

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

001 FUND TO ADDRESS PFAS CONTAMINATION

Chapter 400: ADMINISTRATIVE COST GRANTS

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**SUMMARY:** The 130th Legislature authorized a Fund to Address PFAS Contamination (7 M.R.S.A., Chapter 10-D). Permissible uses include the provision of short-term assistance to a person whose commercial farm is found to be contaminated by PFAS. Consistent with the legislatively mandated PFAS Fund Implementation Plan, these rules establish the eligibility criteria and administrative procedures for administrative cost grants to compensate commercial farmers for time spent reacting to the initial discovery of PFAS contamination.

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## **§ 1. OVERVIEW**

Commercial farms that have Department of Agriculture, Conservation and Forestry (DACF) confirmed unsafe levels of perfluoroalkyl and polyfluoroalkyl substances (PFAS) may apply to DACF for a one-time administrative grant. This grant is intended to compensate commercial farms for time expended on activities that are common to most farms upon the initial discovery of PFAS contamination, such as time spent with DACF field staff, time spent strategizing how to respond, and time spent communicating with customers.

## **§ 2. CONSISTENT WITH STATUTE**

All terms used in this Chapter shall be defined as indicated in Title 7 M.R.S.A, Chapter 10-B unless specifically provided herein.

## **§ 3. DEFINITIONS**

1. "Commercial farm" means a farm that produces any farm product with the intent that the farm product be sold or otherwise disposed of to generate income.
2. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in Title 32, section 1732, subsection 5-A.

## **§ 4. FUNDING**

The Fund to Address PFAS Contamination (PFAS Fund) is funded by an appropriation from State general funds as provided by Maine Public Laws, 2021, Chapter 635, and any subsequent appropriations, and, whenever possible, any additional funding that may be available from other sources.

## **§ 5. ELIGIBILITY**

Eligibility for a one-time administrative cost grant from the PFAS Fund is limited to commercial farms (see 7 M.R.S.A. § 320-K(4)(G)). A commercial farm is eligible for a one-time administrative grant if:

1. The commercial farm has DACF-confirmed unsafe levels of PFAS contamination, defined as
  - a. one or more samples of farm products showing PFAS exceeding current Action Levels or deemed of concern by the Maine CDC, and/or

- b. groundwater test results exceeding Maine’s enforceable interim drinking water standard for PFAS until superseded by either Maine’s Maximum Contaminant Level (MCL) for PFAS or a federal MCL for PFAS, whichever is lowest, for wells servicing the farm or fields; and/or
  - c. soil test results exceeding any current Maine CDC crop-specific screening level; and
2. The commercial farm has partnered with DACF to investigate the scope of contamination at the farm and has granted ongoing access such that DACF staff are able to develop an understanding of the farm, its PFAS contamination, and potentially a strategy for recovery.

## **§ 6. REQUIRED DOCUMENTATION**

Applicants to the PFAS Fund for a one-time administrative cost grant must submit the following documentation:

1. A completed DACF application form, as may be amended from time to time.
2. Any additional supporting documentation requested by DACF that DACF determines is necessary to review the request for assistance.
3. A completed State of Maine Vendor Authorization Form.

## **§ 7. APPLICATION REVIEW**

1. When a commercial farm requests a one-time administrative cost grant, DACF will rely on all available information it has compiled on the farm to assess the request.
2. Applications will be reviewed by DACF’s PFAS Fund director. The PFAS Fund director may request staff input based on the staff’s knowledge of PFAS contamination at the applicant’s commercial farm. Decision-making authority rests with the PFAS Fund director.
3. DACF reserves the right to limit the amount of funding for all requests based on available resources.

## **§ 8. PAYMENTS**

DACF will make a one-time payment of \$3,522 to eligible applicants. This figure represents approximately 80 hours of a farm manager’s time multiplied by the 2023 average hourly wage for a farm manager in Maine according to U.S. Bureau of Labor Statistics data presented in O\*Net Online.

## **§ 9. RIGHT TO APPEAL**

1. If an application is denied, DACF will send the applicant a written notice of its decision. Such notice must include an explanation of why the application was denied.
2. Upon receipt of such notice, an unsuccessful applicant may appeal to DACF. The appeal must be in writing, signed by the applicant, and received by DACF within 45 days of receipt of the denial notice.
3. Within 90 days of the receipt of a written request for appeal, DACF will either grant the appeal or schedule a hearing.

4. Appeal hearings will be held before a DACF hearing officer who has been designated by the Commissioner of the DACF. The hearing officer will make a recommended decision. Final decisions on the appeal will be made by the Commissioner after a review of the record.
5. Appeal hearings will be held in accordance with the adjudicatory proceedings provisions of the Maine Administrative Procedures Act, 5 M.R.S.A. §§ 9051-64.
6. Final decisions will be in writing and contain notice of a right to petition the Superior Court for judicial review.