



**Comments on the Maine PFAS Task Force Draft Final Report  
Submitted by Sharon Treat, Senior Attorney, Institute for Agriculture and Trade Policy (IATP)  
December 6, 2019**

Thank you for the opportunity to comment on “Managing PFAS in Maine,” the draft Final Report from the Maine PFAS Task Force. These comments are submitted on behalf of the Institute for Agriculture and Trade Policy (IATP), a 501(c)(3) nonprofit headquartered in Minneapolis, Minnesota with offices in Hallowell, Maine and other locations.<sup>1</sup> As an organization that works closely with farmers and seeks to promote local, sustainable and environmentally beneficial agriculture, IATP is particularly interested in how PFAS contamination is affecting food, farms and farmers. Since the PFAS Task Force first convened in May, we have closely followed its meetings and reviewed the data and findings of the state agencies investigating the extent of PFAS contamination in Maine. We have also reviewed reports and recommendations of PFAS commissions in other states facing similar problems.

The Task Force report provides a good starting point for identifying future action to address PFAS in Maine. We have been impressed with the serious effort undertaken by Maine agencies - including the Department of Environmental Protection (DEP), Drinking Water Program and Center for Disease Control and Prevention (Maine CDC) in the Department of Health and Human Services, Department of Agriculture, Conservation and Forestry (DACF), and the Department of Defense, Veterans and Emergency Management - to identify PFAS sources and to comprehensively map PFAS contamination. This effort is commendable, given the lack of dedicated funding and the need to shift resources and staff from other priorities. While there remain significant holes in this data mapping - particularly with respect to historic field spreading of sewage, composted biosolids and paper mill sludge, as well as both historic and current septage disposal sites - the agencies’ work so far provides important baseline information that can guide future agency investigations and state policy choices.

We are also pleased that the section of the report focused specifically on agriculture is relatively comprehensive. It properly recognizes the need to: (1) expand data collection and assessment, including future testing of milk and other agricultural products; (2) review historic records; (3) continue scientific study of plant and animal uptake; (4) establish PFAS standards for food; and (5) secure additional funding to assist farmers who face financial hardship from lost production caused by PFAS contamination.

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<sup>1</sup> IATP also has offices in Washington, D.C. and Berlin, Germany (IATP Europe). For over 30 years, IATP has provided research, analysis and advocacy on a wide range of agriculture-related issues including farm to school; climate; agroecology; soil health and water quality and access; farmworker health and economic security; and trade and market policies. For more information, see [www.iatp.org](http://www.iatp.org).

The agricultural recommendations could be improved by the addition of timelines for proposed action, greater specificity, and cross-cutting measures that we discuss in more detail below. These improvements include establishing a State Maximum Contaminant Level (MCL) that is protective of health including that of vulnerable populations; expanding testing of water and agricultural products to identify PFAS compounds in addition to PFOS and PFOA; measuring and reporting on PFAS contamination below the current 50 ppt screening level; prohibiting all land spreading of sewage sludge and other residuals including composted biosolids; and detailing funding requests and strategies.

In general, while there is useful information and some identifiable recommendations in the Task Force report, it lacks clarity and has significant gaps. A number of its recommendations fall short of the effective steps we would expect Maine's government to commit to in order to meet the guiding principles and the seven goals of "greatest importance" the Task Force itself enumerated on page one of its report.<sup>2</sup> These limitations include:

- **The report is not a comprehensive blueprint for action.** The report lacks specificity and timelines, failing to propose even general timelines such as identifying short-term and longer-term initiatives and actions, an approach taken by the Connecticut Interagency PFAS Task Force (which calls its report an "Action Plan").<sup>3</sup> In many areas, the report is curiously passive and doesn't clearly make any recommendation. In one example, it refrains from specifically supporting a requirement that community water systems and wastewater treatment facilities be tested (p.8). This puts public health at risk. One of the most alarming pieces of information reported to the Task Force was that several schools and day cares simply refused to allow drinking water testing, even though the State was paying the cost. Since some of the systems serving children that *were* tested showed PFAS contamination, this refusal is serious and ought to be addressed promptly with legislation or regulations if needed.

