

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

S.P. 66 - L.D. 130

An Act to Establish the PFAS Response Program and to Modify the Fund To Address PFAS Contamination

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §320-K, sub-§4, as enacted by PL 2021, c. 635, Pt. XX, §2, is amended by enacting at the end a new blocked paragraph to read:

Health care information obtained by the department in the course of providing services related to paragraphs A and B, including billing information, must be treated as confidential pursuant to Title 22, section 1711-C. For purposes of this section, "health care information" has the same meaning as in Title 22, section 1711-C, subsection 1, paragraph E.

Sec. 2. 7 MRSA §320-K, sub-§5, as enacted by PL 2021, c. 635, Pt. XX, §2, is repealed and the following enacted in its place:

5. Administration and authority. The administration of the fund and the authority to administer the fund is as follows.

A. The department shall administer the fund allocations in accordance with a plan that establishes funding priorities, administration and oversight and with the review and advice of the advisory committee. The department may use funds for personnel services and to contract for professional services to carry out the purposes of this section.

B. The commissioner or the commissioner's designee is authorized to sell, grant, lease, transfer or otherwise convey any real or personal property acquired under subsection 4, paragraph D. Proceeds from the sale or lease of property and the disposal of all other interests in real property including timber sales and revenue generated from solar development must be deposited into the Department of Agriculture, Conservation and Forestry, Office of the Commissioner program, Fund To Address PFAS Contamination, Other Special Revenue Funds account.

Sec. 3. 7 MRSA §320-L, sub-§2, as enacted by PL 2021, c. 635, Pt. XX, §2, is repealed and the following enacted in its place:

2. Chairs. The advisory committee shall select 2 chairs from among its members, each to serve a term of 2 years. Chairs may serve consecutive terms.

Sec. 4. 7 MRSA §320-L, sub-§3, as amended by PL 2023, c. 212, §4, is further amended to read:

3. Proceedings of the advisory committee. The advisory committee shall hold at least 2 one public hearings meeting annually to seek input from the public on efforts to meet the purposes of the fund. All proceedings of the advisory committee are public proceedings within the meaning of Title 1, chapter 13, subchapter 1. Notwithstanding Title 1, section 403, subsection 6, all records of proceedings of the advisory committee are public and subject to the requirements of Title 1, section 403, subsection 2.

Sec. 5. 7 MRSA c. 10-E is enacted to read:

CHAPTER 10-E

PFAS RESPONSE PROGRAM

§341. PFAS Response Program

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agricultural land" has the same meaning as in section 32, subsection 2.

B. "Commercial farm" means a farm that produces any farm product with the intent that the farm product be sold or otherwise disposed of to generate income.

C. "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, grains and food crops, dairy products, poultry and poultry products, bees, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses, Christmas trees and other similar products.

D. "On-farm mitigation efforts" means activities intended to reduce the impact of perfluoroalkyl and polyfluoroalkyl substances contamination on a commercial farm's production of farm products.

E. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in Title 32, section 1732, subsection 5-A.

F. "Program" means the PFAS Response Program.

2. Program established; purpose. The PFAS Response Program is established to effectively respond to and address PFAS contamination affecting agricultural producers in the State, to assist commercial farms affected by PFAS contamination and to safeguard public health. The commissioner shall develop, implement and administer the program for the purpose of abating, cleaning up and mitigating threats and hazards posed by PFAS that affect agricultural producers in the State and that affect the food supply; providing support to affected commercial farms; supporting critical PFAS research; and allowing for the department to strategically and effectively respond to PFAS concerns and issues as they arise. The program may include but is not limited to:

A. Establishing maximum levels for PFAS in farm products in consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention. When a maximum level is exceeded, the department may prohibit the commercial sale of the product affected and require the PFAS-impacted agricultural producer to incorporate on-farm mitigation efforts as a prerequisite for any future authorization from the department to resume commercial sale of the product affected;

B. Providing testing support, including conducting initial sampling and ongoing monitoring, to assist agricultural producers in understanding the extent of PFAS contamination on their commercial farms. Testing may include but is not limited to testing of groundwater, surface water, soil, animal tissue, animal blood and serum, plant tissue, animal feed, eggs, milk, manure and compost;

C. Providing technical assistance to interpret test results, craft recommendations for on-farm mitigation efforts to reduce the risk of PFAS contamination and implement modifications to ensure the safety of farm products and ongoing farm viability;

D. Providing financial assistance to PFAS-impacted agricultural producers, including but not limited to self-testing reimbursement, agricultural water filtration equipment and maintenance costs, livestock depopulation, compensation for unmarketable processed livestock, equipment and input cost coverage, clean feed support and infrastructure support;

E. Establishing baseline criteria that agricultural producers must adhere to in order to receive technical and financial assistance, which includes granting property access sufficient to conduct appropriate and required PFAS investigations, cooperating with program staff by providing timely and complete information regarding product types, feed sources and other relevant management practices and adhering to animal welfare and nutrient management recommendations.

An agricultural producer must have an opportunity to request a hearing before the department pursuant to Title 5, chapter 375, subchapter 4 regarding the program's decision to deny, cease or modify financial support based on the criteria established according to this subsection. The department shall inform the agricultural producer of the opportunity to request a hearing in the written communication notifying the agricultural producer of the program's decision to deny, cease or modify financial support; and

F. Undertaking or supporting research efforts necessary to advance scientific understanding of PFAS and their movement and effect in agricultural systems that inform on-farm management recommendations or regulatory decisions. These efforts may be accomplished by department staff or state agency partners or contracted to qualified 3rd parties.

3. Administration. The Bureau of Agriculture, Food and Rural Resources within the department shall administer the program. The department may also partner with state agencies or contract with 3rd parties to effectuate the purposes of this chapter. The program is distinct from the Fund To Address PFAS Contamination established in section 320-K. The program enforces maximum levels of PFAS in farm products, provides direct on-farm assistance, including but not limited to testing, analysis and on-farm mitigation strategy recommendations, in addition to providing specific financial support that is integral to commercial farms making changes necessary to adapt to and mitigate on-farm PFAS risk.

4. Rules. The department may adopt rules to implement this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.