

**2021 -- S 0107 SUBSTITUTE A**

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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2021**

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**A N A C T**

**RELATING TO WATERS AND NAVIGATION -- PFAS IN DRINKING WATER,  
GROUNDWATER AND SURFACE WATERS**

Introduced By: Senators Felag, Sosnowski, Euer, Cano, Picard, McCaffrey, and Goodwin

Date Introduced: January 26, 2021

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. The General Assembly hereby finds:

2 (1) Per- and polyfluoroalkyl substances (PFAS), and other perfluorochemicals are a large  
3 group of human-made chemicals that have been used in industry and consumer products worldwide  
4 since the 1950s.

5 (2) PFAS are potentially toxic to humans even in very small concentrations and pose a  
6 wide range of health threats. They are suspected to cause cancer and have been linked to growth,  
7 learning, and behavioral problems in infants and children. They can also cause problems with  
8 fertility and pregnancy; compromise immune systems; and interfere with natural hormones and  
9 with liver, thyroid, and pancreatic function. Developing fetuses and newborn babies are particularly  
10 vulnerable to PFAS.

11 (3) PFAS enter the environment from numerous industrial and commercial sources,  
12 including, but not limited to, air and wastewater emissions during manufacturing processes, from  
13 the disposal of wastes, goods, and products containing PFAS, and from leachate from landfills.

14 (4) Many PFAS do not break down and persist in the environment for a very long time,  
15 especially in water, and, consequently, PFAS can be found in many bodies of water and in the  
16 blood of humans and wildlife.

17 (5) United States manufacturers have voluntarily worked to reduce releases of long-chain  
18 PFAS due to their toxic effects on human health. The PFAS with fewer than eight (8) carbon-

1 fluorine bonds currently being used as alternatives to perfluorooctanoic acid (PFOA) and  
2 perfluorooctane sulfonate (PFOS) are also highly persistent and subject to long-range transport. In  
3 addition, the alternative PFAS have similar potential for harm as the long-chain PFAS.

4 (6) Over two hundred (200) scientists from all over the world have signed a statement  
5 calling for governments to limit the use of PFAS while studies determine the safety of these  
6 chemicals, given their persistence in the environment, potential for harm, and lack of adequate data  
7 proving safety.

8 (7) To prevent further contamination of state water, and to reduce the potential harmful  
9 effects of PFAS on human health and the environment, the objectives of this chapter are:

10 (i) Authorize the department of health, in consultation with the water resources board, to  
11 adopt by rule maximum contaminant level or levels for PFAS to protect the quality and safety of  
12 the public drinking water supply in compliance with the provisions of chapter 15.3 of title 46;

13 (ii) Prior to adoption by rule of maximum contaminant level or levels for PFAS, require  
14 public water supply systems to monitor for certain PFAS chemicals and respond appropriately  
15 when results indicate levels of PFAS in excess of the interim drinking water standard level; and

16 (iii) Require the department of environmental management to adopt groundwater standards  
17 and surface water quality action levels for certain PFAS chemicals.

18 SECTION 2. Title 46 of the General Laws entitled "WATERS AND NAVIGATION" is  
19 hereby amended by adding thereto the following chapter:

20 CHAPTER 32

21 PFAS IN DRINKING WATER, GROUNDWATER, AND SURFACE WATERS

22 **46-32-1. Short title.**

23 This chapter shall be known and may be cited as the "PFAS in Drinking Water,  
24 Groundwater and Surface Waters Act."

25 **46-32-2. Interim drinking water standard and testing requirements.**

26 (a) As used in this chapter, "PFAS contaminants" means perfluorooctanoic acid (PFOA),  
27 perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluorononanoic  
28 acid (PFNA), and perfluoroheptanoic acid (PFHpA), and perfluorodecanoic acid (PFDA).

29 (b) On or before July 1, 2022, all public water supply systems in the state as defined by §  
30 46-13-2, except transient, non-community water systems as defined by the department of health in  
31 216-RICR-50-05-1 as may be amended, shall conduct monitoring for the presence of PFAS  
32 contaminants in drinking water supplied by the system. Regular monitoring shall be conducted as  
33 follows until adoption of maximum contaminant level rules pursuant to § 46-32-4:

34 (1) If monitoring results detect the presence of any PFAS contaminants individually or in

1 combination in excess of the interim drinking water standard level of twenty parts per trillion (20  
2 ppt) the public water supply system shall conduct continued quarterly monitoring.

