

## S.49. An Act Relating to the Regulation of Polyfluoroalkyl Substances in Drinking Waters and Surface Waters: Section by Section Summary

### Sec. 1. Findings (Session Law)

- Perfluoroalkyl, polyfluoroalkyl substances (PFAS), and other perfluorochemicals are a large group of human-made chemicals that have been used in industry and consumer products worldwide since the 1950s.
- PFAS enter the environment from numerous sources, do not readily break down, persist in the nature, and are found in water and blood.
- The Department of Health (DOH) has adopted a health advisory level for certain PFAS of 20 parts per trillion (ppt).
- ANR adopted a 20 ppt level in the Contaminated Properties Rule and the Groundwater Protection Rule, but not in the Water Supply Rule or Water Quality Standards.
- To prevent further contamination of water, and to reduce the potential harmful effects of PFAS, the State should:
  - require ANR to adopt by rule a maximum contaminant level (MCL) for PFAS under the Water Supply Rule;
  - prior to adoption of a MCL for PFAS, require public water systems to monitor for certain PFAS chemicals and respond appropriately when results indicate levels of PFAS in excess of the DOH advisory level;
  - require ANR to adopt surface water quality standards for certain PFAS chemicals; and
  - authorize ANR to require any permitted facility to monitor for a release of a chemical that exceeds a DOH health advisory.

### Sec. 2. Interim Drinking Water Standard; Testing; Per And Polyfluoroalkyl Substances (Session Law)

- “Perfluoroalkyl, polyfluoroalkyl substances” or “PFAS substances” means perfluoroalkyl substances and polyfluoroalkyl substances that are detectable using standard analytical methods established by the U.S. Environmental Protection Agency, including regulated PFAS contaminants.
- “Regulated PFAS contaminants” means perfluorooctanoic acid, perfluorooctane sulfonic acid, perfluorohexane sulfonic acid, perfluorononanoic acid, and perfluoroheptanoic acid
- Requires all public community water systems and all nontransient noncommunity water systems, on or before December 1, 2019, to conduct monitoring for the maximum number of PFAS substances detectable from standard laboratory methods.
- After initial monitoring, a public community water system or nontransient noncommunity water system shall be required to conduct continued monitoring as follows until adoption of the rules required under Sec. 3:
  - If initial monitoring detects regulated PFAS contaminants at or above 20 ppt, the system shall conduct continued quarterly monitoring.
  - If initial monitoring detects regulated PFAS contaminants at or above the reporting level of 2 ppt but below 20 ppt, the system shall monitor annually.
  - If initial monitoring detects regulated PFAS contaminants below the reporting level of 2 ppt, the system shall conduct monitoring every three years.

- If monitoring confirms the presence of PFAS contaminants individually or in combination in excess of 20 ppt, ANR shall direct the system to to:
  - implement treatment or other remedy to reduce PFAS contaminants in the system’s drinking water below 20 ppt.
  - direct the public water system to issue a “do not drink” notice to all users of the system until the treatment is completed

### **Sec 3. DEC Water Supply Rule; MCL for PFAS Substances** (Session Law)

- By Feb. 1, 2020, ANR shall file a final rule with the Secretary of State and LCAR adopting a maximum contaminant level (MCL) for perfluorooctanoic acid, perfluorooctane sulfonic acid, perfluorohexane sulfonic acid, perfluorononanoic acid, and perfluoroheptanoic acid under DEC’s Water Supply Rule.
  - The DOH advisory level of 20 ppt individually or in combination will be the initial basis of the MCL
- On or before August 1, 2020, DEC shall initiate a notice and comment of a proposed rulemaking regarding whether DEC should adopt a MCL under the Water Supply Rule for classes or subclasses of PFAS compounds.
- On or before March 1, 2021, ANR shall either: (1) file a proposed rule regulating PFAS compounds under the Water Supply Rule as a class or subclasses; or (2) publish a decision not to regulate PFAS compounds as a class or subclasses under the Water Supply Rule, including the basis for the decision.
- If ANR proposes a rule to regulate PFAS compounds as class, ANR shall file a final rule on or before December 31, 2021.

