

SENATE BILL 956

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CF HB 1153

By: **Senator Hester**

Introduced and read first time: February 2, 2024

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 15, 2024

CHAPTER _____

1 AN ACT concerning

2 **Environment – Water Pollution Control – Protecting State Waters From PFAS**
3 **Pollution**
4 **(Protecting State Waters From PFAS Pollution Act)**

5 FOR the purpose of ~~establishing a certain discharge limit for PFAS chemicals in any water,~~
6 ~~including stormwater, discharged from a certain significant industrial user,~~
7 ~~requiring a certain significant industrial user to reduce PFAS chemicals from the~~
8 ~~water it discharges to a publicly owned treatment works in a certain manner,~~
9 requiring the Department of the Environment to identify certain significant industry
10 users in a certain manner by a certain date; requiring the Department to develop
11 certain PFAS monitoring and testing criteria for certain users in a certain manner
12 by a certain date; requiring the Department to develop certain PFAS action levels
13 and certain mitigation plans in a certain manner by a certain date; requiring a
14 certain significant industrial user to store, reuse, and dispose of certain PFAS
15 chemicals in a certain manner; authorizing a certain significant industrial user to
16 dispose of stored PFAS chemicals in a certain manner; requiring a certain significant
17 industrial user to measure levels of ~~organic-fluorine~~ PFAS chemicals in industrial
18 wastewater by a certain date and to report those levels to the Department of the
19 Environment; requiring the Department to update a certain action plan on or before
20 a certain date; and generally relating to State waters and PFAS pollution.

21 BY repealing and reenacting, without amendments,
22 Article – Environment
23 Section 9–101(a) through (c), (g), and (i)
24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2014 Replacement Volume and 2023 Supplement)

BY adding to

Article – Environment

Section ~~9–353 through 9–356~~ and ~~9–354~~ to be under the new part “Part VII.
Protecting State Waters From PFAS Pollution”

Annotated Code of Maryland

(2014 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Environment

9–101.

(a) In this title the following words have the meanings indicated.

(b) “Discharge” means:

(1) The addition, introduction, leaking, spilling, or emitting of a pollutant into the waters of this State; or

(2) The placing of a pollutant in a location where the pollutant is likely to pollute.

(c) (1) “Disposal system” means a system for disposing of wastes by surface, above surface, or underground methods.

(2) “Disposal system” includes a treatment works and a disposal well.

(g) “Pollutant” means:

(1) Any waste or wastewater that is discharged from:

(i) A publicly owned treatment works; or

(ii) An industrial source; or

(2) Any other liquid, gaseous, solid, or other substance that will pollute any waters of this State.

(i) “Publicly owned treatment works” means a facility that is:

(1) Owned by this State or a political subdivision, municipal corporation, or other public entity; and

1 (2) Used for the treatment of pollutants.

2 **9-351. RESERVED.**

3 **9-352. RESERVED.**

4 **PART VII. PROTECTING STATE WATERS FROM PFAS POLLUTION.**

5 **9-353.**

6 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) (1) "INDUSTRIAL USER" MEANS:

9 ~~(1)~~ (I) A PERSON WHO IS ENGAGED IN MANUFACTURING,
10 FABRICATING, OR ASSEMBLING GOODS; OR

11 ~~(2)~~ (II) A MEMBER OF ANY CLASS OF SIGNIFICANT PRODUCERS OF
12 POLLUTANTS IDENTIFIED UNDER REGULATIONS ADOPTED BY:

13 ~~(1)~~ 1. THE SECRETARY; OR

14 ~~(2)~~ 2. THE ADMINISTRATOR OF THE U.S. ENVIRONMENTAL
15 PROTECTION AGENCY.

16 (2) "INDUSTRIAL USER" DOES NOT INCLUDE THE FEDERAL, STATE,
17 AND LOCAL GOVERNMENTS.

18 (C) "PFAS CHEMICALS" MEANS A CLASS OF FLUORINATED ORGANIC
19 CHEMICALS THAT CONTAIN AT LEAST ONE FULLY FLUORINATED CARBON ATOM,
20 INCLUDING PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES.

21 (D) "PRETREATMENT PERMIT" MEANS A DOCUMENT ISSUED BY THE
22 DEPARTMENT OR THE DEPARTMENT'S DESIGNEE THAT AUTHORIZES A SIGNIFICANT
23 INDUSTRIAL USER TO INTRODUCE INDUSTRIAL WASTES INTO A PUBLICLY OWNED
24 TREATMENT WORKS IN COMPLIANCE WITH THE PRETREATMENT REQUIREMENTS
25 UNDER COMAR 26.08.01.01A(69).

