

Monday, May 12, 2025

**Kat Taylor Public Hearing Testimony Supporting [LD 1903](#) - *An Act to Conform the State's Perfluoroalkyl and Polyfluoroalkyl Substances Laws to Federal Standards***

Good Afternoon Members of the Environmental and Natural Resources Committee:

My name is Kat Taylor. I am a resident and property owner in Argyle Twp., located about 20 miles north of Bangor. **I am testifying today in support of LD 1903** which will align PFAS/PFOS chemicals with Federal Standards.

At this time there is still no solution to our state's PFAS/PFOS contamination. Commercial landfills can accept contaminated Out of State Waste (**OOSW**) and **WWTS as this practice is not prohibited by law** so they continue to use Maine as a depository for waste that is banned in other states.

**Contaminated Landfill Leachate** is being deposited into our waterways.

At the **April 28th** public hearing of [LD 297](#), *An Act Regarding the Management of Oversized Bulky Waste from Wastewater Treatment Plants* (Emergency), **DEP Director of Bureau of Remediation and Waste Management Suzanne Miller testified.**

At **04:07** she cites the Interstate Commerce Clause (**ICC**) as the **reason why Maine can't stop OOSW.**

At **04:22:47** **Newell Augur of Pierce Atwood** representing Casella also **cites the ICC** as the reason why **Norridgewock** can accept **OOS WWTS** prompting **ENR Chair Senator Tepler** to ask **"So we allow the transportation of sludge from other states into the state of Maine?"**

To which Mr. Augur responded **"I don't think there would be any law that would prohibit Norridgewock from taking that."** He referred back to Director Miller's comment on the ICC.

Chair Tepler asked if **the state could prohibit toxics from coming into the state** to which Mr. Augur said **"Yes."**

**Federal Law has determined certain PFAS/PFOS chemicals are hazardous** and is proposing to add more to the list. **LD 1903 seeks to bring Maine into compliance with those standards.**

**PFAS chemicals classified as Hazardous Waste**

- **Forever chemicals now subject to hazardous designation under Superfund**
  - May 29, 2024
  - <https://www.reuters.com/legal/legalindustry/forever-chemicals-now-subject-hazardous-designation-under-superfund-2024-05-24/>
- **Proposal to List Nine Per- and Polyfluoroalkyl Compounds as Resource Conservation and Recovery Act Hazardous Constituents**
  - February 8, 2024

- <https://www.epa.gov/hw/proposal-list-nine-and-polyfluoroalkyl-compounds-resource-conservation-and-recovery-act>

**This information confirms Chair Tepler’s correct assertion that the state can, and should, stop WWTS, and other materials containing toxics, from coming across Maine’s borders.**

**There is precedent** in Maine law on **restricting businesses** from **importing** OOS products deemed unacceptable.

The 124<sup>th</sup> legislative session passed an **Emergency Ban on untreated firewood**. In the Maine Department of Agriculture, Conservation and Forestry (DACF) **FAQ's** the ICC is mentioned and ***the state claims it is not violating the ICC*** since **there is precedence** for allowing a ban. [https://www.maine.gov/dacf/mfs/forest\\_health/downloads/firewood\\_out\\_of\\_state\\_ban\\_faqs.pdf](https://www.maine.gov/dacf/mfs/forest_health/downloads/firewood_out_of_state_ban_faqs.pdf)

From the **DACF FAQ's** webpage:

***“Isn't this a violation of the Federal Interstate Commerce Clause affecting trade and business between States?”***

**No.** This question has **previously been addressed in the courts for other products** and the question has **been investigated** in regards those judgments as they apply to firewood. **These state regulations do not violate Federal ICC law."**

Another precedent is the case of my father, **Robert J. Taylor Jr.**, regarding the **unconstitutional ban** (ICC) of **importing baitfish** into the state. **His claim held up in state court** but was **appealed by Maine to the US Supreme Court** (*Maine v. Taylor*).

The **US Supreme Court findings** are applicable against importation of OOSW; simply replace “disease organisms” with PFAS/PFOS and “baitfish” with OOSW. (*Maine v. Taylor*, 477 U.S. 901, 916 (1986) (quoting *United States v. Bannister*, 349 F.2d 100, 103 (CA-1, 1965)). See also *S. v3.pdf, pg 10*):

***“Moreover, we agree with the District Court that Maine has a legitimate interest in guarding against imperfectly understood environmental risks, despite the possibility that they may ultimately prove to be negligible. “[T]he constitutional principles underlying the commerce clause cannot be read as requiring the State of Maine to sit idly by and wait until potentially irreversible environmental damage has occurred or until the scientific community agrees on what disease organisms are or are not dangerous before it acts to avoid such consequences. (585 F. Supp., at 397.)”***

*“The Commerce Clause significantly **limits the ability of States** and localities to regulate or otherwise **burden the flow of interstate commerce**, but it does not elevate free trade above all other values.*

***As long as a State does not needlessly obstruct interstate trade or attempt to "place itself in a position of economic isolation," Baldwin v. G. A. F. Seelig, Inc., 294 U.S. 511, 527 (1935), it retains broad regulatory authority to protect the health and safety of its citizens and the integrity of its natural resources.***

***The evidence in this case amply supports the District Court's findings that Maine's ban on the importation of live baitfish serves legitimate local purposes that could not adequately be served by available nondiscriminatory alternatives.***

**Materials containing toxics threaten to do 'potentially irreversible environmental damage' and should be banned.** The unfettered importing of OOS WWTS and municipal solid waste intensifies this possibility.

Therefore, **a total ban on a product** (baitfish/firewood/MSW/WWTS) **can be enforced without violating the ICC** since **we have no way of knowing that such importation will not harm** our fragile **ecosystem** and be **detrimental** to our **health**.

**Maine has the authority to establish our own safe water standards as long as those standards meet or exceed federal levels.**

**The state cannot afford to stand idly by and wait until a federal standard is completed** to ban importation and begin removing, not just PFAS/PFOS, but all contaminants from land and water. An **Emergency ban is needed on all OOS materials** that may contain toxic chemicals **destined for disposal within the borders of Maine.**

This ban would be no different than the emergency bans on untreated firewood and the SCOTUS decision in *Maine v. Taylor* banning baitfish; both examples **do not violate the Interstate Commerce Clause (ICC)**.

Please vote **Ought To Pass on LD 1903** since compliance with Federal Standards is the first step on a long road back to a healthy, toxic free Maine.

Respectfully,

Kat Taylor  
Argyle Twp.