

24105105D

**HOUSE BILL NO. 1085**

Offered January 10, 2024

Prefiled January 10, 2024

*A BILL to amend the Code of Virginia by adding in Chapter 3.1 of Title 62.1 an article numbered 13, consisting of sections numbered 62.1-44.34:29 through 62.1-44.34:33, relating to Department of Environmental Quality; PFAS; identification; monitoring; PFAS Advisory Council established; report.*

Patrons—Rasoul, Bulova, Askew, Bennett-Parker, Callsen, Carr, Clark, Cousins, Feggans, Henson, Jones, Keys-Gamarra, Krizek, Martinez, Price, Simonds and Tran; Senators: Boysko, McPike and Salim

Referred to Committee on Agriculture, Chesapeake and Natural Resources

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

**1. That the Code of Virginia is amended by adding in Chapter 3.1 of Title 62.1 an article numbered 13, consisting of sections numbered 62.1-44.34:29 through 62.1-44.34:33, as follows:**

**Article 13.*****Per- and Polyfluoroalkyl Substances.*****§ 62.1-44.34:29. Definitions.**

*As used in this article, unless the context requires a different meaning:*

*"Draft Method 1633" means the draft method for the analysis of PFAS in aqueous, solid, biosolids, and tissue samples by chromatography-mass spectrometry published by the EPA.*

*"EPA" means the U.S. Environmental Protection Agency.*

*"HFPO-DA" means hexafluoropropylene oxide dimer acid.*

*"PFAS" means per- and polyfluoroalkyl substances, which are any fluorinated substances that contain at least one fully fluorinated methyl or methylene carbon atom and any precursors of such substances. "PFAS" includes HFPO-DA, PFBS, PFOA, and PFOS.*

*"PFBS" means perfluorobutane sulfonate.*

*"PFOA" means perfluorooctanoic acid.*

*"PFOS" means perfluorooctane sulfonate.*

*"VDH" means the Virginia Department of Health.*

*"VPDES" means the Virginia Pollutant Discharge Elimination System.*

**§ 62.1-44.34:30. PFAS monitoring; publicly owned treatment works.**

*A. The owner or operator of a publicly owned treatment works shall (i) at least quarterly, monitor PFAS levels in effluent, influent, and biosolids and (ii) report all PFAS monitoring data above the method detection level in the discharge monitoring report required by 40 C.F.R. § 122.41(l)(4).*

*B. PFAS monitoring pursuant to this section shall (i) be conducted in accordance with the final method adopted by the EPA under 40 C.F.R. Part 136 or, if a final method has not been adopted, Draft Method 1633 and (ii) at a minimum, include each of the 40 PFAS parameters detectable by Draft Method 1633.*

**§ 62.1-44.34:31. Identification of PFAS sources; raw water sources for public drinking water systems.**

*A. To identify and address sources of PFAS in raw water sources of public drinking water systems, the Department shall:*

*1. For any public water system for which the measured HFPO-DA, PFBS, PFOA, or PFOS in the finished water are above the method detection level and above the EPA's applicable drinking water human health advisory, whether or not the measured value is above or below the practical quantitation limit, develop a PFAS action plan to identify and address sources of PFAS for such public water system's raw water source or sources no later than December 31, 2025;*

*2. Perform outreach to ensure all relevant stakeholders served by impacted public water systems are informed, educated, and have the opportunity to provide input to the Department regarding PFAS sources and impacts. Stakeholder outreach shall include residents, community members, business owners, public water systems, publicly owned treatment works, landfills, tribal governments, and elected officials representing communities served by impacted public drinking water systems;*

*3. Perform outreach to ensure the general public is informed about PFAS contamination and the work of the Department to identify and address PFAS sources;*

*4. Report annually on its activities to the Board and the State Water Commission; and*

*5. In developing PFAS action plans, consult with other applicable units of state government, organizations representing Virginia public drinking water systems and other relevant entities with knowledge related to identifying and addressing PFAS sources.*

INTRODUCED

HB1085

58 *B. PFAS action plans developed pursuant to subdivision A 1, to the extent that data is available,*  
59 *shall identify the source or sources of PFAS in raw water sources and potential regulatory and*  
60 *nonregulatory options for addressing each identified source of PFAS. The goal of such action plans*  
61 *shall be to control and eliminate sources of PFAS in raw water sources of public drinking water*  
62 *systems and to ensure, to the maximum extent possible, that the costs of addressing PFAS found in*  
63 *public water systems are borne by the sources of such PFAS and not by the public water system or its*  
64 *ratepayers.*

65 **§ 62.1-44.34:32. Self-reporting of PFAS manufacture and use; monitoring of PFAS discharges.**

