

CITY OF PORTLAND, MAINE
Standing Committee on Sustainability and Transportation
Councilor Andrew Zarro, District 4, Chair
Councilor Roberto Rodriguez, At-Large
Councilor Victoria Pelletier, District 2

Agenda
March 22, 2023
5:00 PM

The Sustainability and Transportation Committee will conduct this meeting remotely via Zoom. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live either in person or via Zoom, a recording will be available in the [Agenda Center](#) following the meeting.

For public comment via Zoom, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

<https://portlandmaine-gov.zoom.us/j/84687393752?pwd=K0RiVXhUK09SSDh6cFowTWpyZlllQT09>

1. Review and approve minutes from March 8
 - a. Minutes from March 8
2. Sustainability Program Updates
 - a. updates
3. Presentation and Discussion
 - a. Resolution Opposing Federal Preemption of Municipal Pesticide Ordinances
Presentation: Troy Moon
Public Comment Will Be Taken
 - b. Receiving the Annual Report from the Landcare Management Advisory Committee
This item is a communication - no committee action is required
No public comment
 - c. Report on Community Composting
Presentation: Emma Perry and Troy Moon
No public comment
 - d. Updating the City's Greenhouse Gas Reduction Target to a Science Based Target
Presentation: Troy Moon and Erin Ferrell
Public Comment Will Be Taken
 - i. Public comment received
4. Other Business

CITY OF PORTLAND, MAINE
Committee on Sustainability and Transportation
Councilor Andrew Zarro (D4), Chair
Councilor Victoria Pelletier (D2)
Councilor Roberto Rodríguez (At-Large)

Draft Minutes March 8, 2023

Members Present: Councilor Zarro, Councilor Pelletier, Councilor Rodríguez

Staff Present: Troy Moon, Katie Tims

Guests: Keith Gray (City Engineer), Mike Murray (Acting Director of Public Works), Jeremiah Bartlett (City Transportation Systems Engineer), Chris Chop (Transportation Director, GPCOG) and Andrew Clark (Transit Program Manager, GPCOG)

Meeting was called to order.

November 30 Minutes

Councilor Zarro makes a motion to approve the January 11th, 2023 meeting minutes. Councilor Rodríguez moves the motion. January 11 minutes passed unanimously, 3-0.

Sustainability Update

Presented by Troy Moon and Katie Tims

The Sustainability Office welcomed our new GPCOG Resilience Corps member, Emma Perry. The Office has started receiving energy benchmarking reports (due by May 1) required under the Energy and Water Use Benchmarking Ordinance. The office will host three training sessions in March and early April to assist building owners in submitting their reports. The Office is joining the benchmarking implementation platform Building Energy Analysis Manager, the platform tracks compliance and streamlines the administration of benchmarking policies. We are preparing to launch the Electrify Everything 2.0 program, including Electrify Bikes! And DIY Electrify!, during our Earth Day event on April 22. Troy Moon participated in the first of a series of integrated planning workshops convened by the Maine PUC to plan for a robust and reliable electric grid in the State. On February 22, the Sustainability Office hosted a meeting with Dan Burgess of the Director of Maine Governor's Energy Office, and representatives of the DOE to discuss the progress being made here in Maine and the opportunities for continued collaboration. Garbage to Garden won the bid for collection services for all of our compost sites, public schools, and municipal operation - including the Barron Center, Clocktower Cafe, and the new Family Resource Center. We are coordinating with Garbage to Garden, staff at all of the facilities, and the current vendor to transition service and will look to promote curbside composting later this Spring. We are excited to report that the DC fast chargers at the corner of Spring and High Street will be online before the end of March, along with the neighborhood charging hub at East End Elementary School. Pesticide Applicator Reports were due February 1st and staff received reports from 40 applicators. Staff was in contact with all pesticide applicators who reported in the past and estimated near full compliance for the 2022 reporting period. The Office hosted a landcare professionals workshop on February 14th titled Healthy Soils and Happy Lawns: A Deep Dive into Organic Turfgrass and Lawn Care Practices. The

Sustainability Office publicly announced the Sustainable Neighborhoods Program on February 13th and just this week, Troy Moon presented the communication before our City Council on February 27. The Office hosted an Informational Open House on March 2 and has been working hard to spread the word to Portland residents and groups. The Office has been busy conducting public educational presentations and other outreach efforts.

Committee Comment on Sustainability Update

Councilor Pelletier asks about participation at the Sustainable Neighborhoods Program Informational Open House. *Around thirty people participated, virtually or in person, but we have also heard from forty-nine interested residents from over seventeen of Portland's neighborhoods. We have been working to connect those interested residents of like neighborhoods together. We have also translated flyers and displayed them around locations in neighborhoods. Will the outreach continue to the neighborhoods that don't fill out applications? Yes, absolutely - participation in the Program events and projects will hopefully be amplified and attract interested residents regardless of their residence.*

Major Transportation Priorities

Presented by Keith Gray and Jeremiah Bartlett

The City of Portland is working on multiple projects including the Franklin Street Redesign, Libbytown Safety & Accessibility Project, Brighton Avenue Multi-Modal Project, and a number of Smart Corridor initiatives (Phase II Morrill's Corner, Phase III Forest Avenue - Marginal Way to Park Avenue, Phase IV Forest Avenue - Revere Street to Bedford/Baxter Blvd), and others. Presenters described the purpose and need, timeline, and next steps on all major projects.

Comment on the Major Transportation Priorities Presentation

Councilor Rodríguez asks a clarifying question about why a project like the Franklin Street Redesign, which has seen a lot of community involvement, is "dormant"? *Jeremiah Bartlett explains that in a past particular Council, there was hesitancy to commit that level of capital to the active portion that was being considered. Also, at the time, the conversation had not matured to the point it stands currently with policymakers and the connection to the other outcomes associated with Franklin Street (transportation, housing needs, mixed-use, etc). We may be at a different place now, instead of looking at it (Franklin Street) as a place with a lot of assets.*

Councilor Pelletier shares appreciation and adds that she was at the Libbytown Safety & Accessibility Project meeting, noting the excitement and level of engagement at planning meetings. She asks about the potential future project regarding the restoration of two-way traffic on State Street and High Street? How feasible it is based on how many projects we have and how we might envision it? *The DOT did contribute signal funding for those corridors, not in line with implementing two-way conversion, but there will be investments made. Jeremiah Bartlett describes that how it moves forward is in the earlier stages and we would have to conduct new traffic studies to see what improvements could be made for the future of State/High St traffic. Challenges exist as we sequence these current projects and funds, as they connect to future transportation design projects.*

Councilor Rodríguez asks about Allen's Corner and if there is anything lined up for future design improvements. *There has been a Safe Streets For All Award made to PACTS and Southern Maine Regional Planning Commission and one of the things we want to investigate as an outcome of that is traffic safety improvements in Allens Corner. It is an area with many challenges and we are looking for safety-based options and pilot work.*

Councilor Zarro notes the legacy potential of these projects and the long-lasting impacts they will have on our community. Providing the example of a \$30 million dollar estimate for the Franklin Redesign project, Councilor Zarro asks if we are looking at the timeline of federal grant opportunities and measuring how to anticipate those. *Jeremiah Bartlett describes how in RFPs (Request for Proposals) for urban designers, we are clear in needing someone who is familiar with those types of grants, can help us write those grants, and is knowledgeable on local match expectations. We are going to need to be thoughtful and creative in seeking funds and exploring our options.* Councilor Zarro agrees and shares excitement for the Libbytown project and how it may change the face of the community. *Jeremiah Bartlett describes that within the year, they have been very collaborative with the state and DOT and hopes to get the Libbytown project started as soon as possible.* Councilor Zarro asks how citizens can get involved with transportation and traffic-related concerns? *Similar to the previously described Libbytown Safety & Accessibility Project meeting, public meetings and walking tours can be effective in engaging citizens. Audiences that may also want to participate may use surveys and City discussions. The Libbytown neighborhood website is also a great resource to find information and gather input.*

Follow-Up on Rail Use Advisory Committee Discussion and Policy Recommendation **Presented by Jeremiah Bartlett (City Transportation Systems Engineer)**

Public comment was taken on this item on January 11, 2023.

The Sustainability & Transportation Committee requested this follow-up presentation to include the outcome from the Dec. 22, 2022 Rail Use Advisory Committee (RUAC) vote, the copy of the Auburn City Council Resolve from Dec. 22, possible other options for transit uses for the corridor. The RUAC Member vote was tallied as follows: 7 votes for Interim Trail Until Rail, 5 votes for Rail with Trail, 1 vote for Rail Only, and 2 members abstaining from voting. The presentation also included a review of the PACTS/GPCOG 2017 Study and a reminder of the staff recommendation in which it may be of value that the DOT complete a transit alternatives analysis for the corridor.

Comment on the Presentations

Councilor Zarro asks if the sole decision comes down to the Commissioner. *Jeremiah Bartlett describes that in the case of these advisory committees, this becomes an advisory opinion or information that goes back to the Commissioner. And it may be of more value to stay tied to that process. When you have a mixed voting outcome, not sure if the Commissioner will have a lot to learn from the outcome. If the state legislature is moving quickly, we could look to them and gain more information on the potential outcome. Other projects (Ocean Gateway, Roux Institute, etc) and questions still need to be asked and considered.* Councilor Zarro acknowledges the many uncertainties - how much LR1755 may impact this and the MDOT transit alternatives analysis -

even if we take a stance at the moment, it may be irrelevant in the future. *There may have been a critical mass reached with our representatives and elected officials, and we have a state climate action plan, and we know that carbon emissions and environmental disturbance are problems, but without the ability to foster compact development patterns by inducing sprawl then how do we go about accomplishing those things? We are reaching a transition from discussion to action and it may be beneficial to have another conversation when more things settle out.*

Update on the Gorham-Westbrook-Portland Rapid Transit Study

Presented by Chris Chop (Transportation Director, GPCOG) and Andrew Clark (Transit Program Manager, GPCOG)

Thai study is based on recommendations from “Transit Tomorrow”, the long-range regional transit plan adopted in Spring 2021. The Gorham-Portland-Westbrook analysis was conducted to identify options for a rapid transit line connecting these towns. The study recognized the influence of demographic and environmental factors and explained that the next steps are to evaluate alternatives, develop design parameters, and determine the “locally preferred alternatives”.

Comment on the Presentations

Councilor Pelletier asks about the feedback from the surrounding Portland municipalities regarding the “locally preferred alternatives” for routes. *The study specifically included feedback from the towns of Portland, Westbrook, and Gorham, especially meeting with staff from municipalities to learn about land use and zoning policies and projects underway in these communities. Other communities have not weighed in on a preferred route yet, but we anticipate that happening in a couple of months and we welcome that feedback at future meetings. We are still identifying opportunities to learn more about major environmental constraints, equity opportunities or challenges on particular roadways, and more.* Is there a level of engagement being done to people who are not municipal employees, but community-level engagement? *We do have a project advisory group of stakeholders who have mobilized to spread the word about our future public meetings, METRO has posted flyers at bus stops along the corridor, and flyers at community centers and libraries, and we are also soon launching a survey that asks individuals their thoughts. Last fall, we conducted extensive public outreach and we are, so far, receiving great engagement.*

Councilor Rodríguez asks about the input that may be helpful from Councilors tonight? *Any input would be helpful.* Councilor Rodríguez was intrigued about the route along Warren Avenue because it gets up to Morrill’s Corner, a high-traffic and congested area, but prefers the route that includes Brighton Avenue.

Councilor Zarro reminds the Committee that they took a resolution to Council, where full support for the resolution led to support for this study to take into account the impacts of the Gorham Connector, can you speak to any of the conversations you may have had with the Maine Turnpike Authority pertaining to this study? *The Gorham Connector project has been stagnant, conversations with the Maine Turnpike Authority slowed a few months ago. The PACTS policy*

board which recommended that the two teams continue to coordinate on the projects, acknowledging that the projects are different and connect the same communities in different ways. Councilor Zarro follows up by asking for specifics on the timeline of the Gorham-Portland-Westbrook rapid transit study. We would like to have a locally preferred alternative selected by our policy board selected at their meeting in July. That target is informed by application deadlines at the FTA. Working our way back from that, we are taking our four alternatives to the design engineering team, develop conceptals and parameters, work with municipalities in design workshops with planning staff, request final public feedback, and move into final adoption in July.

Discuss and Finalize Committee Workplan

Discussion led by Troy Moon, Councilor Zarro, Councilor Pelletier, Councilor Rodríguez

Building on the conversation we had in January, the Committee created a priority list of items:

- Create a Sustainability Fund (similar to the Housing Fund) to support projects that advance the goals in One Climate Future / deposit revenue from REC sales.
- Adopt an ordinance authorizing Commercial Property Assessed Clean Energy (C-PACE) to help businesses improve energy efficiency and adopt renewable energy.
- Explore an ordinance requiring home energy performance at the time of sale (similar to Montpelier, VT) to provide visibility into future energy costs and to incentivize energy efficiency.
- Complete work on bird-safe design requirements for new construction to reduce bird mortality during spring and fall migrations.
- Amend the traffic schedule to close/restrict traffic on certain streets to improve walkability and facilitate non-motorized forms of transportation activity.
- Explore policy options to increase revenue from on-street parking and from private parking facilities.
- Make amendments to the Energy Benchmarking Ordinance to clarify reporting requirements and fully implement the program in all buildings with 20,000 square feet or more.
- Update the City's carbon reduction goal to 100% reduction in CO2 emissions by 2050 in alignment with current science-based targets.

We are pleased that tonight we already heard a presentation on transportation priorities including a discussion on implementing the Franklin Street Master Plan and converting State St. and High St. to two-way traffic. We would also like to invite Metro Director Greg Jordan to present a "State of Metro" report, receive the LMAC Annual Report, receive the Benchmarking Annual Report, review shore power feasibility study results, and receive updates about IRA opportunities for the City, residents, and businesses.

After connecting with our colleagues at the Parks Department, we learned that the City is conducting a tree forestry masterplan, which would be valuable information in future conversations about amending the Heritage Tree Ordinance.

Councilor Zarro asks how we plan to give CMP a granular explanation of what we need as we transition to beneficial electrification? Troy Moon intends to work with them and continue conversations with them to identify opportunities and challenges. Both agree we should revisit that as an item at the end of the year for this Committee.

Other Business

No other business. Councilor Zarro asks for any other questions or comments and thanks the guests for joining us.

Motion to Adjournment

Moved by Councilor Rodríguez, all adjourned.

Meeting Adjourned



CITY OF PORTLAND

Sustainability Office

Troy Moon

Sustainability Director

Sustainability Updates

March 22, 2023

Energy

We are excited to be testing out CMP's data access platform that will allow building owners to view whole-building energy usage data in a convenient online format. This platform will help owners of multi-tenant buildings comply with the Energy and Water Use Benchmarking Ordinance. We anticipate all multi-tenant buildings 20,000 sq ft or more will start reporting energy and water use metrics in 2024.

Waste Reduction

We met with Garbage to Garden on March 15th to discuss their transition to collecting at all of our compost sites, public schools, and municipal operations - including Portland City Hall & the Clocktower Cafe, the Barron Center, and the new Homeless Service Center. We expect them to take over collection this week.

Electric Vehicles

The DC fast chargers at the corner of Spring and High Street are finally online and operational! The neighborhood charging hub at East End Elementary School should be online before the end of March, and we are still waiting for CMP to install a transformer for the chargers at Deering Oaks.

Land Care

We started visiting retailers in Portland that stock and sell products subject to the Landcare Ordinance and provided signs to post in their facilities, as required by the ordinance. We sent out notices to all known practicing applicators in the city to remind them of the ordinance and new amendments restricting the use of synthetic fertilizers. The Landcare Ordinance goes into effect on March 19, 2023. The Office has been posting educational materials regarding the ordinance on social media and the landcare website which can be found at portlandmaine.gov/landcare.

Community Support

The Sustainability Office is working hard to energize the Sustainable Neighborhoods Program and connect Portland residents and groups. We are less than two weeks away from closing the neighborhood application and look forward to announcing the two selected neighborhoods - and launching Electrify Bikes! and DIY Electrify! - at the City's Earth Day Celebration on April 22.

Katie Tims attended the Maine-New Hampshire Climate Networks Exchange on March 9th, connecting with leaders of the ME Climate Change Adaptation Providers (CCAP) network and the NH Coastal Adaptation Workgroup (CAW) to discuss human migration in our states and what it may mean for communities over the coming decades.

Education and Outreach

The Sustainability Office hosted friends from the National League of Cities for lunch on March 10th to talk about progress happening here in Portland and how we can share resources as we work together in the future.

Troy Moon testified against LD 89, "An Act to Preserve Heating and Energy Choice by Prohibiting a Municipality from Prohibiting a Particular Energy System or Energy Distributor". If passed, this bill would prevent the City from adopting policies restricting the use of fossil fuel heating/cooling infrastructure in new buildings or major retrofits, which is a measure called for in One Climate Future.

The One Climate Future team held a Coffee and Climate event on March 10th to discuss Complete Streets. We hosted Jean Sideris of the Bicycle Coalition of Maine as well as Bruce Hyman and Cashel Stewart, transportation planners from both of our Cities to lead the conversation on the many City projects underway to improve walking, biking, and transit in our communities. We were excited to have roughly 90 people registered for this event.

Please mark your calendars for Earth Day, April 22. We are working with other City departments and non-profit partners to present a great celebration.

Climate and Coffee events are community conversations that happen on the 2nd Friday of the month at 9 AM. We record sessions with guest speakers and post them on www.oneclimatefuture.org, along with other information about our work. You can also follow us on social media. Instagram @sustainableportlandme / Twitter @SustainPortME / FB @SustainablePortlandME

Coffee & Climate 2023 Series

January 13	Climate Ready Casco Bay <i>w/ GMRI & GPCOG</i>
February 10	Being Bird Friendly and Bird Safe <i>w/ Maine Audubon and Portland Society for Architecture</i>
March 10	Complete Streets <i>w/ Bicycle Coalition of Maine</i>
April 14	Sharing Economy & Electric Tools <i>w/ Brie Berry, economic & environmental anthropologist</i>
May 11	Aquaculture (in-person event) <i>w/ the Hus, Atlantic Seafarms, and the Lady Shuckers</i>
June 9	Sustainability & the Arts (in-person event) <i>w/ Portland Museum of Art</i>
July 14	Plastics & Producer Responsibility (in-person event) <i>w/ Go-Go Refill, Rubbish! Portland, NRCM, and Tandem Coffee</i>
August 10	Breweries & Sustainability (in-person event) <i>w/ NEEFC and local brewers</i>
September 8	Navigating State & Federal Incentives <i>w/ Efficiency Maine and Maine Governor's Energy Office</i>
October 13	How to Talk About Sustainability <i>w/ Our Climate Common</i>
November 17	Environmental Justice <i>w/ Color of Climate</i>
December 8	2023 Recap <i>w/ One Climate Future team</i>

Coffee & Climate is a monthly event exploring sustainability and climate topics with the help of guest experts.

For more information, visit oneclimatefuture.org/



To: Councilor Zarro and members of the Sustainability and Transportation Committee
Re: Federal Pesticide Bills
Date: 3/20/2023

Every five years the United States Congress reauthorizes the Federal Farm Bill, which is a large package of legislation that impacts a broad range of things related to agriculture, including pesticide use. As the package of bills that comprise Farm Bill come together, there can be some that seek to remove the ability of municipal governments to regulate pesticides at the local level. (Currently, Maine is one of only four states where municipal governments have this authority.) In 2018, the Farm Bill contained such a provision and the City Council passed [Resolution 2-18/19](#) opposing it. This year, the National Pest Management Association has worked with Representative Rodney Davis to introduce [HR 7266](#) that would amend the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to prohibit local governments from regulating pesticides instead putting that power entirely in the hands of a lead agency at the state level and with the EPA.

This year, Senator Cory Booker has offered the [Protect America's Children from Toxic Pesticides Act of 2023 \(s. 269\)](#). (PACTPA) This bill would ensure that state and local governments retain the authority to regulate pesticides at the local level. It would also increase protections for workers who use or are exposed to pesticides and ban the use of paraquat, organophosphate and neonicotinoid pesticides, which the Portland Landcare Ordinance already prohibits.

We have attached a draft resolution for the Sustainability and Transportation Committee to consider that would authorize the Mayor and the Chair of the Sustainability and Transportation Committee to send a letter to the Chairs of the Agriculture Committee and Maine's Congressional Delegation expressing opposition to HR 7266 and supporting PACTPA and asking that they protect the authority of local governments to regulate pesticides.

March 17, 2023

RESOLUTION OPPOSING FEDERAL PREEMPTION OF LOCAL PESTICIDE ORDINANCES

WHEREAS, the Portland City Council takes seriously its obligation to protect the health and welfare of City residents and visitors; and

WHEREAS, the City of Portland wishes to protect the quality of Casco Bay and other waterways that support the economic vitality of local fisheries and the working waterfront; and

WHEREAS, water testing has identified toxic pesticides in Portland's coastal waters; and

WHEREAS, the City of Portland wishes to promote land care practices that promote the development of healthy soils to minimize the need to apply pesticides to control unwanted pests; and

WHEREAS, on January 3, 2018, the Portland City Council passed the City of Portland Pesticide Use Ordinance in order to protect the public and the environment from harm that can be caused by the use of some pesticides; and

WHEREAS, on September 19, 2022, the Portland City Council amended the Portland Pesticide Use Ordinance to prohibit the use of synthetic fertilizers, and;

WHEREAS, municipal governments are well positioned to respond quickly to threats that may exist in their community; and

WHEREAS, more than 150 local governments across the United States have adopted local ordinances to restrict the use of certain pesticides in response to growing evidence they can harm human health and the local environment;

WHEREAS, the Farm Bill passed by the United States House of Representatives (H.R. 2) contains language that would limit the ability of local governments to protect their communities from potentially harmful pesticides by tailoring regulations to fit local environmental conditions;

NOW, THEREFORE, BE IT RESOLVED, that the Portland City Council hereby **opposes** language in the Farm Bill that would prevent local governments from implementing pesticide ordinances that are more strict than Federal rules including provision in HR 7266 – “To amend the Federal Insecticide, Fungicide, and Rodenticide Act to Prohibit the Local Regulation of Pesticide Use, and for Other Purposes” as well as any similar bill that may be introduced; and

BE IT FURTHER RESOLVED that the Portland City Council hereby **supports S. 269**, the Protect America's Children from Toxic Pesticides Act (PACTPA) that would expand the ability of local governments to regulate pesticides and ban the use of Paraquat, neonicotinoid insecticides and organophosphate insecticides

BE IT FURTHER RESOLVED that the Portland City Council authorizes the Mayor and the Chair of the City Council Sustainability and Transportation Committee to send a the letter on behalf of the Council Council to the Chairs of the Agriculture Committee and Maine's Congressional Delegation expressing opposition to HR 7266 and supporting PACTPA and further urging them to protect the authority of local governments to protect their communities from harmful pesticides.

117TH CONGRESS
2D SESSION

H. R. 7266

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to prohibit the local regulation of pesticide use, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2022

Mr. RODNEY DAVIS of Illinois (for himself, Mr. BAIRD, Mr. BALDERSON, Mr. VALADAO, Mr. LATURNER, Mr. MANN, Mr. FEENSTRA, Mr. ALLEN, Mr. AUSTIN SCOTT of Georgia, Mrs. MILLER-MEEKS, and Mr. NEWHOUSE) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to prohibit the local regulation of pesticide use, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PROHIBITING LOCAL REGULATION OF PES-**
4 **TICIDE USE.**

5 Section 24 of the Federal Insecticide, Fungicide, and
6 Rodenticide Act (7 U.S.C. 136v) is amended—

7 (1) in the section heading by inserting “**AND**
8 **LOCALITIES**” after “**STATES**”; and

1 (2) by adding at the end the following:

2 “(d) LOCAL REGULATION PROHIBITED.—A political
3 subdivision of a State shall not impose, or continue in ef-
4 fect, any requirement relating to the sale, distribution, la-
5 beling, application, or use of any pesticide or device sub-
6 ject to regulation by a State pursuant to this section or
7 by the Administrator under this Act.”.

○

117TH CONGRESS
1ST SESSION

S. _____

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to fully protect the safety of children and the environment, to remove dangerous pesticides from use, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BOOKER introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to fully protect the safety of children and the environment, to remove dangerous pesticides from use, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protect America’s Chil-
5 dren from Toxic Pesticides Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the Environmental Protection Agency (re-
2 ferred to in this section as the “EPA”) regularly
3 fails to incorporate updated scientific understanding
4 to protect human health and the environment from
5 the harmful effects of pesticide products, as envi-
6 sioned by the Federal Insecticide, Fungicide, and
7 Rodenticide Act (7 U.S.C. 136 et seq.), resulting in
8 the use of billions of pounds of pesticides every year
9 that were approved based on outdated science;

10 (2) the United States lags behind the European
11 Union and other developed nations in protecting its
12 people and its environment from toxic chemicals, al-
13 lowing the use of 72 pesticides that have been
14 banned or are being phased out in the European
15 Union alone;

16 (3) the EPA registers nearly 65 percent of pes-
17 ticides through conditional registrations and fre-
18 quently waives requirements to extend the use of
19 conditional registrations prior to completion of com-
20 prehensive registration;

21 (4) the EPA permits the continued sale of po-
22 tentially dangerous stocks of pesticides after reg-
23 istration has been canceled, suspended, or otherwise
24 voided;

1 (5) the EPA uses emergency exemptions to
2 keep pesticides on the market for years without un-
3 dergoing a comprehensive registration process that
4 would ensure the safe use of the pesticides;

5 (6) the EPA is prohibited from requiring the
6 disclosure of inert ingredients, even though inert in-
7 gredients can account for 99 percent of a pesticide
8 product and include carcinogenic and toxic chemi-
9 cals;

10 (7) scientists have repeatedly linked exposure to
11 organophosphate pesticides to neurodevelopmental
12 damage in children;

13 (8) the United States Fish and Wildlife Service
14 and the National Marine Fisheries Service have de-
15 termined that organophosphate pesticides jeopardize
16 the survival of 97 percent of endangered species;

17 (9) neonicotinoid pesticides are contributing to
18 the rapid decline of pollinators and the deterioration
19 of pollinator health, including impaired foraging be-
20 havior and increased susceptibility to viruses, dis-
21 eases, and parasites;

22 (10) exposure to paraquat—

23 (A) causes heart failure, kidney failure,
24 liver failure, lung scarring, and damage to brain
25 cells; and

1 (B) greatly increases the risk of developing
2 Parkinson's disease;

3 (11) local communities have been blocked by
4 States from enacting pesticide restrictions to protect
5 people and environment from toxic chemicals; and

6 (12) farmworkers are—

7 (A) disproportionately exposed to and
8 harmed by pesticide use; and

9 (B) afforded inadequate safeguards and
10 far less protection than industrial workers.

11 **SEC. 3. ENDING INDEFINITE DELAYS ON REVIEW OF DAN-**
12 **GEROUS PESTICIDES.**

13 (a) DEFINITIONS.—

14 (1) IN GENERAL.—Section 2 of the Federal In-
15 secticide, Fungicide, and Rodenticide Act (7 U.S.C.
16 136) is amended—

17 (A) by striking subsection (z) and inserting
18 the following:

19 “(z) REGISTRATION.—The term ‘registration’ means
20 the approval of an active ingredient or pesticide product
21 under this Act—

22 “(1) that has not previously been registered
23 under this Act; or

1 “(2) for a crop or use for which the active in-
2 ingredient or pesticide has not previously been reg-
3 istered under this Act.”;

4 (B) by redesignating subsections (aa)
5 through (oo) as subsections (bb) through (pp),
6 respectively; and

7 (C) by inserting after subsection (z) the
8 following:

9 “(aa) REGISTRATION REVIEW DETERMINATION.—

10 “(1) IN GENERAL.—The term ‘registration re-
11 view determination’ means the final decision to
12 renew the registration of a pesticide product or ac-
13 tive ingredient to authorize the use of the pesticide
14 product or active ingredient—

15 “(A) for an additional 15-year period from
16 the date of the previous registration, reregistra-
17 tion, or registration review determination, as
18 applicable; and

19 “(B) in compliance with all applicable laws
20 and regulations.

21 “(2) EXCLUSION.—The term ‘registration re-
22 view determination’ does not include any interim de-
23 termination regarding the continued use of a pes-
24 ticide product or active ingredient by the Adminis-
25 trator.”.

