

Appendix G: Public Comments (Action Plan)

October 2020 was dedicated to collecting public comments on the PFAS Action Plan prior to it being approved by WisPAC. The comment period was kicked off with a listening session on October 6th which was followed by a second listening session on October 21st. Verbal comments on the plan were collected at both public meetings. Written submissions and letters were collected via an online form and through emails sent directly to the DNR's PFAS Inquiry inbox.

Approximately 300 individual comments were received from over 50 commenters. Many commenters provided feedback on specific Action Items being recommended in the plan. Input was also received about other sections of the Action Plan and about PFAS in general.

After the comment period closed, all input was reviewed by DNR staff. Recommended modifications to the plan were developed and proposed to WisPAC for approval at the November WisPAC meeting. A summary of how comments were addressed is available online. Overall, the feedback received provided valuable input on proposed actions, identified gaps and helpful clarifications, and contributed many solid ideas for future consideration in the implementation of the plan.

SUMMARY OF PUBLIC COMMENTS FROM OCTOBER 2020 PUBLIC COMMENT PERIOD

comments in each section are in general chronological order

A. VERBAL OR TEXT COMMENTS RECEIVED DURING LISTENING SESSIONS

(verbal comments paraphrased)

1. Verbal - Non-metallic mining - anything can be dumped into reclaimed into gravel pits without info provided to public. We don't know what is going into them. Some PFAS goes in from old buildings in Marinette & foundry up there. Pitched as green sand. People need to watch out for As in water too. Radon comes into basements too. PFAS comes into every angle. People just talk about radon & As. He is from Oconto Co. PFAS is not communicated to public as a health concern. How do we do that? PFAS will host COVID.

2. Verbal - Would like clarification on the paper. DNR collecting samples. Lowery answered. Site Investigation process can be slow and sometimes there is a need for quicker data. Could be DNR or somebody else.

3. Verbal - PFAS enters genetics of cell tissue. When COVID enters cell tissue it can mutate. It needs a perfect host to do perfect damage. PFAS enters human cell and can change the RNA, which can change the DNA. PFAS causes COVID issue. Blame goes on sick person. PFAS hosts COVID virus.

4. Text - What is the WIDNR doing for Madison and all the other areas in Wisconsin that are contaminated with PFAS's?

The fish tissue report is in ppb. Shouldn't it be in ppt for better understanding? That makes most of those fish tissue results in the 700 to 240,000 ppt range

I read somewhere, I can't remember where, but some indications are that 70 ppt needs to be lowered down to 1 ppt. Is that true?

So the fish are contaminated and I suspect the deer, ducks and other wildlife are also contaminated. All this water goes into Green Bay and Lake Michigan. Should you do fish samples in Green Bay and Lake Michigan?

Are you going to do wildlife testing to alert game hunters to the risk of PFAS's?

This area is in the Lake Michigan Watershed, so do you need to involve Canada in this PFAS discussion too.?

Can Wisconsin set to own PFAS's limit to protect the people of Wisconsin and force the cleanup and remediation?

5. Text - In section 4.2- would the Environmental Justice and Health Equity Advisory group have a role in decision making. Wants accountability for that group and for it to be consulted on any decisions.

6. Text - Can I assume that you will be asking for some funds to do more testing...how much and where? What is your priority for testing?

7. Text - My name is (NAME REDACTED) I am a retired environmental professional (hydrogeologist). I would like to go on the record as fully supporting the draft PFAS Action Plan. Thank you

8. Verbal - PFAS is a grandchildren problem because exposure is in utero. Woman only makes limited # of eggs. Eggs are permanently affected so this affects great grandchildren too.

9. Verbal - Most of the areas at risk of high contamination are in the manufacturing areas, airports, and military bases. But it will spread through the ground water system and air. Just like Hg. No human made chemicals are safe.

10. Verbal - Concerned about animals & wildlife. Elevated levels of PFAS found in deer. We aren't getting full picture. Need to address deer that are near biosolids fields. Not just manufacturing facilities. This was a problem in Maine. PFAS was grandfathered in. We can't assume anything is safe until proven safe.

11. Verbal - Need to consider what does success look like

12. Verbal - Section 2.2 - citizen groups & environmental groups can assist with sampling.

13. Verbal - Section 2.4 - supports prioritization of public water systems. This is important. PFAS was found in West Bend.

14. Verbal - Will monitoring be required for airports? Will there be funding available for them? WisPAC should consider that.

15. Verbal - Need rules for monitoring of landfill leachate, biosolids, wastewater, etc.

16. Text - Can you tell us where the health-based PFAS limits stand and when we can expect to find out whether the Legislature will allow the limits to finally be enacted? As you know, the state Department of Health conducted an exhaustive study before recommending limits quite some number of months ago. Given that PFAS weakens immune systems, and that we are in the midst of a deadly pandemic, what efforts have the administration and the Legislature made to speed up the rule-making process for the first two PFAS compounds and for the other DHS has evaluated

17. Verbal - Funding is a big issue. Could there be a fund to retain permits to help support actions? Could there be funding from the polluters?

18. Text - You may want to mention the book "Exposure" to everyone. by Robert Bilott

19. Verbal - Opposers of regulations are looking mainly at costs. A lot of countries are banning PFAS so this could impact our exports. Therefore, there could be costs associated with not addressing it (e.g. agriculture)

20. Text - I don't need to speak but just want to say thank you for all your work on developing this Action Plan. It's a huge undertaking and appreciate the effort and path this sets us on for addressing PFAS in the future. Clean Wisconsin will be submitting comments electronically in support.

21. Verbal - Costs are a typical complaint but industry hid the dangers for a long time. They had the opportunity to prevent contamination a long time ago.

22. Verbal - comments / suggestions for sections to add to report: 1) Success Criteria (describe what will be achieved if this effort is successful) 2) Describe alternative practices, products or chemistry's that achieve the same benefits of the PFAS chemicals. (Specific alternative strategies) 3) Where PFAS are used, what are the technologies available to remove them in the manufacturing process (to prevent environmental release)

23. Text - Can the DOD help pay for some of the testing/cleanup in Wisconsin? What are all the PFAS containing products that could be regulated? Will it focus on short, long or both

24. Verbal - is there any way the DNR can circumvent the legislature to use the TSCA and current info on the toxicity of these chemicals to remove them from the "grandfathered" status our legislature is not cooperative, we need a work around. I'm not talking about substitution, I'm talking about requiring these chemicals to go through the process we have precedent set for PRIOR to use per the TSCA.

25. Verbal - Could PFAS be regulated under CERCLA? But that may make cleanups more expensive. Would making it a CERCLA hazardous substance be beneficial?

26. Verbal - Funding is a big issue. Not enough money to address all the concerns. Legislature is saying that DNR is not asking for more money. Why isn't DNR requesting more funding or what is the miscommunication? Their legislator will work with lobbyists but not DNR. How do you make sure that your budget is being considered? JCI isn't doing enough. We need to address the potential unknowns.