26 (E) (1) "SIGNIFICANT INDUSTRIAL USER" MEANS AN INDUSTRIAL USER
27 THAT:

28 ~~(1)~~ (I) IS SUBJECT TO CATEGORICAL PRETREATMENT STANDARDS
29 UNDER 40 C.F.R. PART 403.6;

~~(2)~~ (II) DISCHARGES AN AVERAGE OF 25,000 GALLONS PER DAY OR MORE OF PROCESSED WASTEWATER TO A PUBLICLY OWNED TREATMENT WORKS, NOT INCLUDING SANITARY, NONCONTACT COOLING, AND BOILER BLOWDOWN WASTEWATER;

~~(3)~~ (III) CONTRIBUTES PROCESSED WASTEWATER THAT MAKES UP 5% OR MORE OF THE AVERAGE DRY-WEATHER HYDRAULIC OR ORGANIC CAPACITY OF THE PUBLICLY OWNED TREATMENT WORKS; OR

~~(4)~~ (IV) IS DESIGNATED AS A SIGNIFICANT INDUSTRIAL USER BY THE PUBLICLY OWNED TREATMENT WORKS ON THE BASIS THAT THE INDUSTRIAL USER HAS:

~~(I)~~ 1. A REASONABLE POTENTIAL FOR ADVERSELY AFFECTING THE WASTEWATER TREATMENT PLANT'S OPERATIONS AND SEWER SYSTEM; OR

~~(II)~~ 2. VIOLATED A PRETREATMENT STANDARD OR REQUIREMENT.

(2) "SIGNIFICANT INDUSTRIAL USER" DOES NOT INCLUDE THE FEDERAL, STATE, AND LOCAL GOVERNMENTS.

(F) "WATERS OF THE STATE" INCLUDE:

(1) BOTH SURFACE AND UNDERGROUND WATERS WITHIN THE BOUNDARIES OF THE STATE SUBJECT TO ITS JURISDICTION;

(2) THAT PORTION OF THE ATLANTIC OCEAN WITHIN THE BOUNDARIES OF THE STATE;

(3) THE CHESAPEAKE BAY AND ITS TRIBUTARIES;

(4) ALL PONDS, LAKES, RIVERS, STREAMS, PUBLIC DITCHES, TAX DITCHES, AND PUBLIC DRAINAGE SYSTEMS WITHIN THE STATE, OTHER THAN THOSE DESIGNED AND USED TO COLLECT, CONVEY, OR DISPOSE OF SANITARY SEWAGE; AND

(5) THE FLOODPLAIN OF FREE-FLOWING WATERS DETERMINED BY THE DEPARTMENT ON THE BASIS OF THE 100-YEAR FLOOD FREQUENCY.

9-354.

(A) THIS SECTION APPLIES TO A SIGNIFICANT INDUSTRIAL USER THAT:

1 (1) HAS A PRETREATMENT PERMIT; AND

2 (2) ~~(I)~~ IS CURRENTLY AND INTENTIONALLY USING PFAS
3 CHEMICALS; ~~OR~~

4 ~~(II) OPERATES ON A SITE WHERE A PRIOR HISTORY OF PFAS~~
5 ~~CHEMICAL USE IS KNOWN OR REASONABLY KNOWN.~~

6 (B) ~~A SIGNIFICANT INDUSTRIAL USER SHALL ELIMINATE THE PRESENCE OF~~
7 ~~PFAS CHEMICALS IN THE WATER THAT IT DISCHARGES TO A PUBLICLY OWNED~~
8 ~~TREATMENT WORKS IN ACCORDANCE WITH THIS SECTION~~ ON OR BEFORE OCTOBER
9 1, 2024, THE DEPARTMENT SHALL, IN COLLABORATION WITH PUBLICLY OWNED
10 TREATMENT WORKS AND SIGNIFICANT INDUSTRIAL USERS IN THE STATE, IDENTIFY
11 THE SIGNIFICANT INDUSTRIAL USERS THAT CURRENTLY AND INTENTIONALLY USE
12 PFAS CHEMICALS.

13 (C) ON OR BEFORE JANUARY 1, 2025, IN ACCORDANCE WITH GUIDANCE
14 FROM THE U.S. ENVIRONMENTAL PROTECTION AGENCY, THE DEPARTMENT SHALL
15 DEVELOP PFAS MONITORING AND TESTING PROTOCOLS FOR SIGNIFICANT
16 INDUSTRIAL USERS IDENTIFIED IN ACCORDANCE WITH SUBSECTION (B) OF THIS
17 SECTION.

18 (D) (1) ON OR BEFORE JUNE 1, 2025, THE DEPARTMENT SHALL, IN
19 COLLABORATION WITH ~~THE~~ PUBLICLY OWNED TREATMENT WORKS AND THE
20 SIGNIFICANT INDUSTRIAL USERS IN THE STATE IDENTIFIED IN ACCORDANCE WITH
21 SUBSECTION (B) OF THIS SECTION, DEVELOP PFAS ACTION LEVELS FOR
22 ADDRESSING PFAS CONTAMINATION FROM INDUSTRIAL DISCHARGE FOR
23 PRETREATMENT PERMITS.

24 (2) ON OR BEFORE SEPTEMBER 1, 2025, THE DEPARTMENT SHALL,
25 IN COLLABORATION WITH ~~THE~~ PUBLICLY OWNED TREATMENT WORKS AND THE
26 SIGNIFICANT INDUSTRIAL USERS IN THE STATE IDENTIFIED IN ACCORDANCE WITH
27 SUBSECTION (B) OF THIS SECTION, DEVELOP MITIGATION PLANS FOR ADDRESSING
28 PFAS CONTAMINATION FROM INDUSTRIAL DISCHARGE FOR PRETREATMENT
29 PERMITS.

30 (3) THE MITIGATION PLANS UNDER PARAGRAPH (2) OF THIS
31 SUBSECTION SHALL INCLUDE STRATEGIES AND OPTIONS FOR REDUCING THE
32 PRESENCE OF PFAS IN INDUSTRIAL DISCHARGE, INCLUDING:

33 (I) SUBSTITUTING OR ELIMINATING PRODUCTS CONTAINING
34 PFAS CHEMICALS;

1 (II) TAKING PRECAUTIONS TO AVOID ACCIDENTAL
2 DISCHARGES;

3 (III) DECONTAMINATING OR REPLACING EQUIPMENT
4 CONTAMINATED WITH PFAS CHEMICALS; OR

5 (IV) USING ANY OTHER METHOD THE DEPARTMENT
6 DETERMINES IS NECESSARY FOR THE REDUCTION OR ELIMINATION OF PFAS
7 CHEMICALS IN WATER. IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE U.S.
8 ENVIRONMENTAL PROTECTION AGENCY REGARDING THE ELIMINATION OF PFAS
9 CHEMICALS IN WATER, THE DISCHARGE LIMIT FOR PFAS CHEMICALS IN ANY
10 WATER, INCLUDING STORMWATER, DISCHARGED FROM ANY SIGNIFICANT
11 INDUSTRIAL USER IS 4 PARTS PER TRILLION.

12 ~~(D) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE U.S.~~
13 ~~ENVIRONMENTAL PROTECTION AGENCY REGARDING THE ELIMINATION OF PFAS~~
14 ~~CHEMICALS IN WATER, A SIGNIFICANT INDUSTRIAL USER SHALL REDUCE PFAS~~
15 ~~CHEMICALS FROM THE WATER THAT IT DISCHARGES TO A PUBLICLY OWNED~~
16 ~~TREATMENT WORKS TO A CONCENTRATION OF NOT MORE THAN 4 PARTS PER~~
17 ~~TRILLION, INCLUDING BY:~~

18 ~~(1) SUBSTITUTING OR ELIMINATING PRODUCTS CONTAINING PFAS~~
19 ~~CHEMICALS;~~

20 ~~(2) TAKING PRECAUTIONS TO AVOID ACCIDENTAL DISCHARGES;~~

21 ~~(3) DECONTAMINATING OR REPLACING EQUIPMENT CONTAMINATED~~
22 ~~WITH PFAS CHEMICALS; OR~~

23 ~~(4) USING ANY OTHER METHOD THE U.S. ENVIRONMENTAL~~
24 ~~PROTECTION AGENCY DETERMINES IS NECESSARY FOR THE ELIMINATION OF PFAS~~
25 ~~CHEMICALS IN WATER.~~

26 (E) ~~(1)~~ IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE U.S.
27 ENVIRONMENTAL PROTECTION AGENCY REGARDING THE STORAGE OF PFAS
28 CHEMICALS, A SIGNIFICANT INDUSTRIAL USER SHALL SAFELY STORE PFAS
29 CHEMICALS THAT WERE CAPTURED AFTER REDUCING PFAS CHEMICALS FROM
30 WATER IN ACCORDANCE WITH THIS SECTION.