66 *A. No later than December 31, 2024, all facilities that discharge to a surface water under a VPDES*  
67 *permit or that discharge to a publicly owned treatment works under an industrial pretreatment program*  
68 *shall report the use or manufacture of all PFAS to the Department.*

69 *B. The reporting required by subsection A shall include the chemical name, the Chemical Abstracts*  
70 *Service (CAS) number, the amount used in each year from 2017 through 2024, and any additional*  
71 *information required by the Director to ascertain sources of PFAS in the Commonwealth and shall be*  
72 *provided in a manner and form prescribed by the Director.*

73 *C. For every facility that reports the use of one or more PFAS in accordance with subsection A and*  
74 *that discharges to a publicly owned treatment works, the Director shall forward the information*  
75 *provided by the facility to such publicly owned treatment works within 30 days of receipt. Such*  
76 *reporting requirement shall not change the duty or discharge permits of a publicly owned treatment*  
77 *works.*

78 *D. For every facility that reports the use or manufacture of one or more PFAS in accordance with*  
79 *subsection A, at least quarterly monitoring of the self-reported PFAS shall be required within six months*  
80 *of notification by the facility, provided, however, that the Director may alter the monitoring frequency if*  
81 *monitoring results are below the method detection level for four consecutive samples. Such monitoring*  
82 *shall be implemented as follows:*

83 *1. If the facility discharges to a surface water under a VPDES permit, the Director shall modify such*  
84 *facility's VPDES permit to require monitoring;*

85 *2. If the facility discharges to a publicly owned treatment works under an industrial pretreatment*  
86 *program and the permit holder for such publicly owned treatment works has pretreatment authority, the*  
87 *permit holder for the publicly owned treatment works shall modify the pretreatment permit held by the*  
88 *facility that reports the use of one or more PFAS to require monitoring; or*

89 *3. If the facility discharges to a publicly owned treatment works under an industrial pretreatment*  
90 *program and the Department has pretreatment authority, the Director shall modify the pretreatment*  
91 *permit held by the facility that reports the use of one or more PFAS to require monitoring.*

92 *E. Monitoring required by this section shall use laboratory and sampling methods approved by the*  
93 *EPA, provided, however, that if EPA-approved methods are not yet available, EPA-recommended or*  
94 *draft methods shall be used. If two or more approved methods are available, monitoring shall be*  
95 *conducted using the method with the lowest method detection level.*

96 *F. For every facility that reports the use of one or more PFAS in accordance with subsection A, the*  
97 *Director shall modify such facility's VPDES permit as directed by the federal Clean Water Act, 33*  
98 *U.S.C. § 1251 et seq., and this chapter, after consultation with relevant EPA guidance.*

99 **§ 62.1-44.34:33. PFAS Advisory Committee; report.**

100 *A. The Department and VDH shall jointly establish the PFAS Advisory Committee (the Committee) to*  
101 *assist the Department and VDH in developing solutions to reduce and eliminate the discharge of PFAS*  
102 *into waters of the Commonwealth, including by reviewing (i) PFAS sampling and self-reporting*  
103 *information and (ii) PFAS action plans pursuant to § 62.1-44.34:31. Members of the Committee shall be*  
104 *appointed by the Director and the Commissioner of VDH and may include legislative members;*  
105 *Department and VDH staff with relevant expertise; nonlegislative state and federal agency officials;*  
106 *faculty from institutions of higher education in the Commonwealth; nonlegislative citizens representing*  
107 *environmental and conservation organizations, agricultural organizations, public health organizations,*  
108 *water quality organizations, and public and private water providers; developers and representatives of*  
109 *economic development organizations; PFAS-impacted community members and municipal water users;*  
110 *and any others as requested by the Department and VDH. The Department and VDH shall convene the*  
111 *Committee at least three times per calendar year. Members of the Committee shall receive no*  
112 *compensation for their service and shall not be entitled to reimbursement for expenses incurred in the*  
113 *performance of their duties.*

114 *B. During each meeting of the Committee, the Department and VDH shall (i) update the Committee*  
115 *on activities relating to PFAS sampling, monitoring, and reporting and any PFAS action plans*  
116 *developed pursuant to § 62.1-44.34:31 and (ii) solicit members to present topics and analysis for*  
117 *consideration at future meetings. The Committee may develop specific statutory, budgetary, and*  
118 *regulatory recommendations as necessary to protect public health and water quality.*

119 *C. The Committee shall review and advise the Department and VDH (i) on the development of PFAS*

**120** *action plans developed pursuant to § 62.1-44.34:31 and (ii) on other relevant actions and data*  
**121** *gathered in accordance with the provisions of this article. The Department shall annually report the*  
**122** *Committee's activities and related recommendations and any responses from the Department to the State*  
**123** *Water Control Board, the Governor, and the General Assembly no later than November 1 of each year.*

**INTRODUCED**

HB1085