

STATE OF NEW YORK

227--A

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to enacting the "PFAS surface water discharge disclosure act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "PFAS surface water discharge disclosure act".
3 § 2. Legislative intent. PFAS (per- and polyfluoroalkyl substances)
4 are a class of persistent, bioaccumulative, and toxic chemicals. PFAS
5 have contaminated surface waters and groundwater in New York and across
6 the country. New York has led the nation by limiting two PFAS--perfluoro-
7 rooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS)--in
8 drinking water by setting a maximum contaminant level for these two
9 chemicals. However, no PFAS--not even PFOA or PFOS--are currently limit-
10 ed in discharges to our surface waters. Further, those proposing to
11 discharge pollutants into New York's waterways are not even required to
12 disclose whether their existing or proposed discharges contain PFAS.
13 Publicly owned treatment works' (POTW) sewage treatment technology, for
14 example, is not designed to remove PFAS from wastewater, meaning any
15 PFAS introduced into a POTW by an industrial user will pass through into
16 the surface water. The lack of information about the suite of PFAS chem-
17 icals currently entering New York's waterways is a barrier to developing
18 regulations to protect people and the environment from the harms of PFAS
19 in our waterways. In December 2022, the US Environmental Protection
20 Agency (EPA) published guidance encouraging states to require facilities
21 discharging into New York's waters, as well as industrial users sending
22 waste to POTWs, to monitor for and disclose the presence of PFAS. This

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD00616-02-3

1 bill is intended to better align New York state law with EPA guidance
2 and will ensure all facilities currently discharging or proposing to
3 discharge into waters in New York disclose and monitor their discharge
4 for PFAS.

5 § 3. The environmental conservation law is amended by adding a new
6 section 17-0833 to read as follows:

7 § 17-0833. PFAS in surface water discharge disclosure requirement.

8 1. Definitions. As used in this section, the following terms shall
9 have the following meanings:

10 (a) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" mean a
11 class of fluorinated organic chemicals containing at least one fully
12 fluorinated carbon atom.

13 (b) "SPDES permit" means an authorization or license issued by the
14 department authorizing discharges to the waters of the state.

15 (c) "Permittee" means the holder of a SPDES permit.

16 (d) "Outfall" means the terminus of a sewer system or the point of
17 emergence of any discharge of pollutants into the waters of the state.

18 (e) "Discharge" means the addition of any pollutant into the waters of
19 the state.

20 (f) "Industrial user" means a non-domestic source introducing pollu-
21 tants into a publicly owned treatment works as regulated under the
22 federal water pollution control act.

23 2. The department shall require all permittees to monitor their
24 discharges at each outfall for at least forty substances that are PFAS
25 quarterly for one year. Permittees shall submit the results of such
26 monitoring quarterly to the department. Permittees shall submit their
27 first monitoring results within ninety days of the issuance of such
28 requirement by the department.

29 3. The department shall require that every application for a new SPDES
30 permit shall include a statement from the applicant indicating whether
31 the proposed discharge will or may contain any PFAS.

32 4. All new SPDES permits shall require permittees to monitor
33 discharges from each outfall for at least forty substances that are PFAS
34 and submit the results of such monitoring within ninety days of the
35 commencement of the discharge.

36 5. The department shall require that every permittee seeking to renew
37 an existing SPDES permit shall, as part of its complete renewal applica-
38 tion, monitor for at least forty substances that are PFAS from each
39 outfall and submit the results of such monitoring to the department not
40 less than one hundred eighty days prior to the expiration of the exist-
41 ing permit.

42 6. The department shall require that if a permittee detects PFAS of
43 any amount in its discharge from any outfall, such permittee shall, on a
44 quarterly basis, monitor its discharge from each outfall where PFAS are
45 detected for at least forty substances that are PFAS for the duration of
46 the SPDES permit, including any period after the expiration of the SPDES
47 permit term when the permittee is authorized to discharge. The permittee
48 shall submit the results of such monitoring quarterly to the department.

49 7. The department shall require any new industrial user seeking to
50 introduce pollutants into any publicly owned treatment works to monitor
51 for at least forty substances that are PFAS and submit the results of
52 such monitoring to the publicly owned treatment works and the department
53 prior to receiving initial approval to introduce pollutants to the
54 publicly owned treatment works.

55 8. The department shall require every industrial user introducing
56 pollutants into any publicly owned treatment works to monitor for at

1 least forty substances that are PFAS quarterly for one year. Industrial
2 users shall submit the results of such monitoring quarterly to the
3 publicly owned treatment works and the department. Industrial users
4 shall submit their first monitoring results within ninety days of the
5 issuance of such requirement by the department.

6 9. The department shall require that if an industrial user introducing
7 pollutants into a publicly owned treatment works detects PFAS of any
8 amount, such industrial user shall, on a quarterly basis, monitor for at
9 least forty substances that are PFAS and submit the results of such
10 monitoring quarterly to the publicly owned treatment works and the
11 department.

12 10. All PFAS monitoring shall be conducted using a PFAS testing method
13 or methods authorized by the department. The department shall authorize
14 the use of EPA draft method 1633. The department shall authorize addi-
15 tional methods that detect more PFAS as they become available and shall
16 require that the method that detects the largest number of PFAS shall be
17 used.

18 11. The department shall make publicly available on the department's
19 website all PFAS monitoring results submitted to the department. The
20 website shall be updated at least quarterly with all new monitoring
21 results received.

22 12. The department shall issue requirements for compliance with this
23 section within ninety days of the effective date of this section.

24 § 4. This act shall take effect immediately.