6

1 (2) CONFORMING AMENDMENTS.—

2 (A) Section 2(e)(1) of the Federal Insecti-
3 cide, Fungicide, and Rodenticide Act (7 U.S.C.
4 136(e)(1)) is amended by striking “subsection
5 (ee)” and inserting “subsection (ff)”.

6 (B) Section 3(h)(3)(E) of the Federal In-
7 secticide, Fungicide, and Rodenticide Act (7
8 U.S.C. 136a(h)(3)(E)) is amended by striking
9 “section 2(mm)” and inserting “section 2(nn)”.

10 (C) Section 33(b)(3) of the Federal Insec-
11 ticide, Fungicide, and Rodenticide Act (7
12 U.S.C. 136w-8(b)(3)) is amended—

13 (i) by striking “§2(mm)” each place it
14 appears and inserting “section 2(nn)”; and

15 (ii) by striking “Section 2(ll)(2)” and
16 inserting “section 2(mm)(2)”.

17 (b) SUSPENSION OF DANGEROUS PESTICIDES ON
18 FAILURE TO COMPLETE REGISTRATION REVIEW ON
19 TIME.—Section 4 of the Federal Insecticide, Fungicide,
20 and Rodenticide Act (7 U.S.C. 136a-1) is amended by
21 adding at the end the following:

22 “(o) SUSPENSION OF DANGEROUS PESTICIDES ON
23 FAILURE TO COMPLETE REGISTRATION REVIEW ON
24 TIME.—

1 “(1) DEFINITION OF DANGEROUS PESTICIDE.—

2 In this subsection, the term ‘dangerous pesticide’
3 means an active ingredient or pesticide product that
4 may—

5 “(A) be carcinogenic;

6 “(B) be acutely toxic;

7 “(C) be an endocrine disruptor;

8 “(D) cause harm to a pregnant woman or
9 a fetus; or

10 “(E) cause neurological or developmental
11 harm.

12 “(2) PETITIONS TO DESIGNATE DANGEROUS
13 PESTICIDES.—

14 “(A) IN GENERAL.—An interested person
15 may submit a petition under section 553(e) of
16 title 5, United States Code, to designate an ac-
17 tive ingredient or pesticide product as a dan-
18 gerous pesticide under this subsection.

19 “(B) REVIEW.— On receipt of a petition
20 under subparagraph (A), the Administrator
21 shall review the petitions submitted by inter-
22 ested persons under that subparagraph relating
23 to that active ingredient or pesticide product to
24 determine if the active ingredient or pesticide

1 product may warrant designation as a dan-
2 gerous pesticide.

3 “(3) INITIAL FINDINGS.—

4 “(A) IN GENERAL.—Not later than 90
5 days after the receipt of a petition described in
6 paragraph (2)(A), the Administrator shall make
7 a finding as to whether the petition presents
8 substantial scientific information indicating that
9 the designation of the petitioned active ingre-
10 dient or pesticide product as a dangerous pes-
11 ticide may be warranted.

12 “(B) FAILURE TO REVIEW PETITION.—If
13 the Administrator fails make a finding on a pe-
14 tition by the date required under subparagraph
15 (A), the active ingredient or pesticide product
16 that is the subject of the petition shall be
17 deemed to be a dangerous pesticide.

18 “(C) FULL CONSIDERATION OF ALL
19 SCIENCE.—

20 “(i) IN GENERAL.—In making a find-
21 ing as to whether a petition provides sub-
22 stantial scientific information that an ac-
23 tive ingredient or pesticide product may
24 warrant designation as a dangerous pes-
25 ticide under subparagraph (A), the Admin-

1 istrator shall fully consider all relevant evi-
2 dence, including—

3 “(I) epidemiological studies or
4 data;

5 “(II) peer-reviewed literature;
6 and

7 “(III) data generated by—

8 “(aa) a Federal or State
9 agency; or

10 “(bb) an agency of a foreign
11 government.

12 “(ii) REQUIREMENT.—The Adminis-
13 trator shall not discount or ignore informa-
14 tion provided in a petition described in
15 paragraph (2)(A) based on any criteria
16 under part 152 or 160 of title 40, Code of
17 Federal Regulations (or successor regula-
18 tions).

19 “(4) SUSPENSIONS OF PESTICIDE.—

20 “(A) IN GENERAL.—Notwithstanding any
21 other provision of law, on a finding under para-
22 graph (3)(A) that an active ingredient or pes-
23 ticide product may warrant designation as a
24 dangerous pesticide, or on operation of para-
25 graph (3)(B), the Administrator shall imme-

diately suspend the registration of the active ingredient or pesticide product if a valid reregistration eligibility decision or registration review determination has not been made regarding the active ingredient or pesticide product during the 15-year period ending on the date of that finding or operation.

“(B) DURATION.—The registration of an active ingredient or pesticide product suspended under subparagraph (A) shall remain suspended until such time as the Administrator makes a registration review determination in accordance with this section.

“(5) EXISTING STOCKS.—In accordance with section 6(a)(1), the Administrator shall not permit the continued sale and use of existing stocks of an active ingredient or pesticide product the registration of which has been suspended under paragraph (4).

“(6) CANCELLATION.—Notwithstanding any other provision of law, including section 6(b), if the Administrator fails to suspend the registration of an active ingredient or pesticide product that may warrant designation as a dangerous pesticide as re-

1 quired by this subsection by not later than 60 days
2 after any deadline described in this subsection—

3 “(A) the registration of the active ingre-
4 dient or pesticide product shall be immediately
5 and permanently canceled by operation of law
6 and without any further proceedings; and

7 “(B) in accordance with section 6(a)(1),
8 the sale of existing stocks of the active ingre-
9 dient or pesticide product shall be prohibited.

10 “(7) INAPPLICABILITY OF IREDS.—Notwith-
11 standing any other provision of law, an interim reg-
12 istration review decision or any other interim deter-
13 mination with respect to an active ingredient or pes-
14 ticide product shall have no force or effect regarding
15 any requirement of this subsection.”.

16 **SEC. 4. EMERGENCY REVIEW OF PESTICIDES BANNED IN**
17 **OTHER NATIONS.**

18 Section 6 of the Federal Insecticide, Fungicide, and
19 Rodenticide Act (7 U.S.C. 136d) is amended by adding
20 at the end the following:

21 “(i) SUSPENSION AND EXPEDITED REVIEW OF
22 BANNED PESTICIDES.—

23 “(1) SUSPENSION OF BANNED PESTICIDES.—
24 The Administrator shall immediately suspend the

1 registration of any active ingredient or pesticide
2 product that is—

3 “(A) banned or otherwise prohibited from
4 entering the market by the European Union, 1
5 or more countries in the European Union, or
6 Canada; and

7 “(B) registered for use within the United
8 States.

9 “(2) EXPEDITED REVIEW.—The Administrator
10 shall complete an expedited review of the justifica-
11 tion and rationale for the ban of a pesticide by the
12 European Union or a country described in para-
13 graph (1)(A).

14 “(3) CANCELLATION.—

15 “(A) IN GENERAL.—Notwithstanding any
16 other provision of law, including section 6(b),
17 unless the Administrator determines after a re-
18 view under paragraph (2) that the decision to
19 ban a pesticide by the European Union or a
20 country described in paragraph (1)(A) was
21 clearly erroneous, the registration that is sus-
22 pended shall be canceled not later than 2 years
23 after the date of completion of the review.

24 “(B) FULL CONSIDERATION OF ALL
25 SCIENCE.—

13

1 “(i) IN GENERAL.—In determining
2 whether the ban of a pesticide by the Eu-
3 ropean Union or a country described in
4 paragraph (1)(A) was clearly erroneous
5 under subparagraph (A), the Adminis-
6 trator shall fully consider all relevant evi-
7 dence, including—

8 “(I) epidemiological studies or
9 data;

10 “(II) peer-reviewed literature;
11 and

12 “(III) data generated by—

13 “(aa) a State or Federal
14 agency; or

15 “(bb) an agency of a foreign
16 government.

17 “(ii) TREATMENT OF INFORMA-
18 TION.—Notwithstanding any requirements
19 or criteria under parts 152 and 160 of title
20 40, Code of Federal Regulations (or suc-
21 cessor regulations), the Administrator shall
22 not discount, otherwise ignore, or give dis-
23 proportionately more or less weight to evi-
24 dence described in clause (i).

14

1 “(C) CONSIDERATION OF ECONOMIC COST
2 PROHIBITED.—In determining whether the ban
3 of a pesticide by the European Union or a
4 country described in paragraph (1)(A) was
5 clearly erroneous under subparagraph (A), the
6 Administrator shall not consider any economic
7 analysis of the benefits or costs of continuing to
8 register the pesticide.

9 “(D) PUBLIC COMMENT.—Prior to making
10 a final determination under subparagraph (A),
11 the Administrator shall provide a draft deter-
12 mination for not less than 90 days of public
13 comment.”.

14 **SEC. 5. ENSURING ACCOUNTABILITY IN CONDITIONAL REG-**
15 **ISTRATIONS.**

16 (a) IN GENERAL.—Section 3(c)(7) of the Federal In-
17 secticide, Fungicide, and Rodenticide Act (7 U.S.C.
18 136a(c)(7)) is amended by striking subparagraph (C) and
19 inserting the following:

20 “(C) TIME LIMITS ON CONDITIONAL REG-
21 ISTRATIONS.—

22 “(i) IN GENERAL.—Notwithstanding
23 any other provision of this subsection or
24 section 6(e), the Administrator shall pro-
25 vide not longer than 2 years for the terms

15

1 and requirements of any conditional reg-
2 istration under this paragraph to be met
3 by the registrant.

4 “(ii) CANCELLATION.—The Adminis-
5 trator shall cancel a conditional registra-
6 tion under this paragraph unless the reg-
7 istrant fully complies with all conditions by
8 the earlier of—

9 “(I) all deadlines established by
10 the Administrator; and

11 “(II) 2 years after the effective
12 date of the conditional registration.

13 “(iii) EXISTING CONDITIONAL REG-
14 ISTRATIONS.—Notwithstanding any other
15 provision of law, as of the date of enact-
16 ment of this clause, each outstanding con-
17 ditional registration under this paragraph
18 for which the registrant has not fulfilled all
19 conditions of the conditional registration
20 shall be canceled.

21 “(iv) REPORTS.—

22 “(I) IN GENERAL.—Not later
23 than December 31 of each calendar
24 year, the Administrator shall submit
25 to Congress an annual report describ-

1 ing the total number of conditional
2 registrations under this paragraph
3 that were registered during the imme-
4 diately preceding fiscal year.

5 “(II) CONTENTS.—A report
6 under subclause (I) shall include a de-
7 scription of—

8 “(aa) each conditionally reg-
9 istered pesticide and the condi-
10 tions imposed, including any
11 modification of those conditions;
12 and

13 “(bb) the quantity produced
14 of each pesticide described in
15 item (aa).”.

16 (b) CONFORMING AMENDMENT.—Section 6(e) of the
17 Federal Insecticide, Fungicide, and Rodenticide Act (7
18 U.S.C. 136d(e)) is amended—

19 (1) in paragraph (1), by striking the last sen-
20 tence and inserting “The Administrator shall not
21 permit the continued sale and use of existing stocks
22 of a pesticide the conditional registration of which
23 has been canceled.”; and

24 (2) in paragraph (2), in the third sentence, by
25 striking “, and whether the Administrator’s deter-

1 mination with respect to the disposition of existing
2 stocks is consistent with this Act”.

3 **SEC. 6. PROHIBITION ON THE SALE OR USE OF EXISTING**
4 **STOCKS OF SUSPENDED OR CANCELED PES-**
5 **TICIDES.**

6 Section 6(a) of the Federal Insecticide, Fungicide,
7 and Rodenticide Act (7 U.S.C. 136d(a)) is amended by
8 striking the subsection designation and heading and all
9 that follows through the period at the end of paragraph
10 (1) and inserting the following:

11 “(a) PROHIBITION ON THE SALE OR USE OF EXIST-
12 ING STOCKS; INFORMATION.—

13 “(1) EXISTING STOCKS.—The Administrator
14 shall not permit the continued sale or use of existing
15 stocks of a pesticide the registration of which is—

16 “(A) suspended or canceled under this sec-
17 tion or section 3 or 4; or

18 “(B) vacated or set aside by judicial de-
19 cree.”.

20 **SEC. 7. ENDING ABUSE OF EMERGENCY EXEMPTIONS.**

21 Section 18 of the Federal Insecticide, Fungicide, and
22 Rodenticide Act (7 U.S.C. 136p) is amended—

23 (1) in the first sentence, by striking “The Ad-
24 ministrator” and inserting the following:

25 “(a) IN GENERAL.—The Administrator”;

1 (2) in subsection (a) (as so designated), in the
2 second sentence, by striking “The Administrator”
3 and inserting the following:

4 “(b) CONSULTATION.—The Administrator”; and
5 (3) by adding at the end the following:

6 “(c) LIMITATIONS ON EMERGENCY EXEMPTIONS.—
7 Notwithstanding any other provision of law, the Adminis-
8 trator shall not grant an emergency exemption under sub-
9 section (a) for the same active ingredient or pesticide
10 product in the same location for more than 2 years in any
11 10-year period.

12 “(d) RESTRICTIONS ON UNREGISTERED PES-
13 TICIDES.—The Administrator shall not grant an emer-
14 gency exemption under subsection (a) to use an active in-
15 gredient or pesticide product that is not registered under
16 section 3 for any use.

17 “(e) RESTRICTIONS ON CONDITIONAL PESTICIDES.—
18 The Administrator shall not grant an emergency exemp-
19 tion under subsection (a) for any active ingredient or pes-
20 ticide product that is registered conditionally under sec-
21 tion 3(c)(7)(A).”.

22 **SEC. 8. ADDING TRANSPARENCY FOR INERT INGREDIENTS.**

23 (a) DEFINITION OF INGREDIENT STATEMENT.—Sec-
24 tion 2(n) of the Federal Insecticide, Fungicide, and
25 Rodenticide Act (7 U.S.C. 136(n)) is amended—

1 (1) by redesignating paragraph (2) as para-
2 graph (4); and

3 (2) by striking paragraph (1) and inserting the
4 following:

5 “(1) the name and percentage of each active in-
6 gredient in the pesticide product;

7 “(2) the name and percentage of each inert in-
8 gredient in the pesticide product;

9 “(3) if applicable, a statement that the pesticide
10 product contains an inert ingredient determined by
11 a State or Federal agency, or the Administrator
12 based on epidemiological data or peer-reviewed lit-
13 erature, to be likely—

14 “(A) to be carcinogenic;

15 “(B) to be an endocrine disruptor;

16 “(C) to be acutely toxic;

17 “(D) to cause harm to pregnant women or
18 fetuses; or

19 “(E) to cause neurological or develop-
20 mental harm; and”.

