



Testimony of Sharon Treat for the Institute for Agriculture and Trade Policy
Supporting LD 1911,
"An Act To Prohibit the Contamination of Clean Soils with So-called Forever Chemicals"
Sponsored by Representative William Pluecker
Before the Maine Legislature's Environment and Natural Resources Committee
January 24, 2022

This testimony is submitted on behalf of the Institute for Agriculture and Trade Policy by Sharon Treat, Senior Attorney, in support of LD 1911, "An Act To Prohibit the Contamination of Clean Soils with So-called Forever Chemicals." IATP is a 501(c)(3) nonprofit headquartered in Minneapolis, Minnesota with an office in Hallowell, Maine and other locations. We work closely with farmers to promote local, sustainable and environmentally beneficial agriculture and trade policies.¹ We have been following PFAS issues across the country and especially in Maine, where we have taken a strong interest in how PFAS contamination has affected farmers and agriculture.

Maine has been on the [leading edge of PFAS policy](#) out of necessity, and this committee deserves tremendous credit for the policies you have already endorsed and moved into law, including mandatory testing of land previously spread with wastewater sludge and industrial wastes (LD 1600) and the disclosure and ultimate phase-out of PFAS in products sold in Maine (LD 1503). The latter policy is critically important in "turning off the tap" so that PFAS don't continue to contaminate our water, food, wild game, soils and people. Now, the Legislature needs to finish the job, and enact LD 1911 so that PFAS-contaminated "biosolids" and compost will not be allowed to continue to be spread and cause future contamination.

The scope of Maine's PFAS problem. The problem of PFAS contamination in Maine cannot be overstated; it is not hyperbole to call it a crisis. Since the Legislature acted last session, even more residential drinking water wells and additional farms have been found to be contaminated. Farmers have had their livelihoods destroyed or significantly impacted, and they and others have been exposed to toxic substances in their water and food.

A "do not eat" [deer consumption advisory](#) has been issued by the Department of Inland Fisheries and Wildlife for a large geographic area in central Maine. Testing is being undertaken to determine if turkeys and other game are also contaminated. We already know that some fish are contaminated. And we know that the PFAS pollution found so far is just the beginning. Most

¹ IATP also has offices in Washington, D.C. and Berlin, Germany (IATP Europe). Since 1986, 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.

of the soils, water and farmland in the state haven't been tested. Maine's reputation for clean, healthy and sustainably produced food is taking a beating, and pretty soon, word will get out that game could come with a side of PFAS — damaging a significant part of the state's natural resource-based economy and likely affecting tourism as well. As a reminder, PFAS exposure has been linked to health problems including kidney and testicular cancer, thyroid disease, infertility and compromised immune systems, including reduced efficacy for vaccines. It is imperative to get PFAS out of our products, our food, and our environment without delay.

Maine's policy allowing land application of PFAS-contaminated sludge and compost is unsafe. Passage of LD 1911 would address several significant problems with current Maine Department of Environmental Protection policy.

First, DEP's screening level to determine if sludge is considered contaminated with PFAS is inconsistent with state drinking water standards. It is insufficiently health-protective, being based on outdated federal guidance of 70ppt rather than current state standards, which cover additional PFAS substances and are based on a 20ppt level.

Second, DEP continues to allow land application of sludge that tests positive for PFAS through two loopholes that swallow its general rule that PFAS-contaminated sludge waste may not be spread on land. Since initial testing by wastewater treatment facilities found over 95% of the tested sludge exceeded the current screening levels for at least one of the PFAS compounds being tested, this is not a minor concern. LD 1911 would close these loopholes:

- In contravention of the maxim "dilution isn't the solution to pollution," DEP allows just that. The Department allows PFAS-contaminated sludge to be mixed with clean soil, so long as it the resulting mix is below its outdated screening level.
- DEP also allows sludge containing PFAS that is processed in composting facilities to be sold to farmers, landscapers, and home gardeners. Even though DEP screens the compost for PFAS, it employs unrealistic assumptions that allow levels of PFAS in these products that exceed the state's outdated screening standard, assuming that home gardeners and other users of these products will be applying the compost to "clean" soils that have no PFAS contamination already.

