

Committee: ENR
Drafter: DCT
LR (item)#: 2227(02)
Date: 3/1/22

LD 1911

Proposed amendment to majority report – Senator Brenner

Proposed amendment to the majority OTP-AM report would include the following changes:

- 1. Remove the emergency preamble and emergency clause** (bill would become general legislation, effective 90 days after adjournment sine die of this legislative session)
- 2. Amend Section 4 prohibitions to incorporate the following additional exclusions**
 - Prohibitions do not apply to land application/composting of residuals generated as a result of the processing of food, food waste, crops or vegetative material or the brewing of malt liquor/hard cider or distilling of spirits, including, but not limited to, blueberries, apples, potatoes, seaweed, fish and seafood and spent grain and malt, provided those residuals are not mixed with sewage, industrial sludge, septage or sanitary wastewater prior to or during land application or composting.
 - Prohibitions do not apply to land application/composting of sludge resulting from the production of precipitated calcium carbonate, commonly known as “lime mud.”
- 3. Remove Sections 5 and 6 of report and instead repeal the existing \$10/ton fee on the handling of sludge and septage under 38 MRSA §1310-B-1** (i.e., LD 1600 as enacted)
 - Additional amendments to current §1310-B-1 will be required to remove references to the sludge/septage handling fee being repealed.
 - This change will result in no additional State fees being placed upon the handling or disposal of sludge and septage other than as provided for under other existing laws (e.g., 38 MRSA §2203-A).
- 4. Remove new sections of the report and associated appropriations/allocations that establish a new State fund to provide financial assistance to municipalities/quasi-municipal entities affected by the sludge land application/composting prohibition** (i.e., there will be no such municipal assistance fund established by the bill)

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Date: (Filing No. H-)

ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1417, L.D. 1911, “An Act To Prohibit the Contamination of Clean Soils with So-called Forever Chemicals”

Amend the bill by striking out the title and substituting the following:

'An Act To Prevent the Further Contamination of the Soils and Waters of the State with So-called Forever Chemicals'

Amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the contamination of the soils and waters of the State from perfluoroalkyl and polyfluoroalkyl substances poses a significant and widespread threat to the environment of the State and to the health of its citizens; and

Whereas, sludge, septage and compost contaminated by perfluoroalkyl and polyfluoroalkyl substances and other products and materials containing sludge and septage contaminated by perfluoroalkyl and polyfluoroalkyl substances continue to be applied to land in the State, further contaminating the soil, water and the surrounding environment; and

Whereas, to prevent further contamination from perfluoroalkyl and polyfluoroalkyl substances, it is imperative to immediately prohibit the application and distribution in the State of these materials; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

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

'Sec. 1. 38 MRSA §413, sub-§12 is enacted to read:

COMMITTEE AMENDMENT

1 **12. Sampling for perfluoroalkyl and polyfluoroalkyl substances.** Notwithstanding
2 section 414-A or any other provision of law to the contrary, the department by written
3 notification may require a person licensed by the department to discharge wastewater to
4 groundwater or any waters of the State to sample the effluent discharged for perfluoroalkyl
5 and polyfluoroalkyl substances and to report the sample data to the department. Upon
6 receipt of the written notification and as directed by the department, the person shall
7 conduct the required sampling of the effluent for perfluoroalkyl and polyfluoroalkyl
8 substances and report the sample data to the department.

9 As used in this subsection, "perfluoroalkyl and polyfluoroalkyl substances" has the same
10 meaning as in Title 32, section 1732, subsection 5-A.

11 **Sec. 2. 38 MRSAs §1304, sub-§20** is enacted to read:

12 **20. Land application of septage; prohibitions.** Notwithstanding any provision of
13 law to the contrary:

14 A. The department may not issue a new license or permit authorizing a person to apply
15 or spread septage at any location in the State; and

16 B. A person licensed or permitted by the department to apply or spread septage at one
17 or more locations in the State may not apply septage at a location authorized under that
18 license or permit if the department provides to the person a written determination that,
19 based on testing conducted at or in close proximity to the location, the department has
20 determined that the concentration of perfluoroalkyl and polyfluoroalkyl substances in
21 groundwater at that location or in drinking water sources in close proximity to that
22 location exceeds the applicable drinking water standard for perfluoroalkyl and
23 polyfluoroalkyl substances.

24 As used in this subsection, "perfluoroalkyl and polyfluoroalkyl substances" has the same
25 meaning as in Title 32, section 1732, subsection 5-A.

26 **Sec. 3. 38 MRSAs §1305, sub-§7**, as enacted by PL 1983, c. 726, §2, is repealed.