21 (b) COMPLETE LIST OF INERT INGREDIENTS.—Sec-
22 tion 3(c)(9) of the Federal Insecticide, Fungicide, and
23 Rodenticide Act (7 U.S.C. 136a(c)(9)) is amended by add-
24 ing at the end the following:

20

1 “(E) COMPLETE LIST OF INERT INGREDI-
2 ENTS.—Notwithstanding any other provision of
3 law, the label or labeling required under this
4 Act shall provide a complete list of inert ingre-
5 dients.”.

6 (c) CONFORMING AMENDMENT.—Section 10(d) of
7 the Federal Insecticide, Fungicide, and Rodenticide Act
8 (7 U.S.C. 136h(d)) is amended—

9 (1) in paragraph (1)—

10 (A) in subparagraph (A), by adding “or”
11 at the end;

12 (B) in subparagraph (B), by striking “or”
13 at the end; and

14 (C) by striking subparagraph (C); and

15 (2) in paragraph (3), by striking “clause (A),
16 (B), or (C)” each place it appears and inserting
17 “subparagraph (A) or (B)”.

18 **SEC. 9. CANCELLATION OF REGISTRATION OF**
19 **ORGANOPHOSPHATES.**

20 Section 6 of the Federal Insecticide, Fungicide, and
21 Rodenticide Act (7 U.S.C. 136d) (as amended by section
22 4) is amended by adding at the end the following:

23 “(j) CANCELLATION OF REGISTRATION OF
24 ORGANOPHOSPHATE PESTICIDES.—

25 “(1) IN GENERAL.—

21

1 “(A) CANCELLATION.—Effective on the
2 date of enactment of this subsection—

3 “(i) all pesticides of the class
4 organophosphate shall be deemed to gen-
5 erally cause unreasonable adverse effects to
6 humans; and

7 “(ii) notwithstanding any other provi-
8 sion of law, including section 6(b), the reg-
9 istration of all uses of pesticides of the
10 class organophosphate shall be immediately
11 and permanently canceled by operation of
12 law and without further proceedings.

13 “(B) REVOCATION OF TOLERANCES AND
14 EXEMPTIONS.—Not later than 6 months after
15 the date of enactment of this subsection, the
16 Administrator shall, in accordance with section
17 408(b)(1)(B) of the Federal Food, Drug, and
18 Cosmetic Act (21 U.S.C. 346a(b)(1)(B)), re-
19 voke any tolerance or exemption that allows the
20 presence of an organophosphate, or any pes-
21 ticide chemical residue that results from
22 organophosphate use, in or on food.

23 “(2) SALE OF EXISTING STOCKS PROHIB-
24 ITED.—In accordance with subsection (a)(1), effec-
25 tive on the date of enactment of this subsection, the

1 continued sale or use of existing stocks of pesticides
2 of the class organophosphate shall be prohibited.

3 “(3) NO FUTURE ORGANOPHOSPHATE REG-
4 ISTRATIONS.—Effective on the date of enactment of
5 this subsection, the Administrator may not register
6 any pesticide of the class organophosphate under
7 section 4.

8 “(4) INELIGIBILITY FOR EMERGENCY USE.—
9 Notwithstanding any other provision of law, a pes-
10 ticide canceled under this subsection shall not be eli-
11 gible for use under section 18.”.

12 **SEC. 10. CANCELLATION OF REGISTRATION OF**
13 **NEONICOTINOIDS.**

14 Section 6 of the Federal Insecticide, Fungicide, and
15 Rodenticide Act (7 U.S.C. 136d) (as amended by section
16 9) is amended by adding at the end the following:

17 “(k) CANCELLATION OF REGISTRATION OF
18 NEONICOTINOID PESTICIDES.—

19 “(1) IN GENERAL.—

20 “(A) CANCELLATION.—Effective on the
21 date of enactment of this subsection—

22 “(i) all active ingredients and pes-
23 ticide products containing 1 or more of the
24 active ingredients imidacloprid,
25 clothianidin, thiamethoxam, dinotefuran,

1 acetamiprid, sulfoxaflor, and
2 flupyradifurone (referred to in this sub-
3 section as ‘neonicotinoid pesticides’) shall
4 be deemed to generally cause unreasonable
5 adverse effects to the environment; and

6 “(ii) notwithstanding any other provi-
7 sion of law, including section 6(b), the reg-
8 istration of all uses of neonicotinoid pes-
9 ticides shall be immediately and perma-
10 nently canceled by operation of law and
11 without further proceedings.

12 “(B) REVOCATION OF TOLERANCES AND
13 EXEMPTIONS.—Not later than 6 months after
14 the date of enactment of this subsection, the
15 Administrator shall, in accordance with section
16 408(b)(1)(B) of the Federal Food, Drug, and
17 Cosmetic Act (21 U.S.C. 346a(b)(1)(B)), re-
18 voke any tolerance or exemption that allows the
19 presence of a neonicotinoid pesticide, or any
20 pesticide chemical residue that results from
21 neonicotinoid pesticide use, in or on food.

22 “(2) SALE OF EXISTING STOCKS PROHIB-
23 ITED.—In accordance with subsection (a)(1), effec-
24 tive on the date of enactment of this subsection, the

1 continued sale or use of existing stocks of
2 neonicotinoid pesticides shall be prohibited.

3 “(3) NO FUTURE NEONICOTINOID REGISTRA-
4 TIONS.—Effective on the date of enactment of this
5 subsection, the Administrator may not register any
6 neonicotinoid pesticide under section 4.

7 “(4) INELIGIBILITY FOR EMERGENCY USE.—
8 Notwithstanding any other provision of law, a pes-
9 ticide canceled under this section shall not be eligible
10 for use under section 18.”.

11 **SEC. 11. CANCELLATION OF REGISTRATION OF PARAQUAT.**

12 Section 6 of the Federal Insecticide, Fungicide, and
13 Rodenticide Act (7 U.S.C. 136d) (as amended by section
14 10) is amended by adding at the end the following:

15 “(l) CANCELLATION OF REGISTRATION OF
16 PARAQUAT.—

17 “(1) IN GENERAL.—

18 “(A) CANCELLATION.—Effective on the
19 date of enactment of this subsection—

20 “(i) paraquat shall be deemed to gen-
21 erally cause unreasonable adverse effects to
22 humans; and

23 “(ii) notwithstanding any other provi-
24 sion of law, including section 6(b), the reg-
25 istration of all uses of paraquat shall be

1 immediately and permanently canceled by
2 operation of law and without further pro-
3 ceedings.

4 “(B) REVOCATION OF TOLERANCES AND
5 EXEMPTIONS.—Not later than 6 months after
6 the date of enactment of this subsection, the
7 Administrator shall, in accordance with section
8 408(b)(1)(B) of the Federal Food, Drug, and
9 Cosmetic Act (21 U.S.C. 346a(b)(1)(B)), re-
10 voke any tolerance or exemption that allows the
11 presence of paraquat, or any pesticide chemical
12 residue that results from paraquat use, in or on
13 food.

14 “(2) SALE OF EXISTING STOCKS PROHIB-
15 ITED.—In accordance with subsection (a)(1), effec-
16 tive on the date of enactment of this subsection, the
17 continued sale or use of existing stocks of paraquat
18 shall be prohibited.

19 “(3) NO FUTURE PARAQUAT REGISTRATIONS.—
20 Effective on the date of enactment of this sub-
21 section, the Administrator may not register any
22 paraquat pesticide under section 4.

23 “(4) INELIGIBILITY FOR EMERGENCY USE.—
24 Notwithstanding any other provision of law, a pes-

1 ticide canceled under this section shall not be eligible
2 for use under section 18.”.

3 **SEC. 12. EMPOWERING COMMUNITIES TO PROTECT THEM-**
4 **SELVES FROM PESTICIDES.**

5 (a) IN GENERAL.—Section 24 of the Federal Insecti-
6 cide, Fungicide, and Rodenticide Act (7 U.S.C. 136v) is
7 amended—

8 (1) in subsection (a)—

9 (A) by inserting “, or any political subdivi-
10 sion of a State,” after “A State”; and

11 (B) by inserting “or political subdivision”
12 after “the State”;

13 (2) by striking subsection (b); and

14 (3) by redesignating subsection (c) as sub-
15 section (b).

16 (b) CONFORMING AMENDMENT.—Section 3(c)(5) of
17 the Federal Insecticide, Fungicide, and Rodenticide Act
18 (7 U.S.C. 136a(c)(5)) is amended, in the fourth sentence
19 of the undesignated matter following subparagraph (D),
20 by striking “24(c) of this Act” and inserting “24(b)”.

21 **SEC. 13. PROTECTING FARMWORKERS FROM DANGEROUS**
22 **PESTICIDES.**

23 (a) LANGUAGE REQUIREMENTS FOR PESTICIDE
24 PRODUCTS.—Section 3(c)(9) of the Federal Insecticide,
25 Fungicide, and Rodenticide Act (7 U.S.C. 136a(c)(9)) (as

1 amended by section 8(b)) is amended by adding at the
2 end the following:

3 “(F) LANGUAGE REQUIREMENTS FOR PES-
4 TICIDE PRODUCTS.—

5 “(i) IN GENERAL.—The label for any
6 pesticide product shall be printed in both
7 English and Spanish.

8 “(ii) OTHER LANGUAGES.—In a case
9 in which information exists that a pesticide
10 product is used in agriculture by more
11 than 500 individual persons or applicators
12 who speak the same language other than
13 English or Spanish, the Administrator
14 shall provide a translation of that label in
15 the language used by those individuals on
16 the website of the Environmental Protec-
17 tion Agency.

18 “(iii) EDUCATIONAL INFORMATION.—
19 The Administrator shall provide edu-
20 cational information to ensure that all
21 users of a pesticide product are aware that
22 information is available in alternate lan-
23 guages.”.

1 (b) FARMWORKER SAFETY.—The Federal Insecti-
2 cide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et
3 seq.) is amended by adding at the end the following:

4 **“SEC. 36. FARMWORKER SAFETY.**

5 “(a) DEFINITIONS.—In this section:

6 “(1) FARMWORKER.—The term ‘farmworker’
7 means an individual of any age that is employed in
8 agriculture, including as a pesticide user or appli-
9 cator, for any length of time, including migrant and
10 seasonal employees, regardless of classification as a
11 full-time, part-time, or contract employee.

12 “(2) FARMWORKER INCIDENT.—The term
13 ‘farmworker incident’ means exposure of a farm-
14 worker to an active ingredient, a pesticide product,
15 a tank mixture of multiple pesticides, a metabolite,
16 or a degradate that results in—

17 “(A) an illness or injury—

18 “(i) requiring medical attention or
19 hospitalization of the farmworker; or

20 “(ii) that requires the farmworker to
21 stop working temporarily or permanently;

22 “(B) a permanent disability or loss in
23 function of the farmworker; or

24 “(C) death of the farmworker.

25 “(b) MANDATORY DUTY TO REPORT.—

29

1 “(1) IN GENERAL.—Whenever a farmworker in-
2 cident occurs, the employer of each affected farm-
3 worker shall report the incident to the Adminis-
4 trator.

5 “(2) ONLINE SYSTEM.—

6 “(A) IN GENERAL.—Not later than 60
7 days after the date of enactment of this section,
8 the Administrator shall implement and deploy
9 an online system to facilitate the reporting of
10 farmworker incidents.

11 “(B) REQUIREMENTS.—The online system
12 under subparagraph (A) shall include, at a min-
13 imum, a description of, with respect to each
14 farmworker incident—

15 “(i) the time and location;

16 “(ii) the name of each active ingre-
17 dient and pesticide product involved;

18 “(iii) whether such a pesticide was ap-
19 plied in accordance with the label instruc-
20 tions;

21 “(iv) the harm that resulted to any af-
22 fected farmworker;

23 “(v) the nature of any medical care
24 that was sought by any affected farm-
25 worker; and

1 “(vi) any other pertinent information.

2 “(C) ANONYMOUS REPORTING.—The Ad-
3 ministrator shall ensure that the online system
4 under subparagraph (A) allows for anonymous
5 reporting to protect farmworkers from retalia-
6 tion.

7 “(c) PENALTIES FOR FAILURE TO REPORT.—

8 “(1) CIVIL PENALTIES.—An employer described
9 in subsection (b)(1) that fails to report a farm-
10 worker incident shall be fined \$1,000 per day begin-
11 ning on the 8th day after the farmworker incident
12 occurs.

13 “(2) CRIMINAL PENALTIES.—An employer de-
14 scribed in subsection (b)(1) that knowingly fails to
15 report a farmworker incident, or that otherwise pres-
16 sures or coerces a farmworker to not report a farm-
17 worker incident, shall be liable for a criminal penalty
18 of up to \$100,000, 6 months in prison, or both.

19 “(3) REWARDS.—The Administrator shall im-
20 plement a reward system that a provides monetary
21 award of not less than \$25,000 per person per farm-
22 worker incident that leads to the identification of 1
23 or more employers that have failed to report a farm-
24 worker incident.

25 “(4) RETALIATION.—

1 “(A) IN GENERAL.—Any person that takes
2 punitive action against a farmworker or a per-
3 son that reports a farmworker incident shall be
4 liable for a criminal penalty of not more than
5 \$100,000, 6 months in prison, or both.

6 “(B) IMMIGRATION STATUS.—No Federal
7 agency shall take any action regarding the im-
8 migration legal status within the United States
9 of a farmworker, including initiating removal
10 proceedings or any other prosecution of the
11 farmworker, based solely on any information
12 derived from the reporting or investigation of a
13 farmworker incident.

14 “(d) PREVENTING FUTURE HARM TO FARM-
15 WORKERS.—

16 “(1) IN GENERAL.—Not later than 15 days
17 after the receipt of a report of a farmworker inci-
18 dent, the Administrator shall transmit a report pre-
19 pared by the Administrator of the farmworker inci-
20 dent to—

21 “(A) the manufacturer of each involved
22 pesticide product; and

23 “(B) the manufacturer of each involved ac-
24 tive ingredient or ingredients.

1 “(2) SUSPENSION.—Notwithstanding any other
2 provision of law, if a farmworker incident results in
3 the death of a farmworker, the pesticide product or
4 active ingredient that caused the death shall be im-
5 mediately suspended, pending the review required by
6 this section.

7 “(3) ASSESSMENTS.—

8 “(A) PESTICIDE PRODUCT MANUFAC-
9 TURER.—Not later than 60 days after the re-
10 ceipt of a report of a farmworker incident, the
11 manufacturer of the pesticide product shall pro-
12 vide to the Administrator an assessment of the
13 farmworker incident, including whether any
14 changes to the label of the pesticide product or
15 active ingredient are warranted at the time of
16 the assessment to avoid future farmworker inci-
17 dents.

18 “(B) ASSESSMENT BY ACTIVE INGREDIENT
19 MANUFACTURER.—Not later than 60 days after
20 the receipt of a report of a farmworker incident,
21 the manufacturer of each involved pesticide ac-
22 tive ingredient shall provide to the Adminis-
23 trator an assessment of the farmworker inci-
24 dent, including whether any changes to the pes-
25 ticide product or active ingredient are war-

1 ranted at the time of the assessment to avoid
2 future farmworker incidents.

3 “(4) DETERMINATIONS BY ADMINISTRATOR.—

4 “(A) DRAFT DETERMINATION.—

5 “(i) IN GENERAL.—Not later than the
6 earlier of 90 days after the receipt of an
7 assessment required by paragraph (3) and
8 180 days after the occurrence of the farm-
9 worker incident, the Administrator shall
10 make a draft determination as to whether
11 a change in the label of an involved pes-
12 ticide product or active ingredient is war-
13 ranted.

14 “(ii) PUBLICATION.—The Adminis-
15 trator shall publish a determination under
16 clause (i) in the Federal Register for a pe-
17 riod of 30 days for public notice and com-
18 ment.

19 “(B) FINAL DETERMINATION.—Not later
20 than 30 days after the close of the public com-
21 ment described in subparagraph (A)(ii), the Ad-
22 ministrator shall—

23 “(i) make a final determination as to
24 whether the label of the pesticide product
25 should be changed; and

1 “(ii) publish that final determination
2 in the Federal Register.

3 “(5) CANCELLATIONS.—

4 “(A) FAILURE TO CHANGE LABEL.—Not-
5 withstanding any other provision of law, includ-
6 ing section 6(b), if the manufacturer of a pes-
7 ticide product or active ingredient does not
8 change the label of the applicable product in ac-
9 cordance with a final determination of the Ad-
10 ministrator under paragraph (4)(B), the pes-
11 ticide product or active ingredient shall be im-
12 mediately and permanently canceled by oper-
13 ation of law and without further proceedings.

14 “(B) CANCELLATION FOR FAILURE TO
15 COMPLY.—Notwithstanding any other provision
16 of law, including section 6(b), if the manufac-
17 turer of the pesticide product or active ingre-
18 dient fails to comply with any applicable provi-
19 sion of this section, the active ingredient and all
20 pesticide products containing the active ingre-
21 dient shall be immediately and permanently
22 canceled by operation of law and without fur-
23 ther proceedings.

24 “(e) ACCOUNTING FOR FARMWORKER INCIDENTS
25 DURING REGISTRATION REVIEW.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of law, if a pesticide product or active in-
3 gredient is responsible for not fewer than 10 farm-
4 worker incidents of any type, or not fewer than 3
5 farmworker incidents resulting in death, and the
6 pesticide product or active ingredient has not re-
7 ceived a final determination regarding a registration
8 review during the preceding 15-year period, the Ad-
9 ministrator shall immediately suspend the pesticide
10 product or active ingredient until a final determina-
11 tion is made regarding the registration review of the
12 pesticide.

13 “(2) REPORTS.—The Administrator shall—

14 “(A) include in a final determination re-
15 garding the registration review of a pesticide
16 the registration of which is suspended under
17 paragraph (1) a full and complete report de-
18 scribing each farmworker incident that has oc-
19 curred during the period covered by the report;
20 and

21 “(B)(i) require label changes to prevent
22 farmworker incidents from occurring in the fu-
23 ture; or

24 “(ii) explain why no label changes under
25 clause (i) are warranted.”.

1 **SEC. 14. AUTHORITY TO BRING CIVIL ACTION.**

2 Section 16 of the Federal Insecticide, Fungicide, and
3 Rodenticide Act (7 U.S.C. 136n) is amended by adding
4 at the end the following:

5 “(e) **AUTHORITY TO BRING CIVIL ACTION.**—

6 “(1) **IN GENERAL.**—Any person may bring a
7 civil action against the Administrator where there is
8 an alleged failure of the Administrator to comply
9 with any provision of this Act.

10 “(2) **JURISDICTION.**—The district courts of the
11 United States shall have exclusive jurisdiction over a
12 civil action brought pursuant to paragraph (1).”.

13 **SEC. 15. EMPLOYEE PROTECTION.**

14 The Federal Insecticide, Fungicide, and Rodenticide
15 Act (7 U.S.C. 136 et seq.) (as amended by section 13(b))
16 is amended by adding at the end the following:

17 **“SEC. 37. EMPLOYEE PROTECTION.**

18 “(a) **PROHIBITION.**—No employer may discharge any
19 employee or otherwise discriminate against any employee
20 with respect to the employee’s compensation, terms, condi-
21 tions, or privileges of employment because the employee
22 (or any person acting pursuant to a request of the em-
23 ployee)—

24 “(1) has commenced, has caused to be com-
25 menced, or is about to commence or cause to be
26 commenced a proceeding under this Act;

1 “(2) has testified or is about to testify in any
2 proceeding described in paragraph (1); or

3 “(3) has assisted or participated or is about to
4 assist or participate in any manner in—

5 “(A) any proceeding described in para-
6 graph (1); or

7 “(B) any other action to carry out the pur-
8 poses of this Act.

9 “(b) REMEDY.—

10 “(1) FILING OF COMPLAINT.—Any employee
11 who believes that the employee has been discharged
12 or otherwise discriminated against by any person in
13 violation of subsection (a) may, not later than 30
14 days after the date on which the alleged violation oc-
15 curs, file (or have any person file on behalf of the
16 employee) a complaint with the Secretary of Labor
17 (referred to in this section as the ‘Secretary’) alleg-
18 ing that discharge or discrimination.

19 “(2) NOTIFICATION.—On receipt of a complaint
20 filed under paragraph (1), the Secretary shall notify
21 the person named in the complaint of the filing of
22 the complaint.

23 “(3) INVESTIGATIONS.—

24 “(A) IN GENERAL.—On receipt of a com-
25 plaint filed under paragraph (1), the Secretary

1 shall conduct an investigation of the violation
2 alleged in the complaint.

3 “(B) RESULTS.—Not later than 30 days
4 after the date on which the Secretary receives
5 a complaint filed under paragraph (1), the Sec-
6 retary shall—

7 “(i) complete the investigation under
8 subparagraph (A); and

9 “(ii) notify in writing the complainant
10 (and any person acting on behalf of the
11 complainant) and the person alleged to
12 have committed the applicable violation of
13 the results of that investigation.

14 “(4) ORDERS.—

15 “(A) IN GENERAL.—Not later than 90
16 days after the date on which the Secretary re-
17 ceives a complaint filed under paragraph (1),
18 unless the proceeding on the complaint is termi-
19 nated by the Secretary on the basis of a settle-
20 ment entered into by the Secretary and the per-
21 son alleged to have committed the applicable
22 violation, the Secretary shall issue an order—

23 “(i) providing the relief described in
24 paragraph (5); or

25 “(ii) denying the complaint.

1 “(B) NOTICE AND OPPORTUNITY FOR
2 HEARING.—An order of the Secretary under
3 subparagraph (A) shall be made on the record
4 after notice and opportunity for agency hearing.

5 “(C) SETTLEMENTS.—The Secretary may
6 not enter into a settlement terminating a pro-
7 ceeding on a complaint filed under paragraph
8 (1) without the participation and consent of the
9 complainant.

10 “(5) RELIEF.—If, in response to a complaint
11 filed under paragraph (1), the Secretary determines
12 that a violation of subsection (a) has occurred, the
13 Secretary shall issue an order—

14 “(A) requiring the person who committed
15 the violation—

16 “(i) to take affirmative action to
17 abate the violation; and

18 “(ii) if the complainant was dis-
19 charged by the person committing the vio-
20 lation, to reinstate the complainant to the
21 complainant’s former position, with the
22 compensation (including back pay), terms,
23 conditions, and privileges of the complain-
24 ant’s employment; and

1 “(B) assessing against the person who
2 committed the violation—

3 “(i) compensatory damages;

4 “(ii) if appropriate, exemplary dam-
5 ages; and

6 “(iii) at the request of the complain-
7 ant, a sum equal to the aggregate amount
8 of all costs and expenses (including attor-
9 ney’s fees) reasonably incurred, as deter-
10 mined by the Secretary, by the complain-
11 ant for, or in connection with, the bringing
12 of the complaint.

13 “(c) JUDICIAL REVIEW.—

14 “(1) IN GENERAL.—Any employee or employer
15 adversely affected or aggrieved by an order issued
16 under subsection (b) may obtain review of the order
17 in the court of appeals of the United States for the
18 judicial circuit in which the violation with respect to
19 which the order is issued allegedly occurred.

20 “(2) PETITION.—A petition for review under
21 paragraph (1) shall be filed not later than 60 days
22 after the date on which the applicable order is issued
23 under subsection (b).

1 “(3) APPLICABLE LAW.—Judicial review under
2 paragraph (1) shall be in accordance with chapter 7
3 of title 5, United States Code.

4 “(4) EXCLUSIVE REVIEW.—An order of the
5 Secretary with respect to which judicial review may
6 be or may have been obtained under paragraph (1)
7 shall not be subject to judicial review in—

8 “(A) a criminal proceeding; or

9 “(B) a civil proceeding under any other
10 provision of law.

11 “(d) ENFORCEMENT.—

12 “(1) IN GENERAL.—If a person fails to comply
13 with an order issued under subsection (b), the Sec-
14 retary shall bring a civil action in the district court
15 of the United States for the judicial district in which
16 the violation is determined to occur to enforce that
17 order.

18 “(2) JURISDICTION.—In a civil action brought
19 under paragraph (1), a district court of the United
20 States shall have jurisdiction to grant all appro-
21 priate relief, including injunctive relief, compen-
22 satory damages, and exemplary damages.

23 “(e) EXCLUSION.—Subsection (a) shall not apply
24 with respect to any employee who, acting without direction
25 from the employee’s employer (or any agent of the em-

1 ployer), deliberately causes a violation of any requirement
2 of this Act.”.

City of Portland, ME
Pesticide Management Advisory Committee
Annual Report to the Sustainability and Transportation Committee
March 22, 2023

The City of Portland's Pesticide Ordinance requires the Pesticide Management Advisory Committee to provide a report to the Sustainability and Transportation Committee every year before March 31 in order to inform the City Council about the actions of the committee and to provide recommendations to the pesticide ordinance to enhance its environmental and public health benefits. This is the third annual report.

PMAC 2022

- Jesse O'Brien
- Avery Yale Kamila, Waiver Committee
- Carol Laboissonnier
- Priscilla Skerry
- Karen Snyder (*Chair, November 2021 to March 2023*)
- Troy Moon, City Staff
- Noah Tucker

Executive Summary

- During the past year, Portland Parks & Recreation reported achieving 100% organic management of the City's athletic facilities. This significant accomplishment demonstrates the City of Portland's commitment to building vibrant, livable communities.
- The PMAC received 40 applicator reports for 2022. Staff connected with all applicators that reported in 2021 and found full reporting compliance.
- The PMAC did not receive any waiver requests in 2022.
- There were twelve pesticide complaints registered on SeeClickFix in 2022, the majority for signage violations.
- The first fine for application in violation of the Pesticide Use Ordinance was issued in 2022.
- In September 2022, the Portland City Council approved amendments to the Pesticide Ordinance recommended by city staff and PMAC. The new Land Care Ordinance restricts the use of synthetic fertilizers in addition to the restriction of pesticides. These amendments go into effect on March 19, 2023.
- With this report, the PMAC does not make any new recommendations for 2023. The committee will continue to assist in educating the public about the City's Landcare Ordinance.

Portland Parks & Recreation Organic Land Care Highlights

During 2022, the Parks & Recreation Department achieved 100% organic management of the City's athletic facilities. This significant accomplishment demonstrates the City of Portland's commitment to building vibrant, livable communities.

- All of Portland's playing fields are maintained without the use of pesticides or synthetic fertilizers so that residents can gather and play without being exposed to harmful

chemicals. Examples of these spaces include Fox Field, Quinn Field and Deering Oaks Baseball Field, Back Cove Park, Payson A Field, and Presumpscot Field.

- This effort is with great thanks to Alex Marshall, Parks Director, and Pat Farrell, Ballfields Supervisor, who have led the Athletic Facilities staff toward a more sustainable, organic approach to turf management, and helping to meet the City's resilience goals.
- Portland's climate action plan, One Climate Future, set forth goals to adopt a fertilizer ordinance aimed at reducing synthetic fertilizer applications and further protecting the health of Casco Bay. In September 2022 the City Council adopted amendments to Chapter 34 of the City Code that prohibit the use of synthetic fertilizers and restrict the use of organic fertilizers.

Applicator Report 2022 Data

- The Pesticide Use Ordinance requires that licensed applicators submit an annual report outlining all pesticide treatments (both synthetic and organic) within the City of Portland. To notify applicators of this requirement, we utilized the MELNA and State of Maine Board of Pesticide Control lists and sent notice via email to all licensed applicators in Cumberland County. Information about the report and a Google Form to submit a report were also added to the Sustainability Office web pages within the City's website.
- We received reports from 40 businesses, which is 4 less than was received last year. 5 businesses that reported last year informed us they either had no applications in Portland in 2022 or their business was closed. There were 3 new reporters for 2022. For this reason, we received higher reporting compliance in 2022 than 2021.

