WEST VIRGINIA CODE: §22-11C-4

§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.

(c) For every facility that reports the use of one or more PFAS chemicals in accordance with subsection (a) of this section, and that discharges to a Publicly Owned Treatment Works, the secretary shall forward the information provided by the facility to the Publicly Owned Treatment Works within 30 days of receipt. This reporting requirement does not change the duty or discharge permits of a Publicly Owned Treatment Works.

(d) For every facility that reports the use of one or more PFAS chemicals in accordance with subsection (a) of this section, at least quarterly monitoring of the self-reported PFAS chemicals shall be required within six months of notification by the facility: *Provided*, That the secretary may alter the monitoring frequency if monitoring results are below the method detection level for four consecutive samples, or if monitoring results show consistent results and the source or sources of the PFAS detected in the samples have been conclusively determined. This monitoring shall be implemented as follows:

(1) If the facility discharges to a surface water under a West Virginia/National Pollutant Discharge Elimination System permit, the secretary shall modify the facility's West Virginia/National Pollutant Discharge Elimination System permit to require monitoring.

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(2) If the facility discharges to a Publicly Owned Treatment Works under an industrial pretreatment program and the permit holder for the Publicly Owned Treatment Works has pretreatment authority, the permit holder for the Publicly Owned Treatment Works shall modify the pretreatment permit held by the facility that reports the use of one or more PFAS chemicals to require monitoring.

(3) If the facility discharges to a Publicly Owned Treatment Works under an industrial pretreatment program and the department has pretreatment authority, the secretary shall modify the pretreatment permit held by the facility that reports the use of one or more PFAS chemicals to require monitoring.

(e) Monitoring shall use laboratory and sampling methods approved by the USEPA: *Provided*, That if USEPA-approved methods are not yet available, USEPA-recommended methods may be used. If two or more approved methods are available, monitoring shall use the method with the lowest detection level.

(f) For every facility that reports the use of one or more PFAS chemicals in accordance with subsection (a) of this section, the secretary shall modify the facility's West Virginia/National Pollutant Discharge Elimination System permit as directed by the federal Clean Water Act and State Water Pollution Control Act, after consultation with relevant USEPA guidance.

(g) After the USEPA establishes final water quality criteria under the Clean Water Act for any PFAS, DEP shall propose adopting appropriate criteria by rule, which criteria may be no more stringent than the criteria established by USEPA, as part of the next regular legislative rulemaking cycle in accordance with §29A-3-1 *et seq* of this code.

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