27 **Sec. 4. 38 MRSAs §1306, sub-§2**, as amended by PL 1985, c. 612, §19, is repealed.

28 **Sec. 5. 38 MRSAs §1306, sub-§7** is enacted to read:

29 **7. Prohibitions on land application of sludge; sale and distribution of compost**
30 **and other agricultural products and materials containing sludge and septage; and**
31 **sale, distribution and use of crops grown at septage application sites.** Notwithstanding
32 any provision of law to the contrary, a person may not:

33 A. Apply to or spread on any land in the State:

34 (1) Sludge generated from a municipal, commercial or industrial wastewater
35 treatment plant;

36 (2) Compost material that included in its production sludge generated from a
37 municipal, commercial or industrial wastewater treatment plant or septage; or

38 (3) Any other product or material that is intended for use as a fertilizer, soil
39 amendment, topsoil replacement or mulch or for other similar agricultural purpose
40 that is derived from or contains sludge generated from a municipal, commercial or
41 industrial wastewater treatment plant or septage;

- 1 B. Sell or distribute in the State:
- 2 (1) Compost material that included in its production sludge generated from a
- 3 municipal, commercial or industrial wastewater treatment plant or septage; or
- 4 (2) Any other product or material that is intended for use as a fertilizer, soil
- 5 amendment, topsoil replacement or mulch or for other similar agricultural purpose
- 6 that is derived from or contains sludge generated from a municipal, commercial or
- 7 industrial wastewater treatment plant or septage; or
- 8 C. Sell, distribute or use in the State an agricultural crop or other vegetative material
- 9 for any agricultural purpose, including, but not limited to, for use as animal feed, if the
- 10 agricultural crop or vegetative material was grown at a location in the State where
- 11 septage is licensed or permitted to be applied or spread.

12 This subsection does not apply to the disposal or placement at a solid waste landfill of any

13 of the materials that are prohibited from application, spreading, sale, distribution or use by

14 this subsection.

15 **Sec. 6. 38 MRSA §1310-B-1, sub-§3**, as enacted by PL 2021, c. 478, §1, is

16 repealed and the following enacted in its place:

17 **3. Fee.** In addition to any other fee or charge required by statute or rule, beginning

18 January 1, 2023, fees are imposed in the amount of \$10 per ton, or an equivalent amount

19 as determined by the department on a volume basis, for all sludge or septage disposed of

20 at a commercial, municipal, state-owned or regional association landfill.

21 A person who delivers sludge or septage to a landfill shall pay all fees established under

22 this subsection to the operator of the landfill and the operator shall pay such collected fees

23 to the department in the same manner as waste handling fees are paid to the department

24 under section 2205. The department shall deposit all fees received under this subsection

25 into the fund.

26 **Sec. 7. 38 MRSA §1310-B-1, sub-§4**, as enacted by PL 2021, c. 478, §1, is

27 amended to read:

28 **4. Rules.** The board shall may adopt rules necessary for the administration of the fund

29 and any underlying program or purpose under or funded by the fund and for the assessment

30 and collection of the fee under subsection 3. Rules adopted pursuant to this subsection are

31 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

32 **Sec. 8. 38 MRSA §1310-B-2** is enacted to read:

33 **§1310-B-2. Sludge Disposal Municipal Assistance Fund**

34 The Sludge Disposal Municipal Assistance Fund, referred to in this section as "the

35 fund," is established as a nonlapsing dedicated fund within the department to provide

36 financial assistance to municipalities and quasi-municipal entities for eligible sludge

37 management costs incurred by a municipality or quasi-municipal entity in the

38 transportation of sludge generated by the municipality or quasi-municipal entity to a solid

39 waste landfill for disposal or placement in the landfill and in the disposal or placement of

40 the sludge in the landfill.

1 **1. Funding.** All funds appropriated or allocated to the fund must be deposited in the
2 fund, and the fund may accept grants, bequests, gifts or contributions from any source,
3 public or private.

4 **2. Eligibility criteria.** The department shall establish eligibility criteria for the receipt
5 of financial assistance under this section.