3 (2) If monitoring results detect the presence of any PFAS contaminants individually or in  
4 combination at a level equal to or below the interim drinking water standard level of twenty parts  
5 per trillion (20 ppt), the public water supply system shall conduct continued monitoring annually.

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

8 (c) If monitoring results under subsection (b) of this section confirm the presence of any  
9 PFAS contaminants individually or in combination in excess of the interim drinking water standard  
10 level of twenty parts per trillion (20 ppt), the department of health shall require monitoring in a  
11 manner consistent with applicable regulations governing synthetic organic contaminants, including  
12 but not limited to, requiring a confirmation sample, prior to directing the public water supply system  
13 to implement treatment or other remedy to reduce the levels of PFAS contaminants in the drinking  
14 water of the public water supply system below the interim drinking water standard level.

15 (d) On or before July 1, 2022, if the PFAS contaminants exceed the level of twenty parts  
16 per trillion (20 ppt), the public water supply system shall provide potable water through other means  
17 to all customers or users of the system. The requirement for a public water supply system to provide  
18 potable water to customers and users of the systems through other means shall cease when  
19 monitoring results indicate that the levels of PFAS contaminants in the drinking water of the public  
20 water supply system are below the interim drinking water standard level of twenty parts per trillion  
21 (20 ppt).

22 (e) The director of the department of health is authorized to enforce the requirements of  
23 this chapter in accordance with the provisions of chapter 13 of title 46 and violations will be subject  
24 to the penalties imposed pursuant to § 46-13-16. A person may contest or appeal a decision of the  
25 director, a penalty imposed for violation or the fact of violation pursuant to the provisions of chapter  
26 35 of title 42 (the "administrative procedures act").

27 **46-32-3. Drinking water standards for PFAS contaminants.**

28 On or before June 1, 2023, the director of the department of health shall, pursuant to this  
29 section, file under § 42-35-4 a final rule with the secretary of state regarding adoption of the interim  
30 drinking water standard level of twenty parts per trillion (20 ppt) for perfluorooctanoic acid  
31 (PFOA), perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS),  
32 perfluorononanoic acid (PFNA), perfluoroheptanoic acid (PFHpA), and perfluorodecanoic acid  
33 (PFDA) as a maximum contaminant level (MCL). Upon the effective date of the final rule, the  
34 drinking water monitoring provisions of § 46-32-3 may be suspended, modified, or superseded by

1 [the provisions of the final rules.](#)

2 **46-32-4. Standard for per- and polyfluoroalkyl substances as a class or subclass.**

3 [\(a\) On or before February 1, 2023, the director of the department of health shall initiate a](#)  
4 [public notice and comment process by publishing a copy of the final rules and an advance notice](#)  
5 [of proposed rulemaking pursuant to § 42-35-2.5 regarding the regulation under the rules and](#)  
6 [regulations pertaining to public drinking water of per- and polyfluoroalkyl substances \(PFAS\) as a](#)  
7 [class or subclasses.](#)

8 [\(b\) On or before September 1, 2023, the director of the department of health shall either:](#)

9 [\(1\) Publish a notice of proposed rulemaking regarding the regulation of PFAS compounds](#)  
10 [under the rules and regulations pertaining to public drinking water as a class or subclasses; or](#)

11 [\(2\) Publish a notice of decision not to regulate PFAS compounds as a class or subclasses](#)  
12 [under the rules and regulations pertaining to public drinking water that includes, at a minimum, an](#)  
13 [identification or all legal, technical, or other impediments to regulating PFAS compounds as a class](#)  
14 [or subclasses and a detailed response to all public comments received.](#)

15 [\(c\) If the director of the department of health proposes a rule pursuant to subsection \(b\) of](#)  
16 [this section, the director of the department of health shall file under § 42-35-4 a final rule with the](#)  
17 [secretary of state regarding the regulation of PFAS compounds as a class or subclasses under the](#)  
18 [rules and regulations pertaining to public drinking water on or before June 30, 2024.](#)

19 **46-32-5. Groundwater quality standards for per- and polyfluoroalkyl substances.**

