

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 1095
May 26, 2022
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40758-RIa-39A

Short Title: PFAS Pollution and Polluter Liability. (Public)

Sponsors: Representative Davis.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT THE CITIZENS OF NORTH CAROLINA FROM DRINKING
3 WATER CONTAMINATED BY GENX AND OTHER PFAS COMPOUNDS.
4 The General Assembly of North Carolina enacts:

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6 **PART I. AUTHORIZE THE ESTABLISHMENT OF PFAS MAXIMUM**
7 **CONTAMINANT LEVELS**

8 **SECTION 1.(a)** Article 10 of Chapter 130A of the General Statutes is amended by
9 adding a new section to read:

10 **"§ 130A-315.1. Adoption of maximum contaminant levels for PFAS compounds.**

11 (a) Notwithstanding authority given to the Commission for Public Health to adopt
12 maximum contaminant levels (MCLs) for drinking water contaminants under this Article, the
13 Environmental Management Commission is authorized to adopt a maximum contaminant level,
14 enforceable by the Secretary, which is acceptable for human consumption for one or more
15 per- and polyfluoroalkyl substances (PFAS) compounds.

16 (1) Any such maximum contaminant level shall be set at a level that is as close as
17 possible to the corresponding maximum contaminant level goal recommended
18 by the Department pursuant to subsection (b) of this section while also being
19 technologically and economically feasible.

20 (2) In determining whether the maximum contaminant level is economically
21 feasible, the Environmental Management Commission may consider all of the
22 following factors:

23 a. The Secretary's authority in G.S. 130A-19.1 to order a responsible
24 party to pay costs of a public water supply to procure, implement,
25 maintain, and operate technology to reduce PFAS concentrations in
26 finished drinking water below permissible concentration levels, as
27 defined in that section.

28 b. The costs of compliance to public water systems, customers, and other
29 affected parties.

30 (3) The Environmental Management Commission shall specify the compliance
31 date for any maximum contaminant level adopted pursuant to this section.

32 (4) For purposes of this section, the term "technologically feasible" means
33 capable of accomplishment as evidenced by prior success under similar
34 circumstances.

35 (b) The Department, in consultation with the Department of Health and Human Services,
36 may recommend a maximum contaminant level goal based upon an estimate of the level of the



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1 contaminant in drinking water below which there is no known or expected risk to human health,
2 provided that sufficient scientific evidence exists.

3 (1) The recommended maximum contaminant level goal shall be no less stringent
4 than the following:

5 a. The systemic threshold concentration calculated as follows:
6 [Reference Dose (mg/kg-day) x adult body weight (kg) x Relative
7 Source Contribution] / [average water consumption (L/day)].

8 b. With respect to carcinogenic compounds, the concentration that
9 corresponds to an incremental lifetime cancer risk of 1x10⁻⁶.

10 (2) The following references, in order of preference, shall be used in establishing
11 the Reference Doses which correspond to levels described in subdivision (1)
12 of this subsection:

13 a. Integrated Risk Information System (U.S. EPA).

14 b. Health Advisories (U.S. EPA Office of Drinking Water).

15 c. Other health risk assessment data published by the U.S. EPA.

16 d. Other relevant, published health risk assessment data, and
17 scientifically valid peer-review published toxicological data, including
18 research from the Collaboratory and other academic institutions.

19 (3) The following references, in order of preference, shall be used in establishing
20 the health constants (adult body weight, relative source contribution, and
21 average water consumption) which correspond to levels described in
22 subdivision (1) of this subsection:

23 a. EPA published values for establishing maximum contaminant levels.

24 b. EPA published values for establishing water quality standards.

25 c. Values utilized by the Environmental Management Commission or the
26 Department for establishing water quality standards in 15A NCAC
27 02B .0200."

28 **SECTION 1.(b)** As provided in G.S. 150B-2(8a)h., scientific standards and
29 procedures are exempt from the requirements of Article 2A of Chapter 150B of the General
30 Statutes. Further, as scientific standards and procedures for the Department's development of
31 MCLs for PFAS are set forth in G.S. 130A-315.1, as enacted by subsection (a) of this section, in
32 accordance with G.S. 150B-2(8a)h., such standards and procedures are not required to be adopted
33 as rules pursuant to G.S. 150B-2(8a)d.