6 A. At a minimum, the department shall require that a recipient of financial assistance
7 from the fund must be a municipality or quasi-municipal entity that provides waste,
8 sewer or wastewater management services within a municipality or region and that:

9 (1) On or after March 22, 2019, incurred specific, increased sludge management
10 costs associated with the transportation of sludge generated by the municipality or
11 quasi-municipal entity to a solid waste landfill for disposal or placement in the
12 landfill and with the disposal or placement of the sludge in the landfill. The
13 department may treat as eligible for financial assistance under this section
14 additional costs associated with that transportation and disposal of sludge incurred
15 by a municipality or quasi-municipal entity;

16 (2) Prior to March 22, 2019, managed some or all of the sludge generated by the
17 municipality or quasi-municipal entity through land application or composting
18 pursuant to a license or permit issued by the department or by transporting some
19 or all of the sludge to another entity in the State for land application or composting;
20 and

21 (3) Incurred the increased sludge management costs described in subparagraph (1)
22 as a result of a reduction in or termination of the municipality's or quasi-municipal
23 entity's sludge management activities described in subparagraph (2) due to the
24 contamination of the sludge generated by the municipality or quasi-municipal
25 entity with perfluoroalkyl and polyfluoroalkyl substances. As used in this
26 subparagraph, "perfluoroalkyl and polyfluoroalkyl substances" has the same
27 meaning as in Title 32, section 1732, subsection 5-A.

28 B. The department may prioritize the provision of financial assistance from the fund to
29 certain municipalities and quasi-municipal entities with incurred sludge management
30 costs eligible for financial assistance, including, but not limited to, a prioritization of
31 financial assistance to municipalities and quasi-municipal entities that primarily
32 managed the sludge generated by the municipality or quasi-municipal entity through
33 land application or composting during the 12-month period prior to the effective date
34 of section 1306, subsection 7.

35 **3. Distribution of funds.** If the total amount of eligible sludge management costs
36 incurred by municipalities and quasi-municipal entities under subsection 2 exceeds the total
37 funding available within the fund, the department shall establish a process for equitably
38 distributing the funding to those municipalities and quasi-municipal entities.

39 **4. Report.** Beginning January 15, 2023, and every 2 years thereafter, the department
40 shall submit a report to the joint standing committee of the Legislature having jurisdiction
41 over environment and natural resources matters regarding the financial assistance provided
42 to municipalities and quasi-municipal entities pursuant to this section. The department may
43 include the report required under this subsection as part of the report required pursuant to
44 section 1310-B-1, subsection 2, paragraph C.

1 5. It prohibits the application or spreading on any land in the State of sludge, any
2 compost material that included in its production sludge generated from a municipal,
3 commercial or industrial wastewater treatment plant or septage or any other product or
4 material that is intended for use as a fertilizer, soil amendment, topsoil replacement or
5 mulch or for other similar agricultural purpose that is derived from or contains sludge
6 generated from a municipal, commercial or industrial wastewater treatment plant or
7 septage.

8 6. It prohibits the sale or distribution in the State of any compost material that included
9 in its production sludge generated from a municipal, commercial or industrial wastewater
10 treatment plant or septage or any other product or material that is intended for use as a
11 fertilizer, soil amendment, topsoil replacement or mulch or for other similar agricultural
12 purpose that is derived from or contains sludge generated from a municipal, commercial or
13 industrial wastewater treatment plant or septage.

14 7. It prohibits the sale, distribution or use in the State of an agricultural crop or other
15 vegetative material for any agricultural purpose, including, but not limited to, for use as
16 animal feed, if the agricultural crop or vegetative material was grown at a location in the
17 State where septage is licensed or permitted to be applied or spread.

18 8. It amends the provision in law imposing a \$10 per ton fee on the handling of sludge
19 and septage beginning January 1, 2022 to instead, beginning January 1, 2023, impose a \$10
20 per ton fee on all sludge and septage disposed of at a landfill.

21 9. It establishes the Sludge Disposal Municipal Assistance Fund to be used by the
22 department to provide financial assistance to municipalities and quasi-municipal entities
23 for certain incurred sludge management costs. It also allows the fund to accept grants,
24 bequests, gifts or contributions from any source, public or private.

25 10. It repeals a provision of Public Law 2021, chapter 478 that prohibits a person
26 licensed or permitted by the department to apply sludge or septage at a location subject to
27 department evaluation for perfluoroalkyl and polyfluoroalkyl substances contamination
28 from requesting to surrender the license or permit prior to its expiration unless the person
29 has submitted to the evaluation and provided the results to the department.

30 11. It requires the department to study methods of and develop a plan for prohibiting
31 the land application of septage in the State and, on or before January 15, 2023, to submit
32 to the joint standing committee of the Legislature having jurisdiction over environment and
33 natural resources matters a report containing its findings and recommendations, including
34 any suggested legislation, resulting from that study. After receiving the report, the joint
35 standing committee may report out legislation to implement any such recommendations.