FILED SENATE
May 26, 2020
S.B. 837
PRINCIPAL CLERK

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S **D**

SENATE BILL DRS45453-RIa-34A*

Short Title:	PFAS Contamination Mitigation Measures.	(Public)
Sponsors:	Senators Garrett, Peterson, and Woodard (Primary Sponsors).	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT MEASURES TO PREVENT AND ADDRESS CONTAMINATION FROM THE DISCHARGE OF PFAS IN THE STATE IN ORDER TO PROTECT PUBLIC HEALTH.

The General Assembly of North Carolina enacts:

PART I. REQUIREMENTS FOR POLLUTANT DISCHARGE DISCLOSURE; PFAS DISCHARGE LIMITATIONS

SECTION 1. G.S. 143-215.1 reads as rewritten:

"**§ 143-215.1. Control of sources of water pollution; permits required.**

…

(*l*) The Department shall require that every person applying for an individual National Pollutant Discharge Elimination System (NPDES) permit fully disclose in its application for a new permit, or for a permit renewal, each pollutant in the person's discharge that is reasonably expected to be at or above the practical quantitation limit (PQL) for the pollutant. The pollutant's concentration to be discharged shall be disclosed, as well as the chemical abstracts service (CAS) number for each pollutant if available. If the CAS number is unavailable, the pollutant shall otherwise be described in sufficient detail so as to adequately inform the Department of the pollutant's characteristics.

(m) Any person who is required to obtain a National Pollutant Discharge Elimination System (NPDES) permit under this Article that receives waste from an industrial user, as that term is defined under 15A NCAC 02H .0903, shall require the industrial user to disclose in the industrial user's application for a new pretreatment permit, or for a pretreatment permit renewal, each pollutant in the industrial user's discharge that is at or above the practical quantitation limit (PQL) for the pollutant.

(n) Any person who is required to obtain a National Pollutant Discharge Elimination System (NPDES) permit under this Article that receives waste from an industrial user that includes PFAS shall eliminate the PFAS prior to discharge into waters of the State, and if elimination of PFAS by the NPDES permittee prior to discharge to waters of the State is economically or otherwise impracticable, the NPDES permittee shall require the industrial user to eliminate the PFAS from the user's discharge. For purposes of this section, "PFAS" means perfluoroalkyl and polyfluoroalkyl substances, a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom."

PART II. DEPARTMENT OF ENVIRONMENTAL QUALITY AND ENVIRONMENTAL MANAGEMENT COMMISSION ACTION TO ADDRESS PFAS

SECTION 2. No later than June 1, 2021, the Department of Environmental Quality shall begin identifying technology-based limits for detectable PFAS in new and renewed National Pollutant Discharge Elimination System (NPDES) permits. Such technology-based limits shall consist of treatments sufficient to reduce detectable PFAS in effluent to non-detect levels. For purposes of this section, the following definitions apply:

(1) "Detectable PFAS" means PFAS in an amount such that the presence, individual concentrations, and total concentrations can be assessed by a laboratory method certified by the United States Environmental Protection Agency or approved by the Department.

(2) "Non-detect levels" means concentrations of PFAS below 10 ppt as measured by a laboratory method certified by the United States Environmental Protection Agency or approved by the Department.

SECTION 3.(a) The Department of Environmental Quality shall study the presence of PFAS in land-applied biosolids, including identifying the most common PFAS that may be present in biosolids, likely categories of sources for any PFAS detected, the propensity of PFAS to migrate off-site from land application sites, and accumulation and persistence of PFAS in soil and water that are downgradient from land application sites. The Department shall report the findings of its study, including recommendations for legislative and Commission action, to the Environmental Management Commission and the Environmental Review Commission no later than September 1, 2021.

SECTION 3.(b) If, as a result of the study performed pursuant to subsection (a) of this section, the Department of Environmental Quality finds that PFAS are likely to migrate from land application sites and accumulate at detectable levels in soil and water that are downgradient from such sites, the Environmental Management Commission shall adopt rules to prevent such migration or accumulation of the pollutant off-site.

SECTION 4.(a) The Department of Environmental Quality shall study the presence of PFAS in leachate collected and disposed of from municipal solid waste landfills and construction and demolition debris landfills, including identifying the most common PFAS that may be present in leachate, as well as the effectiveness of treatment technologies in wastewater treatment plants at removing PFAS prior to discharge. The Department shall report the findings of its study, including recommendations for legislative and Commission action, to the Environmental Management Commission and the Environmental Review Commission no later than September 1, 2021.

