



STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
FUND TO ADDRESS PFAS CONTAMINATION  
22 STATE HOUSE STATION  
AUGUSTA, MAINE 04333

JANET T. MILLS  
GOVERNOR

AMANDA E. BEAL  
COMMISSIONER

TESTIMONY BEFORE THE JOINT STANDING COMMITTEE ON  
AGRICULTURE, CONSERVATION AND FORESTRY

IN OPPOSITION TO LD 289

*An Act to Require the State to Purchase Farms Contaminated with Perfluoroalkyl and Polyfluoroalkyl Substances*

February 13, 2023

Senator Ingwerson, Representative Pluecker, and members of the Joint Standing Committee on Agriculture, Conservation and Forestry, my name is Beth Valentine, and I am the Director of the Fund to Address PFAS Contamination. I am speaking on behalf of the Department of Agriculture, Conservation and Forestry (DACF) in opposition to LD 289, "*An Act to Require the State to Purchase Farms Contaminated with Perfluoroalkyl and Polyfluoroalkyl Substances.*"

This bill would require, rather than permit, the Fund to Address PFAS Contamination to purchase land with known PFAS contamination. It specifies that the purchase price must be the assessed fair market value of the real estate but not less than \$20,000 per acre.

The Fund to Address PFAS Contamination ("PFAS Fund") was established in April 2022 (7 MRSA chapter 10-D). The permitted uses of the PFAS Fund include but are not limited to "[r]elocating a commercial farm when the agricultural land of the farm is found to be contaminated by PFAS" and "[b]uying and selling agricultural land found to be contaminated by PFAS."

The law establishing the Fund created an Advisory Committee to make recommendations to the Department regarding the administration of the PFAS Fund. The Advisory Committee can develop working groups that include "subject matter experts from the public and private sectors to deliberate issues relating to the purposes of the fund."

The work of the Fund is underway. The Department formalized the Advisory Committee membership in October 2022. By December 2022, the Advisory Committee identified initial priorities and tasked working groups with developing strategies to implement them. The Land Transfer Subcommittee is looking specifically at real estate transfers of agricultural land with known PFAS contamination. Members of this working group have expertise in real estate

HARLOW BUILDING  
18 ELKINS LANE  
AUGUSTA, MAINE



PHONE: (207) 287-3200  
FAX: (207) 287-2400  
WEB: [WWW.MAINE.GOV/DACF](http://WWW.MAINE.GOV/DACF)

transactions generally and with transactions involving hazardous materials, agricultural financing, conservation easements, and rural development. Two members are farmers.

The full Advisory Committee will discuss recommendations from this Subcommittee in the coming months. The Advisory Committee, which will ultimately make final recommendations to DACF, also includes members with relevant expertise to help us shape this program, including five other farmers.

The working group met for the first time on January 30, 2023. It is working to develop strategies to purchase land with the PFAS Fund and is considering questions such as:

- How should the land value be assessed?
- What should the due diligence process look like, and which party should be responsible?
- Should a covenant restricting certain future uses be placed on the deed?
- How will the State hold and manage the land?

It must be acknowledged that the discovery of PFAS on agricultural land is devastating news. It does not necessarily preclude farming, however. For example, it is possible to filter water. Likewise, it is possible to deurate animals once the source of PFAS is removed (*e.g.*, by bringing in clean feed). Preliminary research indicates that certain crops, like potatoes and asparagus, can be safely grown in contaminated soils. Still, there is much uncertainty, and difficult decisions will need to be made. Some farmers, with support, will be able to transition to new methods or types of production. For others, alternative forms of agriculture will not be economically viable.

Each farm is unique and will require tailored support from the PFAS Fund. In some instances, farmers will choose to stay on their land. In other cases, they will choose to move on. In either case, the PFAS Fund will strive to provide farmers with the resources needed to make informed decisions and then implement their desired course of action. As written, 7 MRSA 320-K(4) provides the Department with broad discretion to provide a wide array of support to meet the needs of impacted farmers.

In short, the Legislature has already established a process for the Department to investigate, analyze, and implement strategies for purchasing PFAS-contaminated land. This process deserves an opportunity to play out.

The Committee should consider a few important factors regarding the implications of this bill, as well as the unintended consequences.

- LD 289 would require the Department to offer to purchase the real estate of a commercial farm with land found to be contaminated by PFAS prior to January 1, 2023. A directive to purchase land necessarily means there will be less money available for other purposes, such as purchasing equipment, facilities, and infrastructure; developing enterprise budgets; replacing income and supporting mortgage payments; paying for medical monitoring; paying for medical care; evaluating PFAS testing and data management capacity; funding research that supports decision making; supporting long-term

monitoring; developing and implementing educational programs; assisting with marketing; and engaging in regional planning.

- Any given farm may include a home, various outbuildings and infrastructure, cropland, pastures, and/or woodland. Thus, as proposed in LD 289, a flat price per acre will likely not accurately account for the variability among farm properties and geographic variations in land values.
- There is also the potential that other contaminants – such as oil and expired pesticides – could be found on PFAS-contaminated property, making the property subject to treatment as an uncontrolled site for hazardous materials. The flat fee per acre proposed in LD 289 does not account for this possibility.

Thank you for the opportunity to provide testimony today. I am happy to answer any questions now or during the work session.