

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Date: 6-8-21

ENVIRONMENT AND NATURAL RESOURCES

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE HOUSE OF REPRESENTATIVES 130TH LEGISLATURE FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1189, L.D. 1600, "An Act To Investigate Perfluoroalkyl and Polyfluoroalkyl Substance Contamination of Land and Groundwater"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'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

ROS

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, known as 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

All Other

2021-22	2022-23
\$1,800,000	\$3,600,000

ROS

COMMITTEE AMENDMENT "A" to H.P. 1189, L.D. 1600

1	OTHER SPECIAL REVENUE FUNDS TOTAL	\$1,800,000	\$3,600,000
2	Maine Environmental Protection Fund 0421		
3	Initiative: Provides funding for 4 Geology Technician II limited-period positions, one		
4	Environmental Specialist III limited-period position, one GIS Coordinator limited-period		
5	position.		
6	GENERAL FUND	2021-22	2022-23
7	POSITIONS - FTE COUNT	6.000	6.000
8	Personal Services	\$352,897	\$493,523
9			
10	GENERAL FUND TOTAL	\$352,897	\$493,523
11	Maine Environmental Protection Fund 0421		
12	Initiative: Provides related All Other funding for 17 positions.		
13	GENERAL FUND	2021-22	2022-23
14	All Other	\$58,791	\$72,801
15			
16	GENERAL FUND TOTAL	\$58,791	\$72,801
17	Maine Environmental Protection Fund 0421		
18	Initiative: Provides funding for 2 Geology Technician II positions, 2 Planning and Research		
19	Associate II positions, one Environmental Engineer position, one Environmental Specialist		
20	II position, 2 Environmental Specialist III positions, one Chemist I position, one Certified		
21	Environmental Hydrogeologist position and one Public Service Coordinator I position.		
22	GENERAL FUND	2021-22	2022-23
23	POSITIONS - LEGISLATIVE COUNT	11.000	11.000
24	Personal Services	\$728,372	\$980,715
25			
26	GENERAL FUND TOTAL	\$728,372	\$980,715
27			
28	ENVIRONMENTAL PROTECTION,		
29	DEPARTMENT OF		
30	DEPARTMENT TOTALS	2021-22	2022-23
31			
32	GENERAL FUND	\$1,140,060	\$1,547,039
33	OTHER SPECIAL REVENUE FUNDS	\$1,800,000	\$3,600,000
34			
35	DEPARTMENT TOTAL - ALL FUNDS	\$2,940,060	\$5,147,039
36			

37 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
 38 number to read consecutively.

39 **SUMMARY**

40 This amendment replaces the bill.

ROS

COMMITTEE AMENDMENT "A" to H.P. 1189, L.D. 1600

1 1. The amendment modifies the Department of Environmental Protection's discretion
2 over the use of funds deposited to the Land Application Contaminant Monitoring Fund and
3 requires the department to submit biennial reports to the joint standing committee of the
4 Legislature having jurisdiction over environment and natural resources matters.

5 2. The amendment applies the \$10 per ton fee on disposal of residuals provided in the
6 bill only to the handling of septage or sludge and clarifies that the fee is to be assessed
7 annually starting January 1, 2022 and will be waived for any entity that would otherwise
8 be assessed a fee of less than \$50 total.

9 3. The amendment directs the department to test soil and groundwater for
10 perfluoroalkyl and polyfluoroalkyl substance contamination at locations where sludge or
11 septage was applied prior to 2019, authorizes the department to determine testing
12 prioritization criteria, requires the testing of half of such locations to be completed by
13 December 31, 2024 and all locations by December 31, 2025, includes provisions regarding
14 the exclusion from testing under the program of locations where the department is unable
15 to obtain authorization to test and includes provisions prohibiting a person licensed to apply
16 sludge or septage from surrendering that license or permit unless the location has been
17 tested under the program.

18 4. The amendment directs the department to implement a program to evaluate leachate
19 collected and managed by solid waste landfills for perfluoroalkyl and polyfluoroalkyl
20 substance contamination and, on or before January 15, 2024, to submit a report to the joint
21 standing committee of the Legislature having jurisdiction over environment and natural
22 resources matters regarding the program including a description of the testing results and
23 any recommendations.

24 5. The amendment adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



Approved: 06/06/21 *mac*

130th MAINE LEGISLATURE

LD 1600

LR 1114(02)

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

Fiscal Note for Bill as Amended by Committee Amendment *H-494*

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
General Fund	\$1,140,060	\$1,547,039	\$1,231,599	\$1,103,432
Appropriations/Allocations				
General Fund	\$1,140,060	\$1,547,039	\$1,231,599	\$1,103,432
Other Special Revenue Funds	\$1,800,000	\$3,600,000	\$3,600,000	\$3,600,000
Revenue				
Other Special Revenue Funds	\$1,800,000	\$3,600,000	\$3,600,000	\$3,600,000

Fiscal Detail and Notes

This bill establishes the Land Application Contaminant Monitoring (LACM) Fund within the Department of Environmental Protection (DEP). It also creates an annual fee of \$10 per ton on the handling of septage or sludge and directs the revenue from these fees into the LACM Fund to test, monitor and mitigate soil and groundwater for PFAS and other contaminants. The bill also directs the DEP to establish a testing program for locations with land applications of sludge or septage for PFAS and other substances contamination.

The DEP has indicated that the programming requirements of this bill will require additional staff and resources. The bill includes ongoing appropriations of \$1,140,060 beginning in fiscal year 2021-22 for 4 limited-period and 2 permanent Geology Technician II positions, 2 Planning & Research Associate II positions, one Environmental Engineer position, one Environmental Specialist II position, one limited-period and 2 permanent Environmental Specialist III positions, one Chemist I position, one limited-period GIS Coordinator position, one Certified Environmental Hydrogeologist position and one Public Service Coordinator I position and funding for related All Other costs.

The DEP estimates that the septage and sludge handling fee will result in annual Other Special Revenue Funds revenue of \$1,800,000 in fiscal year 2021-22 and \$3,600,000 in fiscal 2022-23. The bill includes an accompanying allocation to the LACM to allow expenditure of the additional revenue.