

# STATE OF NEW YORK

3296

2023-2024 Regular Sessions

## IN ASSEMBLY

February 2, 2023

Introduced by M. of A. KELLES -- read once and referred to the Committee on Environmental Conservation

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  
23 bill is intended to better align New York state law with EPA guidance  
24 and will ensure all facilities currently discharging or proposing to

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

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1 discharge into waters in New York disclose and monitor their discharge  
2 for PFAS.

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

5 § 17-0833. PFAS in surface water discharge disclosure requirement.

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

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

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

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

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

16 (e) "Discharge" means the addition of any pollutant into the waters of  
17 the state.

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

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

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

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

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

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

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

53 8. The department shall require every industrial user introducing  
54 pollutants into any publicly owned treatment works to monitor for at  
55 least forty substances that are PFAS quarterly for one year. Industrial  
56 users shall submit the results of such monitoring quarterly to the

1 publicly owned treatment works and the department. Industrial users  
2 shall submit their first monitoring results within ninety days of the  
3 issuance of such requirement by the department.

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

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

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

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

22 § 4. This act shall take effect immediately.