

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 Senate Bill No. 49 entitled “An act relating to the regulation of polyfluoroalkyl
4 substances in drinking water and surface waters” respectfully reports that it has
5 considered the same and recommends that the bill be amended by striking out
6 all after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. FINDINGS

8 The General Assembly finds that:

9 (1) Perfluoroalkyl, polyfluoroalkyl substances (PFAS), and other
10 perfluorochemicals are a large group of human-made chemicals that have been
11 used in industry and consumer products worldwide since the 1950s.

12 (2) PFAS may enter the environment from numerous industrial or
13 commercial sources, including when emitted during a manufacturing process,
14 from the disposal of goods containing PFAS, or from leachate from landfills.

15 (3) Many PFAS do not break down and persist in the environment for a
16 very long time, especially in water, and, consequently, PFAS can be found in
17 many bodies of water and in the blood of humans and wildlife.

18 (4) The Vermont Department of Health has adopted a health advisory
19 level for certain PFAS of 20 parts per trillion.

1 (5) The Vermont Water Supply Rule provides that the Secretary of
2 Natural Resources may adopt a Vermont Department of Health advisory level
3 as a maximum contaminant level for a substance.

4 (6) The Agency of Natural Resources (ANR) has adopted the 20 parts
5 per trillion level as part of ANR’s Remediation of Contaminated Properties
6 Rule and Groundwater Protection Rule and Strategy, but not as part of the
7 Vermont Water Supply Rule or the Vermont Water Quality Standards.

8 (7) To prevent further contamination of State water, and to reduce the
9 potential harmful effects of PFAS on human health and the environment, the
10 State of Vermont should:

11 (A) require the Agency of Natural Resources to adopt by rule
12 maximum contaminant level or levels for PFAS under the Vermont Water
13 Supply Rule;

14 (B) prior to adoption by rule of maximum contaminant level or levels
15 for PFAS, require public water systems to monitor for certain PFAS chemicals
16 and respond appropriately when results indicate levels of PFAS in excess of
17 the Vermont Department of Health advisory level;

18 (C) the Agency of Natural Resource to adopt surface water quality
19 standards for certain PFAS chemicals; and

1 (D) authorize the Agency of Natural Resources to require any
2 permitted facility to monitor for any release of chemical that exceeds a health
3 advisory issued by the Vermont Department of Health.

4 Sec. 2. INTERIM DRINKING WATER STANDARD; TESTING; PER AND
5 POLYFLUOROALKYL SUBSTANCES

6 (a) As used in this section, “PFAS contaminants” means perfluorooctanoic
7 acid, perfluorooctane sulfonic acid, perfluorohexane sulfonic acid,
8 perfluorononanoic acid, and perfluoroheptanoic acid.

9 (b) Beginning on September 1, 2019, and every six months until adoption
10 of the rules under Sec. 3 of this act, all public water systems in the State shall
11 conduct monitoring for the presence PFAS contaminants in drinking water
12 supplied by the system.

13 (c) If monitoring results under subsection (b) of this section indicates the
14 presence of any PFAS contaminants individually or in combination in excess
15 of the Vermont Department of Health advisory level of 20 parts per trillion, the
16 Agency of Natural Resources shall direct the public water system to implement
17 treatment or other remedy to reduce the levels of PFAS contaminants in the
18 drinking water of the public water system below the Vermont Department of
19 Health advisory level.

20 (d) During the period of treatment or implementation of another remedy
21 under this section to reduce the levels of PFAS contaminants in the drinking

1 water of the public water system below the Vermont Department of Health
2 advisory level, the public water system shall provide potable water through
3 other means to all customers or users of the system. The requirement for a
4 public water system to provide potable water to customers and users of the
5 systems through other means shall cease when monitoring results indicate that
6 the levels of PFAS contaminants in the drinking water of the public water
7 system are below the Vermont Department of Health advisory level.

8 Sec 3. DEPARTMENT OF ENVIRONMENTAL CONSERVATION

9 WATER SUPPLY RULE; MAXIMUM CONTAMINANT LEVEL

10 FOR PER AND POLYFLUOROALKYL SUBSTANCES;

11 STANDARD FOR PER AND POLYFLUOROALKYL

12 SUBSTANCES; CLASS OR SUBCLASSES

13 (a) On or before February 1, 2020, the Secretary of Natural Resources shall
14 file under 3 V.S.A. § 841 a final proposed rule with the Secretary of State and
15 the Legislative Committee on Administrative Rules regarding adoption of the
16 Vermont Department of Health’s health advisory for perfluorooctanoic acid,
17 perfluorooctane sulfonic acid, perfluorohexane sulfonic acid,
18 perfluorononanoic acid, and perfluoroheptanoic acid as a maximum
19 contaminant level (MCL) under the Department of Environmental
20 Conservation’s Water Supply rule.

1 (b) On or before August 1, 2020, the Secretary of Natural Resources shall
2 initiate a public notice and comment process by publishing an advance notice
3 of proposed rulemaking regarding the regulation under the Department of
4 Environmental Conservation’s Water Supply Rule of per and polyfluoroalkyl
5 (PFAS) compounds as a class or subclasses.