27. Text - In my scientific news articles I read about the issues of PFAS weekly. We now it is a problem. We are wasting so much time reinventing the wheel.

28. Verbal - You should ask for a specific amount of money.

29. Text - If you need specific funding shortages: lack of testing of deer around the fields, lack of epidemiological testing funding, blood testing to get an idea of the extent of the contamination on the community, testing the rivers/groundwater/runoff tributaries on a regular basis to understand how water table levels and rainfall are contributing to the levels in the water testing of the agricultural products/meat/dairy/crops

B. DNR PFAS INQUIRIES EMAIL INBOX DIRECT COMMENTS

1. I would think one of the main problems with plastic in our water is identifying their origin. A professor at the University of Wisconsin, Superior, first found plastic beads in Lake Superior, and later, in the oceans. Charter Films makes plastic film for many uses, Located in Superior, Wisconsin, trucks bring in small plastic beads which are then made into various materials. The trucks back up to the terminal and beads are unloaded, but not before millions of the beads spill and escape onto the ground, which are then swept away down curbs, into drains, and ultimately into Lake Superior. The beads are never collected, cleaned up or swept up, they simply are allowed to lay outside until a rain or snow storm comes along and carry's them out to the lake. OSHA or other entities continue ignoring the problem. Enforcement is essential to stopping this damaging pollution. How do you intend to identify, regulate, serve justice and keep manufacturers in business at the same time?

2. Attached find my testimony to the State of WI in which I am concerned about fluoride toxicity in general including PFAS, water fluoridation, and fluoride-based pesticides and herbicides in the 3rd from the very bottom Word document entitled "WI PFAS fluoride pesticides.docx." As supporting documents to the water fluoridation issues and fluoride science, I attach other pdf documents. The web has been full of pesticide information and PFAS information (attachments available upon request)

3. It seems the DNR is a group that talks a lot and has lots of meetings. My observation is the DNR does very little and nothing quickly these listening session are largely a waste of time. The DNR and its workers are hiding behind the political Coronavirus since it started. Water standards need to be set and then enforced. If at some point in the future the standards need to be revised then revise them. Quit wasting everyone's time and the tax payers money. I live a short distance from where Marinette's PFAS laden sludge was dumped. I live on Lake Noquebay. Surface water can run a long ways in lake water sheds and the underground aquifer is even bigger and faster. Why aren't all wells within a mile of these former bio sludge dumping zones being tested?

4. Please allow us to introduce you to Phoenix Pure! A solution to your PFAS problem that has direct impact on so many Wisconsin communities. This new technology will give your organization a truly never-seen-before method that transforms tainted water into pure drinking water. This certainly will give you a 'fresh approach' as you prepare to present your plans to the Governor next month. Hybrid Purification Optimization(HPO) produces the purest water using the most sophisticated method in the market today. We would welcome a call or live demonstration to explain our technology further. Simply, too much for an email! Please peruse attached information at your convenience. Hopefully, then we can set a time to get together (attachment available upon request).

5. We live at (ADDRESS REDACTED) town of Peshtigo are we have not received a letter for well testing others in the area have what the reason is for not receiving one

6. Please consider a "USE AND DISCLOSURE OF DATA" attached to my submissions. This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed-in whole or in part-for any purpose other than to evaluate this proposal. However, if a contract is awarded to this offeror as a result of- or in connection with-the submission of these data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in these data if they are obtained from another source without restriction. The data subject to this restriction are contained in the emails.

7. I'm working on a project and think it's a great support to your intentions for pfas and water in general. I'm currently seeking assistance before producing a proof of concept of a modified proven concept. Basically I believe the process could thermally degrade the pfas of trash/recycling and reprocess the trash already in landfills. I believe the soil and water of pfas sites could be processed while creating revenue by utilizing the soil to exclude oxygen and injecting the water into a high temperature exhaust. I believe this process can drastically reduce nutrient loading of waters by reducing nutrient land application to what's absolutely necessary on a timely and composition basis. Please see below for more reasons. Here is a brief description and my relevance:

Thank you for accepting my email. I have been studying biofuels for years as a coping mechanism for a troubled Foster care youth and I hope to invest that into improving foster care among other things. I say this process is more relevant to pyrolysis and gasification but also relevant is anaerobic digester information. I have about \$50,000 available to invest in a proof of concept and relevant mechanical, machining and fabrication experience as well as agriculture, wastewater, trash/recycling and commercial truck driver experience.

I have about 8 years of personal time randomly invested in efficient biofuels conversion which has resulted in what I believe can be a benefit to sustainability.

- safer constant throughput pyrolysis by utilizing manure/feacies/biosolids as a void filler for crop waste/trash. Basically trucks could drop largely un-sized biomass/trash with minimal sorting to be mixed by loader which deposits mixture to a pre-pyrolysis reduction zone that facilitates continued operation. This is where pfas soil could be utilized as an air extruder and raise it's temperature to pfas decomposition levels. Basically combining variable trash or recycling medium with small particles soil/waste can be moved and compressed to air exclusion at minimal effort and the compressing wall can double as a air excluder allowing constant operation.

-post pyrolysis gas cooling/condensing by drying the manure/ human waste for efficiency.

- distribution of the uncondensed pyrolysis gas portion to bio-filters basically consisting of vertical towers functioning as trickle through anaerobic digesters in order to consume the carbon monoxide and hydrogen portions thereby producing and filtering methane gas.

- utilizing the methane/excess pyrolysis gas for large generator energy production.

- utilize the steam and nitrogen from the feces and biosolids drying injected into the generator exhaust to maximize the natural tendency for internal combustion nitrogen emissions in order to produce nitric acid.

- use the biomass char/ash as potash and place in mixer to consolidate un-marketable portions of nitric acid in the form of potassium nitrate which can be used as a fertilizer or later decomposed to form other fertilizer/product.

- post pyrolysis gasifier in order to reduce the char to ash form additionally potentially injection condensed pyrolysis fluids for operation during offline hours.

- re-introduction of char/ash to pyrolysis input for increased heat transfer.

I see this as a solution for many issues

- Global warming,
reductions from landfill emissions, reduction of wastewater treatment emissions and post treatment field distributed biosolids emissions, decomposing crop waste and manure emissions reduction.

- Government expenditures,
Wastewater treatment and trash disposal could be revenue producing by creating energy, agriculture supporting expenditures could be reduced.

- Energy production,
Methane, refined fuels and, electricity. Increasing electrical grid loads due to electric vehicle transition can be supported

- Sustainable food production,
The marketable fertilizers can sustain a good supply of food.

- Environmental sanitation,
Covid19 and other harmful things can be transferred through wastewater, distributed often to farm fields. This process could thermally sanitize the waste.

