

Compliance Bulletin

Passage of House Bill 3189: PFAS Protection Act

House Bill 3189, the PFAS Protection Act was signed into law on March 28, 2023. The new law is designed to identify sources of perfluoroalkyl and polyfluoroalkyl substances (PFAS substances) discharged into source waters used for public drinking water.

As part of this legislation, and to address sources of PFAS substances in public water systems, facilities using PFAS chemicals are required to report their use to the DEP by December 31, 2023.

Facilities required to report usage to the DEP are ones that discharge to a surface water under a NPDES permit or that discharge to a Publicly Owned Treatment Works which knowingly use or have used one or more of the PFAS chemicals in their production process since January 1, 2017.

PFAS chemicals addressed in the legislation are “any PFAS chemicals found in any public water system’s raw water source in the USGS study”. More details on reporting requirements, the language of the law, and a list PFAS chemicals can be found on subsequent pages of this compliance bulletin.

Please submit reports to Melissa Johnson at melissa.k.johnson@wv.gov in the Division of Mining and Reclamation.

If you have any questions related to your need to report please contact Scot Mandirola, Deputy Cabinet Secretary, West Virginia Department of Environmental Protection at 304-926-0499.





west virginia department of environmental protection

Executive Office
601 57th Street SE
Charleston, WV 25304
Phone: 304-926-0499

Harold D. Ward, Cabinet Secretary
dep.wv.gov

August 28, 2023

Dear Sir or Madam:

This letter is to inform you of the passage of HB 3189, the PFAS Protection Act, by the 2023 West Virginia Legislature. Governor Jim Justice signed it into law on March 28, 2023. The new law is designed to identify the sources of perfluoroalkyl and polyfluoroalkyl substances (PFAS substances) discharged into source waters used for public drinking water. It requires the Department of Environmental Protection (DEP) to begin identifying sources of PFAS in water sources. As part of this legislation, and in an effort to address sources of PFAS substances in public water systems, facilities using PFAS chemicals are required to report their use to the DEP by December 31, 2023. The list of PFAS chemicals addressed in the legislation are “any PFAS chemicals found in any public water system’s raw water source in the USGS study,” (see attached list).

You are receiving this letter as a notification that you may qualify under the language of the new law to report. The law states:

§22-11C-4. Self-reporting of PFAS manufacture and use, monitoring of PFAS discharges, and establishment of PFAS water quality criteria.


- (a) No later than December 31, 2023, all facilities that discharge to a surface water under a West Virginia/National Pollutant Discharge Elimination System permit or that discharge to a Publicly Owned Treatment Works under an industrial pretreatment program, including but not limited to chemical and manufacturing facilities, which manufacture or knowingly use or have used one or more of the following PFAS chemicals in their production process since January 1, 2017, must report the use of these chemicals to the DEP:
- (1) Any PFAS chemical found in any public water system’s raw water source in the USGS study; and
 - (2) Any additional PFAS chemicals that the secretary determines are harmful to human health and that he or she reasonably believes to be present in West Virginia waters at levels that can be detected using USEPA-approved methods: *Provided*, That if USEPA-approved methods are not yet available, USEPA-recommended methods

may be used. If two or more methods have been approved by USEPA, monitoring shall use the method with the lowest detection level.

- (b) This reporting shall include the chemical name, the Chemical Abstracts Service (CAS) number, the amount used in each year from 2017 through 2022, and any additional information required by the secretary to ascertain sources of PFAS chemicals in West Virginia, and shall be provided in a manner and form prescribed by the secretary.

Please submit reports to Melissa Johnson melissa.k.johnson@wv.gov in the Division of Mining and Reclamation if it is a mining or quarrying NPDES permit or to Lori Devereux lori.k.devereux@wv.gov in the Division of Water and Waste Management if it is a non-Mining NPDES permit. If you have any questions related to your need to report please contact Scott Mandirola, Deputy Cabinet Secretary, West Virginia Department of Environmental Protection, 304-926-0499.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott Mandirola", is written over the typed name.

Scott Mandirola

Deputy Cabinet Secretary

6:2_Fluorotelomersulfonate_(6:2_FTS)

Perfluoro-2-propoxypropanoate_(HFPO-DA)

Perfluorobutanoate_(PFBA)

Perfluorobutanesulfonate_(PFBS)

Perfluorodecanoate_(PFDA)

Perfluorododecanoate_(PFDoDA)

Perfluoroheptanoate_(PFHpA)

Perfluoroheptanesulfonate_(PFHpS)

Perfluorohexanoate_(PFHxA)

Perfluorohexanesulfonate_(PFHxS)

Perfluorononanoate_(PFNA)

Perfluorooctanoate_(PFOA)

Perfluorooctanesulfonate_(PFOS)

Perfluoropentanoate_(PFPeA)

Perfluoropentanesulfonate_(PFPeS)