

**Vermont Conservation Voters Testimony on S.295, PFAS Reduction Legislation  
Senate Committee on Health & Welfare  
February 28, 2020**

Good morning, and thank you for the opportunity to testify today in **strong support of S.295**, a bill that aims to reduce the amount of toxic PFAS “forever chemicals” we are bringing into Vermont’s environment, and harming its people.

For the record, my name is Lauren Hierl, I’m executive director of Vermont Conservation Voters, VCV. And I’m joined today by Shelden Goodwin, political outreach associate for VCV. We’re going to both share with you some information about why VCV supports this bill.

VCV is a non-partisan, non-profit organization that advocates for strong environmental laws, and supports pro-environment candidates for elected office. We also do an annual Vermont Environmental Common Agenda of priorities each year, and S.295 was identified as one of the environmental community’s top 2020 legislative priorities.

S.295 builds on the work that this committee, and other committees, have done for years to reduce Vermonters’ exposure to toxic chemicals. As you all know, these issues were brought to the forefront when PFAS contamination was discovered in North Bennington in 2016. At that time, the legislature established a working group of administration officials, scientists, businesses, and public health advocates. VCV served on that committee, and we took a broad look at trying to understand how it came to pass that Vermonters had been exposed for decades to toxic PFAS chemicals in their drinking water, and how else we might be exposed to harmful chemicals.

That working group made a series of recommendations, many of which this body has acted on - including updating the chemicals of high concern to children’s products program; establishing a drinking water standard for PFAS; and passing better legal tools to help Vermonters harmed by toxic exposure and needing medical monitoring (which of course you all passed but the Governor vetoed - we’re hoping you all will override that veto).

Another recommendation from that group was to restrict toxic PFAS chemicals in food packaging and dental floss - so S.295 continues the important work you all have been doing on this important public health issue, and we appreciate you giving it your time and attention.

As a reminder, the reason Vermont needs to be engaged in chemical regulations is that we have a federal chemical regulatory system that is fundamentally broken. The primary

underlying law, the Toxic Substances Control Act, or TSCA, was built on the premise that chemicals are presumed innocent until proven guilty. Unlike pharmaceuticals where companies need to demonstrate safety before they go on the market, for industrial chemicals, we essentially let them onto the market, and it's only when harm to human health and the environment shows up and extensive evidence accumulates that the federal EPA steps in and can start taking steps toward regulating a chemical. When TSCA was enacted, 60,000+ chemicals were grandfathered in - including some of these PFAS chemicals.

Updates to TSCA were passed in 2016, and there was hope the system might improve, but unfortunately those updates have been implemented by the Trump Administration, who has literally put chemical industry lobbyists in key positions in the EPA and other agencies that regulate chemicals (see for example, [this recent article](#)). Just this month, Vermont's Attorney General, along with a number of other states' attorneys general, signaled they are likely to sue the EPA over what they claim to be the department's unlawful approach to the regulation of chemicals.

Due to many years of federal failure on these issues, Vermont has continually stepped up to ensure we are at the forefront of protecting our citizens from unnecessary exposure to toxic chemicals. VCV has had the pleasure of working with this committee on several bills, and you all have passed bills to restrict the use of toxic flame retardant chemicals, lead, mercury, phthalates, and BPA from certain consumer products.

Despite all these years of work on toxic chemical reforms, harmful PFAS chemicals continue to be used in a variety of products imported into Vermont, increasing people's exposure when using those products, and creating further problems when those items are disposed of and chemicals then leach into water supplies. These chemicals are linked to harmful health impacts including high blood pressure, thyroid disease, and kidney and testicular cancers.

A recent report from the Department of Environmental Conservation showed PFAS chemicals in the effluent of every wastewater treatment facility in the state - with the highest levels at the Montpelier facility. [See this VT Digger article for more details](#). As a City Councilor in Montpelier, we are now wrestling with what to do about this problem - what it might cost to install equipment to remove the chemicals, or whether we should stop taking the leachate, or what Casella might need to do to treat the leachate before it comes to our community -- so we have a public health risk to address, and many of the solutions could potentially cost Montpelier taxpayers money. Ultimately, we know that once these chemicals are brought into our state, they create long-term problems and costs that we all

then pay in various ways. This underscores the need to take steps to stop bringing more PFAS-containing products into the state.

S.295 targets four different areas of consumer products that may contain PFAS - food packaging, firefighting foam, carpets and rugs, and children's products. Next we're going to walk through a bit more of the details of the bill, and why we support it, as well as suggest some proposed improvements.

### *Firefighting foam*

The first two sections of S.295 restrict the manufacture, sale, or distribution of class B firefighting foam to which PFAS have been intentionally added, and requires disclosure of the manufacture, sale, or distribution of personal protective equipment containing PFAS.

Typically, toxic chemicals enter the body through one of three routes: ingestion, inhalation, or absorption. For some individuals, like fire fighters working with materials containing PFAS such as class B firefighting foam, the chemicals are likely to enter the body through inhalation or absorption. Firefighters are therefore put at higher risk of health problems from PFAS exposure. According to the National Institute for Occupational Safety and Health (NIOSH), firefighters face a 9% increase in cancer diagnoses. By restricting the use of PFAS foam, firefighters will be exposed to fewer toxic chemicals.

The language in this bill is modeled on legislation enacted in 2018 in Washington State, and enacted in 2019 in New Hampshire and Colorado, as well as a similar law signed by Governor Cuomo in New York a few weeks ago. Vermont would be in line with what many other states have already done, and will ensure our firefighters and residents have the same protections from reduced use of PFAS in firefighting foam.

### *Suggestion for Improvement to Firefighting Foam Section*

We suggest striking lines 4 through 8 on page four, which provides exemptions from the foam ban for terminals, oil refineries and chemical plants. These exemptions were put into the Washington state law in 2018, when they were at the forefront of pushing for their state to move away from PFAS firefighting foams. Since then, a lot of research and verification has been done showing safe and effective alternatives, the federal government is moving in this direction, and numerous states are also enacting bans on these foams. On March 5th 2020, the Washington Legislature passed a bill to eliminate the exemptions for chemical plants and oil refineries, and that bill is now awaiting Governor Inslee's signature (see more details [here](#)). We believe Vermont should harmonize with Washington's most recent legislation on this topic, and include this more protective language by removing these unnecessary exemptions to the firefighting foam ban.

### *Toxic Chemicals in Food Packaging*

The next section of the bill bans PFAS as well as bisphenols and phthalates from food packaging. This policy is modeled on a [Washington](#) law passed in 2018 and a [Maine](#) law passed in 2019. Single-use food containers are often treated with PFAS to make them water and grease resistant, but we know these chemicals are harmful to human health and that safe and cost-comparable alternatives are readily available.

PFAS chemicals migrate from food packaging into food-- and from food into our bodies. See this [recent article](#) in the scientific journal *Environmental Health* from scientists from around the world documenting over 1,000 peer-reviewed studies about toxic chemicals used in food packaging. They conclude **“We highlight that the human population is exposed via food to chemicals migrating from food contact articles such as food packaging. Many of these chemicals are not sufficiently assessed for their impacts on human health, while others are known hazardous substances. As a consequence, we see a need for revising how the safety of migrating chemicals is assessed, using current scientific understanding. At the same time, different stakeholders are pushing for solutions to reduce packaging waste and end plastic pollution, but oftentimes not taking chemical safety into consideration. Therefore, we encourage all stakeholders to focus more on this issue and employ science-based decision making in the interest of improving public health. Reducing exposure to hazardous food contact chemicals contributes to the prevention of associated diseases in humans. And including chemical safety considerations in the development of sustainable packaging will lead to solutions that are beneficial to both human and environmental health.”**

This landmark article documents the risks to human health from exposure to chemicals while using food packaging. Further, after the food packaging is used, it is then thrown away or composted. Composting certifiers like Cedar Grove have begun restricting the use of PFAS-coated food packaging, since these chemicals can then contaminate compost. As shown in a recent Vermont Department of Environmental Conservation [report](#), products containing PFAS chemicals that are thrown away then contaminate landfills and get into leachate, which can then get into our water supplies and ultimately pose a risk to our environment and human health.

There are alternatives for PFAS in food packaging readily available. Numerous studies have found grease-resistant food contact paper and paperboard free of PFCs and other fluorinated chemicals are available and cost-competitive. For more details, see for example, [this report](#) from the Center for Environmental Health. Additionally, major grocery chains like Hannaford's, and restaurant chains like Taco Bell are proactively banning these harmful chemicals from the food packaging they sell, demonstrating the availability of

safer, cost-comparable alternatives, and the market pressure already underway to provide safer alternatives.

Washington banned PFAS from food packaging in 2018, then Maine banned both PFAS and phthalates in 2019. S.295 builds on this work, and bans PFAS, phthalates, and bisphenols from food packaging. This harmonizes with other states, while also acknowledging the harm from bisphenols, which this body has already acted on when it banned BPA from certain products a decade ago, and when the state added four bisphenol chemicals to the list of chemicals of high concern to children - BPA, BPS, BPF, and TBBPA. Vermont also banned certain phthalates from children's products more than a decade ago, and fourteen phthalates are on our Vermont list of chemicals of high concern to children.

That means these chemicals met the rigorous standards established in the Chemicals of High Concern in Children's Products Law, Act 188, of credible scientific evidence finding that these bisphenols and phthalates: Harm the normal development of a fetus or child or cause other developmental toxicity; Cause cancer, genetic damage, or reproductive harm; Disrupts the endocrine system; Damage the nervous system, immune system, or organs or cause other systemic toxicity; or Is a persistent bioaccumulative toxic. AND the chemical has been found through: Biomonitoring to be present in human blood, umbilical cord blood, breast milk, urine, or other bodily tissues or fluids; Sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or Monitoring to be present in fish, wildlife, or the natural environment.

It is important to ban the classes of PFAS, phthalates, and bisphenol chemicals in food packaging - which is how other states have been approaching this issue. We know the failures that come from banning chemicals one at a time - such as with BPA - which this body banned from certain products way back in 2010. In its place, the industry started using other bisphenol chemicals like BPS that turned out to also have similar negative health impacts, acting as endocrine disruptors.

Similarly, when this body banned certain flame retardant chemicals, the industry simply started using other similar chemicals, which proved harmful. The Legislature then had to come back and ban these other chemicals. Now states are starting to ban the entire class of organohalogen flame retardants, to avoid this ineffective, whack-a-mole approach. We've played this game before, we know we can and must take a better approach to protect Vermonters' health by addressing classes of chemicals -- that's what other states are doing, and that's the approach taken in this bill.

For PFAS, in 2015, more than 200 scientists from around the world signed the [Madrid Statement](#), which called for limiting the production and use of all highly fluorinated chemicals - the entire class of PFAS chemicals.

### *PFAS in Carpets and Rugs*

The bill also bans PFAS from residential carpets and rugs. These chemicals are wholly unnecessary in our carpets and rugs - they are only added for their stain resistant properties. But while consumers might like that stain-resistant carpet, what we weren't told when we bought and used those products is that we were bringing a product into our homes that contains chemicals linked to cancers and other serious health problems. We know the chemicals find their way into dust and air in our homes and ultimately into our bodies. In fact, federal studies have shown that 99% of Americans have PFAS in our blood - so likely all of us in this room have been exposed. Then, when those PFAS-containing rugs and carpets are disposed of in our landfills they are contributing to contaminated leachate coming out of the landfill that we're now struggling to figure out how to deal with, and will pay a steep cost to address. Recent Agency of Natural Resources testing found carpets as a major contributor to PFAS chemicals going into Vermont's landfill.

Other states are starting to address PFAS in carpets and carpet treatments - including Washington State, who is beginning a regulatory process to restrict their use; and California identified carpets and rugs containing PFAS chemicals as a priority product that they are working to address under their state's Safer Consumer Products program.

Home Depot (the world's largest home improvement retailer) and Lowe's (the nation's second-largest home improvement retailer) announced in fall of 2019 that they were proactively banning residential rugs and carpets with PFAS chemicals from being sold in their stores, starting early 2020. This demonstrates the largest retailers in the country know there are cost-competitive alternatives available on the market, and enough supply and opportunity for people to buy carpets and rugs without the unnecessary addition of these toxic PFAS chemicals.

### *Chemicals of High Concern to Children*

Finally, this bill adds PFAS chemicals to the Act 188 list of chemicals of high concern to children. Addition to this list will simply requires reporting the use of these chemicals by manufacturers if they are being used in children's products sold in Vermont. As you all likely remember, Vermont's bill was modeled closely on Washington state's program, and last year Washington passed legislation to enable their Commissioner to add classes of chemicals to their list of chemicals of high concern to children. New York State just enacted legislation that also allows classes of chemicals to be added to their list of chemicals of concern to children. So this class-based approach is the direction that states with similar

programs are headed, and knowing the potential harm these products cause from exposure when contaminated children's products are in use - plus the problems these chemicals create after disposal - we believe we should start by adding PFAS to our list of chemicals of concern to better understand where and how these PFAS chemicals are being used in our children's products, so we can better address those problems in the future.

*Conclusion*

Ultimately, we believe S.295 takes important steps forward to start turning off the tap of more harmful chemicals - particularly PFAS - coming into Vermont, harming our people and contaminating our environment. We look forward to working with you to craft a strong bill.

Thank you for your consideration.