Businesses that submitted reports include:

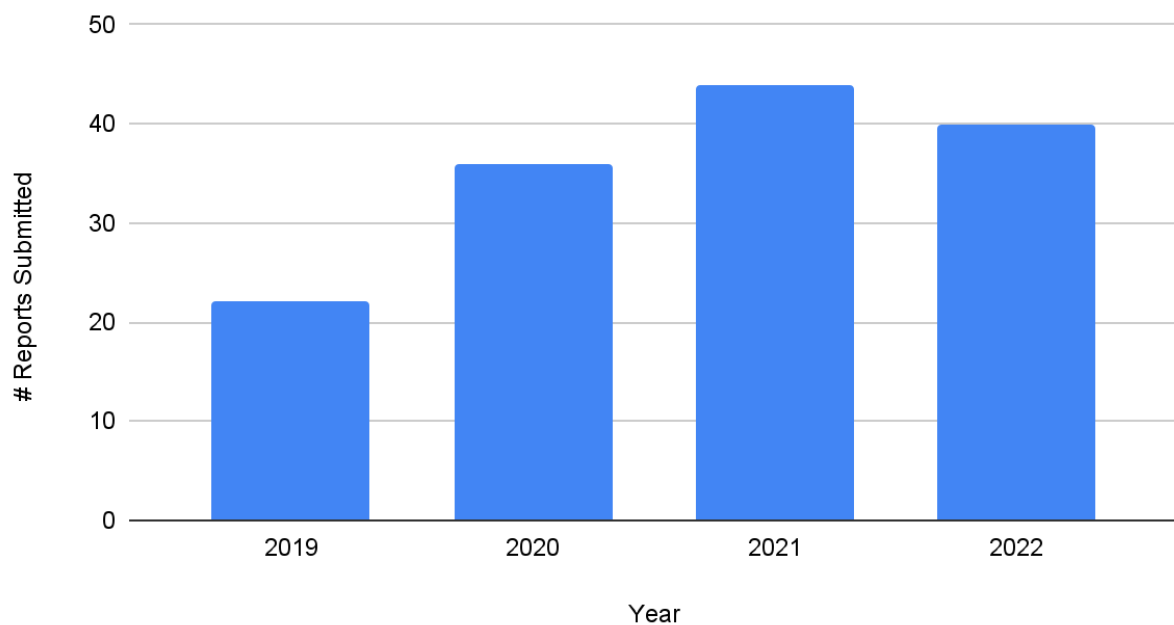
1. A-Man Landscaping & Sports Turf	15. Grass Geek LLC	28. Pest-End
2. A1 Exterminators	16. Green Pest Defense	29. Precision Pest Control, LLC
3. Ant Man Pest Control	17. Liberty Pest Control, Inc.	30. Protect Pest Services
4. Ants Etc Pest Control	18. Magic Carpet Cleaning & Restoration Inc	31. Rainbow International of Greater Portland
5. Atlantic Insect & Lawn Control	19. Maine Pest Solutions	32. Riverside Golf Club
6. Big Blue Bug	20. Maine Tick and Mosquito Control, LLC	33. Sea Dogs (Hadlock Field)
7. Bouchard Cleaning and Restoration	21. Mainely Grass Holding LLC	34. Seabreeze Property Services
8. Bullseye Pest Services, LLC	22. Mainely Ticks	35. Sterling Insect - Lawn Control Inc
9. Burnell Pest Services Inc	23. MD Weaver Corporation	36. Superior Pest Control
10. Cheverus High School	24. Modern Pest Services	37. Terminix
11. Davey Tree Expert Company	25. Mosquito Squad of Southern Maine	38. TruGreen
12. David W. MacDonald Inc. DBA Whitney Tree Service	26. Naturalawn of America	39. Turf Doctor Lawn & Pest Services
13. Erlich Pest Solutions	27. Octagon Cleaning and Restoration	40. Waltham Pest Services
14. EZ Pest Solutions		

Staff was pleased that these companies submitted reports detailing their pesticide applications during the calendar year 2022.

- *It is important to note that we do not know how many pest management and landscaping companies operate in Portland so we do not know how many firms are required to submit reports.*

City of Portland Commercial Applicator Annual Reporting Summary Data (2019 to 2022)

Reports Submitted



Portland Pesticide Annual Report Areas	2022	2021	2020	2019
# of Pesticide Annual Reports Submitted	40	44	36	22
Resident Complaints (Portland SeeClickFix)	12	6	12	0
# of Waivers Submitted	0	1	1	2
# of Waivers Submitted Approved	0	0	0	0
# of Education and Outreach Efforts Held	5	2	4	7

Education and Outreach Efforts in 2022

- City staff held a Landcare Professionals Forum in February 2022 with guest speakers Jeff Tarling and Alex Marshall from the Parks and Recreation Department to discuss their work to rehabilitate Fox Field using organic practices. Jeff Tarling also provided an update on Portland's efforts to manage the ongoing Brown Tail Moth outbreak. Attendees were able to ask questions and engage in discussions on the topic.
- Sustainable Landcare Fair was held on September 9th, 2022 at the farmers market in Deering Oaks Park. The event saw many residents stop by to view educational materials about the Landcare Ordinance presented by City staff and PMAC. Attendees were also able to learn from event partners such as MOFGA, UMaine Cooperative Extension, Eldredge Lumber, the Parks and Recreation Department, and State Entomologist Hillary Peterson.
- Sustainability Office staff launched a social media campaign in late summer to educate the public on the amendments to be made to the Pesticide Ordinance. Sustainability Office social media holds a great following of around 2,000 followers.
- Sustainability Office staff prepared educational materials on topics such as "best practices for putting your lawn to sleep for the winter", "top 10 practices to manage your lawn and landscape organically", "what you need to know about landcare in Portland", "Landcare Ordinance FAQs for Applicators", "Landcare Ordinance FAQs for residents", "Landcare Ordinance FAQs for Retailers".
- The City of Portland Landcare website was updated with the new ordinance information and continues to be updated regularly by City staff. See the website at portlandmaine.gov/landcare

Waiver Requests

There were no waiver requests submitted in 2022.

Portland See-Click-Fix Resident Complaints on Pesticide Use

- The City of Portland relies on community-sourced reporting through the See-Click-Fix (SCF) platform to monitor compliance with the Pesticide Ordinance. In 2022, residents filed twelve SCF reports about potential Pesticide Ordinance violations. Many of them note the lack of proper signage on applied lawns, specifically the lack of a chemical name and trade name as required by the ordinance.
- The Sustainability Office sent information about the ordinance to the owners of the properties identified by the See-Click-Fix report. Staff also included information about proper signage in our annual letter to applicators reminding them of the ordinance's reporting requirements. Staff will continue to respond to resident reports and encourage residents to use the platform to share concerns they may have about compliance.
- One SeeClickFix report resulted in the City fining the applicator for applications made in violation of the Pesticide Ordinance. A \$500 fine was enforced.

Summary

Portland's Pesticide Ordinance charges the Pesticide Management Advisory Committee (PMAC) with advising the Sustainability Coordinator and the Sustainability and Transportation Committee about implementation of the ordinance and recommended amendments.

- The PMAC made numerous recommendations for ordinance amendments in 2022 that were approved by City Council and will take effect in March 2023. There are no further ordinance amendments recommended at this time.
- The PMAC will change its name to the Landcare Advisory Committee (LMAC) and will continue to assist in implementing an ongoing education and outreach program in coordination with the Sustainability Office that will inform residents, property owners, and landscaping companies about the ordinance and ways to manage their property organically.

The PMAC appreciates the opportunity to share this report with the Sustainability and Transportation Committee.

City of Portland Composting Report

Overview

The City's climate action plan, One Climate Future, established a goal that the City of Portland be a zero waste community by 2050. Over the past twenty years, the City has made great strides with waste reduction and recycling, reducing the amount of waste delivered to ecoMaine from over 23,000 tons per year in 1998 to about 9,500 tons in 2021. During the same time period, recycling increased from about 1,000 tons per year to close to 6,000 tons. However, until the start of our composting drop-off program on Earth Day 2021, the City has not provided a program to divert food scraps from the waste stream. Consequently, most residents simply put their food scraps in their City trash bags along with other household trash. A recent waste audit of the City's residential waste stream conducted by Dr. Travis Wagner at the University of Maine bears this out, showing that food scraps and other compostable materials make up nearly 40% (by weight) of the trash collected by City collection crews. In order to reach our zero waste goal the City needs to encourage residents to reduce the amount of food they waste and provide opportunities for them to divert food scraps from the household waste stream.

Over the past two years, the City has begun addressing this need by establishing the compost drop-off program that allows residents to deliver food scraps to eight convenient locations around the city. Residents have strongly supported this effort and the amount of food scraps being collected increases almost every month.

Compost Drop-off Sites

When the compost drop-off program started in 2021 there were only five drop-off locations in the City. On Earth Day last year, three new locations were added to the list to increase the number of people that would have access to free compost disposal sites.

- Boyd Street Community Garden (2 Boyd Street)
- Brentwood Farms Community Garden (178 Brentwood Street at the edge of Evergreen Cemetery)
- Libbytown Community Garden (175 Douglass Street)
- North Street Community Garden (195 North Street)
- Parkside, King Middle School (92 Deering Ave, in the back of the school near the Portland Fitzpatrick Stadium parking lot)
- Payson Park Community Garden (Drop-off located at 82 Front Street)
- Reiche School (166 Brackett Street, drop-off on the Clark Street side)
- Riverton Community Garden (Drop-off located at far end of the Gerald E. Talbot Community School parking lot)

Bins and Containers

Each drop-off site has at least two covered containers for residents to use. Residents are advised to collect food scraps at home in any airtight container (to reduce odors); when full, bring it to one of the collection sites and empty it into one of the containers. The City recommends rinsing the container before using it again. The collection program accepts any food scraps from a household including fruits, vegetables, dairy products, meat, bones, coffee grounds, and coffee filters.

Collection

When the program started the compost drop-off sites were collected by We Compost It, a company that was then purchased by Agricycle Energy which has been collecting the food scraps since then. Recently there was a bid for a different collection company, Garbage to Garden, won the bid and is set to start collecting from all of the drop-off sites on March 21. The collection of food scraps from all of the bins happens at least twice a week.

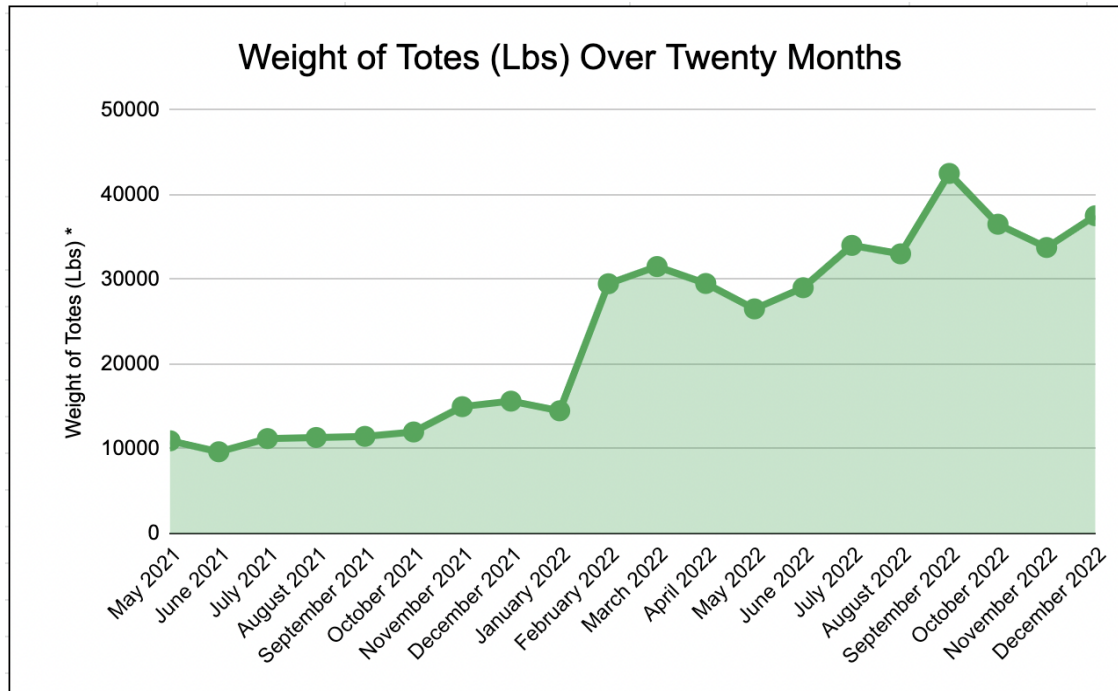
Outreach

The Parks, Recreation and Facilities Department helped us install additional signs at the eight community compost sites that are translated into Arabic, Portuguese, French, and Spanish. The signposts have space for two additional languages and we anticipate adding signs in Vietnamese and Somali. In November, we received a Waste Diversion Grant from the Maine DEP to create additional outreach materials and signage to promote the Community Compost Drop Off Program and to translate the outreach materials into six additional languages.

All of the efforts to encourage citizens to compost are done through outreach, whether it be posts on social media or word of mouth. We have recently added all of the compost sites onto MakeSoil, a worldwide platform of compost drop-off locations. We are hoping that MakeSoil will help the program grow and provide a way to connect citizens who are excited about composting.

Data

In 2021, residents diverted **96,980** lbs of food scraps from the waste stream thanks to the compost drop-off sites and in 2022, residents diverted **377,680** lbs of food scraps. This is a substantial amount of food waste and shows both how effective the program is and how much of a need there is to increase the size of the program.



Next Steps

In the upcoming few weeks, we will be working with Garbage to Garden to implement composting at City Hall, the Barron Center, and the Homeless Service Center. These facilities have not composted before so their efforts will reduce the amount of food waste the City creates in its facilities.

We will be partnering with Garbage to Garden to promote their curbside pickup program. Garbage to Garden will offer a weekly subscription service to all residents of Portland to collect their food scraps. The curbside program is great for anyone who cannot make it to a drop-off location or someone who would prefer to have it picked up at their house. Partnering with Garbage to Garden ensures that all Portland residents have access to at least two ways of composting, through the curbside pickup or drop-off sites, and makes reaching our zero waste goal more attainable.

Setting a Science-based Climate Target for Portland

City of Portland Sustainability Office

March 22, 2023



ONE CLIMATE FUTURE

Charting a Course *for*
Portland and South Portland

80% x 2050

COMMUNITY-WIDE

Portland and South Portland will reduce community-wide greenhouse gas emissions 80% from 2017 baseline levels by 2050.