8. I strongly support the Wisconsin PFAS Action Council (WisPAC) PFAS Action Plan and encourage the State to adopt it in the interest, safety and security of all those negatively impacted by PFAS. Toxic PFAS contamination has impacted me and my community directly, I

call upon the State of Wisconsin to instate safeguards against the continued dissemination of these chemicals into our drinking, ground and surface water. Please keep the health and safety of all Wisconsinites a priority over the interests of manufacturers, industry and profits.

9. I have a quick question: will the comments that you receive be made public or will they stay internal to the DNR staff working on the Action Plan?

10. We are most interested in sharing our opinions and thoughts about the PFAS Action Council plan.

We strongly support the Wisconsin PFAS Action Council (WisPAC) PFAS Action Plan and encourage the State to adopt it in the interest, safety and security of all those negatively impacted by PFAS. We have lived within the original plume of contamination by JCI/Tyco for over 30 years, family member have illnesses associated with PFAS contamination. Since toxic PFAS contamination has impacted us and our community directly, we call upon the State of Wisconsin to instate safeguards against the continued dissemination of these chemicals into our drinking, ground and surface water. Please keep the health and safety of all Wisconsinites a priority over the interests of manufacturers, industry and profits.

11. I strongly support the Wisconsin PFAS Action Council (WisPAC) PFAS Action Plan and encourage the State to adopt it in the interest, safety and security of all those negatively impacted by PFAS. Toxic PFAS contamination has impacted me and my community directly, I call upon the State of Wisconsin to instate safeguards against the continued dissemination of these chemicals into our drinking, ground and surface water. Please keep the health and safety of all Wisconsinites a priority over the interests of manufacturers, industry and profits.

12. I strongly support the Wisconsin PFAS Action Council (WisPAC) PFAS Action Plan and encourage the State to adopt it in the interest, safety and security of all those negatively impacted by PFAS. Toxic PFAS contamination has impacted my community directly, I call upon the State of Wisconsin to instate safeguards against the continued dissemination of these chemicals into our drinking, ground and surface water. Please keep the health and safety of all Wisconsinites a priority over the interests of manufacturers, industry and profits. Make responsible corporate parties that contaminated our soil and water pay to restore!!!

13. Wis. Stat. §299.48, effective Sept 1, 2020, prohibits the use of firefighting foam containing PFAS except for emergency firefighting operations. As the DNR is aware, PFAS will go everywhere that water goes and there are no systems available to contain discharged foam and water for treatment or disposal. The shorter chain PFAS are more mobile and even more difficult to remediate. The Wisconsin State Fire Chiefs Association has been very pro-active in learning and addressing PFAS issues as they relate to firefighting foams. They have made remarkable insights into the issues to which they have not been aware of previously.

Wisconsin's fire departments have done an excellent job at returning the DNR surveys on inventorying PFAS containing firefighting foam. Many departments are in the active process of changing over to fluorine-free firefighting foams. In the recent survey, it is noted that 21 fire

departments have returned PFAS containing firefighting foam to the manufacturer. This is an excellent course of action which more Wisconsin fire departments should be encouraged to do.

There are no regulations requiring fire departments to use PFAS containing firefighting foam. Fire chiefs can make these decisions immediately without waiting for lagging federal actions.

Funding needs to be established for Wisconsin fire departments in order to properly dispose of PFAS containing firefighting foam. Chief Timothy Bantes registered his remarks on the funding required during a July DNR call and there was no response. From newspaper reports, it appears there is still no funding in place.

Testing throughout the state seems behind schedule if you will note neighboring states such as Michigan. The State of Illinois is in the process of testing 1,717 PFAS sites under USEPA Region 5.

Thank you for working through this crisis and involving the fire chiefs of Wisconsin.

14. I strongly support the Wisconsin PFAS Action Council (WisPAC) PFAS Action Plan and encourage the State to adopt it in the interest, safety and security of all those negatively impacted by PFAS. Toxic PFAS contamination has impacted me and my community directly, I call upon the State of Wisconsin to institute safeguards against the continued dissemination of these chemicals into our drinking, ground and surface water. Please keep the health and safety of all Wisconsinites a priority over the interests of manufacturers, industry and profits.

15. I strongly support the Wisconsin PFAS Action Council (WisPAC) PFAS Action Plan and encourage the State to adopt it in the interest, safety and security of all those negatively impacted by PFAS. Toxic PFAS contamination has impacted me and my community directly, I call upon the State of Wisconsin to institute safeguards against the continued dissemination of these chemicals into our drinking, ground and surface water. Please keep the health and safety of all Wisconsinites a priority over the interests of manufacturers, industry and profits.

Four years ago, my husband and I moved, with our three young children back to my childhood home -- in the Town of Peshtigo. Little did we know that we moved our family into the middle of a PFAS plume of contamination. Corporations have made billions while contaminating Wisconsin -- it is time to prioritize health and safety over corporate profits.

16. I strongly support the Wisconsin PFAS Action Council (WisPAC) PFAS Action Plan and encourage the State to adopt it in the interest, safety and security of all those negatively impacted by PFAS. Toxic PFAS contamination has impacted me and my community directly, I call upon the State of Wisconsin to institute safeguards against the continued dissemination of these chemicals into our drinking, ground and surface water. Please keep the health and safety of all Wisconsinites a priority over the interests of manufacturers, industry and profits.

17. In 2018, preliminary testing by the U.S. Army at the former 7,400-acre Badger Army Ammunition Plant in Sauk County detected multiple PFAS chemicals in groundwater at the southern plant boundary. Total concentrations of tested PFAS were found as high as 82 ng/L in areas upgradient from potable drinking water wells including the Village of Prairie du Sac. Although there is no Wisconsin standard for groundwater, the detected concentration exceeds a comparable drinking water guideline of only 20 ppt in the State of Vermont.

Following the Army report, more than 100 people – including members of the Badger Restoration Advisory Board – signed a resolution asking that the Army test all public drinking water systems within a four-mile radius of Badger for PFAS. The resolution also asked that the Army include PFAS analysis in its then-pending sampling of approximately 300 residential wells near the former military base.

To date, the Army has not tested our wells for PFAS, nor has it conducted the additional testing requested by WDNR to define the degree and extent of the contamination. As the Council is well aware, PFAS are toxic man-made chemicals that are very persistent and mobile in the environment, creating huge groundwater contaminant plumes that readily migrate miles from source areas. Exposure to certain forms of PFAS is associated with low infant birth weights, effects on the immune system, cancer and thyroid hormone disruption.

In solidarity with impacted communities across Wisconsin, we support the Wisconsin PFAS Action Council plan and urge the State to adopt it in the interest, safety and security of public health and our environment. Further, we urge the Council to recommend enforceable standards for the summed-total concentration of all detectable PFAS, not just for a handful of the thousands of known PFAS chemicals that threaten the health of our water resources and our environment.

