



**Testimony of Sharon Treat, Institute for Agriculture and Trade Policy  
In Support of LD 2160, “An Act Relating to the Statute of Limitations for  
Injuries or Harm Resulting from Perfluoroalkyl and Polyfluoroalkyl Substances”  
Joint Standing Committee on Judiciary, Maine Legislature  
July 28, 2020**

Senator Carpenter, Representative Bailey, and honorable members of the Judiciary 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 2160, “An Act Relating to the Statute of Limitations for Injuries or Harm Resulting from Perfluoroalkyl and Polyfluoroalkyl Substances.”

IATP is a 501(c)(3) nonprofit headquartered in Minneapolis, Minnesota with offices in Hallowell, Maine and other locations. IATP works closely with farmers and seeks to promote local, sustainable and environmentally beneficial agriculture and trade policies.<sup>1</sup> We have been closely following the PFAS issue both across the country and in Maine, attending the meetings of Governor Mills’ PFAS Task Force over much of last year and submitting detailed comments on the draft and final Task Force reports.<sup>2</sup>

Maine faces a potentially enormous PFAS contamination problem. PFAS are a group of man-made chemicals that includes PFOA, PFOS, GenX, and many other chemicals (as many as 5,000 variations). PFAS are especially persistent in the environment, meaning they don't break down and can bioaccumulate in both humans and farm animals, and have been called “forever chemicals” for this reason. These chemicals are also extremely mobile, easily traveling through soils and groundwater. PFAS exposure has been linked to kidney cancer and testicular cancer, as well as thyroid disease, compromised immune systems, and infertility. PFAS are used in a wide variety of consumer products, including nonstick coatings on cookware and water- and grease-resistant coatings on food packaging, outerwear, and furniture, as well as in firefighting foams.<sup>3</sup>

The data collected by the Maine Department of Environmental Protection and other state agencies as part of the Governors’ PFAS Task Force, extensive as it is, just begins to tell the tale. The true impact of PFAS contamination of food and drinking water, the environment and public health is not known. But the shocking discovery of extremely high levels of PFOS (one of the PFAS family of chemicals) in milk and beef at a central Maine farm is a timely reminder that this insidious family of chemicals

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continues to pollute our water, our food and our environment, and poses a serious health and economic threat to the State of Maine. According to news reports, the level of PFOS in milk from the as-yet unidentified farm ranged from 12,700 to 32,200 parts per trillion (ppt), up to 153 times Maine's standard for considering milk to be "adulterated" and unfit for sale and possibly, the highest milk contamination levels ever to be recorded anywhere.<sup>4</sup>

We now have two Maine farms forced to shutter their operations because of contamination from these toxic chemicals. In this PFAS-caused disaster, Maine's farmers are on the front lines, their health threatened by contaminated drinking water, and the viability of their farms and livelihoods threatened by PFAS-contaminated beef and milk that is unsafe, inedible and unsaleable. These farmers and others who experience health problems, property damage and economic ruin from PFAS contamination should have clear access to our courts to sort out the blame and assess liability for actions taken by manufacturers and other responsible parties.

Maine's Statute of Limitations is out of date. It was conceived of without understanding chemicals with properties such as PFAS, which silently and invisibly contaminate soil, water, plants and livestock, bioaccumulate in food and in human bodies, and persist for decades. Unlike the statutes of limitations in 37 other states, Maine's law hasn't been updated to clarify that it runs six years from the time the plaintiff discovers or reasonably should have discovered the harm or injury and the connection to the chemicals. Instead, the standard set forth in 14 MRSA §752 is "within 6 years after the cause of action accrues," ambiguous text that could lead to further litigation just to access the courts. LD 2160's clarification of Maine's statute of limitations for civil actions will at least ensure that that farmers and others whose health may be affected and whose land and livelihoods have been destroyed by PFAS-contaminated sludge applied many years ago can get their day in court to seek compensation for the damage caused by these chemicals.

Such financial aid has not been forthcoming from the U.S. Department of Agriculture or other sources. In any event, taxpayer funding shouldn't be the first resort to pay for damage caused by these chemicals, where the manufacturers were well aware of the potential for harm decades past and have since discontinued production of some of these compounds because of the harm they can cause. Unfortunately, the legacy of even discontinued PFAS formulations lives on, while newer PFAS compounds continue to be manufactured and remain ubiquitous in everyday consumer products.

Harm from PFAS contamination is not limited to farms and farmers, and this bill will also help homeowners, municipalities, schools and others dealing with PFAS pollution. Data collected by DEP and reported to the Task Force has found PFAS in fish caught in both rivers and lakes.<sup>5</sup> In addition to families in Presque Isle whose water was contaminated with PFAS from sludge, residents in Houlton and a school in Trenton are also dealing with PFAS contamination. Because PFAS pollution is both an ongoing and a legacy problem, what has been revealed so far may be just the tip of the iceberg. Data collected by the DEP has identified 500 properties where sludge was spread over the past 40 years, but testing at most of those sites remains yet to be done. Who knows what housing or other

development have been built on land that may be contaminated with PFAS? What about housing and schools located near one of the hundreds of closed municipal landfills throughout the state? The levels of groundwater contamination at some landfills DEP has sampled are *similar to or exceed levels found at Superfund sites in Maine*.<sup>6</sup>

This is why a majority of the Governor's PFAS Task Force members endorsed clarifying Maine law as LD 2160 would do. Passage of LD 2160 is only one of several policies Maine must move promptly to adopt, but it is an important action because it implements the "polluter pays" principle that underlies Maine's longstanding approach to cleaning up and paying for pollution. LD 2160 could provide significant resources to farmers and others harmed by this ubiquitous and persistent family of chemicals so that they can clean up and restore their farms, and restore Maine's reputation for the highest quality farm products.

Thank you for your consideration. We urge an "ought to pass" recommendation on this important legislation. Respectfully submitted,

Sharon Anglin Treat  
Senior Attorney  
Institute for Agriculture and Trade Policy  
2 Beech Street, Suite D  
Hallowell, ME 04347  
streat@iatp.org

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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).

<sup>2</sup> IATP, "Maine's plan to address "forever chemicals" polluting farms, water and food," January 2, 2020, <https://www.iatp.org/blog/202001/maines-plan-address-forever-chemicals-polluting-farms-water-and-food>

<sup>3</sup> Managing PFAS in Maine, Final Report from the Maine PFAS Task Force, January 2020 at 4-6, <https://www.maine.gov/pfastaskforce/materials/report/PFAS-Task-Force-Report-FINAL-Jan2020.pdf>

<sup>4</sup> Portland Press Herald, "State investigating 'very startling' levels of PFAS chemicals on central Maine dairy farm," by Kevin Miller (July 24, 2020), <https://www.pressherald.com/2020/07/24/state-investigating-very-startling-levels-of-pfas-chemicals-on-central-maine-dairy-farm/>

<sup>5</sup> Barry Mower, "PFAS in Maine water, sediment, and fish," Presented to Governor Mills' PFAS Task Force (September 25, 2019), <https://www.maine.gov/pfastaskforce/materials/20190925/BMower-presentation-PFAS-in-Maine.pdf>

<sup>6</sup> Final Report from the Maine PFAS Task Force, Appendix C, PFAS Results Summary (January 2020). For example, In DEP's tests of drinking water wells near landfills (116 samples), the agency 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. See, 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> 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.