100% x 2040

MUNICIPAL OPS

Portland and South Portland will run all municipal operations on 100% clean renewable energy by 2040.

The latest IPCC Climate reports show that:

- Average annual GHG emissions were at their highest levels in human history between 2010 to 2019
- The rate of increase of emissions has decreased – we're increasing at roughly 1.3% each year and in the previous decade it was around double that
- Global emissions are still increasing (roughly 1.3% each year) but we are almost reaching the peak

TO STAY WITHIN 1.5°C,
GLOBAL CO₂
EMISSIONS NEED TO:

- peak by 2025
- reduce by 48% by 2030, relative to 2019 levels
- reduce to net zero by 2050

What a science-based target would look like for Portland, ME

2030 emissions
reduction target
approximately

62.9%

from 2017 baseline
emissions level.

Much of this emission reduction can be achieved by focusing on high impact areas such as:

- ➔ **Transportation (accounts for 30% of 2017 emissions)**
- ➔ **Buildings (accounts for 60% of 2017 emissions)**

New recommendations:

PRIMARY GOAL: 100% reduction of CO2 emissions (“net-zero”) by 2050

MID-TERM GOAL: 65% reduction of CO2 emissions by 2030



Troy Moon <thm@portlandmaine.gov>

Public Comment for Sustainability & Transportation Committee - March 22, 2023

Bill Weber <wjweber77@gmail.com>

Tue, Mar 21, 2023 at 7:24 PM

To: Andrew Zarro <azarro@portlandmaine.gov>, Roberto Rodriguez <rrodriguez@portlandmaine.gov>, Victoria Pelletier <vpelletier@portlandmaine.gov>, publiccomment@portlandmaine.gov

Cc: Troy Moon <thm@portlandmaine.gov>

Comments on Updating the City's Greenhouse Gas Reduction Target to a Science Based Target.

My name is Bill Weber, I am a volunteer with the Portland Climate Action Team (PCAT), and I live in District 5 in Portland. PCAT supports the reasoning behind setting more aggressive goals to reduce fossil fuel emissions in the city. In a report issued this week and [reported in the NYTimes](#) the UN Intergovernmental Panel on Climate Change (IPCC) determined that greenhouse gas emissions would have to be cut in half by 2030 in order to keep the planet warming below the 1.5 degree C threshold set at the 2015 Paris climate agreement. The IPCC went on to say that limiting the increase to 1.5 degree could, "still secure a livable sustainable future for all." The planet is currently at 1.1 degree C above pre-industrial levels so immediate cuts would be necessary to meet the goal. The IPCC has estimated the impact on our environment if temperatures exceed the target 1.5 degree C might mean that tens of millions more people worldwide will experience life-threatening heat waves, water shortages and coastal flooding. Coral reefs and summer Arctic sea ice would disappear with a 2-degree increase.

PCAT appreciates the need for setting more ambitious goals to match the scientific consensus to limit the temperature increase to 1.5 degree C but we are concerned that currently the City lacks the resources and policies to meet that goal. Additionally, the goal is largely dependent on decisions beyond the control of the City. For instance, the Scope 2 greenhouse gas emissions calculated in the 2017 greenhouse gas inventory is based on the New England Power Grid (1) and most of the other New England states lag well behind the state of Maine. Governor Mills' plan to legislate 100% renewable power by 2040 could also be problematic for a number of reasons.

Before the City Council adopts these revised goals they should do it with full knowledge of what that commitment may mean in terms of the resources and new policies that will be required to meet those goals. Identifying risks outside the control of the City and then actively managing those risks should be performed to avoid surprises and disappointment.

Specifically, in addition to the proposed goals we would recommend the following revisions to One Climate Future:

- (1) A Greenhouse Gas inventory will be performed every 5 years. It is now going on six years since establishing the baseline GHG emissions in 2017. With all the new construction over the last five years it is doubtful that the City's carbon footprint has decreased significantly since 2017.
- (2) Major assumptions and risks to meet the goals should be identified and then actively managed. This may require a more active role of Portland's delegation in Augusta.

(3) Revenue generated by renewable energy certificates (RECs) should be dedicated to a sustainability fund and only used to support projects that further decrease the City's carbon footprint. The Sustainability Office needs to add more staff in order to effectively tackle this challenge. The RECs should be retired when the City reaches a goal of net zero in order to take credit for the cut in greenhouse gas emissions.

In summary, approving the more aggressive greenhouse gas reduction goals is the easy part. The work to meet the goals will not only involve Portland's Sustainability Office but all of Portland. The City Council, the Mayor and the new City Manager need to be unflinching Leaders in this effort. That will be the only way these goals can be achieved.

We hope you find these comments constructive and PCAT stands by to assist the Committee and the Sustainability Office in achieving the vision of One Climate Future.

(1) Page A-21 Appendix A Greenhouse Gas Inventories Memorandum, One Climate Future

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Sustainability Public Comment: Adjusting Climate Change Targets - Equity Considerations

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Wed, Mar 22, 2023 at 3:55 PM

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Once again, my public comment has been omitted from the meeting packet.

It is pretty clear the intent of my comment is that if the City of Portland feels a need to adjust its climate change targets, it should do so with a clear view of the class-based consequences.

The article I attached (a part of my comment) makes it clear that the State of Maine's solar energy reforms had clear equity impacts that remain unresolved and represent a "double whammy" with lower income Mainers hit by the DIRECT impacts of climate change as well as the INDIRECT impacts from our political class trying to address those direct impacts (by handing their patrons lucrative benefits from the mitigation opportunities).

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Climate Change Inequity - Bangor Daily News - March 2023.pdf

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General Comment - Equity Considerations
The City of Portland is currently reviewing the equity considerations of the proposed climate change targets. The City is committed to ensuring that the targets are equitable and do not disproportionately burden low-income communities and communities of color.

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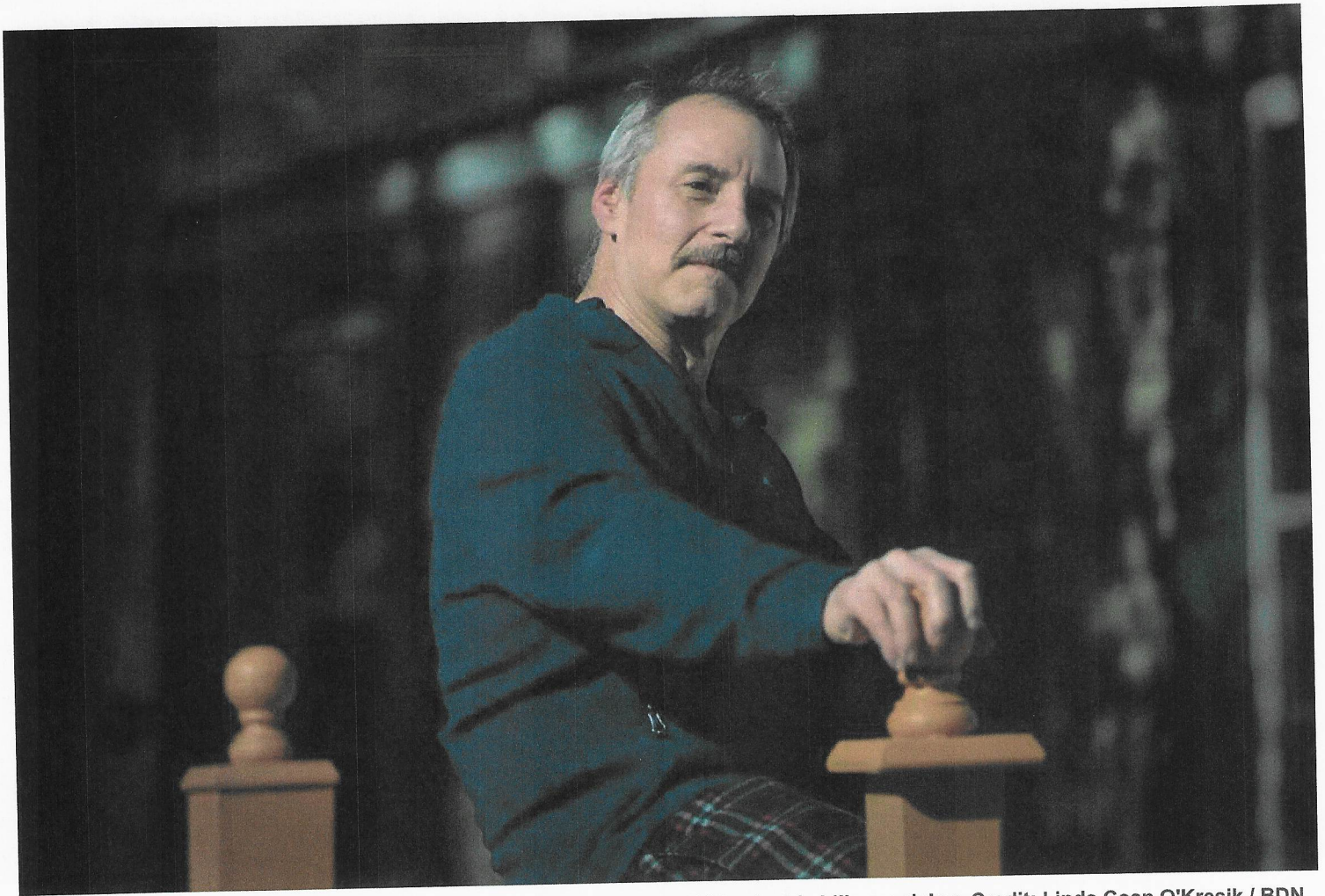
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How community solar incentives will cost Maine's poorest the most

by **Mehr Sher**

March 7, 2023 Updated March 10, 2023



Kent Libby, 61, lives in a mobile home on a fixed monthly income, and his electric bills are rising. Credit: Linda Coan O'Kresik / BDN

Editor's note: Reporting for this story was made possible by an award from the Institute for Journalism and Natural Resources.

Every morning Kent Libby, 61, plays chess at a local fast food restaurant to keep his mind sharp. He lifts weights and completes sets of pushups and situps to keep his body strong. After a car crash in 1984 left him comatose for 20 days and ended his ability to work as a mechanic, he deeply understands the importance of maintaining his health. But it's a task made more difficult living on the edge of financial security.

Libby resides in a mobile home in Holden. He has a fixed monthly income of \$934, of which \$152, or 16 percent, went to electricity in January. Yet it is people like him who will bear the burden of electricity costs that are expected to increase in the coming years in part due to the state's efforts to boost solar development.

Do you participate in a community solar project?

Yes

No

"My bill has never been this high before," he said.

The Maine Legislature and the governor have turned to solar to transition the state away from fossil fuels and meet its ambitious climate goals. One type of solar development, called community solar, allows people who subscribe to a small-scale solar farm to reduce their electricity costs. But the cost savings for subscribers are offset by all other utility customers who don't participate, meaning those who already can't afford their electricity bills will be hit hardest.

Few appear to truly understand the cost implications for Mainers with lower incomes. But some are beginning to question whether it is fair to fund the state's clean energy transition this way, especially given lucrative incentives for solar developers.

"It is significant," said Phil Bartlett, the chair of the Maine Public Utilities Commission, which sets electricity rates. "Lower-income Mainers will be hurt by this, and this is a regressive way of funding public policy."

Residential and commercial owners buy into community solar farms, which are no more than 20 acres in size, to receive credits on their electricity bills once the projects start operating. The idea is that people can participate in solar even if they don't install solar panels on their roofs or property. While it's free to subscribe to a community solar farm, the costs, which get passed on to non-participants, have been higher than Maine lawmakers initially anticipated.

Libby is not planning to subscribe to any community solar farms, which are proliferating throughout Maine. But starting July 1 he will likely end up paying for them. Residents in the

northern parts of the state stand to incur the highest costs, which are expected to increase each year as more community solar farms connect to the grid.

Over the past month, the Bangor Daily News spoke to or heard from more than 35 people across Maine about their views of community solar programs. Many expressed skepticism about them, questioning whether the pamphlets they'd received in the mail urging them to sign up were a scam or believing that joining would cost them more long term — neither of which are true. They found it difficult to understand how community solar programs work and wondered how they affect electricity rates overall.

Costs will depend on how many community solar farms are built. But if all 750 community solar farms under development in Maine come online by 2024, they are estimated to cost ratepayers more than \$270 million per year, according to the Maine Office of the Public Advocate, which represents consumers. That's more than \$330 per year, on average, for customers of Versant Power and Central Maine Power.

"We stand by those numbers. We were very careful before we put them out," said Bill Harwood, the Maine public advocate. "It is inequitable."