20 [\(a\) On or before December 31, 2022, the director or the department of environmental](#)  
21 [management shall file under § 42-35-4 a final rule with the secretary of state to adopt groundwater](#)  
22 [quality standards for, at a minimum, perfluorooctanoic acid \(PFOA\), perfluorooctane sulfonic acid](#)  
23 [\(PFOS\), perfluorohexane sulfonic acid \(PFHxS\), perfluorononanoic acid \(PFNA\),](#)  
24 [perfluoroheptanoic acid \(PFHpA\), and perfluorodecanoic acid \(PFDA\) consistent with authority](#)  
25 [provided by chapter 32 of title 46.](#)

26 **46-32-6. Surface water quality action levels for per- and polyfluoroalkyl substances.**

27 [On or before December 31, 2022, the director of the department of environmental](#)  
28 [management shall file under § 42-35-4 a final rule with the secretary of state to adopt surface water](#)  
29 [quality action levels to address the contamination of Rhode Island waters from releases of, at a](#)  
30 [minimum, perfluorooctanoic acid \(PFOA\), perfluorooctane sulfonic acid \(PFOS\), perfluorohexane](#)  
31 [sulfonic acid \(PFHxS\), perfluorononanoic acid \(PFNA\), perfluoroheptanoic acid \(PFHpA\), and](#)  
32 [perfluorodecanoic acid \(PFDA\).](#)

33 **46-32-7. Investigation of potential sources of per- and polyfluoroalkyl substances**  
34 **contamination.**

1 (a) On or before November 1, 2022, the director of the department of environmental  
2 management shall publish a plan for public review and comment to complete a statewide  
3 investigation of potential sources of per- and polyfluoroalkyl substances (PFAS) contamination.  
4 As part of this investigation, the director of the department of health shall conduct a pilot project at  
5 public water systems by an applicable analytical method to evaluate total PFAS. The director of  
6 the department of environmental management shall initiate implementation of the plan not later  
7 than January 1, 2023.

8 (b) On or before June 1, 2023, all public water systems shall conduct monitoring for the  
9 maximum number of PFAS detectable from standard laboratory methods.

10 **46-32-8. Landfill monitoring.**

11 On or before December 31, 2021, the director of the department of environmental  
12 management shall file under § 42-35-4 a final rule with the secretary of state to adopt standards and  
13 procedures for groundwater and leachate monitoring at and around landfills including, at a  
14 minimum, perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), perfluorohexane  
15 sulfonic acid (PFHxS), perfluorononanoic acid (PFNA), perfluoroheptanoic acid (PFHpA), and  
16 perfluorodecanoic acid (PFDA).

17 SECTION 3. Section 23-19.14-3 of the General Laws in Chapter 23-19.14 entitled  
18 "Industrial Property Remediation and Reuse Act" is hereby amended to read as follows:

19 **23-19.14-3. Definitions.**

20 (a) "40 CFR" means that section or subsection of the code of federal regulations, title 40,  
21 protection of environment, chapter 1, environmental protection agency. References to the  
22 administrator, appearing therein, shall be interpreted as referring to the director of the department  
23 of environmental management.

24 (b) "Bona fide prospective purchaser" means a person who intends to purchase a  
25 contaminated property, who has documented the intent to purchase the property in writing, and  
26 who has offered to pay fair market value for the property in the contaminated state. For purposes  
27 of this chapter, any former owner, former operator, or other person who is otherwise a responsible  
28 party or any person who had more than ten percent (10%) equitable or other legal interest in the  
29 site or any of the operations related to the contamination cannot be considered as a bona fide  
30 prospective purchaser. Once a purchaser has certified their status as a bona fide prospective  
31 purchaser to the department and the department has acknowledged receipt of such certification, a  
32 purchaser may maintain that status for up to one year following purchase of the property, unless it  
33 is subsequently found that the purchaser did not meet the criteria for a bona fide prospective  
34 purchaser as outlined in this section. If the department finds that substantial progress has been made

1 in investigating conditions of the site and/or meeting the requirements for a remedial decision letter,  
2 such status may be renewed by the department for a specified period of time not to exceed one year  
3 for each renewal.

4 (c) "Hazardous materials" means any material or combination or mixture of materials  
5 containing any hazardous substance in an amount and concentration such that when released into  
6 the environment, that material can be shown to present a significant potential to cause an acute or  
7 chronic adverse effect on human health or the environment. Hazardous material shall also include  
8 any material that contains a hazardous waste. Hazardous material does not include petroleum for  
9 the purposes of this chapter.

