

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           (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.

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(Committee vote: \_\_\_\_\_)

\_\_\_\_\_

Senator \_\_\_\_\_

FOR THE COMMITTEE