

1 TO THE HOUSE OF REPRESENTATIVES:

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

8 Sec. 1. FINDINGS

9 The General Assembly finds that:

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

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

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

20 (4) The Vermont Department of Health has adopted a health advisory
21 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) require the Agency of Natural Resource to adopt surface water
19 quality 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 a 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:

7 (1) “Perfluoroalkyl, polyfluoroalkyl substances” or “PFAS substances”
8 means perfluoroalkyl substances and polyfluoroalkyl substances that are
9 detectable using standard analytical methods established by the U.S.
10 Environmental Protection Agency, including regulated PFAS contaminants.

11 (2) “Regulated PFAS contaminants” means perfluorooctanoic acid,
12 perfluorooctane sulfonic acid, perfluorohexane sulfonic acid,
13 perfluorononanoic acid, and perfluoroheptanoic acid.

14 (b) On or before December 1, 2019, all public community water systems
15 and all nontransient, noncommunity water systems shall conduct monitoring
16 for the maximum number of PFAS substances detectable from standard
17 laboratory methods.

18 (c) After completion of initial monitoring under subsection (b), a public
19 community water system or a nontransient, noncommunity water system shall
20 conduct continued monitoring for the presence of regulated PFAS

1 contaminants in drinking water supplied by the system as follows until
2 adoption of the rules required under subsection 3(a) of this act:

3 (1) If initial monitoring results detect the presence of any regulated
4 PFAS contaminants individually or in combination at or above the Vermont
5 Department of Health advisory level of 20 parts per trillion, the public water
6 system shall conduct continued quarterly monitoring.

7 (2) If initial monitoring results detect the presence of any regulated
8 PFAS contaminants individually or in combination at or above the reporting
9 level of two parts per trillion but below the Vermont Department of Health
10 advisory level of 20 parts per trillion, the public water system shall conduct
11 continued monitoring annually.

12 (3) If initial monitoring results detect the presence of any regulated
13 PFAS contaminants below the reporting level of two parts per trillion, the
14 public water system shall conduct continued monitoring every three years.

15 (d) If monitoring results under subsections (b) or (c) of this section confirm
16 the presence of any regulated PFAS contaminants individually or in
17 combination in excess of the Vermont Department of Health advisory level of
18 20 parts per trillion, the Agency of Natural Resources shall:

19 (1) direct the public water system to implement treatment or other
20 remedy to reduce the levels of regulated PFAS contaminants in the drinking

1 water of the public water system below the Vermont Department of Health
2 advisory level; and

3 (2) direct the public water system to issue a “do not drink” notice to all
4 users of the public water system until the treatment under subdivision (1) of
5 this subsection is completed.

6 (e) The Secretary may enforce the requirements of this section under
7 10 V.S.A. chapter 201. A person may appeal the acts or decisions of the
8 Secretary of Natural Resources under this section under 10 V.S.A. chapter 220.

9 Sec 3. DEPARTMENT OF ENVIRONMENTAL CONSERVATION

10 WATER SUPPLY RULE; MAXIMUM CONTAMINANT LEVEL
11 FOR PER AND POLYFLUOROALKYL SUBSTANCES;
12 STANDARD FOR PER AND POLYFLUOROALKYL
13 SUBSTANCES; CLASS OR SUBCLASSES

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

1 sulfonic acid, perfluorohexane sulfonic acid, perfluorononanoic acid, and
2 perfluoroheptanoic acid as the initial basis for developing the MCL under this
3 subsection and may propose adjustments or variances from the advisory level
4 based on scientific evidence, industry standards, or public input.

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

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

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

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

20 (d) If the Secretary of Natural Resources proposes a rule pursuant to
21 subsection (c), on or before December 31, 2021, the Secretary of Natural

1 Resources shall file a final rule with the Secretary of State regarding the
2 regulation of PFAS compounds as a class or subclasses under the Department
3 of Environmental Conservation’s Water Supply Rule.