18. My properties with wells for drinking are located just outside of the initial well testing areas where Marinette Bio sludge that was spread on fields. I think every well in the county should be tested.

1. Why aren't all wells in the county being tested?
2. Why is this whole problem detection/solution moving at a snail's pace?
3. What can be done for property without a well in the initial testing area for Marinette Bio sludge that was spread on fields? I'd like to drill a well on the property but it will be a waste of money if there are PFAS present in the water.

I'd appreciate written responses to these questions.

19. I strongly support the Wisconsin PFAS Action Council (WisPAC) PFAS Action Plan and encourage the State to adopt it in the interest, safety and security of all those negatively impacted by PFAS. I call upon the State of Wisconsin to instate safeguards against the continued dissemination of these chemicals into our drinking, ground and surface water. Please keep the health and safety of all Wisconsinites a priority over the interests of manufacturers, industry and profits.

20. I strongly support the Wisconsin PFAS Action Council (WisPAC) PFAS Action Plan and encourage the State to adopt it in the interest, safety and security of all those negatively impacted by PFAS as well as the other citizens of the State. Toxic PFAS contamination has impacted me (PFAS foam in my basement and drinking water) as well as my community directly, I call upon the State of Wisconsin to enact safeguards against the continued release of these contaminants into our air, drinking, ground and surface water. Please keep the health and safety of all Wisconsinites a priority over the interests of manufacturers, industry and profits.

21. I strongly support the Wisconsin PFAS Action Council (WisPAC) PFAS Action Plan and encourage the State to adopt it in the interest, safety and security of all those negatively impacted by PFAS. Toxic PFAS contamination has impacted me and my community directly, I call upon the State of Wisconsin to institute safeguards against the continued dissemination of these chemicals into our drinking, ground and surface water. Please keep the health and safety of all Wisconsinites a priority over the interests of manufacturers, industry and profits. Together, we can work for #peoplebeforeprofits because profits that come at the expense of human health, environment, and community economy are not actually community profits at all. #PFAS #wisconsin #foreverchemicals #fightforeverchemicals #SOH2O

22. RE 3.3 In her 10/21 DNR presentation Virginia Yingling noted that when 3M PFAS wastes were exposed to oxygen during excavation and removal, precursors were oxidized resulting in pulses of PFOS and other end products. This needs to be taken into account sooner rather than later, especially in places like Truax where new construction is taking place in PFAS contaminated soils.

RE 4.5 New types of analysis such as total fluorine (PIGE) and total oxidizable precursor assay (TOPA) should be required to better quantify the end products to which the public will be exposed. Decisions regarding exceedences and appropriate cleanup should be based on this information which should be collected from the soil at the contaminated site all the way to the drinking water at the well. This requirement is critical when dealing with military sites where standard practice apparently is to analyze a small fraction of the number of compounds for which analytical standards are available. If transparency is to be increased the formal working group process would have to be public unlike current meetings between DNR staff and DOD representatives.

23. I strongly support the Wisconsin PFAS Action Council (WisPAC) PFAS Action Plan and encourage the State to adopt it in the interest, safety and security of all those negatively impacted by PFAS. Toxic PFAS contamination has impacted me and my community directly, I call upon the State of Wisconsin to institute safeguards against the continued dissemination of these chemicals into our drinking, ground and surface water. Please keep the health and safety of all Wisconsinites a priority over the interests of manufacturers, industry and profits

24. I am grateful that for this effort to create an action to address the problem of PFAS contamination. I agree with the recommendations put out by the Sierra Club and hope that they will be given serious consideration.

- Increase testing methods for all PFAS chemicals
- Increase testing of potential environmental reservoirs of PFAS
- Regulate the PFAS chemical family, not individual chemical by chemical

- Identify all sources of exposure for regulation including Truax Air National Guard base
- Ensure the resulting policy will protect sensitive populations including low-income families living near Truax
- Prevention is a better solution than cleanup, including banning production and use. Don't bring the F-35 fighter jets to Truax - they require PFAS firefighting foam in the event of a fire.
- Disposal must not create more potentials for pollution
- Make polluters (manufacturers and industrial users of PFAS and the military) pay for the cleanup

25. Hello, I endorse the following comments made by the Sierra Club, plus the additions in bold that concern us here in Madison.

- Increase testing methods for all PFAS chemicals
- Increase testing of potential environmental reservoirs of PFAS
- Regulate the PFAS chemical family, not individual chemical by chemical
- Identify all sources of exposure for regulation including Truax Air National Guard base
- Ensure the resulting policy will protect sensitive populations including low-income families living near Truax
- Prevention is a better solution than cleanup, including banning production and use. Don't bring the F-35 fighter jets to Truax - they require PFAS firefighting foam in the event of a fire.
- Disposal must not create more potentials for pollution
- Make polluters (manufacturers and industrial users of PFAS and the military) pay for the cleanup

26. Concrete recommendations about cleanup should be upfront in this document since the largest public outcry has been about creating accountability on the dirty actors who have polluted the watershed in Madison and other sites.

Action Item 3.2

Is the Wisconsin law more or less strict than the new DOD/FAA regulations? Does the DNR further recommend not using foam in all situations (incl. testing and emergency)? How much "testing" or training will be necessary for emergency situations?

Action Item 8.2

Please be more specific about financial assurances and natural resources damage claims on pg. 104. Can we count on legislators to make it any more specific without stronger and explicit DNR recommendations?

What was missing?

The State of Michigan seems to have gotten dirty actors to take responsibility for their pollution, beyond just testing standards. What teeth has Michigan used and how could Wisconsin law enable the DNR to have teeth like those?

There is also no mention of which PFAS sites are in areas of greatest population and also no mention of the biggest actors in this environmental tragedy, the National Guard and its operations at military installations throughout the state.

General Comments

I write not as a scientist but someone who reads media. I ask you to foreground the important things, like "tools to address contaminated PFAS sites." (pg. 104) I wish that the DNR had focused its attention in the executive summary on the key measures proposed in this document that responded to the largest public outcry, which was around changing the fire-fighting foam law (pgs 42-44) and creating accountability for cleanup of the contaminated sites (pgs 101-104).

C. ONLINE SURVEY DIRECT COMMENTS

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Make the penalties for violating actually have some teeth. Don't let polluters walk away with little damage or be able to cover it with insurance!

Q33

Respondent skipped this question

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

Q34

Respondent skipped this question

Would you like to upload a written submission?

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, October 05, 2020 8:11:45 PM
Last Modified: Monday, October 05, 2020 8:20:46 PM
Time Spent: 00:09:00

Page 2

Q1

Yes

Would you like to comment on specific Action Items?

Page 3: Action Item Comments (1)

Q2

Which Action Item would you like to comment on?

1.1 Establish Science-Based Environmental Standards for PFAS

,
Add your comments here (250 character limit)::
Follow the science

Q3

Which Action Item would you like to comment on?

