

Strengthen the Draft Report of the Maine Governor's PFAS Task Force

The draft report of the Governor's PFAS Task Force provides a solid foundation, but must be strengthened to meet the Executive Order's charge to assess the extent of contamination, and recommend actions to protect public health and the environment, from per- and polyfluoroalkyl substances (PFAS). The Environmental Health Strategy Center recommends the following improvements:

1. **Investigate Historical Sludge-Spreading Sites with a Clear Plan and Timetable.** High-level PFAS pollution discovered at Stoneridge Farm exposed tens of thousands of consumers to PFAS in milk and drinking water, and catalyzed the formation of the Governor's PFAS Task Force. The Maine Department of Environmental Protection has compiled a list of nearly 500 other properties, mostly farmland, where sludge was spread over the last four decades. Yet, the draft report notes that only about three farms where sludge was recently spread have had their fields and agricultural products tested for PFAS. ***The Task Force should explicitly recommend that DEP develop an investigation plan and timetable for testing all sludge spreading sites to find any yet-undiscovered high-level PFAS contamination. Both the soil and the agricultural products from these farms should be assessed without further delay.***
2. **Test Agricultural Products for PFAS Contamination.** As noted in the report, most people's exposure to PFAS is driven by dietary exposures. Yet, the draft report does little to call for testing of agricultural products grown in PFAS- contaminated fields and seeks to shift responsibility to the U.S. Food and Drug Administration (FDA), which has a poor track record in preventing or responding to PFAS contamination. ***The Task Force should recommend that the state establish a timetable to proactively test agricultural products for PFAS contamination, with a continued state commitment to determine when PFAS results in adulteration of food without waiting for FDA.***
3. **Establish Health-Based Risk Values to Inform Maine PFAS Standards.** Maine continues to rely on a non-binding Health Advisory Level of 70 parts per trillion (ppt) for just two PFAS (PFOS and PFOA) in drinking water based on reference doses set by the U.S. Environmental Protection Agency (EPA), despite a draft finding by the U.S. Health and Human Services that the underlying risk values should be about ten times lower to protect human health. Many other states including New Hampshire, Vermont and Massachusetts are using the best available science to set action levels and/or drinking water standards that are far more protective than the EPA advisory level. Some independent scientists have recommended a limit of 1 ppt for total PFAS in drinking water. ***The Task Force should recommend that Maine Center for Disease Control and Prevention (CDC) adopt Maine-specific health risk levels for all PFAS compounds with sufficient data, based on the best available science. Those risk values should inform the proposed adoption of a Maine drinking water standard for total PFAS, as well as other relevant environmental public health standards.***
4. **Strengthen Safety Protections for Residential Drinking Water Wells.** Household wells supply water for drinking, cooking and bathing to about half our population, making Maine more dependent on well water than any other state in the country. Yet well water remains exempt from the legal health protections of the Safe Drinking Water Act. Many PFAS are extremely mobile in the environment, spreading quickly through ground water and the air, and extremely persistent, meaning they don't readily break down into less harmful substances. Therefore, appropriately, the draft report recommends universal testing of public water systems and testing of well water near known or

potential PFAS pollution sources. However, this leaves the vast majority of wells untested and unprotected. ***The Task Force should recommend funding for educational outreach and financial assistance to expand testing and treatment of residential well water to reduce exposure to PFAS.***

5. **Turn off the Tap through Optimal Use of Existing Source Reduction Authority.** PFAS pollution will continue in perpetuity unless all non-essential uses are replaced with safer alternatives. We support the legislative recommendation for universal disclosure of PFAS in products, yet DEP need not wait for legislative action. ***The Task Force should recommend that DEP use its existing authority under Title 38, including Chapter 16-D (Products) and Chapter 3 (Water), to require reporting of PFAS uses, and source reduction of PFAS discharges into sewage systems and rivers.***
6. **Phase Out the Use of Fluorinated Firefighting Foam.** The use of fluorinated Aqueous Film-Forming Foam (AFFF) for firefighting remains a major source of PFAS pollution. Washington State passed a law to replace all fluorinated AFFF not required by federal law and to require manufacturers to pay for take-back of existing stocks. Safer effective alternatives to fluorinated AFFF are already in elsewhere. ***The Task Force should recommend legislation similar to Washington State to phase out non-required uses of fluorinated AFFF with manufacturer take-back responsibility.***
7. **Adopt Ambient Water Quality Criteria and Effluent Limits for PFAS.** Maine surface water quality, fish and wildlife, and sludge management have been impaired by PFAS pollution. ***The Task Force should recommend that DEP adopt PFAS water quality standards to prevent pollution.***
8. **Phase Out Spreading of PFAS-Contaminated Sludge and Compost.** DEP has adopted a policy, with no legislative direction, that allows sludge exceeding PFAS screening levels to be spread on farmland if the farm is not already too polluted, and to be composted with unrestricted sale and distribution. Food and feed crops readily take up some PFAS, and dilution is not the solution to pollution. ***The Task Force should call for the end of any land application of material exceeding the screening levels.***
9. **Increase State Funding to Find, Assess and Prevent PFAS Pollution.** Clearly, more state resources are needed to solve the PFAS health threat. Existing state agency resources have been stretched thin in responding to known PFAS problems, which continue to grow. ***The Task Force should recommend that the Legislature add funding to the state budget of for PFAS response.***
10. **Make the Polluters Pay - Recover Costs from PFAS Manufacturers.** The costs for damages to the state's natural resources and for PFAS cleanup at potentially hundreds of sites will tally in the tens or hundreds of millions of dollars. ***The Task Force should more forcefully recommend that Maine's Attorney General take legal action to seek cost recovery from PFAS manufacturers.***
11. **Extend the Statute of Limitations for Private Actions to Six Years from Date of Discovery.** Both public and private actions will be required to ensure that the many uncontrolled PFAS pollution sites are cleaned up and compensation paid for resulting harm. Yet Maine law appears inconsistent and unfair, allowing State government to initiate an action against a responsible party within six years of the *discovery* of PFAS pollution, but requiring a private party to initiative an action within six years of the *occurrence* of PFAS pollution. ***The Task Force should recommend that the Legislature extend the statute of limitations for private actions to six years of discovery of PFAS pollution.***