

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 1189 - L.D. 1600

**An Act To Investigate Perfluoroalkyl and Polyfluoroalkyl Substance
Contamination of Land and Groundwater**

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

Sec. 1. 38 MRSA §1310-B-1 is enacted to read:

§1310-B-1. Land Application Contaminant Monitoring Fund

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

A. "Fund" means the Land Application Contaminant Monitoring Fund under subsection 2.

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

2. Land Application Contaminant Monitoring Fund. The Land Application Contaminant Monitoring Fund is established to be used by the department as a nonlapsing, revolving fund to test and monitor soil and groundwater for PFAS and other contaminants and for other related activities, including, but not limited to, abating or mitigating identified contamination and the effects of such contamination through the provision of access to safe drinking water, the installation of filter treatment systems or other actions.

A. The fund is funded by the fee under subsection 3 and any public or private funds that may be available for carrying out the purposes of the fund. The department shall deposit with the Treasurer of State to the credit of the fund money in the fund not currently needed by the department to carry out the purposes of the fund, which may be invested as provided by law. Interest earned on investment of money under this paragraph must be credited to the fund.

B. The department may transfer money in the fund in excess of the amounts the department anticipates to be necessary to carry out the purposes of the fund to the Uncontrolled Sites Fund under section 1364, subsection 6 for the purposes of testing, monitoring or treating land contaminated by PFAS.

C. Beginning January 15, 2023, and every 2 years thereafter, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters regarding the uses of the fund and a summary of contamination identified. After reviewing the report, the joint standing committee may report out legislation related to the report.

3. Handling fee. In addition to any other fee or charge required by statute or rule, beginning January 1, 2022, the department shall assess an annual fee, as calculated on a calendar year basis, of \$10 per ton, or an equivalent amount as determined by the department on a volume basis, on the handling of sludge or septage. The department shall waive collection of a fee under this subsection for any entity that would otherwise be assessed a fee of less than \$50 total in any calendar year. The department shall deposit a fee collected under this subsection into the fund.

4. Rules. The board shall adopt rules necessary for the administration of the fund and any underlying program or purpose under or funded by the fund and for the assessment and collection of the fee under subsection 3. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Testing of locations with land applications of sludge or septage for perfluoroalkyl and polyfluoroalkyl substance contamination. The Department of Environmental Protection shall develop and implement a program to evaluate soil and groundwater for perfluoroalkyl and polyfluoroalkyl substances and other identified contaminants at locations licensed or permitted prior to 2019 to apply sludge or septage.

1. The department may exclude a location from evaluation under the program for good reason, including, but not limited to, upon a determination that no sludge or septage was actually applied at the location or that the location is no longer owned or controlled by the licensee or permittee and the department is unable to obtain authorization to evaluate soil and groundwater at the location. As part of the report required under the Maine Revised Statutes, Title 38, section 1310-B-1, subsection 2, paragraph C, the department shall identify any location thus excluded and describe the reason for the exclusion.

2. The department shall prioritize under the program the evaluation of locations based on criteria to be established by the department, including, but not limited to, the anticipated presence of high levels of perfluoroalkyl and polyfluoroalkyl substances in the sludge or septage applied at a location, the volume of sludge or septage applied at a location or the proximity of known receptors.

3. The evaluation of locations under the program must include the testing of soil and groundwater for all perfluoroalkyl and polyfluoroalkyl substances that may reasonably be quantified by a laboratory certified under the Maine Revised Statutes, Title 22, section 567. Testing under this section must be paid for using funds from the Land Application Contaminant Monitoring Fund under Title 38, section 1310-B-1. If testing of any location under this section indicates an elevated level of contamination on land that is currently being used for the production of an agricultural product, the department shall inform the Department of Agriculture, Conservation and Forestry of the findings of contamination. The Department of Environmental Protection shall complete an evaluation of, or determine to exclude from evaluation pursuant to subsection 1, at least half of the locations licensed or permitted prior to 2019 to apply sludge or septage by December 31, 2024 and all such locations by December 31, 2025.

4. Notwithstanding any provision of law to the contrary, a person licensed or permitted by the department to apply sludge or septage at a location subject to evaluation under this section shall submit to an evaluation of that location under the program upon the request of the department, and, prior to January 1, 2026, the person may not submit a request to the department to surrender that license or permit prior to its expiration unless the person has submitted to such evaluation and has provided the department with the results of any testing conducted.

For purposes of this section, "perfluoroalkyl and polyfluoroalkyl substances" has the same meaning as in the Maine Revised Statutes, Title 32, section 1732, subsection 5-A, "sludge" has the same meaning as in Title 38, section 1303-C, subsection 28-A and "septage" has the same meaning as in Title 38, section 1303-C, subsection 27.

Sec. 3. Testing of landfill leachate for perfluoroalkyl and polyfluoroalkyl substance contamination. The Department of Environmental Protection shall develop and implement a program for the testing of leachate collected and managed by solid waste landfills for perfluoroalkyl and polyfluoroalkyl substance contamination.

1. Notwithstanding any provision of law to the contrary, within 90 days of the effective date of this Act, the department shall require each licensed solid waste landfill to conduct periodic testing of leachate collected and managed by the landfill for all perfluoroalkyl and polyfluoroalkyl substances that may reasonably be quantified by a laboratory certified under the Maine Revised Statutes, Title 22, section 567. A solid waste landfill that conducts testing of leachate pursuant to this section shall provide the department with the results of that testing.

2. On or before January 15, 2024, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters regarding the testing program implemented under this section, including a description of the results of such testing and any recommendations, including proposed legislation. After reviewing the report, the joint standing committee may report out legislation related to the report.

For purposes of this section, "perfluoroalkyl and polyfluoroalkyl substances" has the same meaning as in the Maine Revised Statutes, Title 32, section 1732, subsection 5-A.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Land Application Contaminant Monitoring Fund N385

Initiative: Provides allocations to test and monitor soil and groundwater for perfluoroalkyl and polyfluoroalkyl substances, or PFAS, and other contaminants. Funding may also be used for abating and mitigating identified contamination through the installation of filter treatment systems.

| OTHER SPECIAL REVENUE FUNDS | 2021-22 | 2022-23 |
|--|--------------------|--------------------|
| All Other | \$1,800,000 | \$3,600,000 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | \$1,800,000 | \$3,600,000 |