SECTION 4.(b) If, as a result of the study performed pursuant to subsection (a) of this section, the Department of Environmental Quality finds that PFAS in landfill leachate cannot be practicably removed from wastewater prior to discharge, the Environmental Management Commission shall adopt rules to prohibit the disposal of leachate containing detectable PFAS at wastewater treatment plants.

SECTION 4.(c) For purposes of this section, "detectable PFAS" means PFAS in an amount such that the presence, individual concentrations, and total concentrations can be assessed by a laboratory method certified by the United States Environmental Protection Agency or approved by the Department.

SECTION 5. If, by January 1, 2021, the United States Environmental Protection Agency (USEPA) has not certified a lab method for the identification and measurement of PFAS in wastewater, the Department of Environmental Quality shall approve an USEPA-validated lab method for this purpose.

PART III. FUNDING FOR PFAS MATTERS

SECTION 6.(a) There is appropriated from the General Fund to the Department of Environmental Quality the sum of five million dollars ($5,000,000) in nonrecurring funds for the 2020-2021 fiscal year for the Bernard Allen Drinking Water Fund to fund drinking water

treatment systems for individuals, businesses, and community water systems with covered wells. For purposes of this section, a "covered well" is a drinking water well contaminated with PFOA above 12 ppt, PFOS above 13 ppt, PFNA above 11 ppt, PFHxS above 18 ppt, or above 20 ppt for the sum of all detectable PFAS.

SECTION 6.(b) There is appropriated from the General Fund to the Department of Environmental Quality the sum of five million dollars ($5,000,000) in recurring funds to expand the Department's ambient water quality monitoring activities to identify emerging and other pollutants in waters of the State at locations upstream from surface drinking water intakes.

SECTION 6.(c) There is appropriated from the General Fund to the Department of Environmental Quality the sum of one million dollars ($1,000,000) in nonrecurring funds for the 2020-2021 fiscal year to develop a strategy to address persistent toxic chemicals in the State's environment. In developing a persistent toxics strategy, the Department shall first develop a planned strategy for the reduction of PFAS in the environment to be known as the "PFAS Chemical Action Plan," which shall serve as a model for development of future chemical action plans for other pollutants. The PFAS Chemical Action Plan shall include, at a minimum: (i) identification of all currently detectable PFAS uses within the State and (ii) identification of options and actions to reduce or eliminate detectable PFAS within the State, including analysis of State and federal laws and policies for that purpose. The Department shall consult with stakeholders in the development of the Plan, and shall provide opportunities for public comment. The final PFAS Chemical Action Plan, developed after considering public comments received and the input of stakeholders, shall identify recommendations for legislative action and for Department action, including the adoption of rules. The Department shall finalize the PFAS Chemical Action Plan no later than January 1, 2022, and shall initiate implementation of the Plan no later than April 1, 2022.

SECTION 6.(d) There is appropriated from the General Fund to the Department of Environmental Quality the sum of one million dollars ($1,000,000) in nonrecurring funds for the 2020-2021 fiscal year to study PFAS destruction and disposal techniques to identify a safe, effective, and scalable technology. For purposes of this section, a "safe technology" means one that does not result in further contamination via air deposition, or soil or water contamination. The study shall include an analysis of the effectiveness and safety of current technologies, including those presently at bench and pilot scales. In the conduct of this study, the Department may coordinate with, and/or review research conducted by, other entities such as the Strategic Environmental Research and Development Program. The Department shall report its findings, including any recommendations for legislative action necessary to protect public health and the environment, to the Environmental Management Commission and the Environmental Review Commission no later than September 1, 2021.

SECTION 6.(e) There is appropriated from the General Fund to the State Water Infrastructure Authority the sum of eighty million dollars ($80,000,000) in nonrecurring funds for the 2020-2021 fiscal year to issue matching grants to water systems to build or improve drinking water treatment systems to substantially reduce public exposure to detectable PFAS.

SECTION 6.(f) The Attorney General shall develop and maintain a record of cumulative expenses borne by State agencies and local governments under subsections (a), (d), and (e) of this section. The Attorney General shall report to the General Assembly no later than March 1, 2021, on the cumulative expenses recorded, and the State's options to recover damages and costs incurred to protect North Carolinians from PFAS contamination from entities responsible for the introduction of PFAS into the air, water, groundwater, and soil of the State.

SECTION 6.(g) For purposes of this section, "detectable PFAS" means PFAS in an amount such that the presence, individual concentrations, and total concentrations can be assessed by a laboratory method certified by the United States Environmental Protection Agency or approved by the Department.

SECTION 6.(h) This section becomes effective July 1, 2020.

PART IV. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 7. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

SECTION 8. Except as otherwise provided, this act is effective when it becomes law.