6 (c) On or before March 1, 2021, the Secretary of Natural Resources shall
7 either:

8 (1) file a proposed rule with the Secretary of State regarding the
9 regulation of PFAS compounds under the Department of Environmental
10 Conservation’s Water Supply Rule as a class or subclasses; or

11 (2) publish a notice of decision not to regulate PFAS compounds as a
12 class or subclasses under the Department of Environmental Conservation’s
13 Water Supply Rule that includes, at a minimum, an identification of all legal,
14 technical, or other impediments to regulating PFAS compounds as a class or
15 subclasses and a detailed response to all public comments received.

16 (d) If the Secretary of Natural Resources proposes a rule pursuant to
17 subsection (c), on or before December 31, 2021, the Secretary of Natural
18 Resources shall file a final rule with the Secretary of State regarding the
19 regulation of PFAS compounds as a class or subclasses under the Department
20 of Environmental Conservation’s Water Supply Rule.

1 Sec. 4. REPEAL; INTERIM DRINKING WATER MONITORING; PFAS
2 CONTAMINANTS

3 Sec. 2 (interim drinking water monitoring; PFAS contaminants) shall be
4 repealed on the effective date of the rules required under Sec. 3 of this act.

5 Sec 5. VERMONT WATER QUALITY STANDARDS; PER AND
6 POLYFLUOROALKYL SUBSTANCES

7 (a) On or before January 15, 2020, the Secretary of Natural Resources shall
8 publish a plan for public review and comment for adoption of surface water
9 quality standards for per and polyfluoroalkyl substances (PFAS) that shall
10 include, at a minimum, a proposal for standards for:

11 (1) perfluorooctanoic acid; perfluorooctane sulfonic acid;
12 perfluorohexane sulfonic acid; perfluorononanoic acid; and perfluoroheptanoic
13 acid; and

14 (2) the PFAS class of compounds or subgroups of the PFAS class of
15 compounds.

16 (b) On or before January 1, 2022, the Secretary of Natural Resources shall
17 file a final rule with the Secretary of State to adopt surface water quality
18 standards for, at a minimum, perfluorooctanoic acid, perfluorooctane sulfonic
19 acid, perfluorohexane sulfonic acid, perfluorononanoic acid, and
20 perfluoroheptanoic acid.

1 Sec 6. INVESTIGATION OF POTENTIAL SOURCES OF PER AND
2 POLYFLUOROALKYL SUBSTANCES CONTAMINATION

3 (a) On or before May 1, 2019, the Secretary of Natural Resources shall
4 publish a plan for public review and comment to complete a statewide
5 investigation of potential sources of per and polyfluoroalkyl substances
6 (PFAS) contamination. As part of this investigation, the Secretary shall
7 evaluate a representative portion of public water systems for total oxidizable
8 PFAS concentrations. The Secretary of Agency of Natural Resources shall
9 initiate implementation of the plan not later than July 1, 2019.

10 (b) On or before July 1, 2020, all public water systems shall conduct
11 monitoring for the maximum number of PFAS detectable from standard
12 laboratory methods or list specific PFAS.

13 Sec 7. 3 V.S.A. § 2810 is added to read:

14 § 2810. INTERIM ENVIRONMENTAL MEDIA STANDARDS

15 The Secretary of Natural Resources may require any entity permitted by the
16 Agency of Natural Resources to monitor the operation of a facility, discharge,
17 emission, or release for any constituent for which the Department of Health has
18 established a health advisory. The Secretary may impose conditions on a
19 permitted entity based on the health advisory if the Secretary determines that
20 the operation of the facility, discharge, emission, or release may result in an
21 imminent and substantial endangerment to human health or the natural

1 environment. The authority granted to the Secretary under this section shall
2 last not longer than two years from the date the health advisory was adopted.

3 **Sec. 8. ENVIRONMENTAL MEDIA STANDARDS; GUIDANCE; PLAN**

4 (a) On or before January 1, 2020, the Secretary of Natural Resources shall
5 publish a guidance document for public review and comment that sets forth
6 detailed practices for implementation by the Secretary of Natural Resources of
7 interim environmental media standards authority under 3 V.S.A. § 2810.

8 (b) On or before January 1, 2020, the Secretary of Natural Resources shall
9 publish for public review and comment a plan to collect data for contaminants
10 in drinking water for which a health advisory has been established but no
11 maximum contaminant level has been adopted.

12 **Sec. 9. AGENCY OF NATURAL RESOURCES CONTAMINANTS OF**
13 **EMERGING CONCERN PILOT PROJECT**

14 On or before January 15, 2020, the Agency of Natural Resources shall
15 submit to the House Committees on Natural Resources, Fish, and Wildlife and
16 on Commerce and the Senate Committees on Natural Resources and Energy
17 and on Economic Development, Housing and General Affairs a report
18 regarding the management at landfills of leachate containing contaminants of
19 emerging concern (CECs). The report shall include:

20 (1) the findings of the leachate treatment evaluation conducted at any
21 landfill in Vermont;

- 1 (2) the Agency of Natural Resources’ assessment of the results of
- 2 landfill leachate evaluations; and
- 3 (3) the Agency of Natural Resources’ recommendations for treatment of
- 4 CECs in leachate from landfills, including whether the State should establish a
- 5 pilot project to test methods for testing or managing CECs in landfill leachate.

6 Sec. 10. EFFECTIVE DATE

7 This act shall take effect on passage.

8
9
10
11
12
13
14
15
16
17

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE