

Senate Energy and Natural Resources Committee

Joshua Schauer 271-3077

HB 1275, relative to the effects of per- and polyfluoroalkyl substances on agriculture.

Hearing Date: April 21, 2026

Time Opened: 9:45 a.m.

Time Closed: 10:52 a.m.

Members of the Committee Present: Senators Avard, Pearl, McConkey, Watters and Rosenwald

Members of the Committee Absent : None

Bill Analysis: This bill:

I. Grants immunity from civil liability to farmers for damages resulting from claims based on harms caused by certain per and poly fluorinated alkyl substances present in soil, water, or agricultural products.

II. Requires the department of environmental services to develop concentration-based standards for PFAS in biosolids at land-application sites.

III. Exempts certain per and polyfluoroalkyl products from use restrictions.

Sponsors:

Rep. W. Thomas

Rep. N. Murphy

Who supports the bill: 48 Individuals signed in Support of the legislation. Please contact Joshua.Schauer@gc.nh.gov for more information.

Who opposes the bill: 4 Individuals signed in Opposition of the legislation. Please contact Joshua.Schauer@gc.nh.gov for more information.

Summary of testimony presented:

Representative Thomas

- Representative Thomas said that HB1275 is yet another PFAS-related bill and explained that it has three main sections. The first section establishes a civil liability provision. The second requires that sludge not exceed maximum concentration limits. The third directs the Department of Environmental

Services (DES) to initiate rulemaking for PFAS standards, with an effective date upon passage.

- She said that they have worked closely with the Conservation Law Foundation and Just Zero, and agree with sections two and three of the bill. However, She and other representatives have concerns with the civil liability section. That section was originally tied to a full ban on sludge spreading, and later to a five-year moratorium. The current version removes both the ban and the moratorium, but retains civil immunity.
- She said those companies requested that section one, the civil liability provision, be removed. The amended version reflects that request by removing section one and renumbering the remaining sections. She said the reason is because the original intent of the bill was to either ban or pause the practice of spreading sludge.
- In its current form, however, the bill allows the practice to continue while also granting civil immunity. That creates risk, as it may allow bad actors to take advantage of a liability shield. She noted that there have been significant concerns raised in Massachusetts about that approach, and that language is now being reconsidered or removed.
- She said that Liability exemptions were potentially creating unintended consequences by shielding individuals who may have acted negligently or in bad faith, and by setting a precedent for additional exemptions for other industries or pollutants in the future. It was noted that lawsuits against farmers were considered unlikely, since most farmers had relied in good faith on prior government guidance and many would not be financially viable defendants, with existing federal law already offering protections for innocent farmers in contamination cleanup situations.
- The concern instead focused on so-called “sludge farms,” or large properties used primarily for sewage sludge disposal under the appearance of farming, some of which are very large and exist in multiple states. An example given was the Dixon farm in Steuben County, New York, site used for sludge spreading for decades and leased by Casella since 2022.
- She shared her concern, that without a ban or moratorium in place, retaining civil immunity effectively shields those kinds of operations while the practice continues. She believed the civil liability section should be removed.

Senator Watters stated that it was not a new topic for the committee. NH previously had to go to court over the application of sludge on farmland when the state set the standards and received a Supreme Court ruling affirming their authority to do so. He said they knew about the significant damage that had been done to historic farms in Maine, some of which have been forced out of business because of this issue. He said there needs to be strong protections in place. He stated that it seemed from the comments that there may have been two amendments before the committee and asked

whether that was correct. He also asked whether either of those amendments had the support of the House committee or whether they were simply being brought forward for the first time.

Representative Thomas stated that was correct and clarified that she was not speaking on behalf of the committee. She then explained that the organizations they worked with, Just Zero and the Conservation Law Foundation, preferred to remove the civil liability section entirely and added that their second preference had been to support a more limited liability approach, but their primary position is to eliminate that provision altogether.

Representative Judy Aron, Sullivan 4

- Rep. Aron, as Chair of the Environment and Agriculture Committee, stated that the bill had passed as written and that she considered it a good bill. She explained that it would direct DES to develop rules and standards for PFAS and related sites.
- She noted that New Hampshire was not the same as Maine and did not face the same level of problems. While she acknowledged that amendments might be brought before the committee, she indicated she supported the bill in its current form.
- She stated that bans or restrictions should not be imposed without a clear understanding of the scope of contamination, which she described as largely unknown. She emphasized the importance of encouraging farmers to test their land for biosolids so they could at least understand what was present.
- She also expressed support for providing some level of civil liability protection for farmers who may not have known what was on their land, noting they could otherwise be held responsible for conditions outside their control. She also stated that individuals should not be punished for actions or contamination that had occurred in the past.

Senator Avard asked about a situation involving a farm where sludge had been applied and whether a person who purchased that property would become responsible for it.

Representative Aron stated that in those cases, responsibility would apply. She noted that they had heard from entities that were required to follow certain standards, and that while Maine had allowed widespread application of various materials, New Hampshire was not facing the same conditions. She added that it was prudent for DES to establish clear standards.

Senator Watters asked whether, if a company provided materials that violated New Hampshire standards, that company would be held liable.

Representative Aron indicated that she believed they would be, and if not, they should be. She added that standards already existed for the creation and handling of biosolids.

Senator Watters said that issues were not always known until they were identified and asked whether she was comfortable with the language in the bill.

Representative Aron said that she was comfortable with the language.

Alison Jumper, Durham

- She stated that she supported the bill with the amendment introduced by Representative Thomas. She explained that her family had been directly affected by PFAS contamination on their family farm, including impacts on meat products they produced, and she referenced resulting health effects, including cancer.
- She noted that New Hampshire had allowed the use of sewage sludge, which she described as currently not adequately regulated. She stated that she supported the bill as originally written, which included a moratorium and a farmer relief fund.
- She added that the amendment eliminated civil immunity and clarified that her support for the bill was contingent on the removal of that civil immunity language. She said that any standards developed should be designed to protect New Hampshire residents.

Representative Germana, Cheshire 15

- He stated that the committee saw value in the legislation and its intent, and that concerns about consequences seen in Maine made it important to advance the bill.
- He explained that the goal was to establish a baseline, noting that PFAS was already found widely in the environment. He stated that the bill would set limits that could not be exceeded and would require rulemaking to determine appropriate levels.
- He also described an amendment he had offered, which narrowed the bill strictly to agricultural uses. He noted that in some cases solid waste companies acquired agricultural land and applied sludge to it and said those situations would not be protected under the amendment.
- He further stated that there would be no sunset provision on immunity but clarified that individuals who knowingly violated the rules should not receive protection. He concluded that narrowing the language made the bill more specific and targeted.

Representative Bixby, Strafford 13

- He stated that the bill addressed PFAS contamination in agriculture, which he described as a serious public health issue with measurable impacts. He noted that PFAS in agricultural settings was a relatively recent concern and referenced a recent report from a national academy group on the issue.

- He explained that the purpose of the bill was to address uncertainty and risk related to PFAS contamination on land, particularly the concern that landowners could face liability if contamination was discovered. He said this uncertainty could discourage proper testing and management.
- He stated that New Hampshire would be among the first states to establish a rigorous process for determining maximum contaminant levels (MCLs) in soils, and noted that the DES could provide additional technical detail.
- He also distinguished between PFAS levels in soil and those in groundwater, and raised the question of whether sludge application levels were below established MCL thresholds. He emphasized the importance of avoiding further PFAS addition to already contaminated soils.
- Finally, he noted that wastewater and sewage treatment facilities still required disposal pathways for sludge and related materials.

Senator Pearl asked about the definition of farming and whether the concern being raised was primarily related to so-called “sludge farms.” He also asked whether an amendment clarified immunity so that it applied based on the presence of contamination rather than the act of spreading, and whether he was understanding it correctly.

Representative Bixby responded that Representative Germana’s amendment provided immunity for individuals who had inherited land and had no knowledge of contamination. He explained that if someone had allowed the spreading of sludge in the past without knowing the associated hazards, they would be covered under immunity. However, he stated that if someone knowingly spread sludge in the future and increased contamination levels, they would not be protected.

Senator Pearl then stated that the original bill appeared to provide immunity related to spreading, while the amendment narrowed it to soil or water impacts, and asked what the original concern with the language had been. He also expressed concern about biosolids storage.

Representative Bixby responded that the rationale for removing or adjusting immunity was the assumption that PFAS contamination resulted from bad actors, while also recognizing that in many cases landowners had not intentionally caused contamination. He stated that Germana’s amendment attempted to address both concerns by ensuring that pre-existing PFAS contamination would still be covered under immunity. He added that the goal was to encourage farmers to test their land without fear of legal consequences.

Senator Pearl then asked whether land application practices and immunity would affect what a farmer could apply in the future.

Representative Bixby responded that it would, and that farmers would not be able to apply additional biosolids if doing so would increase contamination levels.

Senator Rosenwald asked why the issue was being made more complicated, noting that if the bill passed it would not be retroactive, and questioned whether liability would only apply to future actions.

Representative Bixby responded that individuals could still be held responsible for materials they had sold in the past, and reiterated that farmers should not fear testing their land due to potential lawsuits. He also noted that PFAS could be introduced to land through multiple pathways, including plants, water, and sludge.

April Sargent, NH Water Pollution Control Association

- Ms. Sargent stated her support for the bill and thanked the House for removing the moratorium language related to biosolids.
- She noted that biosolids were a significant concern, particularly in relation to land application, landfilling, and incineration, and added that Manchester only accepted its own sludge.
- She said she supported the bill's framework and its approach to rulemaking, describing it as a more balanced, science-based approach. She emphasized that multiple environmental impacts needed to be considered in legislative action and that source control was a key factor, since the most effective way to address contamination was to prevent it at its source.
- She also raised a concern that the bill could be interpreted as creating a de facto ban on land application. She stated that any such outcome should allow wastewater treatment facilities to plan accordingly, noting that associated costs would ultimately be passed on to ratepayers.

Ren Beaudoin and Jeff Marts, DES

- They explained that their wastewater bureau administered New Hampshire's water quality Rule 800, which governed sludge management and set requirements for certificates of sludge quality allowing land application.
- They noted that the rule had recently been updated and approved, with new requirements for PFAS testing scheduled to take effect in mid-May.
- They stated that their program had already been testing sludge for PFAS for about eight years, building a substantial dataset since the issue emerged roughly a decade earlier.
- They described an ongoing modeling project that examined how PFAS leached from land-applied sludge into groundwater, comparing results to state and federal ambient groundwater quality standards.
- They explained that progress had been delayed due to the lack of a validated testing method until the U.S. Environmental Protection Agency finalized Method 1633A in December 2024, enabling more reliable sludge testing and prompting the current study.

- They said the modeling study, launched in mid-2025 and expected to conclude by October, would inform future updates to Rule 800, with standards tailored to northeastern soils, local application practices, and both state and EPA groundwater benchmarks.

Senator Watters asked about the bill language on line 16, noting it stated rulemaking would not begin until June 30, 2027.

Mr. Beaudoin replied that this date reflected the latest allowable start in the House passed text.

Senator Watters asked if, if the agency were ready by January 1, it would begin then.

Mr. Beaudoin confirmed that it would.

Senator Watters asked whether there could be an adjustment to the language on line 20, pointing out that under the current wording, rules could not be applied until January 1, 2028, creating a long delay.

Mr. Beaudoin responded that the rulemaking process could take much of 2027 and that the exact timing was uncertain.

Senator Watters asked whether changing the wording from “beginning” to “no later than” would be acceptable.

Mr. Beaudoin said they could confidently meet that date.

Senator Watters clarified that the current language would prevent earlier application of rules even if they were ready before January 1, whereas “no later than” would allow flexibility.

Mr. Beaudoin confirmed that understanding was correct.

Senator McConkey said that, based on his experience, PFAS sampling in water was straightforward but often required sending samples to out-of-state labs, and he asked how soil sampling for PFAS would work, especially across large fields and at what depths. He also asked whether sampling would focus only on the plow layer and how decisions would be made about the number and placement of samples.

Mr. Beaudoin responded that, before any land application permit was issued, soil testing was already conducted to measure baseline conditions such as nutrient levels, and PFAS testing would likely follow a similar approach. He explained that initial PFAS soil testing would occur prior to permitting to establish baseline conditions on a farm, though the exact sampling design still needed to be determined. He said that one possible approach would involve dividing fields into grids, similar to wastewater lagoon sampling and collecting samples from multiple locations to create a representative profile. He added that sampling depth and methodology would depend on factors like the organic soil layer, where PFAS compounds tend to bind, and that the ongoing modeling study would help determine the final sampling process.

Senator McConkey asked about the cost factor for PFAS sampling in soil and sludge.

Mr. Beaudoin responded that, using the EPA Method 1633A, samples were currently costing about \$400 each. He noted that prices had already decreased somewhat since testing first became available and added that future costs were uncertain and could continue to change over time.

Senator McConkey asked how many soil samples would be needed for an area such as 10 acres.

Mr. Beaudoin responded that the approach would likely involve creating a grid and collecting multiple subsamples based on the field size, which would then be combined into a single composite sample representing the site. He explained that for larger areas, the field might be divided into sections to ensure better representation. He added that most permitted sites in the state were relatively small, around 40 total sites with none being very large farms, so the sampling strategy would be tailored to provide an accurate representation of each field.

Senator McConkey suggested that the cost to sample soil would likely be under \$1,000 on average.

Mr. Beaudoin agreed, stating that estimate was generally consistent with what had been found.

Senator Watters asked about the amendment previously shared by Representative Germana and whether there were any comments on it.