2.2 Facilitate Timely Collection of Environmental PFAS Data

,
Add your comments here (250 character limit)::
Are fast food places still using PFAS materials? Is cookware manufacturers using PFAS materials? What year do we need to know when they stopped using PFAS materials?

Q4

Which Action Item would you like to comment on?

Respondent skipped this question

Q5

Which Action Item would you like to comment on?

Respondent skipped this question

Q6

Which Action Item would you like to comment on?

Respondent skipped this question

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Complete banning of PFAS products in our state.

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

All chemicals that harm human and wildlife should be banned from our state. This should includes tangible products and or industrial materials.

Q34

Respondent skipped this question

Would you like to upload a written submission?

#4

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, October 06, 2020 6:51:46 AM
Last Modified: Tuesday, October 06, 2020 6:57:15 AM
Time Spent: 00:05:29

Page 2

Q1

Yes

Would you like to comment on specific Action Items?

Page 3: Action Item Comments (1)

Q2

8.2 Develop New Tools to Address PFAS Contaminated Sites

Which Action Item would you like to comment on?

Q3

Respondent skipped this question

Which Action Item would you like to comment on?

Q4

Respondent skipped this question

Which Action Item would you like to comment on?

Q5

Respondent skipped this question

Which Action Item would you like to comment on?

Q6

Respondent skipped this question

Which Action Item would you like to comment on?

Q7

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 4: Action Item Comments (2)

Q8

Respondent skipped this question

Which Action Item would you like to comment on?

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Regulation to stop or limit use of PFAS in products and or manufacturing methodologies

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

Cancer, wildlife death and environmental pollution should be stopped.pfas should not be allowed to be released or used in the environment.

Q34

Respondent skipped this question

Would you like to upload a written submission?

#5

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, October 06, 2020 10:33:09 AM
Last Modified: Tuesday, October 06, 2020 10:38:19 AM
Time Spent: 00:05:10

Page 2

Q1

Yes

Would you like to comment on specific Action Items?

Page 3: Action Item Comments (1)

Q2

Which Action Item would you like to comment on?

3.1 Partnering with Firefighting Associations & Municipal Airports on PFAS

,
 Add your comments here (250 character limit)::
 Most of our fires we use it on [15 year firefighter] could be fought with water. Like anything in the fire service, foam is a shiny new toy to be used even if it is not needed.

Q3

Which Action Item would you like to comment on?

3.2 Amend Firefighting Foam Law, Wis. Stat. § 299.48,

Add your comments here (250 character limit)::
 Use foam only for combustable metals, airport duty, etc. No "practice" "training" with it. Foam applies the same as water, no rocket science!

Q4

Respondent skipped this question

Which Action Item would you like to comment on?

Q5

Respondent skipped this question

Which Action Item would you like to comment on?

Q6

Respondent skipped this question

Which Action Item would you like to comment on?

Q7

No

Do you have more Action Items that you would like to comment on?

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

No

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

Of course some of the actions can take place concurrently. In other words dont delay the obvious best practices while you wait for the planning process and research to be completed.

Q34

Respondent skipped this question

Would you like to upload a written submission?

#7

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, October 08, 2020 10:23:34 AM
Last Modified: Thursday, October 08, 2020 10:31:28 AM
Time Spent: 00:07:54

Page 2

Q1

Yes

Would you like to comment on specific Action Items?

Page 3: Action Item Comments (1)

Q2

Which Action Item would you like to comment on?

1.1 Establish Science-Based Environmental Standards for PFAS

,
Add your comments here (250 character limit)::
You action plan begins with "Standard Setting and Rule Making" These are code words for laws. why? Let's put research and development first, let's cast a wide net of knowledge first. Laws should come last!

Q3

Which Action Item would you like to comment on?

5.1 Collaborate on and Implement Research,

Add your comments here (250 character limit)::
This should be the first action item. It has taken years to identify PFAS and the associates events thereto. How do we not know that rules implemented today will be obsolete with technology gains by the time they are enacted

Q4

Which Action Item would you like to comment on?

Respondent skipped this question

Q5

Which Action Item would you like to comment on?

Respondent skipped this question

Q6

Which Action Item would you like to comment on?

Respondent skipped this question

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Respondent skipped this question

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

As a wisconsin resident, I want clean and safe drinking water for my family. Please do everything you can to ensure our community preserves this precious resource.

Q34

Respondent skipped this question

Would you like to upload a written submission?

#9

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, October 12, 2020 10:44:37 AM
Last Modified: Monday, October 12, 2020 11:14:45 AM
Time Spent: 00:30:08

Page 2

Q1

Yes

Would you like to comment on specific Action Items?

Page 3: Action Item Comments (1)

Q2

Which Action Item would you like to comment on?

1.1 Establish Science-Based Environmental Standards for PFAS

,

Add your comments here (250 character limit)::

The science is already done. Has been for more than 20 years. Set the limit at 1 ppt (trillion) and move on to the next crisis in pollution as there are some that will never go away and many more to come.

Q3

Which Action Item would you like to comment on?

2.4 Test Public Water Systems for PFAS,

Add your comments here (250 character limit)::

Whats the delay? I have visited drinking water plants and have been told they have been testing for several years now. What about all the private wells that are contaminated with PFAS, As, and who knows what? This is terrible to happen in the US.

Q4

Which Action Item would you like to comment on?

4.5 Enhance Collaboration Between Wisconsin and Federal Agencies on PFAS Relating to Military Installations

,

Add your comments here (250 character limit)::

The USEPA has been comprimized for the last 4 years, so dont expect any help there. Take action.

Q5

Which Action Item would you like to comment on?

6.1 Develop and Support Product Stewardship Mechanisms to Reduce PFAS Use

,
Add your comments here (250 character limit)::
Industry knows exactly what is going on. They play dump very well. Their lawyers are trained to do that. I saw it first hand for more that 30 years in my chemical career.

Q6

Which Action Item would you like to comment on?

5.1 Collaborate on and Implement Research,

Add your comments here (250 character limit)::
The research has already been done. Take action.

Q7

Do you have more Action Items that you would like to comment on?

No

Page 4: Action Item Comments (2)

Q8

Which Action Item would you like to comment on?

Respondent skipped this question

Q9

Which Action Item would you like to comment on?

Respondent skipped this question

Q10

Which Action Item would you like to comment on?

Respondent skipped this question

Q11

Which Action Item would you like to comment on?

Respondent skipped this question

Q12

Which Action Item would you like to comment on?

Respondent skipped this question

Q13

Do you have more Action Items that you would like to comment on?

Respondent skipped this question

Page 5: Action Item Comments (3)

Q25

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 7: Action Item Comments (5)

Q26

Respondent skipped this question

Which Action Item would you like to comment on?

Q27

Respondent skipped this question

Which Action Item would you like to comment on?

Q28

Respondent skipped this question

Which Action Item would you like to comment on?

