



Solutions for a
Toxic-Free Tomorrow

Testimony of Sarah Woodbury, Director of Advocacy, Defend Our Health
In Support of LD 1537 "An Act to Amend the Laws Relating to the Prevention of Perfluoroalkyl
and Polyfluoroalkyl Substances Pollution and to Provide Additional Funding"
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. 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 in support of LD 1537 "An Act to Amend the Laws Relating to the Prevention of Perfluoroalkyl and Polyfluoroalkyl Substances Pollution and to Provide Additional Funding".

Maine is currently in the midst of a PFAS contamination crisis. You have all heard the stories of contaminated farmland across the state of Maine. Farmers and farming families have seen their livelihoods destroyed through no fault of their own. As a result of state-sanctioned spreading of industrial and municipal sludge, farms like Stoneridge, Songbird, and Tozier are worthless. In addition to contaminated farmland there are over 300 wells in properties surrounding the farms in the Fairfield, Benton, and Unity Township areas that have been contaminated with toxic PFAS. Those are on top of wells in Presque Isle, Houlton, and Trenton, which are also contaminated with PFAS.

Where does all the PFAS come from? The short answer is us. It comes from all the consumer products that we use that contain PFAS. When we wash the clothing treated with PFAS stain treatments, some goes down the drain. When we use floor waxes with PFAS, some ends up in the bucket going down the drain. When we send compostable paper plates treated with PFAS to commercial compost facilities, it's ending up in finished compost. In fact, researchers have shown higher levels of PFAS in compost that includes "compostable food service ware" compared to compost with just yard waste.¹ When we send PFAS containing waste to the landfill, the PFAS will eventually enter the leachate from the landfill.² This leachate is usually

¹ Lee, Linda & Heather Trim. "[Evaluating Perfluoroalkyl Acids in Composts with Compostable Food Serviceware Products in their Feedstocks.](#)" January 2018 (Revised March 9, 2018). & Youn Jeong Choi, Rooney Kim Lazcano, Peyman Yousefi, Heather Trim, and Linda S. Lee. "[Perfluoroalkyl Acid Characterization in U.S. Municipal Organic Solid Waste Composts.](#)" Environmental Science & Technology Letters 2019 6 (6), 372-377 DOI: 10.1021/acs.estlett.gb00280

² Johnsie R. Lang, B. McKay Allred, Jennifer A. Field, James W. Levis, and Morton A. Barlaz. "[National Estimate of Per- and Polyfluoroalkyl Substance \(PFAS\) Release to U.S. Municipal Landfill Leachate.](#)" Environmental Science & Technology 2017 51 (4), 2197-2205 DOI: 10.1021/acs.est.6b05005

sent to local sewage treatment plants, allowing the PFAS to again enter waterways or the sludge. (Stories of PFAS contaminated landfill leachate from New Hampshire being processed in Maine drove headlines and was a source of vexation with our neighbors to the west.³)

Given the near indestructability of PFAS, the only way we are going to keep them out of our environment, out of our drinking water, and out of food is if we stop it at its source: that is, we eliminate use of this class of chemicals from food packaging, consumer products, and all other uses that are not currently unavoidable.⁴ We cannot simply rely on efforts to perhaps protect ourselves by “shopping our way out of the problem,” that is trying to avoid it by identifying and only purchasing PFAS-free products for our own families. Even if I studiously avoid food packaged in PFAS wrappers, there is no guarantee I won’t be exposed in other ways, such as via drinking water contaminated from the disposal of other PFAS.

In an effort reduce the sources of PFAS entering into our bodies and in our environment, the 130th legislature overwhelming passed LD 1503, a bill that requires manufacturers of products with intentionally added PFAS, to report the presence of those substances in those products to the Department of Environmental Protection (DEP), beginning in 2023. It also prohibits the sale of residential carpets or rugs, and fabric treatments, that contain intentionally added PFAS beginning in 2023. It allows the DEP to name other categories of products to phase-out the use of PFAS and, effective in 2030, products containing intentionally added PFAS may not be sold unless the use of PFAS in a product is specifically designated as a currently unavoidable use by the department. The department is required to create a PFAS source reduction program that provides information, education and, to the extent funds are available, grants to publicly owned treatment works and municipalities to reduce PFAS entering air, water, or land.

