

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred  
3 Senate Bill No. 10 entitled “An act relating to liability for the contamination of  
4 potable water supplies” respectfully reports that it has considered the same and  
5 recommends that the bill be amended by striking out all after the enacting  
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 10 V.S.A. § 6615e is added to read:

8 § 6615e. RELIEF FOR CONTAMINATED POTABLE WATER SUPPLIES

9 (a) Definitions. As used in this section:

10 (1) “Public water system” means any system or combination of systems  
11 owned or controlled by a person that provides drinking water through pipes or  
12 other constructed conveyances to the public and that has at least 15 service  
13 connections or serves an average of at least 25 individuals daily for at least  
14 60 days out of the year. A “public water system” includes all collection,  
15 treatment, storage, and distribution facilities under the control of the water  
16 supplier and used primarily in connection with the system, and any collection  
17 or pretreatment storage facilities not under the control of the water supplier  
18 that are used primarily in connection with the system. “Public water system”  
19 shall also mean any part of a system that does not provide drinking water, if  
20 use of such a part could affect the quality or quantity of the drinking water

1 supplied by the system. “Public water system” shall also mean a system that  
2 bottles drinking water for public distribution and sale.

3 (2) “Public community water system” means a public water system that  
4 serves at least 15 service connections used by year-round residents or regularly  
5 serves at least 25 year-round residents.

6 (b) Extension of public community water system. In addition to a response  
7 action required under section 6615 or 6615b of this title, any person who the  
8 Secretary has determined released perfluorooctanoic acid into the air,  
9 groundwater, surface water, or onto the land shall be strictly, jointly, and  
10 severally liable for the costs of extending the water supply of a public water  
11 system to a property when:

12 (1) the property is served by a potable water supply regulated under  
13 chapter 64 of this title;

14 (2) the Secretary has determined that the potable water supply on the  
15 property:

16 (A) is a failed supply under chapter 64 of this title due to  
17 perfluorooctanoic acid contamination; or

18 (B) is likely to be contaminated by perfluorooctanoic acid due to the  
19 proximity of the public water supply to other public water supplies  
20 contaminated by perfluorooctanoic acid or due to other relevant factors; and

1           (3) the person the Secretary determined released perfluorooctanoic acid  
2           into the air, groundwater, surface water, or onto the land is the cause of or  
3           contributor to the perfluorooctanoic acid contamination or likely contamination  
4           of the potable water supply.

5           (c) Liability payment. A person liable under subsection (b) of this section  
6           for the extension of the water supply of a public water system shall pay the  
7           operator of the public water system for the extension of the water supply  
8           within 30 days of notification of liability by the Secretary or within an alternate  
9           time frame ordered by the Secretary. If the person liable for the extension of  
10           the water supply does not pay the operator within the required time frame, the  
11           person shall be liable for interest on the assessed cost of the extension of the  
12           water supply.

13           (d) Appeal standard. Notwithstanding subsection 8504(h) of this title, the  
14           Environmental Division of the Superior Court shall review an appeal of a  
15           decision of the Secretary under this section on the record pursuant to Rule 74  
16           of the Vermont Rules of Civil Procedure. Prior to issuing a final liability  
17           determination under subsection (b) of this section, the Secretary shall post a  
18           proposed liability determination to the website of the Agency of Natural  
19           Resources for public notice and written comment for 30 days. In developing  
20           the record of a decision under this section, the Secretary shall provide any  
21           person an opportunity to supplement the record of the liability determination.

1       Sec. 2. APPLICATION OF LIABILITY

2           (a) This act shall apply to any determination of liability made by the  
3       Secretary of Natural Resources under 10 V.S.A. § 6615e after the effective  
4       date of the act.

5           (b) Notwithstanding any contrary provision of 1 V.S.A. § 214, this act shall  
6       apply to any relevant release of perfluorooctanoic acid regardless of the date of  
7       the relevant release, including releases that occurred prior to the effective date  
8       of this act.

9       Sec. 3. EFFECTIVE DATE

10       This act shall take effect on passage.

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13       (Committee vote: \_\_\_\_\_)

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Senator \_\_\_\_\_

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FOR THE COMMITTEE