### **Sec. 4. Repeal; Interim Drinking Water Monitoring; PFAS Contaminants** (Session Law)

- Sec. 4 repeals the interim drinking water monitoring for PFAS contaminants required under Sec. 2 on the effective date of the rules required under Sec. 3(a)

### **Sec 5. Vermont Water Quality Standards; Per And Polyfluoroalkyl Substances** (Session Law)

- Requires ANR, on or before January 15, 2020, to publish a plan for public review and comment for adoption of surface water quality standards for PFAS substances. The proposal shall include, at a minimum, a proposal for standards for:
  - perfluorooctanoic acid; perfluorooctane sulfonic acid; perfluorohexane sulfonic acid; perfluorononanoic acid; and perfluoroheptanoic acid; and
  - the PFAS class of compounds or subgroups of the PFAS class of compounds.
- Requires ANR, by January 1, 2024, to file a final rule adopting surface water quality standards for, at a minimum, perfluorooctanoic acid, perfluorooctane sulfonic acid, perfluorohexane sulfonic acid, perfluorononanoic acid, and perfluoroheptanoic acid.

### **Sec 6. Investigation of Potential Sources of PFAS Contamination** (Session Law)

- Requires ANR, by June 1, 2019, to publish for review and comment a plan for a statewide investigation of potential sources of PFAS contamination.
  - As part of the investigation, ANR shall conduct a pilot project at a public water system to evaluate PFAS that are not quantified by standard lab methods using a total oxidizable precursor assay or other analytical method to evaluate total PFAS. ANR shall initiate implementation of the plan by July 1, 2019.

**Sec 7. Interim Environmental Media Standards (3 V.S.A. § 2810)**

- This section provides ANR with a new authority to require any entity permitted by the Agency to monitor the operation of a facility, discharge, emission, or release for any constituent for which the DOH has established a health advisory.
- ANR may impose conditions on a permitted entity based on the health advisory if the Agency determines that the operation of the facility, discharge, emission, or release may result in an imminent and substantial endangerment to human health or the natural environment.
- The authority granted to ANR under this section shall last no longer than 2 years from the date the health advisory was adopted.

**Sections 8 and 9. ANR Enforcement and Appeals (10 V.S.A. §§ 8003 and 8503)**

- Sec. 8 amends 10 V.S.A. § 8003 to add the interim environmental media standards authority enacted under Sec. 7 (3 V.S.A. § 2810) to the list of programs that ANR may enforce under its general enforcement authority.
- Sec. 9 amends 10 V.S.A. § 8503 to add interim environmental media standards authority enacted under Sec. 7 (3 V.S.A. § 2810) to the list of programs that a person may appeal an act of ANR

**Sec. 10. Environmental Media Standards; Guidance; Plan (Session Law)**

- This section requires ANR, on or before January 1, 2020, to publish a guidance document for public review and comment that sets forth detailed practices for implementation by ANR of interim environmental media standards authority under 3 V.S.A. § 2810.
- This section also requires ANR, on or before January 1, 2020, to publish for public review a plan to collect data for contaminants in drinking water from public community water systems and all nontransient noncommunity water systems for which a health advisory has been established but no maximum contaminant level has been adopted.

**Sec. 11. ANR Pilot Project; Contaminants of Emerging Concern**

- This section requires ANR to submit to the General Assembly, on or before January 15, 2020, a report regarding the management at landfills of leachate containing contaminants of emerging concern (CECs). The report shall include:
  - the findings of the leachate treatment evaluation conducted at any landfill in Vermont;
  - ANR's assessment of the results of landfill leachate evaluations; and
  - the recommendations for treatment of CECs in leachate from landfills, including whether the State should establish a pilot project to test methods for testing or managing CECs in landfill leachate.

**Sec. 12. Effective Date:** The act takes effect on passage.