Similarly, while DEP has done a good job identifying 500 properties, mostly farmland, where sludge was spread over the past 40 years, the report lacks a strong recommendation that the State develop and implement testing and investigation of these historical sludge-spreading sites on an expedited basis. This is despite the fact that the Task Force was established in large part because of the discovery of elevated PFAS levels on farmland spread with sludge and the consequent contamination of hay, milk and cows. Likewise, while the report includes a recommendation that additional testing of milk and other agricultural products should be conducted, there is no timeline attached or sense of

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<sup>2</sup> These goals are: (1) Identifying and reducing sources of PFAS; (2) Protecting safe drinking water; (3) Protecting our food supply; (4) Responsible waste disposal and management; (5) Improving public education about PFAS; (6) Demanding federal action; and (7) Funding for state agencies to investigate, respond to and reduce exposure of Maine citizens to PFAS.

<sup>3</sup> Connecticut's PFAS Action Plan (November 1, 2019), <https://portal.ct.gov/-/media/Office-of-the-Governor/News/20191101-CT-Interagency-PFAS-Task-Force-Action-Plan.pdf?la=en>

urgency. Food and farm concerns may extend well beyond potential dairy contamination; in Australia, PFAS contamination has been found in fruit, cattle and sheep.<sup>4</sup>

- **Inexplicably, the report fails to recommend that the State adopt its own health-based drinking water standard for PFAS (Maximum Contaminant Level or MCL).** The passivity of the Task Force on the question of establishing a state health standard flies in the face of repeated assertions by agency staff and several Task Force members themselves that the lack of an enforceable drinking water standard is limiting their legal authority and hindering their efforts to collect data, require testing and cleanup, bring legal actions, and establish food safety standards, among other activities. The non-decision on setting an MCL makes Maine an outlier in the region, with Connecticut, Massachusetts, New Hampshire, and Vermont all moving to adopt enforceable health-based drinking water standards.<sup>5</sup> Other states that have established or are in the process of establishing MCLs for PFAS include Michigan,<sup>6</sup> Minnesota, New Jersey, New York<sup>7</sup> and Washington.<sup>8</sup>

Instead, the Task Force defers to the federal government to set an MCL - an action that is highly unlikely to occur any time soon or to sufficiently protect public health. The Environmental Protection Agency (EPA) has been dragging its feet on PFAS standards and cleanup for years. Despite a recent flurry of media releases from EPA touting its PFAS plan, including this week's announcement the agency is taking steps to establish a drinking water standard, even under the best of circumstances its proposal is likely years from going into effect.<sup>9</sup> And we are not facing the best of circumstances. EPA's early-stage proposal is now sitting in the Office of Management and Budget awaiting approval before it can proceed. This is the same bottleneck agency that is holding up \$10 million in funds appropriated by Congress in 2018 for the U.S. Center for Disease Control and Prevention to study PFAS and

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<sup>4</sup> "Katherine mango farmer seeks compensation from Defence AM" By Nancy Notzon, 9 Oct 2017, <https://www.abc.net.au/news/2017-10-10/pfas-contamination-katherine-mango-farmer-seeks-compensation/9032150>; "Toxic chemical PFAS found in livestock no cause for alarm, Victoria's chief vet says," By Robert French, 25 Jun 2018, <https://www.abc.net.au/news/2018-06-24/pfas-in-livestock-no-cause-for-alarm-victoria-chief-vet-says/990432>

<sup>5</sup> Connecticut's PFAS Action Plan recommends legislation in order to establish a state standard, Plan at 3; Massachusetts <https://www.mass.gov/lists/development-of-a-pfas-drinking-water-standard-mcl> New Hampshire has proposed strict state PFAS drinking water standards, <https://www.des.nh.gov/media/pr/2019/20190628-pfas-standards.htm>; Vermont law requires drinking water standards for PFAS and the state is moving ahead with recommending strict standards, <https://dec.vermont.gov/water/drinking-water/water-quality-monitoring/pfas> Check on which states have proposed or adopted standards.

<sup>6</sup> Michigan Department of Great Lakes, Environment and Energy, Media Release, "Michigan moves forward on drinking water standards for PFAS," Oct. 11, 2019, <https://www.michigan.gov/egle/0,9429,7-135--509830--00.html>

<sup>7</sup> ECOS, New York Proposes Strict PFAS Standards, July 26, 2019, <https://www.ecos.org/news-and-updates/new-york-proposes-strict-pfas-standards/>

<sup>8</sup> Washington State Department of Health, <https://www.doh.wa.gov/CommunityandEnvironment/Contaminants/PFAS>