As the implementation of LD 1503 began, it became apparent that there were some technical fixes needed to make the implementation go more smoothly. LD 1537 provides those technical fixes. It does several things. The first thing it does is provide a small business exemption for businesses that have less than \$20M in annual national sales. Those businesses will not be required to disclose if the products they manufacture contain PFAS. They will still not be able to sell products containing PFAS if those products are banned due to non-essential uses of PFAS under the second section of this law. This should protect Maine’s farms and small businesses from having to utilize resources to report the use of PFAS to the DEP. The original intent of this law was never to require small businesses to report this information. Most small businesses in Maine do not utilize PFAS in the manufacturing process.

Under LD 1503, industry is required to report uses of PFAS to the Department by Jan 1, 2023. The Department was to promulgate rules to provide guidelines for that reporting. The Department is behind in its rulemaking and has not released those guidelines yet, which has

³ Miller, Kevin. “Treatment plant discharging into Kennebec River processed runoff possibly laced with ‘forever chemicals’” *Portland Press Herald*. November 6, 2019.

⁴ For more on what could be considered “essential” and non-essential uses of PFAS, and how food packaging uses are all non-essential see: Cousins, et al. “The concept of essential use for determining when uses of PFASs can be phased out.” *Environ. Sci.: Processes Impacts* (2019)21, 1803-1815.



caused confusion within the regulated community as to what they are supposed to provide to the Department. The Department has started the rulemaking and it is our hope that they will have those rules finalized by fall. In order to make the disclosure process easier for both the Department and the regulated community, LD 1537 extends the deadline for reporting to October of 2023 to allow those rules to be finalized.

Current draft rules for LD 1503 from the Department require companies to report the amount of each intentionally added PFAS using a unique identification code, a chemical abstracts service registry number (CAS). But not all PFAS have CAS numbers. By implying that PFAS without a CAS cannot be registered, which is not the case, not all PFAS will be registered, allowing for the introduction and usage of novel chemicals that may worsen the PFAS crisis. In those circumstances there are alternatives to the CAS number that can be utilized including a PMN number, EPA accession number, a full chemical name and formula, or at least a generic chemical name. LD 1537 adds language that requires that the Department report the use of PFAS even if there is no CAS number associated with that particular PFAS.

We need to reduce the sources of PFAS as soon as we possibly can. To do that we need the Department to move forward on banning other categories of products with the authority given to them under LD 1503. It is our understanding based on conversations with the Department and language in rulemaking that their focus moving forward would be on defining the "currently unavoidable" use provision, not on banning the use of PFAS in products where we know it is unnecessary. Therefore, this bill will also require that the Department adopt a rule starting in 2025 identifying at least one product category or use that may not be sold, offered for sale, or distributed in this State if it contains intentionally added PFAS. It prohibits the department prior to January 1, 2028, from providing an exemption for products in which the use of PFAS is a currently unavoidable use unless the department has adopted rules that identify a relevant related product category or use for a sales prohibition. Technology around PFAS is changing every day. What is necessary for use now may not be in 2, 3 or 4 years so we should focus on phasing out the uses that we know are avoidable now and wait until closer to the implementation deadline of 2030 to define what is currently unavoidable.

We do understand that the Department does not support this bill in its entirety, but we believe that these changes are necessary to smooth the implementation process and to make sure we are moving forward with source reduction as soon as possible. We believe the small business exemption and the disclosure deadline extension should alleviate concerns that have been raised by some of our small, local businesses. Source reduction is necessary to protect the health and safety of all Mainers. LD 1537 will help allow that process to move forward while protecting Maine businesses. We urge you to vote unanimously "ought to pass" on LD 1537.