Q29

Respondent skipped this question

Which Action Item would you like to comment on?

Q30

Respondent skipped this question

Which Action Item would you like to comment on?

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Why are we waiting? The date and research has been done.

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

Interesting document but what a waste. Company's like 3M, Dupont, and Johnson Controls International PLC make billions of dollars a year in sales and profits. They know exactly what is going on and they cut corners all the time for profit. The legal cases from this will go on for years and nothing will get done. Look at all the Hg, As, and PCB's that are still in the environment. Thousands of new chemicals are developed every year. We are so far behind. I can only hope as a state we can take some action, but politically that will never happen. The WIDNR is run by politicians who really don't care as long as they get reelected every term. This is a major problem for the scientific community. Your agency really has no choice but to mount a major educational effort for every person in this state. Schools, church groups, and other community groups for a start. You have to hit the education route very hard. You have to get the public involved before the politicians listen, otherwise nothing gets done. Get into the community more often. Yes, now we have a Pandemic due to environmental destruction due to biodiversity loss (plants and animals). More of that will come too, but education of the public is the major key to getting things done. I have been teaching Environmental Science on and off for more than 20 years now and not much has changed. We got to get moving here. Again, education is key. It is misleading to say the Fox River has been cleaned up and clear of PCB's. Tell people the truth that you can only clean down to a certain level of PCB and the PCB level will go up slightly as the contaminated plant life and fish die and redeposit the PCB's back into the river. Coal plants continue to contaminate all the land and waterways with Hg. Why is that? Lack of education.

Q34

Would you like to upload a written submission?

WIDNR PFAS.docx (12.4KB)

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Immediate action is needed. Establish some tight standards and then go with it. You are boring many of us to death dragging this all out!

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

The DNR is moving way to slow on all this. Hiding behind or blaming Covid-19 is STUPID! Time to grow up folks.

Q34

Respondent skipped this question

Would you like to upload a written submission?

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Respondent skipped this question

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

Reading all this information is a repeat of the book "Exposure". Is the problem the USEPA because they will not act on a limit? Obviously all PFAS compounds are in the Fox River and Lake Michigan and all other waterway in the US and across the world. There are new emerging chemicals everyday. Not sure what's going to get us first, climate change or chemicals. So much data, and you will not act.

Q34

Respondent skipped this question

Would you like to upload a written submission?

#13

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, October 23, 2020 11:37:04 AM
Last Modified: Friday, October 23, 2020 1:21:33 PM
Time Spent: 01:44:29

Page 2

Q1

Yes

Would you like to comment on specific Action Items?

Page 3: Action Item Comments (1)

Q2

Which Action Item would you like to comment on?

1.1 Establish Science-Based Environmental Standards for PFAS

,
 Add your comments here (250 character limit)::
 Development of emission standards for hazardous air contaminants and implementation of a federally approved stack testing method should also include best available control technologies that are recommended to obtain achievable results.

Q3

Which Action Item would you like to comment on?

1.2 Develop Recommendations for Management of PFAS-containing Landfill Leachate

,
 Add your comments here (250 character limit)::
 Collaborate with the Waste to Energy industry to investigate the possibility of using bottom ash as a filtration media via daily cover to mitigate or sequester PFAS from entering the leachate collection system.

Q4

Which Action Item would you like to comment on?

3.3 Develop and Apply Best Management Practices (BMPs) for Proper Handling of PFAS-containing Waste

,
 Add your comments here (250 character limit)::
 Collaborate with Waste Incinerators to research the destruction of PFAS laden waste within the combustion process. Temperature and residence time acquired to complete destruction.

Q5

Which Action Item would you like to comment on?

3.4 Identify PFAS Sources and Reduce Discharges to Wastewater Facilities

,
Add your comments here (250 character limit)::
Investigate the utilization of Waste Incineration bottom ash as a daily landfill cover filter media to reduce or eliminate the potential for PFAS laden leachate to enter the WWTP.

Q6

Which Action Item would you like to comment on?

7.3 Provide Financial Tools for Local Governments,

Add your comments here (250 character limit)::
Provide financial assistance to governmental bodies to explore PFAS mitigation methods such as incineration of waste practices.

Q7

Do you have more Action Items that you would like to comment on?

No

Page 4: Action Item Comments (2)

Q8

Which Action Item would you like to comment on?

Respondent skipped this question

Q9

Which Action Item would you like to comment on?

Respondent skipped this question

Q10

Which Action Item would you like to comment on?

Respondent skipped this question

Q11

Which Action Item would you like to comment on?

Respondent skipped this question

Q12

Which Action Item would you like to comment on?

Respondent skipped this question

Q13

Do you have more Action Items that you would like to comment on?

Respondent skipped this question

Page 5: Action Item Comments (3)

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Respondent skipped this question

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

I watched the film Dark Waters which demonstrated the need to not put economics before health and environment. Money and the power of corporations is a watchout if any PFAS action plan will succeed. These are the most important bullet points: Increase testing methods for all PFAS chemicals Increase testing of potential environmental reservoirs of PFAS Regulate the PFAS chemical family, not individual chemical by chemical Identify all sources of exposure for regulation Ensure the resulting policy will protect sensitive populations Prevention is a better solution than cleanup, including banning production and use Disposal must not create more potentials for pollution Make polluters (manufacturers and industrial users of PFAS) pay for the cleanup

Q34

Respondent skipped this question

Would you like to upload a written submission?

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Respondent skipped this question

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

Please: Increase testing methods for all PFAS chemicals Increase testing of potential environmental reservoirs of PFAS Regulate the PFAS chemical family, not individual chemical by chemical Identify all sources of exposure for regulation including Truax Air National Guard base Ensure the resulting policy will protect sensitive populations including low-income families living near Truax Prevention is a better solution than cleanup, including banning production and use. Don't bring the F-35 fighter jets to Truax - they require PFAS firefighting foam in the event of a fire. Disposal must not create more potentials for pollution Make polluters (manufacturers and industrial users of PFAS and the military) pay for the cleanup. Thank you.

Q34

Respondent skipped this question

Would you like to upload a written submission?

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Respondent skipped this question

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

Please just keep it out of our water. I grew up in this neighborhood. Luckily I've used water filters for the last 20 years.

Q34

Respondent skipped this question

Would you like to upload a written submission?

#17

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, October 28, 2020 8:18:21 PM
Last Modified: Wednesday, October 28, 2020 9:00:17 PM
Time Spent: 00:41:55

Page 2

Q1

Yes

Would you like to comment on specific Action Items?

Page 3: Action Item Comments (1)

Q2

Which Action Item would you like to comment on?

4.5 Enhance Collaboration Between Wisconsin and Federal Agencies on PFAS Relating to Military Installations

,
 Add your comments here (250 character limit)::
 Prevention is a better solution than cleanup. No F-35s or anything that requires PFAS firefighting foam in the event of a fire.

Q3

Which Action Item would you like to comment on?

