term financial aid for farmers, research priorities, solar siting, long-term environmental monitoring and land acquisition.

1. Membership. The advisory committee consists of:

A. The commissioner or the commissioner's designee;

B. The Commissioner of Environmental Protection or the commissioner's designee;

C. The Director of the Center for Disease Control and Prevention or the director's designee;

D. The dean of the Maine Agricultural and Forest Experiment Station at the University of Maine, College of Natural Sciences, Forestry, and Agriculture or the dean of the University of Maine Cooperative Extension, appointed by the President of the University of Maine;

E. The Attorney General or the Attorney General's designee;

F. Two members of the public representing the agricultural sector, appointed by the commissioner;

G. One member of a soil and water conservation district as defined in Title 12, section 3, subsection 2, appointed by the commissioner; and

H. Two members of the Senate including one member from the committee with jurisdiction over the Department of Agriculture, Conservation and Forestry and one member from the committee with jurisdiction over the Department of Environmental Protection, appointed by the President of the Senate; and

I. Two members of the House of Representatives including one member from the committee with jurisdiction over the Department of Agriculture, Conservation and



Forestry and one member from the committee with jurisdiction over the Department of Health and Human Services, appointed by the Speaker of the House.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF

Bureau of Agriculture 0393

Initiative: Provides one-time funding for initiatives to address perfluoroalkyl and polyfluoroalkyl substances, or PFAS, contamination on agricultural land in the State.

GENERAL FUND	2021-22	2022-23
All Other	\$0	\$100,000,000
	_____	_____
GENERAL FUND TOTAL	\$0	\$100,000,000