

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 837*

Short Title: PFAS Contamination Mitigation Measures. (Public)

Sponsors: Senators Garrett, Peterson, and Woodard (Primary Sponsors).

Referred to: Rules and Operations of the Senate

May 27, 2020

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT MEASURES TO PREVENT AND ADDRESS
3 CONTAMINATION FROM THE DISCHARGE OF PFAS IN THE STATE IN ORDER TO
4 PROTECT PUBLIC HEALTH.

5 The General Assembly of North Carolina enacts:

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7 **PART I. REQUIREMENTS FOR POLLUTANT DISCHARGE DISCLOSURE; PFAS**
8 **DISCHARGE LIMITATIONS**

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

10 "§ 143-215.1. Control of sources of water pollution; permits required.

11 ...

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

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

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

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



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

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

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

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

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

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

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

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

43 **SECTION 5.** If, by January 1, 2021, the United States Environmental Protection
44 Agency (USEPA) has not certified a lab method for the identification and measurement of PFAS
45 in wastewater, the Department of Environmental Quality shall approve an USEPA-validated lab
46 method for this purpose.
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48 **PART III. FUNDING FOR PFAS MATTERS**

49 **SECTION 6.(a)** There is appropriated from the General Fund to the Department of
50 Environmental Quality the sum of five million dollars (\$5,000,000) in nonrecurring funds for the
51 2020-2021 fiscal year for the Bernard Allen Drinking Water Fund to fund drinking water

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

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

9 **SECTION 6.(c)** There is appropriated from the General Fund to the Department of
10 Environmental Quality the sum of one million dollars (\$1,000,000) in nonrecurring funds for the
11 2020-2021 fiscal year to develop a strategy to address persistent toxic chemicals in the State's
12 environment. In developing a persistent toxics strategy, the Department shall first develop a
13 planned strategy for the reduction of PFAS in the environment to be known as the "PFAS
14 Chemical Action Plan," which shall serve as a model for development of future chemical action
15 plans for other pollutants. The PFAS Chemical Action Plan shall include, at a minimum: (i)
16 identification of all currently detectable PFAS uses within the State and (ii) identification of
17 options and actions to reduce or eliminate detectable PFAS within the State, including analysis
18 of State and federal laws and policies for that purpose. The Department shall consult with
19 stakeholders in the development of the Plan, and shall provide opportunities for public comment.
20 The final PFAS Chemical Action Plan, developed after considering public comments received
21 and the input of stakeholders, shall identify recommendations for legislative action and for
22 Department action, including the adoption of rules. The Department shall finalize the PFAS
23 Chemical Action Plan no later than January 1, 2022, and shall initiate implementation of the Plan
24 no later than April 1, 2022.

25 **SECTION 6.(d)** There is appropriated from the General Fund to the Department of
26 Environmental Quality the sum of one million dollars (\$1,000,000) in nonrecurring funds for the
27 2020-2021 fiscal year to study PFAS destruction and disposal techniques to identify a safe,
28 effective, and scalable technology. For purposes of this section, a "safe technology" means one
29 that does not result in further contamination via air deposition, or soil or water contamination.
30 The study shall include an analysis of the effectiveness and safety of current technologies,
31 including those presently at bench and pilot scales. In the conduct of this study, the Department
32 may coordinate with, and/or review research conducted by, other entities such as the Strategic
33 Environmental Research and Development Program. The Department shall report its findings,
34 including any recommendations for legislative action necessary to protect public health and the
35 environment, to the Environmental Management Commission and the Environmental Review
36 Commission no later than September 1, 2021.

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

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

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

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

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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.