These policies may be convenient if the goal is simply to dispose of this waste with the least up-front cost to municipal and industrial treatment plants, but they are not based on reality. They threaten to spread PFAS near and far and expose additional people, soils and water, livestock and farm produce to future contamination. Households have been watering their gardens with PFAS-contaminated water in the Fairfield area for decades. Water and soil testing is just starting for the rest of the state, but given the large [number of past sludge-spreading sites](#), and the great distances highly mobile PFAS have traveled through ground and surface waters, it is hard to imagine that similar scenarios aren't playing out across Maine.

Meanwhile, even without added contamination from water, landscapers and gardeners apply soil amendments year after year to the same soils. PFAS are bio-accumulative and essentially last forever. Soil contamination at an organic Unity farm has been caused by biosolids spread [24 years before](#) the farm was purchased by the current owners. It is a dangerous fiction to imagine that all compost containing PFAS will be applied only to pristine soils and will not pose future health risks.

We already know that compost made from wastewater sludge marketed to households and used on food grown in home gardens is contaminated with PFAS. The biosolids industry has [downplayed the risk](#), but municipal and industrial-scale operations including Casella's [Hawk Ridge](#) composting facility in Unity, Maine produce [compost contaminated with PFAS](#).

Contaminated commercial fertilizer marketed to home gardeners is of concern both in Maine and nationally. A recent [report](#) found PFAS in each of nine fertilizer products tested and marketed as "eco" or "natural," eight of which exceeded Maine's current screening guidelines. The test products were purchased in Maine and nationally at national chains including Lowes, Home Depot and Ace Hardware, as well as locally owned garden centers.² Scientific studies of compost made from sludge "biosolids" and from municipal waste confirm widespread PFAS contamination.³

Federal action not anticipated anytime soon. While the federal Environmental Protection Agency has taken initial steps that could change how PFAS-contaminated wastes are regulated in the future, the timing and scope of any changes are up in the air. There is no indication yet that EPA plans to revisit its biosolids rule which allows land spreading. States have the authority to act, and doing so will incentivize the removal of PFAS from wastewater discharges and consumer products and prompt speedier development of safe PFAS destruction technologies.

While we await the development of these newer disposal alternatives, PFAS-contaminated sludge must be landfilled. Although this technology itself is not without risks, including contamination of leachate (addressed in other legislation before this committee), disposal in a lined landfill with leachate collection systems and monitoring is far safer than spreading on fields. While initial disposal costs will increase, the avoided costs will be far greater: already taxpayers are paying tens of millions to test and clean up previously contaminated land and water, and that work is just beginning. Continuing to allow land application of sludge and compost containing PFAS will result in water contamination and destroy soils for future use as farmland. As farmers in Maine and elsewhere have discovered, once contaminated with PFAS, it is virtually impossible to make soils safe for farming.

² Sludge in the Garden: Toxic PFAS in Home Fertilizers Made From Sewage Sludge. Ecology Center of Michigan and the Sierra Club (2021). <https://www.sierraclub.org/toxics/pfas/pfas-sludge>

³ See also Lazcano, Rooney Kim and Youn Jeong Choi, Michael L. Mashtare, and Linda S. Lee. "Characterizing and Comparing Per and Polyfluoroalkyl Substances in Commercially Available Biosolid and Organic Non-Biosolid-Based Products." *Environmental Science & Technology* 54 (2020): 8640-8648. DOI: 10.1021/acs.est.9b07281; Choi, Youn Jeong and Rooney Kim Lazcano, Peyman Yousefi, Heather Trim, and Linda S. Lee. "Perfluoroalkyl Acid Characterization in U.S. Municipal Organic Solid Waste Composts." *Environ. Sci. Technol. Lett.* 6 (May 2019): 372–377. <https://doi.org/10.1021/acs.estlett.9b00280>.