

Chapter 557

(Senate Bill 956)

AN ACT concerning

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

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

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

(2) Used for the treatment of pollutants.

9–351. RESERVED.

9–352. RESERVED.

PART VII. PROTECTING STATE WATERS FROM PFAS POLLUTION.

9–353.

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

(B) (1) “INDUSTRIAL USER” MEANS:

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

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

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

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

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

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

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

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

~~(1)~~ (I) IS SUBJECT TO CATEGORICAL PRETREATMENT STANDARDS 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) HAS A PRETREATMENT PERMIT; AND

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

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

(B) A SIGNIFICANT INDUSTRIAL USER SHALL ELIMINATE THE PRESENCE OF PFAS CHEMICALS IN THE WATER THAT IT DISCHARGES TO A PUBLICLY OWNED TREATMENT WORKS IN ACCORDANCE WITH THIS SECTION ON OR BEFORE OCTOBER 1, 2024, THE DEPARTMENT SHALL, IN COLLABORATION WITH PUBLICLY OWNED TREATMENT WORKS AND SIGNIFICANT INDUSTRIAL USERS IN THE STATE, IDENTIFY

THE SIGNIFICANT INDUSTRIAL USERS THAT CURRENTLY AND INTENTIONALLY USE PFAS CHEMICALS.

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

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

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

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

(I) SUBSTITUTING OR ELIMINATING PRODUCTS CONTAINING PFAS CHEMICALS;

(II) TAKING PRECAUTIONS TO AVOID ACCIDENTAL DISCHARGES;

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

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

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

- ~~(1) SUBSTITUTING OR ELIMINATING PRODUCTS CONTAINING PFAS CHEMICALS;~~
- ~~(2) TAKING PRECAUTIONS TO AVOID ACCIDENTAL DISCHARGES;~~
- ~~(3) DECONTAMINATING OR REPLACING EQUIPMENT CONTAMINATED WITH PFAS CHEMICALS; OR~~
- ~~(4) USING ANY OTHER METHOD THE U.S. ENVIRONMENTAL PROTECTION AGENCY DETERMINES IS NECESSARY FOR THE ELIMINATION OF PFAS CHEMICALS IN WATER.~~

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

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

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

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

- ~~(I) DISPOSAL AT A SOLID WASTE LANDFILL;~~
- ~~(II) INCINERATION; OR~~
- ~~(III) LAND APPLICATION.~~

(G) A SIGNIFICANT INDUSTRIAL USER SHALL:

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

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

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

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

(I) THE ATTORNEY GENERAL;

(II) THE DEPARTMENT;

(III) A COUNTY COUNCIL;

(IV) A STATE'S ATTORNEY;

(V) A CITY ATTORNEY; OR

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

(4) REPORT THE STORAGE OR DISPOSAL OF PFAS CHEMICALS 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 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October July 1, 2024.

Approved by the Governor, May 9, 2024.