Mr. Beaudoin responded that he had only briefly reviewed the amendment and said it mainly addressed adjustments to the rulemaking timeline. He stated that they were generally confident in meeting the proposed dates and were comfortable with some flexibility if work was completed earlier. He reiterated that their rulemaking focus remained on PFAS in soil and sludge and ensuring protection of groundwater quality standards.

Senator Watters clarified he was referring to specifically the civil liability provision.

Mr. Beaudoin said that they were not comfortable commenting on that section because it was outside their area of expertise. He further stated that, as noted earlier, they did not have full knowledge of what actions had previously been taken on the sites, which made it difficult for them to provide an assessment.

Jason Randall, Plymouth Water District

- He stated that his role was to ensure the return of clean water to the environment. He expressed concern about PFAS contamination and said that while he appreciated the intent of the bill, he opposed it as currently written.
- He noted that the Agency for Toxic Substances and Disease Registry (ATSDR) estimated that PFAS compounds enter the environment through multiple pathways and stem from decades of widespread use, including downstream impacts.

- He argued that it was not equitable to provide immunity to only one group, and encouraged a more balanced framework that considered additional stakeholders beyond farmers.
- He also stated that the timeline in the bill was too aggressive. He explained that PFAS was already ubiquitous in the environment, and that distinguishing the age or origin of PFAS contamination was extremely complex and difficult to determine. Without that clarity, he said, it would be difficult to make fair determinations of responsibility.
- He recommended a more balanced and phased implementation approach than the bill as written.

Senator Avard asked if he worked with water treatment and how much PFAS can get out of water.

Mr. Randall said they do not have the ability to treat wastewater for PFAS. No facility in state has that ability to date.

Senator Avard asked if it goes into the Merrimack River at some point.

Mr. Randall said yes, the Pemigewasset river does discharge into the Merrimack River.

Senator Avard and Rosenwald asked if Nashua pulls water from the Merrimack River?

Mr. Randall said that drinking water is tested and remediated and there are technologies that have been implemented to treat for PFAS and that creates a sludge and needs to be disposed of through a carbon source.

Shelagh Conelly, Resource Management Inc. (RMI)

- Ms. Connelly stated that New Hampshire had maintained extensive regulations on the materials since 1985, which were developed after emergency rules were adopted in response to sludge dumping from an out-of-state company transporting waste into the North Country.
- She explained that Senator Jim Rubens helped establish comprehensive regulatory rules, which she described as creating a strong and effective program that had functioned well since its adoption.
- She argued that the current system was not broken and said the Department of Environmental Services was continuing to develop regulations to address concerns about soil protection and groundwater leaching.
- She compared New Hampshire's approach to Maine's, saying Maine had reacted too quickly to similar concerns, later reversing course and experiencing significantly higher costs for managing waste.

- She noted that scientific capacity and testing options had improved significantly over the past decade, with far more laboratories now available and substantially lower analysis costs than in earlier years.
- She urged lawmakers to trust the ongoing regulatory process and avoid rushing amendments, emphasizing that standards were being developed to protect human health and the environment.
- She suggested establishing a committee to study “daily flush” waste management, referenced Concord’s decision to end land application and send waste to Canada, and warned that limiting spreading practices could significantly increase costs.

Senator Pearl asked whether RMI currently tested sludge, wood ash, and other materials delivered to farms for PFAS contamination.

Ms. Connelly said that RMI tests all residuals it managed as part of its operations.

Senator Pearl asked who received the test results.

Ms. Connelly stated that the results were provided to DES.

Senator Pearl also asked whether soil testing was offered to farms receiving the materials.

Ms. Connelly said soil testing was performed at every site as required under existing rules and operating frameworks. She explained that PFAS-specific testing had not been conducted at every site because there had been no established testing standards at the time. She noted that RMI had participated in a voluntary research program with the University of Arizona, including testing at state-owned White Farm as part of national research efforts. She stated that the results from that research indicated PFAS levels were not high and did not appear to be an issue.

Senator Pearl asked whether the land in question had received application for many years.

Ms. Connelly responded that it had, confirming that it had been used for at least 30 years.

Senator Pearl asked whether a similar protocol used for phosphorus, where recommendations are made if levels are very high, would also be applied to PFAS if elevated levels were found.

Ms. Connelly confirmed that a similar approach would be used for PFAS as is used for phosphorus. She explained that any response or recommendation would depend on the concentration found in the product, the soil’s capacity to manage it, and the level of crop uptake. She added that PFAS exposure was not unique to biosolids, noting that it could also be found in other agricultural inputs, including commercial fertilizer used for residential gardens. She clarified that a referenced field.

JS

Date Hearing Report completed: April 27, 2026