<sup>9</sup> EPA's December 4, 2019 media release makes clear the agency is in the early stages of a lengthy (years-long) process to establish drinking water standards for PFOA and PFOS only, <https://www.epa.gov/newsreleases/epa-moves-forward-key-drinking-water-priority-under-pfas-action-plan>. The process is outlined on this website, referenced in the media release: Drinking Water Contaminant Candidate List (CCL) and Regulatory Determination, <https://www.epa.gov/ccl>."

health.<sup>10</sup> These actions are part of a pattern across federal agencies right now. The Food and Drug Administration tried to keep secret its own studies showing PFAS contamination of food including milk, meat, and produce.<sup>11</sup> The U.S. Department of Agriculture (USDA), which the report also looks to for action on PFAS, is in the process of effectively dismantling many of its research activities and other programs.<sup>12</sup> In any event, even if an EPA standard were imminent, the agency proposes to stick with its outdated and insufficiently protective 70 ppt guidance, and to set limits for only two of the hundreds of PFAS chemicals.<sup>13</sup> We discuss the deficiencies of EPA's guidance in more detail below.

- **The report's data and conclusions are flawed throughout by state agencies' reliance on the insufficiently protective EPA health advisory of 70 ppt for PFOA and PFOS.** Virtually every conclusion of the report - whether the level of PFAS detected in milk is of concern; what constitutes an "adulterated" food product; whether drinking water provided to children in schools is safe; whether plant uptake of PFAS from contaminated soils poses a health threat; whether fish contaminated with PFAS should be eaten – relies on the 70 ppt baseline. This approach has led to some data simply not being reported (for example, the levels of PFAS detected in milk) and the issuance of reassuring statements by agency staff during Task Force meetings that the public shouldn't be concerned about potential exposure to, for example, PFAS-contaminated commercial compost used by home gardeners, or drinking water that is contaminated by PFAS but meets the EPA guidance. Indeed, the section of the report on the Maine Drinking Water Program minimizes any concerns based on the fact that only one community system tested so far exceeded the 70 ppt level combined for PFOS and PFOA, when in fact other systems tested positive for these compounds at levels above where other states are setting their MCLs (Report p.7-9). These data need to be included in the report.

The EPA guidance is outdated and insufficiently protective of public health. Comprehensive health research conducted over several years by the U.S. Agency for Toxic Substances and Disease Registry (ATSDR), part of the federal CDC, led that agency to recommend in its draft Toxicological Profile for Perfluoroalkyls that in order to protect health, MCLs should be set about 10 times lower than the EPA guidance.<sup>14</sup> The ATSDR has been described by State Toxicologist Dr. Andrew Smith, a Task Force member, as "the federal authoritative agency" on PFAS and health.<sup>15</sup> Paradoxically the Task Force report relies on ATSDR's authoritative

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<sup>10</sup> "White House, CDC feuding over study of toxic chemicals in drinking water," Kyle Bagenstose, USA TODAY Network, November 30, 2019, <https://www.usatoday.com/story/news/nation/2019/11/29/white-house-cdc-feuding-over-study-pfas-drinking-water/4330529002/>

<sup>11</sup> "Leaked FDA study finds milk, meat, produce contaminated with 'forever chemicals'", by REBECCA BEITSCH, The Hill, June 3, 2019, <https://thehill.com/policy/energy-environment/446696-leaked-fda-study-finds-food-contaminated-by-cancer-causing>

<sup>12</sup> The state of the USDA: A quiet dismantling, <https://www.iatp.org/blog/201902/state-usda-quiet-dismantling>

<sup>13</sup> USEPA Draft Interim Recommendations to Address Groundwater Contaminated with Perfluorooctanic Acid and Perfluorooctane Acid (June 10, 2019), [https://www.epa.gov/sites/production/files/2019-04/documents/draft\\_interim\\_recommendations\\_for\\_addressing\\_groundwater\\_contaminated\\_with\\_pfoa\\_and\\_pfo\\_s\\_public\\_comment\\_draft\\_4-24-19.508post.pdf](https://www.epa.gov/sites/production/files/2019-04/documents/draft_interim_recommendations_for_addressing_groundwater_contaminated_with_pfoa_and_pfo_s_public_comment_draft_4-24-19.508post.pdf)

<sup>14</sup> Toxicological Profile for Perfluoroalkyls, Draft for Public Comment, June 2018, <https://www.atsdr.cdc.gov/toxprofiles/tp200.pdf> at 19-20

<sup>15</sup> Comments of Dr. Smith at the November 26, 2019 Task Force meeting.