31 ~~(2) IN ACCORDANCE WITH ANY FEDERAL, STATE, OR LOCAL LAW,~~
32 ~~REGULATION, OR POLICY, A SIGNIFICANT INDUSTRIAL USER MAY REUSE STORED~~
33 ~~PFAS CHEMICALS IN ITS FACILITY OPERATIONS.~~

1 (F) ~~(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A~~ A
2 SIGNIFICANT INDUSTRIAL USER MAY DISPOSE OF STORED PFAS CHEMICALS USING
3 SAFE DISPOSAL SYSTEMS OR TECHNOLOGIES APPROVED BY THE DEPARTMENT ~~OR~~
4 ~~IN ANOTHER MANNER APPROVED BY THE DEPARTMENT BY REGULATION.~~

5 ~~(2) A SIGNIFICANT INDUSTRIAL USER MAY NOT DISPOSE OF STORED~~
6 ~~PFAS CHEMICALS IN ANY MANNER INVOLVING:~~

7 ~~(I) DISPOSAL AT A SOLID WASTE LANDFILL;~~

8 ~~(II) INCINERATION; OR~~

9 ~~(III) LAND APPLICATION.~~

10 (G) A SIGNIFICANT INDUSTRIAL USER SHALL:

11 (1) (I) ~~BY APRIL~~ SEPTEMBER 1, 2025, MEASURE THE LEVELS OF
12 ~~ORGANIC FLUORINE~~ PFAS CHEMICALS IN ITS INDUSTRIAL WASTEWATER USING
13 METHODS APPROVED BY THE DEPARTMENT; AND

14 (II) REPORT THE LEVELS OF ~~ORGANIC FLUORINE~~ PFAS
15 CHEMICALS IN THE INDUSTRIAL WASTEWATER IN A MANNER APPROVED BY THE
16 DEPARTMENT;

17 (2) ~~BY OCTOBER~~ JULY 1, 2025 2026, AND IN ACCORDANCE WITH THIS
18 SECTION, IMPLEMENT MEASURES TO REDUCE PFAS CHEMICALS FROM WATER
19 DISCHARGED TO A PUBLICLY OWNED TREATMENT WORKS;

20 (3) PROVIDE DOCUMENTATION OF PFAS STORAGE OR REUSE ON
21 REQUEST TO:

22 (I) THE ATTORNEY GENERAL;

23 (II) THE DEPARTMENT;

24 (III) A COUNTY COUNCIL;

25 (IV) A STATE'S ATTORNEY;

26 (V) A CITY ATTORNEY; OR

27 (VI) ANY OTHER STATE OR LOCAL GOVERNMENTAL ENTITY; AND

28 (4) REPORT THE STORAGE OR DISPOSAL OF PFAS CHEMICALS
29 UNDER 40 C.F.R. PART 372 (TOXIC CHEMICAL RELEASE REPORTING).

~~(H) THE DEPARTMENT SHALL CONSIDER THE MEMORANDUM ADDRESSING PFAS DISCHARGES IN NPDES PERMITS AND THROUGH THE PRETREATMENT PROGRAM AND MONITORING PROGRAMS ISSUED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY ON DECEMBER 5, 2022, WHEN DETERMINING PERMISSIBLE LEVELS OF ORGANIC FLUORINE CHEMICALS IN INDUSTRIAL WASTEWATER UNDER SUBSECTION (C)(1) OF THIS SECTION.~~

~~(I) ANY CONTRACT OR AGREEMENT BETWEEN A SIGNIFICANT INDUSTRIAL USER AND A PUBLICLY OWNED TREATMENT WORKS THAT AUTHORIZES A DISCHARGE OF WATER INTO THE WATERS OF THE STATE THAT EXCEEDS THE DISCHARGE LIMIT FOR PFAS CHEMICALS UNDER SUBSECTION (C) OF THIS SECTION SHALL BE SUPERSEDED BY THIS SECTION.~~

~~9-355.~~

~~ON OR BEFORE DECEMBER 1, 2024, THE DEPARTMENT SHALL ADOPT REGULATIONS TO INCLUDE THE DISCHARGE LIMIT FOR PFAS CHEMICALS ESTABLISHED UNDER § 9-354(C) OF THIS SUBTITLE AS A CONDITION FOR ISSUING A PRETREATMENT PERMIT TO A SIGNIFICANT INDUSTRIAL USER.~~

~~9-356.~~

~~(A) THE PRESENCE OF TOTAL ORGANIC FLUORINE OR PFAS CHEMICALS EXCEEDING 4 PARTS PER TRILLION IN ANY DISCHARGE INTO THE WATERS OF THE STATE IS A VIOLATION OF THE TERMS OF A PRETREATMENT PERMIT.~~

~~(B) IN ADDITION TO A VIOLATION UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT MAY ENFORCE A VIOLATION OF THIS PART IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT.~~

SECTION 2. AND BE FURTHER ENACTED, That on or before December 1, 2025, the Department of the Environment shall update the Department's PFAS Action Plan with an evaluation of disposal methods for PFAS chemicals and the progress made on the requirements of this Act.

SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2024.