



Solutions for a  
Toxic-Free Tomorrow

Testimony of Sarah Woodbury, Director of Advocacy, Defend Our Health  
In OPPOSITION to LD 1214 "An Act to Clarify the Laws to Combat Perfluoroalkyl and  
Polyfluoroalkyl Substances Contamination"  
Before the Environment and Natural Resources Committee  
April 26, 2023

Senator Brenner, Representative Gramlich, and members of the Environment and Natural Resources Committee. My name is Sarah Woodbury and I am the director of advocacy for Defend Our Health. Defend Our Health works to make sure that everyone has equal access to safe food, safe drinking water, healthy homes, and toxic-free, climate-friendly products. I submit this testimony in opposition to LD 1214, "An Act to Clarify the Laws to Combat Perfluoroalkyl and Polyfluoroalkyl Substances Contamination."

Maine is in the midst of a PFAS contamination crisis. We have made incredible strides over the past four years to uncover the degree of PFAS contamination across our farmland, public and private drinking water systems, inland waterways and fish and wildlife resources. The extent and degree of the contamination presents significant financial challenges as we work to support impacted communities, remediate contaminated water systems, and protect Mainers from the health risks posed by PFAS exposure. Protecting the health of Maine residents from these persistent toxins is clearly worth the investment but we cannot turn a blind eye to new sources of contamination while we begin to grapple with our legacy contamination. Due to the contamination issues that have been discovered across the state, the 130<sup>th</sup> legislature passed significant source reduction legislation, LD 1503 "An Act To Stop Perfluoroalkyl and Polyfluoroalkyl Substances Pollution", last session. LD 1503 was passed with overwhelming bipartisan support and was a first in the world piece of legislation meant to phase-out unnecessary uses of PFAS in products sold in Maine and require manufacturers to disclose uses of PFAS to help track significant sources of PFAS coming into the state. LD 1214 would effectively gut LD 1503, undoing all the good work that the legislature has done to help protect against future contamination.

The proposed legislation would remove the ban on PFAS containing pesticides. A recent article in *The Guardian* highlighted a study about 'screamingly high' levels of PFAS in numerous commercially available pesticides<sup>1</sup>. Levels of the chemical PFOS were as high as 19 million parts per trillion. That level is 950,000 times higher than Maine's current interim drinking water standard. EPA's recently proposed national drinking water standard for that chemical requires remediation at 4 parts per trillion – the pesticide reported by the Journal of Hazardous Materials

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<sup>1</sup> Perkins, T. (2022, October 7). *Toxic 'forever chemicals' detected in commonly used insecticides in US, study finds*. The Guardian. Retrieved April 22, 2023, from <https://www.theguardian.com/environment/2022/oct/07/forever-chemicals-found-insecticides-study>

Letters is 4,750,000 times more contaminated than that. Even with the dilution factors of a pesticide getting mixed and applied, that is an incredibly high level of toxic chemicals getting directly applied to crops and is going to have an impact on the safety of the food system. Unfortunately, the contamination wasn't isolated to a few products – the majority of pesticides tested had high levels of these chemicals.

The current law's PFAS reporting requirement allows Maine DEP to begin to make risk assessments on the safety of PFAS laden pesticides and move towards a ban to be in place by 2030. The seven year lead up to the ban offers enough time for manufacturers to enhance the safety of their products by getting rid of PFAS chemicals. Maine cannot afford to roll back our ban on the sale of these products and risk the contamination of Maine's milk, produce, soil and groundwater. We certainly cannot afford to further expose our farmers, farmworkers, and consumers to these chemicals.

LD 1214 removes language from the definition of "intentionally added PFAS" which captures the degradation of certain newer, unstable PFAS into chemicals like PFOA and PFOS with documented severe health impacts. The precursor chemicals themselves may present a lower risk for bio-accumulation, leaching to groundwater, and toxic impact, but their transformation into chemicals of known risk is well documented. A recent article<sup>2</sup> published by the American Chemical Society's scientific journal demonstrated that PFAS precursors in fast food packaging (including the supposedly safe fluoropolymers exempted in this bill's language) are shedding toxic PFAS into the packaged food and into the air; the concentration of identified PFAS in the food packaging actually increases over time as the precursors degrade inside the packaging. An article in *Environmental Science: Processes and Impacts*<sup>3</sup> illustrates that the quantity of regulated, toxic PFAS chemicals increases during the wastewater treatment process through the degradation of these precursor chemicals. Clearly Maine DEP needs the ability to hold manufacturers to account for the chemicals produced by the predictable degradation of precursors.