2018 study to describe the significant health effects of PFAS exposure while ignoring the ASTDR’s conclusion, based on that research, on what constitutes a safe level of PFAS exposure (Report p.3-5).

Most states that have established or are in the process of establishing their own MCLs have rejected the EPA guidance as insufficiently protective and are setting significantly stricter standards. They have also sought to address additional PFAS compounds beyond the already phased out (in the U.S.) PFOA and PFOS. For example, Vermont plans to test for 18 PFAS compounds in the environment, and drinking water programs must ensure levels of five PFAS contaminants — PFOA, PFOS, PFHxS, PFHpA and PFNA — are below a combined 20 ppt.<sup>16</sup> New Hampshire “using the most recent and best science available” has finalized drinking water standards that are intended to be protective for the most sensitive populations over a lifetime of exposure. The New Hampshire MCLs are: PFOA, 12 ppt; PFOS, 15 ppt; PFHxS, 18 ppt; and PFNA, 11 ppt.<sup>17</sup> Other states adopting standards well below 70 ppt for several PFAS compounds include Massachusetts, Minnesota, Michigan, New Jersey and New York.<sup>18</sup> In contrast, Maine’s Task Force report<sup>19</sup> is based on state agency data for soils, fish, water and milk that generally tested only for PFOS and PFOA, even though upwards of 25 chemicals in the class can be identified by current testing methods, including by the laboratory conducting analysis of milk for DACF.<sup>19</sup> The Maine Task Force recommendation for future testing of drinking water, soils, biosolids and food doesn’t clearly rectify this data gap, specifying only “PFAS”.

- **The report doesn’t protect drinking water.** In addition to the failure to recommend a State MCL and the reliance on the insufficiently protective 70 ppt guidance, the report needs more detail on how it will ensure that drinking water for all Mainers is free from PFAS contamination. In particular, the Task Force needs to come up with a plan to address potential PFAS contamination of drinking water for the 51% of Maine residents who rely on wells and other sources of water that are not provided through public water systems. Most of these sources are not being tested as part of the investigation by the state Drinking Water Program, since it currently has jurisdiction only over public water systems – unlike some other states. Many private wells are located in more rural areas, perhaps in close proximity to historic sludge spreading sites and both closed and open landfills, so it seems likely that contamination may be found if testing is done (DEP has found some private wells near landfills that have been tested to be contaminated).

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<sup>16</sup> The law can be accessed here: <https://legislature.vermont.gov/bill/status/2020/S.49>. For news coverage see, State to begin widespread PFAS sampling this summer, <https://vtdigger.org/2019/06/23/state-begin-widespread-pfas-sampling/>

<sup>17</sup> NHDES Proposes New PFAS Drinking Water Standards, Final Rulemaking Proposal for PFOA, PFOS, PFHxS and PFNA, <https://www.des.nh.gov/media/pr/2019/20190628-pfas-standards.htm>

<sup>18</sup> See chart showing selected states’ PFAS standards or proposals in HEALTH-BASED DRINKING WATER VALUE RECOMMENDATIONS FOR PFAS IN MICHIGAN, SCIENCE ADVISORY WORKGROUP, at p.6, [https://www.michigan.gov/documents/pfasresponse/Michigan\\_Science\\_Advisory\\_Workgroup\\_Health\\_Based\\_Drinking\\_Water\\_Values\\_for\\_PFAS\\_in\\_Michigan\\_Presentation\\_659261\\_7.pdf](https://www.michigan.gov/documents/pfasresponse/Michigan_Science_Advisory_Workgroup_Health_Based_Drinking_Water_Values_for_PFAS_in_Michigan_Presentation_659261_7.pdf). After conducting this review, Michigan issued final rules in October setting some of the strictest limits in the nation: PFNA, 6 ng/L (ppt); PFOA, 8 ng/L (ppt); PFHxA, 400,000 ng/L (ppt); PFOS, 16 ng/L (ppt); PFHxS, 51 ng/L (ppt); PFBS, 420 ng/L (ppt); GenX, 370 ng/L (ppt)

<sup>19</sup> <http://www.vista-analytical.com/documents/Vista-PFAS-rev3.pdf>

The report also must ensure that all community water systems are tested, in particular any systems serving children. With 17 of 36 public water systems having “declined to participate” in the latest sampling effort (even though paid for by the State), it is impossible to know whether drinking water is safe (Report at p.8). If the State lacks legal authority to mandate this testing – which we find hard to believe, and encourage a thorough legal review by the Attorney General to be sure – then enacting legislation to clarify the law should be a priority.

- **The report fails to clearly outline a plan that protects water, soils and food from PFAS in sludge, biosolids and other waste residuals.** The report recommends protecting the food supply through “restrictions on the agronomic utilization and land application of PFAS-containing residuals” (Report at p.12). What restrictions? The report doesn’t say. The report recommends continued testing of residuals prior to spreading and suggests granting authority to the Board of Environmental Protection to lower the screening level for PFAS, but makes no recommendations about what the screening level should be (or what criteria should be used to set that level). As we discussed above, without establishing a State MCL, which the report fails to recommend, it is unclear how enforceable this approach is.

Further, the Task Force appears to be endorsing a continuation of the state’s current policy, which allows spreading of sludge that exceeds DEP’s 50 ppt PFAS screening level on agricultural land so long as the soils aren’t already contaminated. This practice will simply continue and even expand PFAS contamination to soils, water and food. This policy might have been acceptable as a short term stop-gap measure to limit immediate harm while the Task Force was meeting to develop its long term plan. Now that DEP has 30,000 data points at 244 locations showing contamination near multiple closed landfills, in drinking water, at historic spreading sites, in fish, and in most tested biosolids, the Task Force has enough information to adopt a long term policy that will actually work. To continue a policy that simply spreads around the pollution is irresponsible and inconsistent with the goals of the Task Force and sound environmental and agricultural policy.

A better approach is to responsibly phase out land spreading and agricultural use of sludge, biosolids and residuals. Given the ubiquity of PFAS - including in consumer products, fire suppressants, furniture, paper and textile manufacturing and end products, car and floor waxes, and food packaging – the chemicals will continue to contaminate wastewater and sewage sludge for years to come. As health and food uptake data is collected and analyzed, scientists’ recommendations for safe levels of PFAS exposure are changing – downward. These chemicals last virtually forever and move up the food chain, and are easily transported into water. In the case of Stoneridge farm, the contaminated sludge may have been applied many years ago, and now that farm is out of business, possibly forever. Out of upwards of 5,000 PFAS compounds, only two – PFOA and PFOS – are no longer in U.S. production due to health concerns. Nonetheless, PFOA and PFOS continue to show up in water and biosolids in Maine and across the country. Products made elsewhere, including China, still contain these toxic chemicals. EPA recently approved 40 new PFAS chemicals for production and use, even though they share characteristics with the discontinued

compounds.<sup>20</sup> If we want to keep our food and water safe, and avoid dangerous levels of contamination in the future, we need to phase out agricultural use altogether.

IATP recognizes that this is no easy lift. Alternative disposal options that are safe and don't simply transfer PFAS from one media to another are limited and expensive. EPA's current incineration standards for biosolids are insufficiently protective and would not result in the complete destruction of PFAS; there are also environmental justice concerns with the siting of these hazardous waste incinerators in areas that disproportionately affect poor and minority populations.<sup>21</sup> Phasing out agricultural use of sludge, septage, biosolids and residuals will impose additional costs on farmers who have used these wastes as cheap fertilizer; on wastewater treatment plants and their customers, who have relied on farms as a cheap way to dispose of these wastes; and on businesses that make money by composting these wastes for sale as fertilizer. Nonetheless, the time is now to plan for an orderly transition away from agricultural use and, as we discuss in the section below, to develop a plan to finance this transition. In planning for the transition away from biosolids as fertilizer, the State should develop a process to engage farmers and other stakeholders.

During Task Force deliberations, it was frequently pointed out by Maine CDC and DEP staff that PFAS are only one class of pollutants threatening Maine's environment, drinking water and food supply, and that the recent focus on PFAS is taking resources away from addressing other high-risk contaminants. We think that the focus on PFAS is justified, given their ubiquity, mobility, toxicity, and persistence. That said, removing biosolids from agricultural uses would be an important step in addressing not only PFAS but also a wide range of contaminants *in addition to PFAS* that threaten the quality and safety of water and food grown on farmland using biosolids as fertilizer.

