STATE OF NEW YORK

5832--A

2025-2026 Regular Sessions

IN ASSEMBLY

February 20, 2025

Introduced by M. of A. KELLES, ROSENTHAL, REYES, EPSTEIN, MAMDANI, BURDICK, SIMONE, COLTON, McMAHON, DAVILA, SHRESTHA, SHIMSKY, FORREST, ALVAREZ -- read once and referred 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 discharge disclosure act"

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

Section 1. Short title. This act shall be known and may be cited as the "PFAS discharge disclosure act".

§ 2. Legislative intent. The legislature finds and declares the following:

1. PFAS (per- and polyfluoroalkyl substances) are a class of persistent, bioaccumulative, and toxic chemicals which have contaminated surface waters and groundwater in New York and across the country.

2. New York has led the nation by limiting two PFAS--perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS)--in drinking water by setting a maximum contaminant level for these two chemicals in 2020. New York has also designated twenty-three additional PFAS chemicals as emerging contaminants under section 1112 of the public health law, which requires statewide drinking water testing and public notification.

3. In December 2022, the Federal Environmental Protection Agency (EPA) published guidance encouraging states to require permitted industries, Publicly Owned Treatment Works (POTWs), and industrial sources sending waste to POTWs to monitor for and disclose the presence of PFAS in wastewater discharged into waterways. The treatment technology at POTWs is not designed to remove PFAS from wastewater, meaning any PFAS introduced to the POTW by an industrial source will pass through into the waters of the state.

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

LBD01682-04-5

4. In 2023, the NYS Department of Environmental Conservation (DEC) adopted numeric guidance values limiting the acceptable amounts of PFOA and PFOS that can be discharged into waters of the state by State Pollutant Discharge Elimination System (SPDES) permittees.

5. However, DEC's permitting guidance has only applied these limits and PFAS testing requirements to a subset of facilities, meaning that many potential polluters directly or indirectly discharging into the waters of the state, including industrial sources sending waste to POTWs, have not yet been required to test for PFAS.

6. The lack of information about the suite of PFAS chemicals currently entering New York's waterways is a barrier to developing regulations to protect people and the environment from the harms of PFAS in our waterways.

7. Legislation is necessary to ensure key facilities currently discharging or proposing to discharge into waters in New York disclose the presence of these forever chemicals to the public.

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

§ 17-0833. PFAS discharge disclosure requirement.

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

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

(b) "Industrial discharger" means a facility with or seeking a SPDES permit to discharge industrial wastewater into the waters of the state, excluding general SPDES permits.

(c) "Industrial source" means a facility introducing or seeking to introduce industrial wastewater to a POTW for treatment before being discharged into the waters of the state.

(d) "POTW" means a publicly owned treatment works with or seeking a SPDES permit to discharge sewage into the waters of the state.

(e) "Industrial wastewater" means liquid industrial waste, including but not limited to leachate from solid waste facilities.

(f) "PFAS monitoring" means sampling of industrial wastewater or sewage from each outlet to determine the concentration of PFAS present.

2. Every industrial discharger or POTW making an application for a new SPDES permit shall submit as part of such application the projected or estimated results of PFAS monitoring.

3. All new SPDES permits issued to industrial dischargers or POTWs shall require such facilities to conduct PFAS monitoring at least quarterly for one year and submit the first results of such monitoring to the department within ninety days of the commencement of the discharge. If any PFAS are detected during the PFAS monitoring, at a level that the department has determined warrants continued monitoring pursuant to subdivision ten of this section, the department shall modify the SPDES permit of the industrial discharger or POTW to require quarterly PFAS monitoring for the duration of the permit term.

4. Every industrial discharger or POTW seeking to renew a SPDES permit shall, as part of its renewal application, submit PFAS monitoring results to the department not less than one hundred eighty days prior to the expiration of the existing SPDES permit. If any PFAS are detected during the PFAS monitoring, at a level that the department has determined warrants continued monitoring pursuant to subdivision ten of this section, the department shall modify the facility's SPDES permit to require quarterly PFAS monitoring for the duration of the permit term.

5. Any industrial discharger or POTW that is lawfully operating under an expired or administratively renewed SPDES permit shall submit PFAS monitoring results to the department within six months of the effective date of this section and at least once every five years thereafter.

6. A POTW shall require any new industrial source seeking to introduce industrial wastewater into the POTW to conduct PFAS monitoring and submit the results of such monitoring to the POTW and the department prior to introducing industrial wastewater to the POTW.

7. Every industrial source introducing industrial wastewater to a POTW on or before the effective date of this section, and continuing to do so after such effective date, shall conduct PFAS monitoring quarterly for one year. Such industrial sources shall submit the results of PFAS monitoring quarterly to the POTW and the department and shall submit their first monitoring results within ninety days of the effective date of this section. Any industrial source that detects any PFAS at a level that the department has determined warrants continued monitoring pursuant to subdivision ten of this section shall continue to conduct quarterly PFAS monitoring and submit such results to the POTW and the department.

8. All PFAS monitoring shall be conducted using a PFAS testing method or methods authorized by the department, including but not limited to the federal environmental protection agency's method 1633A. The department shall authorize additional methods that detect more PFAS or PFAS at lower levels as appropriate.

9. The department shall make publicly available on the department's website all PFAS monitoring results submitted to the department by industrial dischargers, industrial sources, and POTWs, including any results submitted by such facilities within six years prior to the effective date of this section. The website shall be updated at least every six months with all new monitoring results received.

10. For at least the forty PFAS that can be detected by the federal environmental protection agency's method 1633A, the department shall set, by rule or regulation, detection levels that warrant continued monitoring as required by this section. Such detection levels shall take into account the latest scientific evidence on the risks of PFAS exposure.

§ 4. This act shall take effect one year after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.