7.2 Launch a Collection & Disposal Program for PFAS-containing Firefighting Foam

,
 Add your comments here (250 character limit)::
 Force polluters (manufacturers and industrial users of PFAS and the military) to cover all costs for cleanup

Q4

Which Action Item would you like to comment on?

Respondent skipped this question

Q5

Which Action Item would you like to comment on?

Respondent skipped this question

Q6

Which Action Item would you like to comment on?

Respondent skipped this question

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Respondent skipped this question

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

All sources of PFAS as a family of chemicals should be considered. Public water supplies must be protected. New projects such as the F-35s at Truax should be cancelled or postponed until alternative means of fire suppression can be found.

Q34

Respondent skipped this question

Would you like to upload a written submission?

#19

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, October 29, 2020 5:37:17 AM
Last Modified: Thursday, October 29, 2020 5:42:26 AM
Time Spent: 00:05:08

Page 2

Q1

Yes

Would you like to comment on specific Action Items?

Page 3: Action Item Comments (1)

Q2

Which Action Item would you like to comment on?

1.1 Establish Science-Based Environmental Standards for PFAS

,

Add your comments here (250 character limit)::

humans should have a human right to clean water, free of cancer causing agents.

Q3

Which Action Item would you like to comment on?

Respondent skipped this question

Q4

Which Action Item would you like to comment on?

Respondent skipped this question

Q5

Which Action Item would you like to comment on?

Respondent skipped this question

Q6

Which Action Item would you like to comment on?

Respondent skipped this question

Q7

Do you have more Action Items that you would like to comment on?

Respondent skipped this question

Page 4: Action Item Comments (2)

#20

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, October 29, 2020 8:42:23 AM
Last Modified: Thursday, October 29, 2020 8:53:02 AM
Time Spent: 00:10:38

Page 2

Q1

Yes

Would you like to comment on specific Action Items?

Page 3: Action Item Comments (1)

Q2

Which Action Item would you like to comment on?

5.3 Collect Data on Drinking Water Treatment and Costs,

Add your comments here (250 character limit)::

The costs should be covered by the manufacturers and industrial users of PFAS, including the military!

Q3

Which Action Item would you like to comment on?

3.1 Partnering with Firefighting Associations & Municipal Airports on PFAS

,

Add your comments here (250 character limit)::

Reduce the incidence and need for large-scale use of firefighting PFAS - including F-35s!

Q4

Which Action Item would you like to comment on?

4.2 Facilitate Environmental Justice and Health Equity in Wisconsin Communities

,

Add your comments here (250 character limit)::

Priority must be given to those in high risk areas and lower access to quality healthcare/treatment.

Q5

Which Action Item would you like to comment on?

6.2 Minimize the state's purchase of PFAS-containing products

,

Add your comments here (250 character limit)::

This is key to reduction/costs. This is what the community needs now as responsible environmental/public health leadership.

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Respondent skipped this question

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

I am very concerned about noise. Having F-35 aircraft taking off and landing will create a level of noise pollution in Madison that will severely deteriorate quality of life, especially for those living near the airport (including many economically challenged people).

Q34

Respondent skipped this question

Would you like to upload a written submission?

#26

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Sunday, October 25, 2020 9:37:26 AM
Last Modified: Thursday, October 29, 2020 3:00:46 PM
Time Spent: Over a day

Page 2

Q1

Yes

Would you like to comment on specific Action Items?

Page 3: Action Item Comments (1)

Q2

Which Action Item would you like to comment on?

1.1 Establish Science-Based Environmental Standards for PFAS

, Add your comments here (250 character limit)::

I agree with another reviewer that expedited state action, such as emergency rule development should be included in the Action item.

Q3

Which Action Item would you like to comment on?

2.4 Test Public Water Systems for PFAS,

Add your comments here (250 character limit)::

This Action Item is extremely important. Drinking water utilities need to be required to test regularly and to disclose results to their constituents.

Q4

Which Action Item would you like to comment on?

4.1 Develop PFAS Risk Communication Infrastructure,

Add your comments here (250 character limit)::

The presence of PFAS and its risks need to be communicated in ways that are accessible to all. Contaminated surface water should be marked with signs, not just redirecting to a website. The internet is not accessible to all.

Q5

Which Action Item would you like to comment on?

5.1 Collaborate on and Implement Research,

Add your comments here (250 character limit)::

All are good ideas, but toxicology seems to be absent or at least minimized on the list of research topics. Specific compound toxicology is needed for standards to be developed and therefore should be prioritized.

Q6

Which Action Item would you like to comment on?

**6.1 Develop and Support Product Stewardship
Mechanisms to Reduce PFAS Use**

,
Add your comments here (250 character limit)::
This is a great idea and it is really important that this is implemented.

Q7

Do you have more Action Items that you would like to comment on?

No

Page 4: Action Item Comments (2)

Q8

Which Action Item would you like to comment on?

Respondent skipped this question

Q9

Which Action Item would you like to comment on?

Respondent skipped this question

Q10

Which Action Item would you like to comment on?

Respondent skipped this question

Q11

Which Action Item would you like to comment on?

Respondent skipped this question

Q12

Which Action Item would you like to comment on?

Respondent skipped this question

Q13

Do you have more Action Items that you would like to comment on?

Respondent skipped this question

Page 5: Action Item Comments (3)

Q14

Which Action Item would you like to comment on?

Respondent skipped this question

Page 7: Action Item Comments (5)

Q26

Respondent skipped this question

Which Action Item would you like to comment on?

Q27

Respondent skipped this question

Which Action Item would you like to comment on?

Q28

Respondent skipped this question

Which Action Item would you like to comment on?

Q29

Respondent skipped this question

Which Action Item would you like to comment on?

Q30

Respondent skipped this question

Which Action Item would you like to comment on?

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

The DNR needs to urge the EPA to list PFOA and PFOS (at a minimum!) as hazardous substances. The scientific community has proven that these two compounds are hazardous. Contamination of these compounds needs to be dealt with. Recognizing them as hazardous will help.

Q33

Respondent skipped this question

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

Q34

Respondent skipped this question

Would you like to upload a written submission?

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

NO F-35's.

Q33

Respondent skipped this question

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

Q34

Respondent skipped this question

Would you like to upload a written submission?

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Yes

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

As a Licensed Midwife caring for pregnant people and their babies in this community, I am asking you to please increase testing methods for all PFAS chemicals, increase testing of potential environmental reservoirs of PFAS, regulate the PFAS chemical family, not individual chemical by chemical, Identify all sources of exposure for regulation, ensure the resulting policy will protect sensitive populations, prevention is a better solution than cleanup, including banning production and use, disposal must not create more potentials for pollution, make polluters (manufacturers and industrial users of PFAS) pay for the cleanup.

Q34

Respondent skipped this question

Would you like to upload a written submission?