4 Sec. 4. REPEAL; INTERIM DRINKING WATER MONITORING; PFAS
5 CONTAMINANTS

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

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

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

14 (1) perfluorooctanoic acid; perfluorooctane sulfonic acid;
15 perfluorohexane sulfonic acid; perfluorononanoic acid; and perfluoroheptanoic
16 acid; and

17 (2) the PFAS class of compounds or subgroups of the PFAS class of
18 compounds.

19 (b) On or before January 1, 2024, the Secretary of Natural Resources shall
20 file a final rule with the Secretary of State to adopt surface water quality
21 standards for, at a minimum, perfluorooctanoic acid, perfluorooctane sulfonic

1 acid, perfluorohexane sulfonic acid, perfluorononanoic acid, and
2 perfluoroheptanoic acid.

3 Sec 6. INVESTIGATION OF POTENTIAL SOURCES OF PER AND
4 POLYFLUOROALKYL SUBSTANCES CONTAMINATION

5 On or before June 1, 2019, the Secretary of Natural Resources shall publish
6 a plan for public review and comment to complete a statewide investigation of
7 potential sources of per and polyfluoroalkyl substances (PFAS) contamination.
8 As part of this investigation, the Secretary shall conduct a pilot project at
9 public water systems to evaluate PFAS that are not quantified by standard
10 laboratory methods using a total oxidizable precursor assay or other applicable
11 analytical method to evaluate total PFAS. The Secretary of Natural Resources
12 shall initiate implementation of the plan not later than July 1, 2019.

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. 10 V.S.A. § 8003 is amended to read:

4 § 8003. APPLICABILITY

5 (a) The Secretary may take action under this chapter to enforce the
6 following statutes and rules, permits, assurances, or orders implementing the
7 following statutes, and the Board may take such action with respect to
8 subdivision (10) of this subsection:

9 * * *

10 (28) 30 V.S.A. § 255, relating to regional coordination to reduce
11 greenhouse gases; ~~and~~

12 (29) 10 V.S.A. § 1420, relating to abandoned vessels; and

13 (30) 3 V.S.A. § 2810, relating to interim environmental media standards.

14 * * *

15 Sec. 9. 10 V.S.A. § 8503 is amended to read:

16 § 8503. APPLICABILITY

17 (a) This chapter shall govern all appeals of an act or decision of the
18 Secretary, excluding enforcement actions under chapters 201 and 211 of this
19 title and rulemaking, under the following authorities and under the rules
20 adopted under those authorities:

21 * * *

1 (2) 29 V.S.A. chapter 11 (management of lakes and ponds).

2 (3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

3 (4) 3 V.S.A. § 2810 (interim environmental media standards).

4 * * *

5 Sec. 10. ENVIRONMENTAL MEDIA STANDARDS; GUIDANCE; PLAN

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

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

15 Sec. 11. AGENCY OF NATURAL RESOURCES CONTAMINANTS OF

16 EMERGING CONCERN PILOT PROJECT

17 On or before January 15, 2020, the Agency of Natural Resources shall
18 submit to the House Committees on Natural Resources, Fish, and Wildlife and
19 on Commerce and Economic Development and the Senate Committees on
20 Natural Resources and Energy and on Economic Development, Housing and
21 General Affairs a report regarding the management at landfills of leachate

1 containing contaminants of emerging concern (CECs). The report shall
2 include:

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

5 (2) the Agency of Natural Resources' assessment of the results of
6 landfill leachate evaluations; and

7 (3) the Agency of Natural Resources' recommendations for treatment of
8 CECs in leachate from landfills, including whether the State should establish a
9 pilot project to test methods for testing or managing CECs in landfill leachate.

10 Sec. 12. EFFECTIVE DATE

11 This act shall take effect on passage.

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14

15 (Committee vote: _____)

16

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Representative _____

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FOR THE COMMITTEE