

LD 1911 – Myths vs. Facts

Myth

There is no capacity at the landfills for the additional sludge if spreading is banned.

Fact

Since the state required testing of sludge for PFAS in 2019, a major shift in how sludge is disposed of already occurred, and most sludge is already being landfilled. The amount that would be impacted by LD 1911 is comparatively small. Paula Clark, the Director of the Division of Materials Management at the Maine Department of Environmental Protection, who oversees waste disposal, testified during the public hearing, “I think the landfill capacity exists to accept it. I don’t think that it would cause the landfills to all of a sudden be depleted of capacity as a result of this.” Much of the sludge impacted would likely be shifted to Juniper Ridge, a state-owned landfill, where the state is saying there is capacity. A review of data provided by Maine DEP shows even if all the remaining in-state sludge went to Juniper Ridge, it would only constitute an additional 2% of the total waste stream.

Myth

LD 1911 will open farmers up to liability if their products contain PFAS and are then sold to the public.

Fact

Farmers are not and will not be responsible for the PFAS contamination. This is an inaccurate reading of two provisions of the bill. One provision makes it illegal to use sludge or sludge derived fertilizers. A farmer who did this AFTER THE LAW IS IN EFFECT would be in violation, but that determination would have to be made on evidence of the use of the fertilizer, NOT on the PFAS in the products or soil. Simply put, there is no way to tell if a product or soil was contaminated from material prior to the enactment of LD 1911. The second provision applies to fields using “septage” – the material that is pumped from septic tanks. Unlike sludge that is addressed when the bill goes into effect, septage may continue to be land applied. Under existing law, there are existing limits on growing food crops in fields used for septage disposal. This law expands that requirement to cover animal feed as well, but in reality, the use of septage fields to grow any animal feed is incredibly rare, according to the state DEP.

Myth

Passage of this bill will drastically increase costs for sewer districts who will in turn drastically increase rates.

Fact

As already noted, the vast majority of sludge is already landfilled and most sewer districts moved away from sludge spreading after the testing requirements started in 2019. (Sewer districts vocally opposed

to LD 1911, such as the Portland Water District, even noted in their statements they already landfilled, and were instead responding to concerns raised by Casella, who has a vested interest in maintaining the status quo.) While there may be some increased costs, it should not be dramatic considering current policies. More importantly, that cost will be far less than the costs to clean up contaminated farmland, not to mention healthcare costs and loss of livelihood for impacted communities. DEP Commissioner Loyzim estimated during a briefing that at least \$20M a year will be necessary for cleanup and remediation alone.

Myth

There will be folks unable to have their septage tanks pumped if this goes into effect.

Fact

As previously noted, LD 1911 recognizes that there may be challenges, especially in some rural areas, to find treatment facilities that will accept pumped septage from residential tanks. DEP is directed to do a thorough analysis and work with wastewater treatment facilities (who are regulated by the Department) to identify options for septage disposal and report back to the next legislature on the topic. While LD 1911 prohibits issuing NEW licenses for land application for septage, those currently with permits to land apply septage may continue to do.

Myth

The existing rules for using sludge in compost were based on science and a risk assessment.

Fact

The current rules are based on outdated health assessments and loaded with unrealistic and untestable assumptions, not on good science or a thorough assessment. The screening standards for PFAS, used by Maine DEP, which are the fundamental “science” underlying the current process, are based on old health studies, and apply to only two of the six compounds currently regulated in the state’s drinking water. Last year, the state established a new drinking water standard for PFAS that includes six compounds at 20 ppt, opposed to the prior federal advisory of 70 ppt for two compounds. DEP’s screening standards for sludge have not been updated to reflect either the lower levels nor the additional compounds, undermining any claim that the current process is adequately protective. More significantly, though, it is undisputable that the measured PFAS represents a fraction of the total PFAS present in sludge, meaning the true risks to health and the environment are not even being considered. In looking at the risks posed by PFAS compost, DEP recognized that they don’t know where compost is being used, so simply ASSUMES it is only going to fields that have almost no existing burden of PFAS contamination. That assumption defies reality, given both the high levels of PFAS sadly already present on many Maine farms, and the fact that the same contaminated compost is likely to be applied time and time again to the same areas.