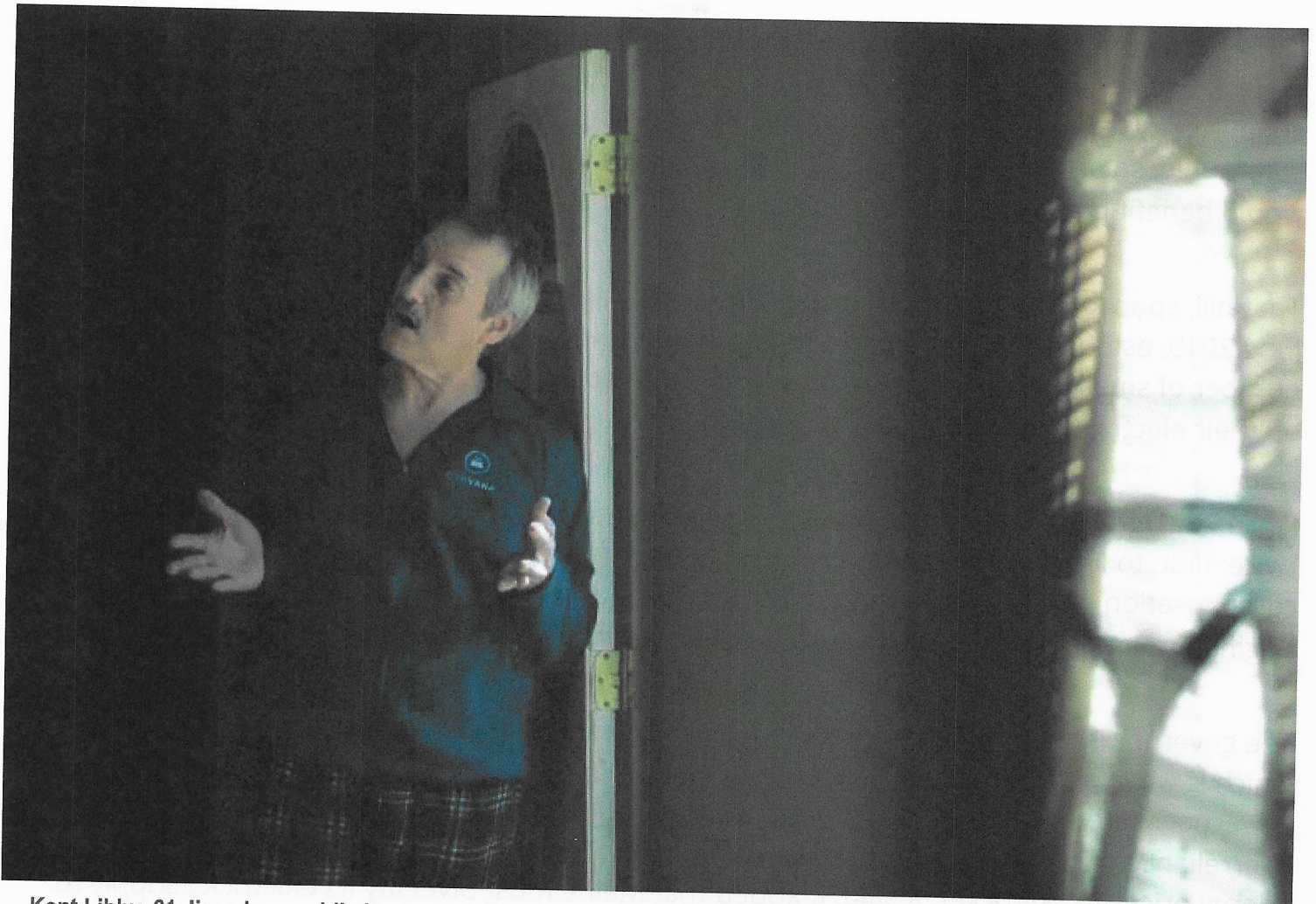
The burden of subsidizing community solar will fall to those who are financially vulnerable for the benefit of those who are more likely to subscribe to a solar farm: people who are financially secure. Residential solar adopters nationally tend to be wealthier, middle-aged and have higher education levels, according to the Lawrence Berkeley National Laboratory in California.

The poorest 30 percent in Maine spend an average of 12 percent of their income on electricity costs. The wealthiest spend 1 percent of their income on electricity, according to the National Renewable Energy Laboratory.

Maine considers electricity prices above 4 percent of low-income ratepayers' earnings to be unaffordable.

Starting this summer, Central Maine Power customers are projected to see costs associated with solar add \$4 to \$5 per month to their electric bill. Versant Power customers are projected to pay an additional \$5 per month, with the exception of Aroostook County where costs are estimated to increase about \$12 per month.

These initial yearly rates, which require approval by July from the Maine Public Utilities Commission, are expected to grow each year as more community solar farms start operating.



Kent Libby, 61, lives in a mobile home on a fixed monthly income and his electric bills are rising. People with lower incomes will bear the burden of electricity costs that are expected to increase in the coming years in part due to the state's efforts to boost solar development. Credit: Linda Coan O'Kresik / BDN

'We had no idea'

John and Kathryn Farquhar of Bangor subscribed to a community solar program in Hermon more than a year ago. Neither of them are officially retired. John, 69, provides care online to people with drug addiction, and Kathryn, 77, works as a kindergarten substitute teacher. They signed up because they wanted to support clean energy development and save money on their electric bills.

Looking back they wished they knew how costs were being shifted to customers who were not participating.

"It would have been great to know more about how these programs are subsidized," John Farquhar said.

It appears the Maine Legislature did not fully discuss the cost-shifting, either. Though some people urged greater understanding of the financial picture, none of the 59 people who submitted written testimony about [LD 1711](#) in 2019 talked in detail about how incentives for community solar development would be paid for. They instead spoke about how the programs would benefit people with lower incomes.

That bill, sponsored by former Sen. Dana Dow, R-Waldoboro, and signed by Gov. Janet Mills in June 2019, established a program to boost solar development overall, including to increase the number of smaller-scale community solar farms. People who subscribe to them get a discount on their electric bills through what is called net energy billing.

Since 2021, the Legislature has changed the net energy billing programs for community solar twice: first, to limit the number of participating solar projects, and, second, to reduce the compensation paid to developers. But the community solar projects that applied under the original program are grandfathered in under the initial, incentivized rate structure.

The governor is sensitive to the hardships faced by low- and moderate-income Maine families, which is why she and the Legislature delivered \$450 energy relief checks this winter, said the Governor's Energy Office in a written statement. Utility bills are high because of the grid's overreliance on natural gas to create electricity and Russia's invasion of Ukraine, which caused energy prices to skyrocket, it said. It added that Maine must diversify its electricity supply to make sure it is more affordable long term.

The office did not answer questions about whether Mills was considering modifying the incentives still in place under the original program or whether she believed its design was fair.

Under revised rules, solar developers will get a fixed rate for the electricity they produce. But solar developers in the original program continue to qualify for payments that are tied to natural gas-derived rates.

"One of the mistakes the Legislature made was tying the incentive to the standard offer rate. We had no idea natural gas was going to go up three times as much, as would the rate," said Sen. Mark Lawrence, D-Eliot.

This means people are paying more for solar power than it costs to produce. Utilities, through their customers, pay approximately 25 cents per kilowatt hour for electricity that costs less than 10 cents per kilowatt hour to generate, according to the Maine Office of the Public Advocate.

Maine has people with wealth who want to invest in more renewable energy and expect utilities to provide the tools to make that clean energy transition, said Judy Long, the communications manager for Versant.

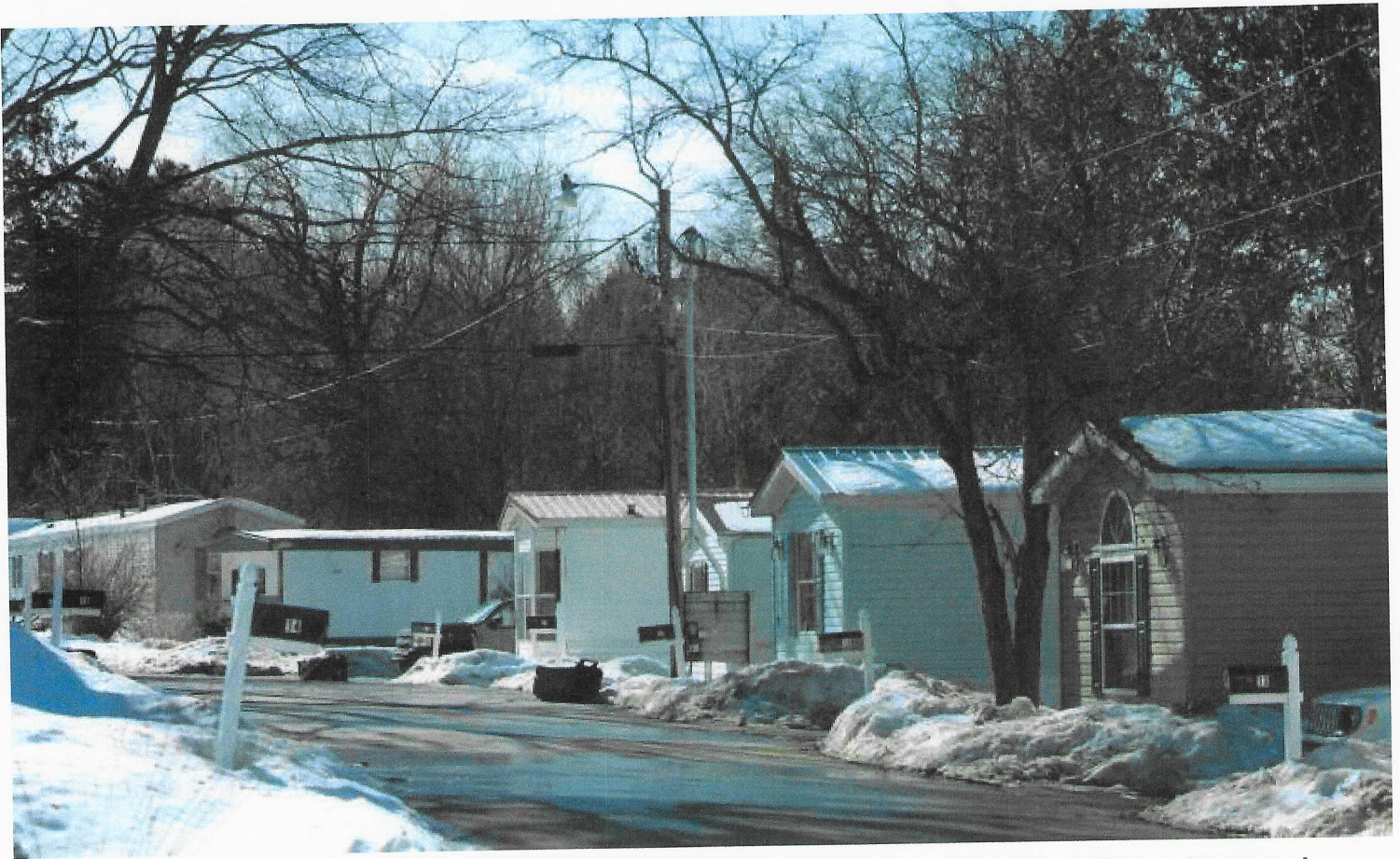
"But we also have customers who can hardly afford to heat their homes and just need us to be reliable and cheap," she said. "Balancing the interests of those different groups of customers is tough."

There are an estimated 70,000 Maine households that need financial assistance to pay their electric bills, according to the Electric Ratepayer Advisory Council, which advises the public advocate. But fewer than half receive help through the electricity Low-Income Assistance Program, the council says, and the subsidies they do get are still not enough to make electricity affordable.

Jennifer Clement, 35, lives in a mobile home park in Ellsworth with her boyfriend and their two children. Clement works as a direct support professional, and her boyfriend works in the seafood department at Hannaford. Between them, they earn \$5,400 a month. While they can meet their family's needs, they live paycheck to paycheck, she said.

She doesn't question increasing electricity costs too often because either way she will have to pay the bills, she said. But higher costs of power affect her ability to pay for other things.

"That's going to add up to be a lot of money, and I don't have that. Where can I pull that from? My back pocket?" Clement said. "It is unfair that all of us have to pay more."



Lower-income Mainers will bear the burden of electricity costs that are expected to increase in the coming years due to the state's efforts to boost solar development.

'It feels exploitative in some ways'

The rate structure for community solar projects was designed to incentivize developers to spur an industry. Solar developers keep an estimated 85 to 90 percent of profits and share the remainder with subscribers, according to a [report](#) by the Maine Public Utilities Commission.

"In retrospect, could we have looked at something different than the standard offer rate? Sure," said Jeremy Payne, the former executive director of the Maine Renewable Energy Association and a lobbyist. "I just don't know what the alternative would have been, and I think the idea was to try and unshackle the industry, because it had been locked down for a better part of a decade."

While Bartlett, with the Public Utilities Commission, recognizes a problem with the way the initial solar program was designed, he also argued that the addition of community solar to the electric grid will lead to reduced overall costs of power over time, benefiting everyone. Those benefits are hard to quantify or notice immediately, however, Bartlett said.

"It puts downward pressure on wholesale market prices in the region," he said. "Community solar is treated as a reduction in our load, which means that we pay a lower share of the regional transmission costs."

Net energy billing benefits ratepayers in the sense that solar developers invest in grid upgrades when they connect their projects, "increasing grid reliability and resiliency," said Carolyn Dykema, the Northeast policy director of Nexamp, a Massachusetts-based national solar company that owns and operates community solar farms in Maine.

However, she noted that incentives are structured differently in other states — and can still be lucrative and not cost as much for ratepayers.

Because there is no upfront cost barrier for subscribers, solar companies say community solar is accessible to people with lower incomes.

"It truly is equitable access to green energy," said Eric LaMora, the executive director of community solar at Nautilus, a New Jersey-based solar company.

The company declined to provide exact figures, but its revenue does not all go to profit. Rather it is also put toward "significant costs for construction, operation, and ongoing maintenance of the community solar projects as well as the management of subscribers," Nautilus said.

While it's possible for people with lower incomes to save money on their electricity bills by signing up for community solar, a lack of trust and understanding about how the programs work may prevent them from participating, Nautilus said.

Meanwhile, aid organizations are seeing an increase in need.

"Energy bills stress lower income households disproportionately, and so folks that were previously getting by and not needing the help that MaineHousing provides are now in a position where they have to look to us for help," said Daniel Brennan, the director of MaineHousing, which subsidizes people's housing costs.

Downeast Community Partners in Washington and Hancock counties has seen a 400 percent increase in the assistance it has provided over the past two years. It is on track to see an additional 200 percent increase this year, according to Sharon Catus, the director of development.

Of those who apply for help with heating and energy costs from Washington and Hancock counties, 94 percent are seniors and 50 percent have disabilities, Catus said.

Bonnie and Randy Johnson live in an 800-square-foot log home in Cherryfield in Washington County. In the past, Bonnie, 62, has worked in the fields of caregiving and teaching. Randy, 70, a mechanical engineer, is retired from the Maine Seacoast Mission. Altogether, their monthly Social Security income is \$2,937. In February their electricity cost \$215.

They have not received power assistance. Bonnie Johnson said she is already so grateful for the help they receive paying for food that she doesn't want to ask for it.

The Johnsons believe that solar power is vital for Maine's energy future. If they could, they would have installed solar panels on their roof, but the \$20,000 cost is unattainable.

"Most everybody has a good heart and just wants to support clean energy," Bonnie Johnson said.

The couple gets flyers advertising community solar almost every month, she said. They would be interested in signing up, but they don't fully understand how the programs work. When she learned that the subsidy is being offset by people like her, she was appalled.

"It feels exploitative in some ways — that I don't understand this program, and it makes me feel like somebody out there is using this lack of understanding," she said.

Mehr Sher is a Report for America corps member. Additional support for this reporting is provided by the Unity Foundation and donations by BDN readers.