

32-LS0001\W
Radford
2/14/22

CS FOR SENATE BILL NO. 121()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATORS KIEHL, Gray-Jackson, Kawasaki, Stevens, Begich, Costello, Wielechowski

A BILL

FOR AN ACT ENTITLED

"An Act relating to pollutants; relating to perfluoroalkyl and polyfluoroalkyl substances; relating to the duties of the Department of Environmental Conservation; relating to firefighting substances; relating to thermal remediation of perfluoroalkyl and polyfluoroalkyl substance contamination; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** AS 46.03 is amended by adding new sections to read:

Article 5A. Perfluoroalkyl and Polyfluoroalkyl Substances.

Sec. 46.03.340. Testing; drinking water. (a) The department shall ensure the responsible party tests for perfluoroalkyl substances and polyfluoroalkyl substances in all drinking water used in the state that is in a water supply located in the state when a perfluoroalkyl substance or polyfluoroalkyl substance is released in the area of the water supply. If a test conducted under this subsection detects a perfluoroalkyl substance or polyfluoroalkyl substance at a level equal to or greater than the limit described in (b) of this section, the department shall ensure the

responsible party provides a person who routinely uses the tested drinking water, at no cost to the person, a source of drinking water containing levels of perfluoroalkyl substances and polyfluoroalkyl substances lower than the limits described in (b) of this section.

(b) For purposes of (a) of this section, the limit of perfluoroalkyl substance or polyfluoroalkyl substance contamination in water is the lesser of

(1) the limit established by the department in regulation; or

(2) the following limits:

	CUTOFF CONCENTRATION
SUBSTANCE	(parts per trillion)
perfluorobutanesulfonic acid	420
perfluorooctanoic acid	8
perfluorooctanesulfonic acid	16
perfluorononanoic acid	6
perfluorohexanesulfonic acid	51
perfluoroheptanoic acid	400,000
hexafluoropropylene oxide dimer acid	370.

Sec. 46.03.345. Liability for drinking water and drinking water testing. (a)

A person who causes a fire that results in a release of a firefighting substance containing a perfluoroalkyl substance or polyfluoroalkyl substance is liable for the costs of providing drinking water and drinking water testing under AS 46.03.340. This subsection does not apply to a release of a firefighting substance to extinguish a fire in a residential building or motor vehicle.

(b) A government agency that requires a release of a firefighting substance that contains a perfluoroalkyl substance or polyfluoroalkyl substance is liable for the costs of providing drinking water and drinking water testing under AS 46.03.340 for the required release.

(c) A person who extinguishes a fire by releasing a firefighting substance that contains a perfluoroalkyl substance or polyfluoroalkyl substance is not liable for the costs of providing drinking water and drinking water testing under AS 46.03.340 or site cleanup under this chapter, AS 46.08, AS 46.09, or another state law unless the

1 firefighting substance was released for training or testing purposes.

2 (d) The liability of a person or agency for costs under this section is in
3 addition to other liability under this chapter, AS 46.08, AS 46.09, or other state law for
4 a release of a perfluoroalkyl substance or polyfluoroalkyl substance.

5 (e) In this section,

6 (1) "motor vehicle" has the meaning given in AS 28.90.990, but does
7 not include a commercial motor vehicle, as defined in AS 28.90.990;

8 (2) "residential building" has the meaning given in AS 18.60.780.

9 **Sec. 46.03.350. Use of firefighting substances.** (a) A person engaged in the
10 business of oil or gas production, transmission, transportation, or refining may use a
11 firefighting substance that contains a perfluoroalkyl substance or polyfluoroalkyl
12 substance in the state unless the state fire marshal adopts regulations under (b) of this
13 section requiring use of an alternative firefighting substance.

14 (b) If the state fire marshal determines an alternative firefighting substance
15 listed by an organization recognized by the federal Occupational Safety and Health
16 Administration's Nationally Recognized Testing Laboratory Program is safe and
17 effective, the state fire marshal shall adopt regulations requiring use of the alternative
18 firefighting substance. The regulations must state the proposed effective date of the
19 regulations.

20 (c) The department shall accept for disposal from a person domiciled in the
21 state a firefighting substance that contains a perfluoroalkyl substance or
22 polyfluoroalkyl substance in a quantity not to exceed 25 gallons each year.

23 (d) Notwithstanding AS 46.03.320 and except as provided in (a) of this
24 section, a person may not use a firefighting substance that contains a perfluoroalkyl
25 substance or polyfluoroalkyl substance in the state unless the use is required by federal
26 law.

27 **Sec. 46.03.355. Thermal remediation permit.** A facility that thermally
28 remediates a perfluoroalkyl or polyfluoroalkyl substance contamination must have a
29 permit from the department under 42 U.S.C. 7661 - 7661f (Clean Air Act, secs. 501 -
30 507) authorizing the remediation. The department may not issue a permit or allow a
31 facility to retain a permit issued under this section if the department determines that

the remediation will result in the release of more than a minimal amount of an airborne compound with a carbon-fluorine bond detectable through source testing. Source testing under this section must include testing of all compounds with a carbon-fluorine bond for which the United States Environmental Protection Agency has approved a testing methodology.

Sec. 46.03.359. Definitions. In AS 46.03.340 - 46.03.359, "perfluoroalkyl substance" and "polyfluoroalkyl substance" include

- (1) perfluorooctanoic acid;
- (2) perfluorooctanesulfonic acid;
- (3) perfluorononanoic acid;
- (4) perfluorohexanesulfonic acid;
- (5) perfluoroheptanoic acid;
- (6) perfluorobutanesulfonic acid;
- (7) hexafluoropropylene oxide dimer acid;
- (8) other perfluoroalkyl substances or polyfluoroalkyl substances

specified by the department in regulation.

* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY; RETROACTIVITY. AS 46.03.345, added by sec. 1 of this Act, applies retroactively to a release of a perfluoroalkyl substance or polyfluoroalkyl substance occurring before, on, or after the effective date of sec. 1 of this Act.

* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Environmental Conservation shall adopt regulations necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

* **Sec. 4.** Sections 2 and 3 of this Act take effect immediately under AS 01.10.070(c).

* **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2023.