



**Testimony in Support of LD 1923,
“An Act to Define as a Hazardous Substance Under Maine Law Any Substance Defined
under Federal Law as a Hazardous Substance, Pollutant or Contaminant”
Submitted by Sharon Treat, Institute for Agriculture and Trade Policy
Joint Standing Committee on Environment and Natural Resources
Maine Legislature
January 24, 2020**

Senator Carson, Representative Tucker, and honorable members of the Environment and Natural Resources Committee. My name is Sharon Treat and I live in Hallowell. I am Senior Attorney for the Institute for Agriculture and Trade Policy (IATP), on whose behalf I am testifying today in support of LD 1923.

IATP is a 501(c)(3) nonprofit headquartered in Minneapolis, Minnesota with offices in Hallowell, Maine and other locations.¹ 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, reviewed the data and findings of the state agencies investigating PFAS contamination and submitted comments on the final PFAS Task Force Report.

The data make clear that the State of Maine is facing a potentially enormous PFAS contamination problem. LD 1923 provides one tool to start to address that problem, by allowing the State to classify PFAS compounds and other emerging contaminants as hazardous substances under the Department of Environmental Protection (DEP)'s Uncontrolled Sites Program, thereby granting the State clear legal authority and freeing up funds to clean up and remediate contamination. Waiting for the federal government to act is not an option. With the federal Environmental Protection Agency (EPA) slow to act and Congress in a policy fight between the House and Senate,² the 49 states with confirmed PFAS pollution have been largely left on their own.³ Fortunately, Maine has significant expertise and the experience of years of independent action on toxics. Passing LD 1923 will enable the State to act quickly to protect the public and environment.

¹ IATP also has offices in Washington, D.C. and Berlin, Germany. For over 30 years, IATP has provided research, analysis and advocacy on agriculture-related issues including farm to school; climate; soil health; water quality and access; farmworker and farm health and economic security; and trade and market policies. See, www.iatp.org.

² Zack Budryk, “Top Republican: ‘Forever chemical’ bill has ‘no prospects’ in Senate,” The Hill, January 8, 2020, <https://thehill.com/policy/energy-environment/477363-top-republican-forever-chemical-bill-has-no-prospects-in-senate>

³ Environmental Working Group, “Mapping the PFAS Contamination Crisis: New Data Show 1,398 Sites in 49 States,” https://www.ewg.org/interactive-maps/2019_pfas_contamination/ (accessed January 22, 2020)

As Dave Burns, Director of DEP's Bureau of Remediation and Waste Management stated last week at a PFAS workshop at the Maine Agricultural Trade Show, "If we test for it in the environment, we find it." This has proven all too true. The reality is that the State's PFAS sampling effort is still just a snapshot of the scope of PFAS pollution actually facing Maine. There are large gaps in our knowledge, with many sources of contamination yet to be tested. What do we know so far? According to DEP data,⁴ PFAS is showing up in:

- Drinking water wells near closed landfills
- Public drinking water systems, including schools and childcare centers
- Groundwater
- Wastewater sludge
- Septage
- Compost
- "Mystery & surface spill"
- Uncontrolled sites
- Fish
- Department of Defense sites
- Farm fields

This Committee is familiar with the significant ongoing contamination of Stoneridge Farm. Is Stoneridge Farm an anomaly? DEP data suggest that the extent of PFAS contamination in Maine is not a one-off situation at one farm. To illustrate this, let's review some of DEP's landfill test results.

In its tests of drinking water wells near landfills (116 samples), DEP found maximum levels of 458 ng/l for PFOA, 120 ng/l for PFOS and 470 ng/l for combined PFOA + PFOS. Average results were also high; 46.0 ng/l for PFOA, 13.5 ng/l for PFOS and 52.5 ng/l for combined PFOA + PFOS. To put these data in perspective, New Hampshire has finalized drinking water standards intended to protect the most sensitive populations over a lifetime of exposure. The New Hampshire Maximum Contaminant Levels (MCLs) are: PFOA, 12 ppt; PFOS, 15 ppt; PFHxS, 18 ppt; and PFNA, 11 ppt.⁵

DEP's tests of groundwater near landfills showed even higher levels of PFAS contaminants. Groundwater results topped out at an astounding 3,050 ng/l for PFOA, 2700 ng/l for PFOS and 3095.1 ng/l for combined PFOA + PFOS. Even the average groundwater sample, out of about 46 samples for this category, found levels of 407.3 ng/l for PFOA, 204.1 ng/l for PFOS and 587 ng/l for combined PFOA + PFOS.

⁴ Maine PFAS Task Force, Final Report Appendix C, PFAS Results Summary (January 2020)

⁵ New Hampshire Department of Environmental Services, NHDES Proposes New PFAS Drinking Water Standards, Final Rulemaking Proposal for PFOA, PFOS, PFHxS and PFNA, June 28, 2019, <https://www.des.nh.gov/media/pr/2019/20190628-pfas-standards.htm>

Remember, this contamination is a result of run-off from *closed municipal landfills*, NOT Department of Defense sites where PFAS-infused firefighting foams have been routinely used,⁶ or federally-designated Superfund sites. In fact, the levels of groundwater contamination at landfills DEP has sampled are *similar to or exceed levels found at Superfund sites in Maine*.⁷ In reality, these landfills have the characteristics of a DEP “uncontrolled site” without access to the funding and administrative tools for cleanup and remediation that come with such a designation – what this legislation is intended to help remedy.

Without going through all of DEP’s data, an important takeaway for the Committee should be the extent that potential PFAS contamination is unknown – and how Maine food and drinking water, environment and public health will be adversely affected unless the Legislature and Governor act decisively and comprehensively. For example:

1. Almost none of the approximately 500 farms that DEP records show received sewage sludge have been tested.
2. Almost no septage has been tested. Initial test results show that septage could be as significant a source of contamination as sewage wastes.
3. DEP doesn’t know how many closed municipal landfills are contaminating groundwater, surface water and drinking water with PFAS. Only 116 have been tested so far out of over 400 throughout the state. How many homes are near these landfills? What about farms? And how close to these landfills do homes and farms need to be to experience contamination? PFAS is extremely mobile, and contaminants can spread far from the source.
4. What about other PFAS compounds? Most of DEP’s tests are for PFOA and PFOS only.
5. How are Mainers who rely on subsistence diets, particularly fish, being affected?

While there is a great deal more that must be done to prevent exposure to PFAS – including establishing a state MCL that is protective of health including that of vulnerable populations – LD 1923 is a necessary component of Maine’s PFAS strategy. We urge the Committee to favorably report out this legislation.

Respectfully submitted,

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⁶ DEP’s maximum results for combined PFOA + PFOS contamination at Department of Defense sites are as high as 33,000 ng/l. Maine PFAS Task Force, Final Report Appendix C, PFAS Results Summary (January 2020)

⁷ Ibid. For example, the maximum PFOA level for groundwater contaminated by a Superfund/RCRA site was 270 ng/l for PFOA, 738 ng/l for PFOS and 759.2 ng/l for PFOA + PFOS.