

1 HOUSE BILL NO. 938
2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
3 (Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
4 on _____)
5 (Patron Prior to Substitute—Delegate Clark)

6 *A BILL to amend and reenact § 62.1-44.34:32 of the Code of Virginia, relating to Department of*
7 *Environmental Quality; industrial wastewater; publicly owned treatment works; PFAS monitoring.*

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That § 62.1-44.34:32 of the Code of Virginia is amended and reenacted as follows:**

10 **§ 62.1-44.34:32. Monitoring of PFAS sources for PFAS assessments.**

11 A. For the purpose of PFAS assessments required pursuant to § 62.1-44.34:30, the Department shall
12 require, after three months' advance notice, the owner or operator of any of the following facilities, if deemed
13 by the Department to be a potentially significant source of PFAS in the public water system's raw water
14 source, to perform and promptly report the results as received of representative quarterly discharge
15 monitoring for an initial characterization period of one year, provided, however, that the Department may
16 discontinue remaining quarterly monitoring by a facility with proper monitoring results that are below the
17 method detection level for the first two quarters:

18 1. Any facility subject to self-reporting pursuant to § 62.1-44.34:31;

19 2. Any facility manufacturing PFAS, any electroplating or metal finishing facility using PFAS, any
20 semiconductor or circuit board facility using PFAS, any paper or packaging manufacturing facility using
21 PFAS, and any textile mills, tanneries, or leather, fabric, or carpet treaters using PFAS;

22 3. Any other facility that the Department has a reasonable basis to believe may use or manufacture PFAS
23 based on the facility or activity type;

24 4. Any centralized waste treatment industrial facility;

25 5. Any industrial launderers defined by NAICS 812332;

26 6. Any facility discharging groundwater remediation wastewaters pursuant to the VPDES General Permit
27 Regulation for Discharges from Groundwater Remediation of Contaminated Sites, Dewatering Activities of
28 Contaminated Sites, and Hydrostatic Tests; and

29 7. Any airport, air base, air station, fire training facility, landfill, or other facility or site that the
30 Department has a reasonable basis to believe has significant soil or groundwater PFAS contamination

31 significantly impacting finished water levels.

32 *B. 1. Every publicly owned treatment works shall require the following new or existing industrial users of*
33 *the publicly owned treatment works to perform and report to the publicly owned treatment works no later*
34 *than 30 days after receipt from the laboratory the results as received of quarterly discharge monitoring for*
35 *PFAS for an initial characterization period of one year, provided, however, that the publicly owned treatment*
36 *works may discontinue remaining quarterly monitoring by an industrial user with proper monitoring results*
37 *that are below the method detection level for the first two quarters:*

38 *a. Any facility manufacturing PFAS, any electroplating or metal finishing facility using PFAS, any*
39 *semiconductor or circuit board facility using PFAS, any paper or packaging manufacturing facility using*
40 *PFAS, and any textile mill, tannery, or leather, fabric, or carpet treater using PFAS;*

41 *b. Any centralized waste treatment industrial facility;*

42 *c. Any industrial launderer defined by NAICS 812332; and*

43 *d. Any airport, air base, air station, fire training facility, landfill, or other facility or site that the publicly*
44 *owned treatment works has a reasonable basis to believe is a source of PFAS.*

45 *2. If an industrial user subject to the monitoring requirement in subdivision 1 detects PFAS in any amount*
46 *above the method detection limit in its initial year of quarterly monitoring, such industrial user shall continue*
47 *to perform and report to the publicly owned treatment works no later than 30 days after receipt from the*
48 *laboratory the results as received of quarterly discharge monitoring for PFAS. The publicly owned treatment*
49 *works may reduce the frequency of required monitoring to annually for any industrial user with proper*
50 *monitoring results that are below the method detection level for at least two consecutive quarters.*

51 *3. For any new industrial user subject to the monitoring requirement in subdivision 1, the publicly owned*
52 *treatment works shall require monitoring for PFAS using the applicable laboratory test method and*
53 *submission of the results of such monitoring within 90 days of the commencement of such discharges to the*
54 *publicly owned treatment works. The new industrial user shall report to the publicly owned treatment works*
55 *no later than 30 days after receipt from the laboratory the monitoring results as received.*

56 *4. A publicly owned treatment works that receives PFAS monitoring results pursuant to this subsection*
57 *shall report such information received to the Department on a quarterly basis in a format specified by the*
58 *Department.*

59 *C. For purposes of this section, using or use of PFAS (i) means intentionally using or use of PFAS or*
60 *PFAS-containing substances as a product ingredient or as a production process aid or additive, such as*
61 *wetting agents, fume suppressants, photoresists, etchants, cleaners, coatings, surfactants, or flame retardants,*

62 and (ii) does not mean using or use of manufacturing equipment that contains PFAS.

63 ~~C.~~ *D.* For purposes of monitoring under ~~subsection~~ *subsections A and B*, the applicable laboratory test
64 method is Method 1633 or such other method approved by the EPA that may be allowed by the Department.
65 Monitoring reports shall include all PFAS analytes measured by the test method. For purposes of this section,
66 the Department shall not require, and the facility and its laboratory shall be exempt from, environmental
67 laboratory certification or accreditation requirements specifically for use of Method 1633.

68 *E. The provisions of this section shall not be construed to limit the authority of the Department or the*
69 *owner or operator of any publicly owned treatment works to which any user discharges wastewater to*
70 *require monitoring or reporting or otherwise regulate the discharge of the PFAS target analytes or other*
71 *pollutants under other applicable legal authority.*

72 **2. That any publicly owned treatment works shall notify an owner or operator of an industrial user**
73 **subject to the monitoring requirement in subsection B of § 62.1-44.34:32 of the Code of Virginia, as**
74 **amended by this act, that discharges pollutants into a publicly owned treatment works of the**
75 **requirement to submit the initial quarterly monitoring results for PFAS pursuant to subsection B of**
76 **§ 62.1-44.34:32 of the Code of Virginia, as amended by this act, within 30 days of the effective date of**
77 **this act.**