A recent report by the EPA Inspector General (IG) reviewing that agency's biosolids program identified 352 pollutants in biosolids that are currently unregulated at the federal level, including pharmaceuticals, steroids and flame retardants. The IG's analysis determined that the 352 pollutants include 61 designated as acutely hazardous, hazardous or priority pollutants in other programs. Yet EPA consistently monitors biosolids for only nine regulated pollutants, all heavy metals. The IG report further determined that EPA's capacity to manage pollutants in biosolids is extremely weak, and that current federal "laws, regulations, guidance, policies or activities, were incomplete or had weaknesses and may not fully protect human health and the environment." The IG report found that "EPA has chosen to reduce staff and resources in the biosolids program over time" and currently has only 2 staff associated with the program. Not only has the agency failed to evaluate the risks of land spreading of biosolids, but what information it does have has not been made public. The IG report found that "EPA's website, public documents and biosolids labels do not explain the full spectrum of pollutants in biosolids and the uncertainty regarding their

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<sup>20</sup> "EPA ALLOWED COMPANIES TO MAKE 40 NEW PFAS CHEMICALS DESPITE SERIOUS RISKS," by Sharon Lerner, The Intercept, September 19, 2019: <https://theintercept.com/2019/09/19/epa-new-pfas-chemicals/>

<sup>21</sup> See, e.g., Sierra Club comments on hazards with incineration of PFAS containing biosolids submitted to the Maine PFAS Task Force, <https://www.ourhealthyfuture.org/sites/default/files/pdfs/sc-maine-sept-2019-biosolids-incineration.pdf>

safety. In addition, the EPA has not conducted regular biosolids training, and its inspection goals are different than what the agency recommends for authorized states."<sup>22</sup>

These facts, and the State's own findings, strongly support phasing out sludge, biosolids and other residuals from agricultural use as soon as possible.

- **The report doesn't include sufficient information about costs and funding strategies, nor does it clearly call for increased state funding to address PFAS.** While acknowledging that the recommendations of the Task Force "will cost many millions of dollars in the coming years," the report recommends only that "funding from appropriate State of Maine accounts should be utilized, to the extent it is available" (Report at p.14). Limiting funding to existing resources and borrowing "from Peter to pay Paul" is no way to comprehensively prevent future PFAS contamination and to clean up already contaminated land and water.

We have discussed above the passive approach the Task Force is taking in the matter of setting a state MCL, which is inconsistent with Maine's historic proactive environmental policies and with the policies being pursued by neighboring states. Is this failure to adopt a more protective strategy the consequence of a desire to avoid asking the Governor and Legislature for the funding that would be needed to carry it out? The failure to request funding certainly raises this question. The Task Force needs to bite the bullet and identify all of the costs and agency staff time already devoted to PFAS investigations and remediation, and recommend that the General Fund include new monies to continue these efforts with adequate staffing and to fully carry out the report's recommendations. It is up to the Governor and Legislature to set final funding amounts for competing priorities, not the Task Force, which should advocate for what is needed to address PFAS.

We support the Task Force recommendation for a bond initiative for water sampling, remediation and treatment which would complement increased General Fund monies for state agency staff. The bond should also include funding for the agricultural supports recommended by DAFC. In addition, the Task Force or the DAFC should explore the potential for USDA funding to test farms and farm products, without delaying Maine's own research. The Connecticut PFAS Task Force recommended working with their university system and the cooperative extension service on agronomic research. The report should include a similar recommendation for the University of Maine, and for reaching out to other states to share resources and research priorities regionally.

Going after responsible parties including PFAS manufacturers and industrial facilities that created PFAS-contaminated wastes is the most equitable and direct way of securing funding that doesn't rely on taxpayer dollars. Maine should pursue these cases as other states have done. The report rightly calls for the Attorney General to pursue litigation to hold responsible parties accountable and to help fund testing and cleanup. This recommendation

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<sup>22</sup> Report: EPA Unable to Assess the Impact of Hundreds of Unregulated Pollutants in Land-Applied Biosolids on Human Health and the Environment, Report #19-P-0002, November 15, 2018, <https://www.epa.gov/office-inspector-general/report-epa-unable-assess-impact-hundreds-unregulated-pollutants-land>, at p. 12.

should include investigating legal strategies for negligent as well as “knowing” actions (Report at p.15).

We also support the request from private litigants at the November meeting that the Task Force recommend clarifying Maine’s Statute of Limitations in civil cases to ensure that the Discovery Rule is applied. Fred Stone as well as other farmers and households who may find out in the coming months or years - after DEP investigates the 500 historic sludge spreading sites throughout the state - that their agricultural land or drinking water is contaminated, should have recourse in the courts. The Discovery Rule properly starts the clock ticking for filing legal actions from the date those affected should have known there was a problem, not the date the PFAS was first introduced into the soil or water. This could well have been sometime decades in the past when PFAS contamination of biosolids was unknown; at a time when the U.S. EPA and Maine DEP encouraged farmers to use this inexpensive fertilizer; and while manufacturers actively hid information about the toxic qualities of these chemicals.

