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amendments to current §1310-B-1 will be required to remove references to the sludge/septage handling fee being repealed.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/allocation 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)
ENVIRONMENT AND NATURAL RESOURCES

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

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

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

Sec. 2. 38 MRSA §1304, sub-§20 is enacted to read:

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

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

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

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

Sec. 3. 38 MRSA §1305, sub-§7, as enacted by PL 1983, c. 726, §2, is repealed.

Sec. 4. 38 MRSA §1306, sub-§2, as amended by PL 1983, c. 612, §19, is repealed.

Sec. 5. 38 MRSA §1306, sub-§7 is enacted to read:

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

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

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

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

(3) Any other product or material that is intended for use as a fertilizer, soil amendment, topsoil replacement or mulch or for other similar agricultural purpose that is derived from or contains sludge generated from a municipal, commercial or industrial wastewater treatment plant or septage;
B. Sell or distribute in the State:
   (1) Compost material that included in its production sludge generated from a
       municipal, commercial or industrial wastewater treatment plant or septage; or
   (2) Any other product or material that is intended for use as a fertilizer, soil
       amendment, topsoil replacement or mulch or for other similar agricultural purpose
       that is derived from or contains sludge generated from a municipal, commercial or
       industrial wastewater treatment plant or septage; or

C. Sell, distribute or use in the State an agricultural crop or other vegetative material
   for any agricultural purpose, including, but not limited to, for use as animal feed, if the
   agricultural crop or vegetative material was grown at a location in the State where
   septage is licensed or permitted to be applied or spread.

   This subsection does not apply to the disposal or placement at a solid waste landfill of any
   of the materials that are prohibited from application, spreading, sale, distribution or use by
   this subsection.

Sec. 6. 38 MRSA §1310-B-1, sub-§3, as enacted by PL 2021, c. 478, §1, is
   repealed and the following enacted in its place:

3. Fee. In addition to any other fee or charge required by statute or rule, beginning
   January 1, 2023, fees are imposed in the amount of $10 per ton, or an equivalent amount
   as determined by the department on a volume basis, for all sludge or septage disposed of
   at a commercial, municipal, state-owned or regional association landfill.

   A person who delivers sludge or septage to a landfill shall pay all fees established under
   this subsection to the operator of the landfill and the operator shall pay such collected fees
   to the department in the same manner as waste handling fees are paid to the department
   under section 2205. The department shall deposit all fees received under this subsection
   into the fund.

Sec. 7. 38 MRSA §1310-B-1, sub-§4, as enacted by PL 2021, c. 478, §1, is
   amended to read:

4. Rules. The board shall may 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. 8. 38 MRSA §1310-B-2 is enacted to read:

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

   The Sludge Disposal Municipal Assistance Fund, referred to in this section as "the
   fund," is established as a nonlapsing dedicated fund within the department to provide
   financial assistance to municipalities and quasi-municipal entities for eligible sludge
   management costs incurred by a municipality or quasi-municipal entity in the
   transportation of sludge generated by the municipality or quasi-municipal entity to a solid
   waste landfill for disposal or placement in the landfill and in the disposal or placement of
   the sludge in the landfill.
1. **Funding.** All funds appropriated or allocated to the fund must be deposited in the fund, and the fund may accept grants, bequests, gifts or contributions from any source, public or private.

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

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

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

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

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

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

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

4. **Report.** 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 financial assistance provided to municipalities and quasi-municipal entities pursuant to this section. The department may include the report required under this subsection as part of the report required pursuant to section 1310-B-1, subsection 2, paragraph C.
Sec. 9. PL 2021, c. 478, §2, sub-§4 is repealed.

Sec. 10. Department of Environmental Protection to develop plan to prohibit land application of septage; report. The Department of Environmental Protection shall study methods of and develop a plan for prohibiting the land application of septage in the State. The plan must include, but is not limited to, identification of the available capacity at wastewater treatment plants or other treatment or disposal facilities in the State or regionally to manage the septage that is currently land applied in the State, determination of the capacity anticipated to be necessary to manage that septage if land application is prohibited in the State, development of recommendations for supporting and funding the development of such additional management capacity if necessary and development of recommendations concerning a framework and appropriate time frame for prohibiting the land application of septage in the State.

On or before January 15, 2023, the department shall submit to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters a report containing its findings and recommendations, including any suggested legislation, resulting from the study under this section. After receiving the report, the joint standing committee may report out legislation to implement any such recommendations.

As used in this section, "septage" has the same meaning as in the Maine Revised Statutes, Title 38, section 1303-C, subsection 27.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

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

SUMMARY

This amendment, which is the majority report of the committee, changes the title of and replaces the bill, adds an emergency preamble and emergency clause and does the following.

1. It authorize the Department of Environmental Protection to require a person licensed to discharge wastewater to sample the effluent discharged for perfluoroalkyl and polyfluoroalkyl substances and to report the sample data to the department.

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

3. It prohibits the department from issuing any new license or permit authorizing a person to apply or spread septage at any location in the State.

4. It repeals provisions of law that authorize a homeowner to arrange for septage from a residence on the homeowner's property to be disposed of on that property.
5. It prohibits the application or spreading on any land in the State of sludge, any compost material that included in its production sludge generated from a municipal, commercial or industrial wastewater treatment plant or septage or any other product or material that is intended for use as a fertilizer, soil amendment, topsoil replacement or mulch or for other similar agricultural purpose that is derived from or contains sludge generated from a municipal, commercial or industrial wastewater treatment plant or septage.

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

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

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

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

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

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