LD 1214 also seeks to redefine PFAS to exclude many PFAS including polymers, gasses and volatile liquids. Maine is currently one of 18 states that, alongside the Department of Defense, use the most comprehensive definitions of PFAS. This broadly accepted definition reads: "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a group of synthetic perfluoroalkyl and polyfluoroalkyl substances that include any member of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom."

The definition in LD 1214 is nearly identical to one advanced by the American Chemistry Council, which recently failed to get this problematic language incorporated into a Colorado law limiting PFAS contamination in oil and gas fracking. LD 1214 would define PFAS as "substances that contain at least 2 sequential fully fluorinated carbon atoms, excluding polymers, gasses and volatile liquids." By limiting the definition of PFAS to substances with two fully fluorinated atoms, Maine would lose the ability to track and regulate thousands of dangerous fluorinated chemicals. Most of these chemicals are grossly understudied. All of

<sup>2</sup> *Environ. Sci. Technol. Lett.* 2023, 10, 4, 343–349 Publication Date: March 28, 2023 <https://doi.org/10.1021/acs.estlett.2c00926>

<sup>3</sup> Tavasoli, E., Lueck, J., Malley, J. P., & Mouser, P. J. (2021). *Distribution and fate of per- and polyfluoroalkyl substances (PFAS) in wastewater treatment facilities*. Royal Society of Chemistry. Retrieved April 22, 2023, from <https://pubs.rsc.org/en/content/articlelanding/2021/em/d1em00032b/unauth>



them share the characteristic which earned them the moniker “Forever Chemicals:” they don’t break down.

Teflon is among the most infamous of all PFAS. Teflon has been making people very sick since its invention in the late 1930s and is responsible for the severe environmental contamination around DuPont’s manufacturing facilities in Parkersburg West Virginia, which was made famous by the award-winning feature film *Dark Waters*. Because Teflon is a polymer, LD 1214 would remove Maine DEP’s ability to identify which products contain this flagship toxic chemical.

Production of another dangerous PFAS, the chemical PFOA was terminated in the United States after the EPA pressured chemical manufacturers to move to safer alternatives. DuPont’s replacement for PFOA is the new PFAS chemical known as GenX which has been identified as a severe toxicant which impacts the liver, kidneys, immune system, the development of offspring and an association with various cancers. Based on this toxicity, EPA released a draft lifetime health advisory for GenX in drinking water of only 10 parts per trillion based on the severe health risk presented by GenX. GenX was also included in EPA’s proposed national drinking water standard for PFAS. GenX’s chemical structure contains multiple fluorinated carbon atoms, but they don’t sit right next to each other – they are not *sequential*, in the language of LD 1214. Under the proposed definition, Maine DEP would lose the ability to track GenX.

LD 1214 undermines Maine DEP’s ability to gather critical information on what PFAS are entering the state in consumer products by allowing manufacturers to hide the PFAS in their products as ‘Confidential Business Information.’ We cannot allow manufacturers to hide the presence of chemicals that have such a long lasting and devastating impact under the pretense of trade secrets.

Finally, LD 1214 seeks to entirely repeal the language in public law 477 that allows Maine DEP to ban PFAS containing products by 2030. At a time when Maine is committing to pay more than \$100 million to investigate and mitigate PFAS contamination, it would be economically and morally foolish to curtail our ability to track and ban products that present a health hazard to consumers.

Maine has been a leader in dealing with the issue of PFAS contamination. We have taken amazing strides over the past several years in both attempting to deal with current contamination and working to prevent future contamination. The efforts of the legislature, the DEP, and the Governor will protect the health and environment of all Mainers. We should continue to move forward on this issue, not backwards. Therefore, we urge the committee to vote unanimously “ought not to pass” on LD 1214. Thank you.