34 35 **PART II. ABATEMENT OF PFAS MCL EXCEEDANCES IN PUBLIC WATER** 36 **SYSTEMS**

37 **SECTION 2.** Article 1 of Chapter 130A of the General Statutes is amended by
38 adding a new section to read:

39 **"§ 130A-19.1. Abatement of PFAS exceedances.**

40 (a) The following definitions apply in this section:

41 (1) Permissible concentration level. – Both of the following:

42 a. For an individual per- and polyfluoroalkyl substances (PFAS)
43 compound, the lesser of: (i) 10 parts per trillion (ppt); or (ii) any
44 maximum contaminant level established for the PFAS compound in
45 question.

46 b. For combined PFAS compounds, a total concentration of 70 ppt.

47 (2) Responsible party. – A manufacturer of PFAS whose discharge or release of
48 PFAS into the environment has caused or contributed to the presence of PFAS
49 in a public water system as described in subsection (b) of this section.

50 (b) If the Secretary determines that the concentration of any PFAS in a public water
51 system, including any raw water intake, regardless of the system's raw water source, including

1 surface water, public well, or pumped groundwater storage, has exceeded a permissible
2 concentration level, the Secretary may order the responsible party to pay the public water system
3 any actual and necessary costs incurred by the public water system to remove, correct, or abate
4 any adverse effects upon the water supply resulting from the contamination for which the person
5 is responsible. Such costs shall include costs to procure, implement, maintain, and operate
6 technology to reduce PFAS concentrations in finished drinking water below the permissible
7 concentration level. If a responsible party refuses to comply with an order, the Secretary may
8 institute an action in the superior court of the county where the public water system exists to
9 enforce the order. The action shall be calendared for trial within 60 days after service of the
10 complaint upon the defendant.

11 (c) A responsible party shall be jointly and severally liable for all actual and necessary
12 costs imposed pursuant to subsection (b) of this section. Nothing in this section shall limit or
13 diminish any rights of contribution for costs incurred herein.

14 (d) A public water system shall reimburse ratepayers of the system through a reduction
15 in future rates charged if: (i) the public water system has previously expended funds to remove,
16 correct, or abate any adverse effects upon its water supply resulting from PFAS contamination;
17 (ii) the amount of funds expended by the public water system for that purpose has been included
18 in rates charged to its ratepayers; and (iii) the funds expended by the public water system are
19 subsequently reimbursed by the responsible party as the result of an order issued pursuant to
20 subsection (b) of this section."

21 **PART III. IMPLEMENTATION FUNDING**

22 **SECTION 3.(a)** Department Funding. – The sum of two million dollars (\$2,000,000)
23 in nonrecurring funds for the 2022-2023 fiscal year is appropriated from the General Fund to the
24 Department of Environmental Quality to implement the requirements of this act. These funds
25 shall be deposited into the PFAS Public Water Protection Fund, which is established in the
26 Department as a special fund. The Department may establish time-limited positions with the
27 funds appropriated by this subsection.

28 **SECTION 3.(b)** Collaboratory Funding. – The sum of two million dollars
29 (\$2,000,000) in nonrecurring funds is appropriated from the General Fund to the Board of
30 Governors of The University of North Carolina to be allocated to the University of North
31 Carolina at Chapel Hill for the North Carolina Collaboratory (Collaboratory). The Collaboratory
32 shall, upon request from the Secretary, conduct research and analysis to provide scientific and
33 economic support for maximum contaminant levels for PFAS established under
34 G.S. 130A-315.1, as enacted by Section 1 of this act. The Collaboratory and the Department shall
35 jointly develop a work plan for the support to be provided by the Collaboratory in implementing
36 this act.

37 **SECTION 3.(c)** Report. – The Department and the Collaboratory shall jointly report
38 to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic
39 Resources no later than December 15, 2022, and annually thereafter on their use of the funds
40 appropriated by this act, including the adoption of maximum contaminant levels for PFAS by the
41 Department, supporting research and analysis provided by the Collaboratory pursuant to the work
42 plan required by subsection (b) of this section, and abatement orders issued by the Secretary of
43 Environmental Quality using the authority conferred by G.S. 130A-19.1, as enacted by Section
44 2 of this act.

45 **PART IV. EFFECTIVE DATE**

46 **SECTION 4.** Section 3 of this act becomes effective July 1, 2022. Section 2 of this
47 act is effective when it becomes law and applies retroactively to discharges from responsible
48 parties occurring on or after January 1, 2017. The remainder of this act is effective when it
49 becomes law.
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