10 (d) "Hazardous substances" means any substance designated as hazardous pursuant to 40  
11 CFR 300.5, as is or as amended. Hazardous substance shall not include, for the purposes of this  
12 chapter, asbestos or radioactive materials. [Hazardous substances shall include per- and](#)  
13 [polyfluoroalkyl substances.](#)

14 (e) "Hazardous wastes" means any material defined as hazardous waste pursuant to chapter  
15 19.1 of this title, and the regulations promulgated under chapter 19.1 of this title.

16 (f) "Operator" means the person responsible for the operation of the activities at the site.

17 (g)(1) "Owner" means the person who owns the site or part of the site.

18 (2) In the case of a receiver, the superior court supervising the receiver shall have  
19 jurisdiction to determine the nature and extent of the receiver's obligations to comply with the  
20 provisions of this chapter. Any obligation to comply with the provisions of this chapter shall be  
21 binding on a receiver solely in his or her fiduciary capacity.

22 (h) "Person" means an individual, trust, firm, joint stock company, corporation (including  
23 a government corporation), partnership, association, the federal government or any agency or  
24 subdivision of the federal government, a state, municipality, commission, political subdivision of  
25 a state, or any interstate body.

26 (i) "Petroleum" means any virgin petroleum product including the following products:

27 (1) Unused distillate and residual oil, including but not limited to gasoline, aviation fuels,  
28 kerosene, diesel, and heating oils.

29 (2) Unused crankcase oil, lubricants, hydraulic oils, penetrant oils, tramp oils, quench oils,  
30 and other industrial oils.

31 (j)(1) "Release" shall be defined by 40 CFR 300.5 for purposes of this chapter, but shall  
32 also exclude any release from a process, activity, or source area allowed under a permit, license, or  
33 approval issued after January 1, 1987 by any regulatory process or legal authority or any release of  
34 hazardous materials solely derived from common household materials and occurring at the

1 household.

2 (2) For purposes of this chapter, release also includes an actual or potential threat of release.

3 (k) "Remedial or response action" means those actions taken to rectify the effects of a  
4 release of hazardous material, and/or petroleum so that it does not cause a substantial danger to  
5 present or future public health or welfare, or the environment.

6 (l) "Remediation" means the act of implementing, operating, and maintaining, a remedy,  
7 remedial action or response action.

8 (m) "Responsible party" has the meaning attributed to it by the provisions of § 23-19.14-6  
9 or 23-19.14-6.1.

10 (n) "Site" means all contiguous land, structures, and other appurtenances and  
11 improvements on the land contaminated by the use, storage, release, or disposal of hazardous  
12 material including the extent of contamination and all suitable areas in very close proximity to the  
13 contamination where it will be necessary to implement or conduct any required investigation or  
14 remedial action.

15 (o) "All appropriate inquiries" means an environmental due diligence process for assessing  
16 a property for presence or potential presence of contamination, in accordance with requirements  
17 established by the department of environmental management that are not inconsistent with the  
18 provisions of 40 CFR 312 establishing federal standards for all appropriate inquiries.

19 (p) "Letter of Compliance" means a formal, written communication from the department  
20 signifying that the remedial action has been satisfactorily completed and the objectives of  
21 environmental clean-up, pursuant to § 23-19.14-4 have been met.

22 (q) "Remedial Decision Letter" means a formal, written communication from the  
23 department that approves a site investigation, identifies the preferred remedial alternative and  
24 authorizes the development of a remedial action work plan in order to achieve the objectives of  
25 environmental clean-up.

26 (r) "Per- and polyfluoroalkyl substances" means perfluorooctanoic acid (PFOA),  
27 perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluorononanoic  
28 acid (PFNA), and perfluoroheptanoic acid (PFHpA), and perfluorodecanoic acid (PFDA).

29 SECTION 4. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO WATERS AND NAVIGATION -- PFAS IN DRINKING WATER,  
GROUNDWATER AND SURFACE WATERS

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1           This act would provide for the department of health to take action to establish maximum  
2   contaminate levels for per- and polyfluoroalkyl substances (PFAS) in drinking water and set interim  
3   standards. The act would also provide that the department of environmental management set  
4   standards for PFAS in ground and surface waters, and adopt standards for PFAS monitoring at  
5   landfills.

6           This act would take effect upon passage.

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