

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

No. 451

H.P. 305

House of Representatives, February 4, 2025

**An Act to Require Testing of Solar and Wind Energy Developments
for Perfluoroalkyl and Polyfluoroalkyl Substances Contamination**

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative PAUL of Winterport.
Cosponsored by Representatives: FOSTER of Dexter, SOBOLESKI of Phillips,
WADSWORTH of Hiram, Senator: HARRINGTON of York.

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

2 **Sec. 1. 35-A MRSA c. 44-A** is enacted to read:

3 **CHAPTER 44-A**

4 **PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES TESTING**
5 **FOR SOLAR AND WIND ENERGY DEVELOPMENTS**

6 **§4421. Definitions**

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

9 **1. Department.** "Department" means the Department of Environmental Protection.

10 **2. Operator.** "Operator" means the person operating a solar energy development or
11 wind energy development.

12 **3. Perfluoroalkyl and polyfluoroalkyl substances.** "Perfluoroalkyl and
13 polyfluoroalkyl substances" or "PFAS" has the same meaning as in Title 38, section 1614,
14 subsection 1, paragraph F.

15 **4. Solar energy development.** "Solar energy development" means a development
16 that uses a solar energy system to convert solar energy to electrical energy for sale or use
17 by a person other than the generator. "Solar energy development" includes generating
18 facilities and associated facilities.

19 **5. Wind energy development.** "Wind energy development" has the same meaning as
20 in section 3451, subsection 11.

21 **§4422. PFAS contamination testing requirements; rules**

22 In accordance with rules adopted by the department, the operator of a solar energy
23 development or a wind energy development shall conduct testing for PFAS contamination
24 at the development site. Rules adopted by the department pursuant to this section are
25 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A and must include,
26 but are not limited to, the following provisions:

27 **1. Scope.** Requirements regarding the scope of testing to be conducted by the operator,
28 including sampling and testing methods. The rules must require such testing to be
29 conducted prior to development of a solar energy development or wind energy
30 development, again after one year of operation of the development and every 5 years
31 thereafter;

32 **2. Third-party analysis.** Requirements for the operator to contract for a 3rd-party
33 analysis of any PFAS contamination discovered through testing to assess whether the
34 development is the source of the contamination;

35 **3. Documentation.** Requirements regarding documentation of testing and submission
36 by the operator of testing results, the 3rd-party analysis if applicable and other information
37 to the department; and

1 **4. Evaluation.** Provisions outlining the process by which the department will evaluate
2 any PFAS contamination discovered through testing at the development site. The rules
3 must require that, based on submitted testing and analysis and any other information
4 available to the department, the department issue a written determination as to whether the
5 PFAS contamination was reasonably caused by the construction, operation or components
6 of the development. The department shall provide a copy of the determination to the
7 operator of the development and to the commission and post a copy of the determination
8 on the department's publicly accessible website.

9 The costs of remediation of any PFAS contamination discovered through testing at the
10 development site is the responsibility of the owner or operator of the development.

11 The department shall administer and enforce testing requirements adopted by rule
12 pursuant to this section subject to the same powers and authorities granted to it pursuant to
13 Title 38, chapter 2.

14 **§4423. Effect of determination; commission notification**

15 Notwithstanding any provision of this Title or commission rule to the contrary, if the
16 department determines in accordance with rules adopted pursuant to section 4422 that
17 PFAS contamination discovered at the site of a solar energy development or wind energy
18 development was reasonably caused by the construction, operation or components of the
19 development, the development no longer meets the eligibility requirements:

20 **1. Renewable resource.** As a renewable resource or renewable capacity resource for
21 the purposes of section 3210 and for any procurement or other contracting conducted in
22 accordance with chapter 32; and

23 **2. Net energy billing; distributed generation resource.** For participation in net
24 energy billing under section 3209-A or 3209-B and no longer meets the eligibility
25 requirements as a distributed generation resource for the purposes of section 3209-D.

26 If the commission receives from the department a written determination that PFAS
27 contamination discovered at the site of a solar energy development or wind energy
28 development was reasonably caused by the construction, operation or components of the
29 development, the commission shall notify all competitive electricity providers and
30 transmission and distribution utilities regarding the effect of that determination as set forth
31 in this section.

32 **SUMMARY**

33 This bill requires the operator of a solar energy development or a wind energy
34 development to conduct testing for perfluoroalkyl and polyfluoroalkyl substances, or
35 PFAS, contamination at the development site in accordance with rules adopted by the
36 Department of Environmental Protection. If any PFAS contamination is discovered as a
37 result of that testing, the department must issue a written determination as to whether the
38 PFAS contamination was reasonably caused by the construction, operation or components
39 of the development.

40 If the department determines that PFAS contamination was reasonably caused by the
41 construction, operation or components of a solar energy development or wind energy
42 development, the development no longer meets the eligibility requirements:

- 1 1. As a renewable resource or renewable capacity resource for the purposes of energy
2 procurement or other energy contracting under the Maine Revised Statutes, Title 35-A,
3 chapter 32; and
- 4 2. For participation in state net energy billing programs as a distributed generation
5 resource for the purposes of Title 35-A, section 3209-D.