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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

To: Interested Parties
From: Paula M. Clark, Director, Division of Materials Management
Date: November 10, 2021
Subj: **IMPORTANT INFORMATION CONCERNING THE FEE ASSESSMENT PROVISION OF: Public Law 2021 Chapter 478, An Act to Investigate Perfluoroalkyl and Polyfluoroalkyl Substance Contamination of Land and Groundwater, effective October 18, 2021**

Public Law 2021 Chapter 478, An Act to Investigate Perfluoroalkyl and Polyfluoroalkyl Substance Contamination of Land and Groundwater, was enacted by the Maine Legislature and became effective October 18, 2021. The law requires that the Department develop and implement a comprehensive program to evaluate soil and groundwater for Perfluoroalkyl and Polyfluoroalkyl substances (“PFAS”). Among other provisions, the law establishes the “Land Application Contaminant Monitoring Fund” (“Fund”) to be used by the Department for the testing and monitoring “of 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.”

The law requires that beginning on January 1, 2022, the Department “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”, and that those revenues be deposited into the Land Application Contaminant Monitoring Fund for the purposes put forward in the law. The law further requires that rules “necessary for the administration of the fund . . . and for the assessment and collection of the fee” be adopted. **The purpose of this memo is to notify parties potentially affected by, or having an interest in, the assessment of the \$10 per ton fee on the handling of sludge and septage, of the Department’s anticipated approach and timeframe for rulemaking, to allow sufficient time to plan for the Department’s implementation of the fee provision of the new law.**

Although the law provides that the Department will assess the fee beginning on January 1, 2022, it also requires that rules concerning fee assessment and collection (as well as overall administration of the Fund) be adopted. The timeframe does not allow for the completion of rulemaking prior to January 1, 2022. It is expected that the rule will be developed, with opportunities for input and involvement by interested parties, over the winter of 2021-22. At this point, we anticipate including in a draft rule provisions for collection of the fees due for any

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particular calendar year, in the following calendar year (likely in February or March), in order to allow time for the compilation of data necessary for calculation of the appropriate fee amount. Accordingly, the first fee payments (for calendar year 2022) would be due early in 2023.

The law requires assessment of the \$10 per ton fee on the “handling” of sludge or septage. “Handle”, as it pertains to solid waste, and as defined in Department rules (06-096 C.M.R. ch. 400(HHH)), means to “store, transfer, collect, separate, salvage, process, recycle, reduce, recover, incinerate, dispose of, treat, or beneficially reuse”. The Department is evaluating the various sludge and septage handling scenarios in practice in Maine, to determine at what point(s) in the handling chain the fee would most appropriately be assessed. An option under consideration is assessment of the fee at the final point of disposition of the sludge or septage (e.g. landfills, compost facilities, land application sites). Interested parties also need to consider that fees assessed at any particular point may ultimately be passed through to other parties in the handling chain (e.g. a landfill passes the fee cost through to its customers).

Since it has not yet been determined through rule which entities/parties will be responsible for payment of the \$10 per ton fee, this memo is being widely distributed to parties that potentially may be directly or indirectly affected by the fee assessment, or that may have some other interest in how the fees will be assessed. Updated information on the content and timeframe for the draft rule will continue to be made available to interested parties.

If you have questions or would like further information, please contact me by email: paula.m.clark@maine.gov, or phone: (207) 287-7718.