

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) 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 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) On or before December 1, 2019, all public community water systems
10 and all nontransient noncommunity water systems in the State shall conduct
11 monitoring for the presence of PFAS contaminants in drinking water supplied
12 by the system. Continued monitoring shall be conducted as follows until
13 adoption of the rules required under Sec. 3 of this act:

14 (1) If monitoring results detect the presence of any PFAS contaminants
15 individually or in combination in excess of the Vermont Department of Health
16 advisory level of 20 parts per trillion, the public water system shall conduct
17 continued quarterly monitoring.

18 (2) If monitoring results detect the presence of any PFAS contaminants
19 individually or in combination at a level equal to or below the Vermont
20 Department of Health advisory level of 20 parts per trillion, the public water
21 system shall conduct continued monitoring annually.

1 (3) If monitoring results do not detect the presence of any PFAS
2 contaminants, the public water system shall conduct continued monitoring
3 every two years.

4 (c) If monitoring results under subsection (b) of this section confirm the
5 presence of any PFAS contaminants individually or in combination in excess
6 of the Vermont Department of Health advisory level of 20 parts per trillion, the
7 Agency of Natural Resources shall direct the public water system to implement
8 treatment or other remedy to reduce the levels of PFAS contaminants in the
9 drinking water of the public water system below the Vermont Department of
10 Health advisory level.

11 (d) During the period of treatment or implementation of another remedy
12 under this section to reduce the levels of PFAS contaminants in the drinking
13 water of the public water system below the Vermont Department of Health
14 advisory level, the public water system shall provide potable water through
15 other means to all customers or users of the system. The requirement for a
16 public water system to provide potable water to customers and users of the
17 systems through other means shall cease when monitoring results indicate that
18 the levels of PFAS contaminants in the drinking water of the public water
19 system are below the Vermont Department of Health advisory level.

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

4 Sec 3. DEPARTMENT OF ENVIRONMENTAL CONSERVATION

5 WATER SUPPLY RULE; MAXIMUM CONTAMINANT LEVEL
6 FOR PER AND POLYFLUOROALKYL SUBSTANCES;
7 STANDARD FOR PER AND POLYFLUOROALKYL
8 SUBSTANCES; CLASS OR SUBCLASSES

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

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

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

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

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

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

16 Sec. 4. REPEAL; INTERIM DRINKING WATER MONITORING; PFAS
17 CONTAMINANTS

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

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

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

7 (1) perfluorooctanoic acid; perfluorooctane sulfonic acid;
8 perfluorohexane sulfonic acid; perfluorononanoic acid; and perfluoroheptanoic
9 acid; and

10 (2) the PFAS class of compounds or subgroups of the PFAS class of
11 compounds.

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

17 Sec 6. INVESTIGATION OF POTENTIAL SOURCES OF PER AND
18 POLYFLUOROALKYL SUBSTANCES CONTAMINATION

19 (a) On or before May 1, 2019, the Secretary of Natural Resources shall
20 publish a plan for public review and comment to complete a statewide
21 investigation of potential sources of per and polyfluoroalkyl substances

1 (PFAS) contamination. As part of this investigation, the Secretary shall
2 conduct a pilot project at public water systems to evaluate PFAS that are not
3 quantified by standard laboratory methods using a total oxidizable precursor
4 assay or other applicable analytical method to evaluate total PFAS. The
5 Secretary of Natural Resources shall initiate implementation of the plan not
6 later than July 1, 2019.

7 (b) On or before September 1, 2019, all public community water systems
8 and all nontransient noncommunity water systems shall conduct monitoring for
9 the maximum number of PFAS detectable from standard laboratory methods.

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

11 § 2810. INTERIM ENVIRONMENTAL MEDIA STANDARDS

12 The Secretary of Natural Resources may require any entity permitted by the
13 Agency of Natural Resources to monitor the operation of a facility, discharge,
14 emission, or release for any constituent for which the Department of Health has
15 established a health advisory. The Secretary may impose conditions on a
16 permitted entity based on the health advisory if the Secretary determines that
17 the operation of the facility, discharge, emission, or release may result in an
18 imminent and substantial endangerment to human health or the natural
19 environment. The authority granted to the Secretary under this section shall
20 last not longer than two years from the date the health advisory was adopted.

1 Sec. 8. 10 V.S.A. § 8003 is amended to read:

2 § 8003. APPLICABILITY

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

7 * * *

8 (28) 30 V.S.A. § 255, relating to regional coordination to reduce
9 greenhouse gases; ~~and~~

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

11 (30) 3 V.S.A. § 2810, relating to interim environmental media standards.

12 * * *

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

14 § 8503. APPLICABILITY

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

19 * * *

20 (2) 29 V.S.A. chapter 11 (management of lakes and ponds).

21 (3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

1 (4) 3 V.S.A. § 2810 (interim environmental media standards).

2 * * *

3 Sec. 10. 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 from public community water systems and all nontransient
11 noncommunity water systems for which a health advisory has been established
12 but no maximum contaminant level has been adopted.

13 Sec. 11. AGENCY OF NATURAL RESOURCES CONTAMINANTS OF
14 EMERGING CONCERN PILOT PROJECT

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

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

8 Sec. 12. EFFECTIVE DATE

9 This act shall take effect on passage.

10
11
12
13
14
15
16
17
18
19

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE