SPONSOR: Sen. Brown & Sen. Hansen & Rep. Heffernan & Rep. Burns
Sens. Lawson, Pinkney, Seigfried, Walsh; Reps. Cooke, Gorman, Harris, Hilovsky, K. Johnson, Lambert, Minor-Brown, Morrison, Osienski, Phillips, Romer, Ross Levin, Snyder-Hall

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 72
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO PUBLIC DRINKING WATER SYSTEMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Part II, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 30R. The Forever Chemicals Mandatory Reporting Act

§ 3001R. Purpose.

This chapter directs the Division of Public Health to make available online to the public the levels of PFAS, also known as forever chemicals, in public drinking water systems in this State. This chapter also requires water utility companies in this State to notify public drinking water system users if the PFAS in those users' drinking water systems exceed a certain maximum contaminant level of PFAS.

§ 3002R. Definitions.

As used in this chapter:

(1) "Division" means the Division of Public Health.

(2) "Hazard Index" means a sum of fractions in which each fraction compares the level of each PFAS measured in the water to the highest level below which there is no risk of health effects.

(3) "Maximum contaminant level" or "MCL" means the legal threshold limit on the amount of a substance that is allowed in a public water drinking system.

a. Except as provided under paragraph (3)b. of this section, the MCLs for the PFAS regulated under this chapter are as follows:

1. For PFOA, an MCL of 4.0 PPT.

2. For PFOS, an MCL of 4.0 PPT.

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3. PFHxS, an MCL of 10 PPT.

4. For PFNA, an MCL of 10 PPT.

5. For HFPO-DA, commonly known as GenX chemicals, an MCL of 10 PPT.

6. For mixtures containing 2 or more of PFHxS, PFNA, HFPO-DA, or PFBS, a Hazard Index MCL of 1.

b. If the United States Environmental Protection Agency ("EPA") establishes an MCL that is lower than the MCL for a substance under paragraph (3)a. of this section, the MCL established by the EPA for that substance is the MCL for this chapter.

(4) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means per- and polyfluoroalkyl chemicals, substances, or compounds, which are substances with at least one per-fluorinated methyl group (-CF3) or one per-fluorinated methylene group (-CF2-), including parents, salts, and anionic forms. For purposes of this chapter, PFAS includes only those PFAS with established legally enforceable MCLs, as defined under paragraph (3) of this section.

(5) "PPT" means parts per trillion.

(6) "Public drinking water system" means as defined in § 6002 of Title 7.

§ 3003R. PFAS reporting and notification.

(a) The Division shall develop and maintain a user-friendly website that the public may access to find the level of PFAS in each public drinking water system in this State. The website must meet all of the following requirements:

(1) Be accessible using a prominently displayed link on the home page of the Office of Drinking Water's website.

(2) Include a chart or a link to a chart showing the MCL thresholds so that users can see how their public drinking water system's PFAS levels compare to the MCLs.

(3) Include PFAS levels for every public drinking water system, to the extent that such information is available to the Division. Where PFAS levels are not available to the Division, the website must indicate the approximate date on which PFAS levels will be available online and must post the PFAS levels online as soon as they are available.

(b) If, while monitoring PFAS for purposes of compliance with this chapter, the Division finds PFAS in a public drinking water system that exceed the MCLs, the Division must promptly notify the water utility company in charge of the affected public drinking water system.

(c) Upon receiving notification from the Division that a PFAS MCL has been exceeded in a public drinking water system, the water utility company that operates that public drinking water system must provide prompt notice of the excess PFAS levels to all Delaware residents who receive water from that system.

(d) The notice under subsection (c) of this section must meet all of the following requirements:

(1) Be sent through the U.S. Postal Service to the address at which the resident is receiving the water from the public drinking water system.

(2) Include a brochure that the Division shall develop that explains PFAS and includes a chart showing the MCLs.

(3) Inform the resident that PFAS in excess of the MCLs have been detected in the resident's water supply.

(4) Provide the exact level of each PFAS chemical that exceeds the MCLs.

Section 2. Amend § 122, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 122. Powers and duties of the Department of Health and Social Services [For application of this section, see 84 Del. Laws, c. 434, § 4].

The Department shall have the following general powers and duties:

(3) Adopt, promulgate, amend, and repeal regulations consistent with law, which regulations shall not extend, modify or conflict with any law of this State or the reasonable implications thereof, and which shall be enforced by all state and local public health officials, to do all of the following:

c. Provide for the sanitary protection of all drinking water supplies which are furnished to and used by the public, including the establishment of primary maximum contaminant levels, operational requirements and public notice requirements. Primary maximum contaminant levels mean a maximum contaminant level which involves a biological, chemical or physical characteristic of drinking water that may adversely affect the health of the consumer.

A public water supplier means any person who owns or operates 1 or more public water systems. A public water system means a water supply system for the provision to the public of water for human consumption through pipes or other constructed conveyances either directly from the user's free-flowing outlet or indirectly by the water being used to manufacture ice, foods and beverages or that supplies water for potable or domestic purposes to employees, tenants, members, guests or the public at large in commercial offices, industrial areas, multiple dwellings or semi-public buildings including, but without limitation, rooming and boarding houses, motels, tourist cabins, mobile home parks, restaurants, hospitals and other institutions, or offers any water for sale

for potable domestic purposes. A dwelling unit means 1 or more rooms arranged for the use of 1 or more individuals as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities. A person shall include corporations, companies, associations, firms, municipally owned water utilities, partnerships, societies and joint stock companies, as well as individuals. In addition, the following provisions shall apply:

8. PFAS in public drinking water systems mandatory reporting.

The Department shall implement and enforce the provisions of this title regarding perfluoroalkyl and polyfluoroalkyl substances, also known as PFAS or forever chemicals, in public drinking water systems.

Section 3. The Division may promulgate regulations to implement and enforce Chapter 30R of Title 16.

Section 4. This Act takes effect on January 15, 2026.

Section 5. This Act may be cited as “The Forever Chemicals Mandatory Reporting Act”.