

Proposed Amendment to LD 1600 5/11/2021 (7:20PM)

Amend Sections 2, and 3 follows (Amended language shaded)

Sec. 2. 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" has the same meaning as in Title 32, section 1732, subsection 5-A.

C. "Residual" has the same meaning as in Title 7, section 4201, subsection 7. "Septage" has the same meaning as in Title 38, section 1303-C, subsection 27.

D. "Sludge" has the same meaning as in Title 38, section 1303-C, subsection 28-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 perfluoroalkyl and polyfluoroalkyl substances and other contaminants and for other related activities including, but not limited to, abating or mitigating identified contamination and its impacts such as by providing access to safe drinking water or installing filter treatment systems. 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 subsection must be credited to the fund. The department may ~~shall~~ transfer money in the fund in excess of that anticipated to be necessary to carry out the purposes of the fund ~~not used within 5 years of the receipt of the money~~ to the Uncontrolled Sites Fund under section 1364, subsection 6 for the purposes of testing, monitoring or treating ~~farmland~~ land contaminated by perfluoroalkyl and polyfluoroalkyl substances. Beginning January 15, 2023, the department shall report ~~annually~~ every two years to the Legislature on the uses of the fund, a list of sites excluded from testing with an explanation for the reason for exclusion, and a summary of contamination identified.

3. Disposal fee. In addition to any other fee or charge required by statute or rule, the department shall assess an annual fee on a calendar year basis starting in 2022 of \$10 per ton, or equivalent on a volume basis as determined by the department, on the handling ~~any disposal~~ of septage, or sludge ~~industrial sludge, municipal sludge, bioash, wood ash or other residual~~. The department shall deposit a fee collected under this subsection into the fund. The Department shall waive fees for entities that total less than \$50 in a calendar year.

Sec. 3. Testing of locations with land applications of ~~sludge or septage residuals~~ for contamination of perfluoroalkyl and polyfluoroalkyl substances. The Department of Environmental Protection shall develop and implement a program to evaluate ~~test~~ soil and groundwater at locations ~~historically~~ licensed or permitted to apply ~~sludge or septage residuals~~ prior to 2019 for perfluoroalkyl

and polyfluoroalkyl substances and other contaminants identified by the department. The Department may exempt locations from evaluation for good reason, including but not limited to, because locations were licensed or permitted but never actually applied sludge or septage or the location is no longer under the ownership of the licensee and the new owner refuses or is nonresponsive to an offer to test. The Department shall identify such locations and its explanation for the exemption in its report to the legislature required under Title 38, Section 1310-B-1, subsection 2. ~~Testing under this section must include measurement of all perfluoroalkyl and polyfluoroalkyl substances that reasonably may be quantified by a commercial laboratory. The department shall prioritize locations that received industrial residuals prior to 2015 and complete testing of these locations by July 31, 2022, based on criteria it establishes including, but not limited to, the anticipated presence of high levels of PFAS in applied sludge or septage, the volume of sludge or septage applied, and proximity of known receptors. The evaluation of locations shall include testing of soil and groundwater for all perfluoroalkyl and polyfluoroalkyl substances that reasonably may be quantified by a qualified laboratory under Title 22, section 567. The department shall complete an evaluation of at least half the locations by December 31, 2024 and all of the locations by December 31, 2025. of the remaining locations licensed or permitted to receive residuals prior to 2019 by July 31, 2023. If the testing 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. Testing under this section must be paid for by funds from the Land Application Contaminant Monitoring Fund under the Maine Revised Statutes, Title 38, section 1310-B-1. Facilities either surrendering their license(s) or not renewing their license(s) must test in accordance with the requirements of this section and submit those results to the Department prior to submitting a request to surrender a license or prior to license expiration. For purposes of this section, "perfluoroalkyl and polyfluoroalkyl substances," "sludge," and "septage" have has the same meanings as in Title 38 32, section 1310-B-1 4732, subsection 1. 5-A and "residual" has the same meaning as in Title 7, section 4201, subsection 7.~~

Add new Section 4:

Sec. 4. Levels of PFAS in landfill leachate. The Department of Environmental Protection shall develop and implement a program to address contamination of sludge and effluent resulting from landfill leachate in accordance with this section. For purposes of this section, "perfluoroalkyl and polyfluoroalkyl substances" has the same meaning as in Title 32, section 1732, subsection 5-A.

1. Within 90 days of the effective date of this section, the Department shall require periodic testing and reporting of landfill leachate for all perfluoroalkyl and polyfluoroalkyl substances that reasonably may be quantified by a qualified laboratory under Title 22, section 567. The Department shall report the results of this testing to the committee having jurisdiction over environmental and natural resource matters by January 15, 2024.