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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

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

Introduced By: Representatives Speakman, Cortvriend, Carson, Ruggiero, Bennett, and
Donovan

Date Introduced: February 12, 2021

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 46 of the General Laws entitled "WATERS AND NAVIGATION" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 32

4 PFAS IN DRINKING WATER, GROUNDWATER, AND SURFACE WATERS

5 **46-32-1. Short title.**

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

8 **46-32-2. Legislative findings.**

9 It is recognized and acknowledged by the general assembly that:

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

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

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

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

7 (5) United States manufacturers have voluntarily worked to reduce releases of long-chain
8 PFAS due to their toxic effects on human health. The PFAS with fewer than eight (8) carbon-
9 fluorine bonds currently being used as alternatives to perfluorooctanoic acid (PFOA) and
10 perfluorooctane sulfonate (PFOS) are also highly persistent and subject to long-range transport. In
11 addition, the alternative PFAS have similar potential for harm as the long-chain PFAS.

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

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

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

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

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

26 **46-32-3. Interim drinking water standard and testing requirements.**

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

30 (b) On or before December 1, 2021, all public water supply systems in the state as defined
31 by § 46-13-2 shall conduct monitoring for the presence or PFAS contaminants in drinking water
32 supplied by the system. Regular monitoring shall be conducted as follows until adoption of
33 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 or 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 direct the public water
11 supply system to implement treatment or other remedy to reduce the levels of PFAS contaminants
12 in the drinking water of the public water supply system below the interim drinking water standard
13 level.

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

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

26 **46-32-4. Drinking water standards for PFAS contaminants.**

27 On or before June 1, 2022, the director of the department of health shall, pursuant to this
28 section, file under § 42-35-4 a final rule with the secretary of state regarding adoption of the
29 drinking water standard level for perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid
30 (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluorononanoic acid (PFNA),
31 perfluoroheptanoic acid (PFHpA), and perfluorodecanoic acid (PFDA) as a maximum contaminant
32 level (MCL). Upon the effective date of the final rule, the drinking water monitoring provisions of
33 § 46-32-3 may be suspended, modified, or superseded by the provisions of the final rules.

34 **46-32-5. Standard for per- and polyfluoroalkyl substances as a class or subclass.**

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

6 (b) On or before September 1, 2023, the director of the department of health shall either:

7 (1) Publish a notice of proposed rulemaking regarding the regulation of PFAS compounds
8 under the rules and regulations pertaining to public drinking water as a class or subclasses; or

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

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

17 **46-32-6. Groundwater quality standards for per- and polyfluoroalkyl substances.**

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

24 **46-32-7. Surface water quality action levels for per- and polyfluoroalkyl substances.**

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

31 **46-32-8. Investigation of potential sources of per- and polyfluoroalkyl substances**
32 **contamination.**

33 (a) On or before November 1, 2022, the director of the department of health shall publish
34 a plan for public review and comment to complete a statewide investigation of potential sources of

1 per- and polyfluoroalkyl substances (PFAS) contamination. As part of this investigation, the
2 director of the department of health shall conduct a pilot project at public water systems to evaluate
3 PFAS that are not quantified by standard laboratory methods using a total oxidizable precursor
4 assay or other applicable analytical method to evaluate total PFAS. The director of the department
5 of health shall initiate implementation of the plan not later than January 1, 2022.

6 (b) On or before June 1, 2022, all public water systems shall conduct monitoring for the
7 maximum number of PFAS detectable from standard laboratory methods.

8 **46-32-9. Landfill monitoring.**

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

15 SECTION 2. Section 23-19.14-3 of the General Laws in Chapter 23-19.14 entitled
16 "Industrial Property Remediation and Reuse Act" is hereby amended to read as follows:

17 **23-19.14-3. Definitions.**

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

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

1 for each renewal.

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

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

12 (e) "Hazardous wastes" means any material defined as hazardous waste pursuant to chapter
13 19.1 of this title, and the regulations promulgated under chapter 19.1 of this title.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 SECTION 3. 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

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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