



HOUSE OF REPRESENTATIVES

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Testimony of Rep. Lori K. Gramlich presenting

LD 1600, An Act To Investigate Perfluoroalkyl and Polyfluoroalkyl Substance Contamination of Land and Groundwater

Before the Joint Standing Committee on Environment and Natural Resources

Senator Brenner, Representative Tucker and distinguished colleagues of the Joint Standing Committee on Environment and Natural Resources, I am Lori Gramlich, Representative for House District 13, which is the town of Old Orchard Beach. I am pleased to present **LD 1600, An Act To Investigate Perfluoroalkyl and Polyfluoroalkyl Substance Contamination of Land and Groundwater.**

As we have heard and are now quite familiar with PFAS, the so-called “forever chemicals,” the toxicity of which poses significant health risks, increasing the risk of certain cancers, interfering with our immune system responses, and lowering a woman’s chance of getting pregnant. PFAS are used in thousands of everyday products including cookware, clothing, food packaging, textiles, car seats and, I have to say again, dental floss – to name a few.

I know you are well aware but will reiterate for the record: PFAS do not break down and remain in the environment practically forever unless cleaned up. PFAS have contaminated water and soil across our state, harming our environment and contaminating farmland and our drinking water. Ultimately ending up in our wastewater, PFAS has further contaminated our land and groundwater due to use of sludge as a fertilizer for farmland. Indeed, PFAS contamination is at crisis levels in Maine.

There are at least two dairy farms that we know of and more than 100 wells that have been contaminated, and that is just the tip of the toxic iceberg. Contaminated wells have been found in Fairfield, Arundel, Presque Isle, Houlton and Trenton. In fact, just this week, the Maine Department of Environmental Protection has included areas in Benton and Unity Township as contamination sites as it continues to test residential wells for PFAS contamination.

In fact, the Department of Environmental Protection has a list of over 700 sites where industrial and sewer sludge has been spread. It is imperative that we get these sites tested so that we can get a full sense of the contamination.

LD 1600 will allow the Department of Environmental Protection to prioritize those sites based on the type and amount of sludge sites received, as well as the likelihood of the site exposing people to the PFAS (such as through drinking water) to be tested. We know that this critically important testing comes with a price tag. LD 1600 establishes the Land Application Contaminant Monitoring Fund. This monitoring fund will be funded by a \$10 per ton fee assessed on any disposal of septage, industrial sludge, municipal sludge, bio ash, wood ash and other residuals.

Because we understand that remediation is expensive, the bill further requires that any unused funds left over after five years in the Monitoring Fund will be transferred to the uncontrolled sites fund to be earmarked for cleanup and remediation of contaminated farmland.

While this bill as drafted did not specifically reference leachate, I would like the committee to consider amending this bill with language embedded at the end of my testimony to include leachate.

Sadly, PFAS is also ending up in wastewater and in our rivers through leachate from landfills. This leachate, including leachate shipped in from out of state, is minimally tested before it is sent to wastewater treatment facilities for processing. Once processed, PFAS can again end up in sludge or be discharged into our rivers, causing additional contamination.

This contamination places a particular burden on tribal communities who are particularly dependent upon the rivers for their way of life, especially as it pertains to sustenance fishing and clean water.

This amendment will require the Department of Environmental Protection to set up a program to test leachate for PFAS before the leachate is delivered wastewater treatment facilities. It will also require the department to set a maximum allowable level for PFAS and toxic metals by 2024.

I urge you to vote unanimously ought to pass as amended to LD 1600. Thank you and I would be happy to try to answer any questions for you.

Proposed Amendment to LD 1600

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.

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. 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 shall transfer money in 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. The department shall report annually every two years to the Legislature on the uses of the fund 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 2021 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 residuals for contamination of perfluoroalkyl and polyfluoroalkyl substances. The Department of Environmental Protection shall develop and implement a program to test soil and groundwater at locations historically licensed or permitted to apply residuals prior to 2019 for perfluoroalkyl and polyfluoroalkyl substances and other contaminants identified by the department. 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 residuals, the volume of residuals applied, and proximity of known receptors. The department shall complete testing 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 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. For purposes of this section, "perfluoroalkyl and polyfluoroalkyl substances" has the same meaning as in Title 32, section 1732, subsection 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 and Heavy Metals in landfill leachate. The Department of Environmental Protection shall develop and implement a program to address contamination of sludge and effluent resulting from the treatment of 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. The department shall require landfill operators generating leachate or process water delivered to treatment facilities in the state to test it for of all perfluoroalkyl and polyfluoroalkyl substances that reasonably may be quantified by a commercial laboratory, as well as for arsenic, chromium, lead, mercury and any other substances identified by the department. The results of such tests shall be reported to the department and the department shall make all results publicly available.

On or before December 31, 2024, the department shall file a proposed rule with the Board of Environmental Protection establishing maximum allowed levels of perfluoroalkyl and polyfluoroalkyl substances as well as for arsenic, chromium, lead, mercury that may be present in leachate or process water delivered to treatment facilities in the state.