The report should also recommend legislation to establish a fee on current manufacturers of PFAS chemicals and products that contain PFAS.<sup>23</sup> Given the thousands of products made with PFAS, this strategy could raise substantial funds even with a very small fee. The product manufacturer fee has the added benefit of using market signals to encourage those manufacturers to switch to more benign products and processes, addressing the Task Force goal of “turning off the tap” and reducing sources of PFAS contamination. While Maine could choose to outright ban some PFAS-containing products, with as many as 5,000 variants of this class of chemicals, such bans are only part of a strategy to get PFAS out of the waste stream.

#### **SUMMARY OF RECOMMENDATIONS:**

- **Establish timetables for recommended actions.** These should include timetables for: (1) Investigation of historic sites of sludge and residuals land spreading; (2) Investigation of current and historic septage disposal sites; (3) DACF working with DEP and CDC to identify additional farms and agricultural products for testing based on proximity to sources and other factors indicating elevated risk; (3) Completing the testing of community water systems and wastewater treatment plants; (4) Completing the collection of information on firefighting foam (AFFF) storage and use locations; (5) Agronomic research on plant and animal uptake of PFAS.
- **Test for all PFAS.** The full panoply of PFAS compounds that can be tested for, should be. State agencies shouldn’t limit testing to PFAS and PFOA but should include the full list of 25 compounds that current testing methods can identify and measure.
- **Measure and report on any PFAS contamination including below the current 50 ppt screening level.**

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<sup>23</sup> At least one member of Congress has submitted legislation to do just that. See, Rep. Harley Rouda Press Release, “Rep. Harley Rouda Leads Bill to Fight Toxic Chemical Epidemic,” May 8, 2019, <https://rouda.house.gov/media/press-releases/rep-harley-rouda-leads-bill-fight-toxic-chemical-epidemic>

- **Set a legally enforceable State MCL that will fully protect public health, including vulnerable populations and those relying on fish in subsistence diets.** The Task Force should direct the Legislature to enact legislation (if needed) and the Board of Environmental Protection to immediately initiate a process to establish a State MCL for the class of PFAS compounds, based on the evidence-based ATSDR standard and research supporting limits adopted in New Hampshire, Michigan and other states.
- **As soon as possible, start phasing out agricultural use of sewage sludge, biosolids and other residuals including composted biosolids.** This transition should be accompanied with resources to aid, and opportunities for input, from those hurt during this transition.
- **Expand agricultural research.** DACF and CDC should follow up its dairy studies with a plan to identify the research needed to determine if other Maine food and agricultural products are contaminated. If USDA's promised beef data is not forthcoming in the near future, or if the information provided is limited in scope, Maine CDC should reach out to the University of Maine and work with agencies in other states to ensure that this research is completed.
- **Require all community water systems to be tested for PFAS contamination.** School and other public water systems should not be allowed to jeopardize public health and opt out of testing.
- **Request increased General Fund monies and detail additional funding strategies.** These include clarifying the Statute of Limitations for civil suits, expanding the proposed bond issue to cover agricultural costs, and putting a fee on PFAS products to assure ongoing funding and pollution prevention.

**Conclusion.** IATP appreciates the hard work of the many state agencies and their staff, and of Task Force members, who have put in untold hours over much of this year to collect data, clean up contamination, and develop strategies for protecting the public from exposure to PFAS. The Task Force report is a good start, but doesn't fully respond to ever-expanding data and research on PFAS both in Maine and nationally. It lacks a sense of urgency and a commitment to use all available tools to once and for all stop future PFAS pollution, clean up existing contamination, and assure to the extent possible that Maine's water, fish, agricultural products and environment are safe and healthy. IATP appreciates the opportunity to provide these comments in the hopes that the final recommendations of the Task Force will provide a blueprint for action on PFAS.

Respectfully submitted,

Sharon Anglin Treat  
Senior Attorney  
Institute for Agriculture and Trade Policy

Maine office:  
2 Beech Street, Suite D  
Hallowell, ME 04347  
207-242-8558  
streat@iatp.org