#30

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, October 30, 2020 8:48:11 PM
Last Modified: Friday, October 30, 2020 9:17:42 PM
Time Spent: 00:29:31

Page 2

Q1

Yes

Would you like to comment on specific Action Items?

Page 3: Action Item Comments (1)

Q2

Which Action Item would you like to comment on?

8.2 Develop New Tools to Address PFAS Contaminated Sites

,

Add your comments here (250 character limit)::

Insufficient science is available to justify broad DNR power to set liability for chemicals with little related science confirming human health effects. This would result in a negative impact on the state without clear health benefits.

Q3

Respondent skipped this question

Which Action Item would you like to comment on?

Q4

Respondent skipped this question

Which Action Item would you like to comment on?

Q5

Respondent skipped this question

Which Action Item would you like to comment on?

Q6

Respondent skipped this question

Which Action Item would you like to comment on?

Q7

No

Do you have more Action Items that you would like to comment on?

Page 4: Action Item Comments (2)

#31

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Saturday, October 31, 2020 11:45:59 AM
Last Modified: Saturday, October 31, 2020 12:16:08 PM
Time Spent: 00:30:08

Page 2

Q1

Yes

Would you like to comment on specific Action Items?

Page 3: Action Item Comments (1)

Q2

Which Action Item would you like to comment on?

1.1 Establish Science-Based Environmental Standards for PFAS

,
Add your comments here (250 character limit)::
Support standards like neighboring states and consider commonly used PFAS not just PFOA and PFOS. Reviewing standards will be an important part of the process. Support considering standards as a part of an expedited process under emergency rules.

Q3

Which Action Item would you like to comment on?

1.2 Develop Recommendations for Management of PFAS-containing Landfill Leachate

,
Add your comments here (250 character limit)::
Minimizing this source of contamination will be important as WWTPs tend to receive PFAS from multiple sources and should have guidance on how to safely manage PFAS in water and biosolids. An important part of this process is source identification.

Q4

Which Action Item would you like to comment on?

2.1 Expanding PFAS Site Identification Using GIS Mapping

,
Add your comments here (250 character limit)::
Important for outreach and education. There have been concerns relating to making certain private properties that are contaminated publicly available give the damage that is known to be put on property owners through a loss in property value.

Q5

Which Action Item would you like to comment on?

2.4 Test Public Water Systems for PFAS,

Add your comments here (250 character limit)::

Helps to set standards properly. WI testing will provide an idea of how much compliance costs are, how many facilities need to install treatment, size facilities, what facilities have alternative ways to comply – all impact the estimated cost.

Q6

Which Action Item would you like to comment on?

3.1 Partnering with Firefighting Associations & Municipal Airports on PFAS

,

Add your comments here (250 character limit)::

Providing funding/resources through a grant program to assist fire depts in disposing of existing PFAS foam stock could reduce exposure and help dispose of more PFAS more quickly. Providing resources may also lead to benefits of less clean-up events

Q7

Do you have more Action Items that you would like to comment on?

Yes

Page 4: Action Item Comments (2)

Q8

Which Action Item would you like to comment on?

3.3 Develop and Apply Best Management Practices (BMPs) for Proper Handling of PFAS-containing Waste

,

Add your comments here (250 character limit)::

In the interest of protecting public health especially in rural parts of the state, we support BMPs for land spreading and disposal of biosolids and WWTP sludges.

Q9

Which Action Item would you like to comment on?

3.4 Identify PFAS Sources and Reduce Discharges to Wastewater Facilities

,

Add your comments here (250 character limit)::

Require wastewater treatment plants to test for PFAS and work together in a collaboratively way to identify sources of PFAS pollution up stream – similar to Michigan. Goal should be to eliminate sources of PFAS and reduce burden on WWTP.

Q10

Which Action Item would you like to comment on?

4.2 Facilitate Environmental Justice and Health Equity in Wisconsin Communities

,
Add your comments here (250 character limit)::
Priorities resources/efforts in communities disproportionately impacted by PFAS. Consider those more heavily dependent on sustenance fishing the interactive effects of pollutants and lack of resources and capital for monitoring and cleanup.

Q11

Which Action Item would you like to comment on?

6.1 Develop and Support Product Stewardship Mechanisms to Reduce PFAS Use

,
Add your comments here (250 character limit)::
Support one Product Stewardship position at DATCP to review, in conjunction with neighboring states, responsible product stewardship and study comprehensive and informative labeling for consumer protection as well as identifying alternative products

Q12

Which Action Item would you like to comment on?

7.2 Launch a Collection & Disposal Program for PFAS-containing Firefighting Foam

,
Add your comments here (250 character limit)::
Support creating a grant program with the priority being on disposal to reduce and prevent environmental exposure. Reduce the risk of costly clean-ups in the future and incentivizes switching to safer alternatives now.

Q13

Do you have more Action Items that you would like to comment on?

Yes

Page 5: Action Item Comments (3)

Q14

Which Action Item would you like to comment on?

7.3 Provide Financial Tools for Local Governments,

Add your comments here (250 character limit)::
Support grant program but want to make sure that all the information and testing efforts are coordinated and shared on a statewide level. Should consider EJ and communities that may be more vulnerable than others being a priority for funding.

Q15

Which Action Item would you like to comment on?

8.2 Develop New Tools to Address PFAS Contaminated Sites

,
Add your comments here (250 character limit)::
Support creating an Action Fund for moneys collected by DNR for future DNR use relating to PFAS. Responsible parties should pay for the cleanup, but priority needs to be on providing access to clean drinking water to those without immediately

Q16

Which Action Item would you like to comment on?

Respondent skipped this question

Q17

Which Action Item would you like to comment on?

Respondent skipped this question

Q18

Which Action Item would you like to comment on?

Respondent skipped this question

Q19

Do you have more Action Items that you would like to comment on?

No

Page 6: Action Item Comments (4)

Q20

Which Action Item would you like to comment on?

Respondent skipped this question

Q21

Which Action Item would you like to comment on?

Respondent skipped this question

Q22

Which Action Item would you like to comment on?

Respondent skipped this question

Q23

Which Action Item would you like to comment on?

Respondent skipped this question

Q24

Which Action Item would you like to comment on?

Respondent skipped this question

Q25

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 7: Action Item Comments (5)

Q26

Respondent skipped this question

Which Action Item would you like to comment on?

Q27

Respondent skipped this question

Which Action Item would you like to comment on?

Q28

Respondent skipped this question

Which Action Item would you like to comment on?

Q29

Respondent skipped this question

Which Action Item would you like to comment on?

Q30

Respondent skipped this question

Which Action Item would you like to comment on?

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Respondent skipped this question

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

Support rulemaking for PFAS in drinking water, surface water, and groundwater. Priority needs to be on statewide testing and identifying where PFAS is in the state.

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Respondent skipped this question

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

- Increase testing methods for all PFAS chemicals
- Increase testing of potential environmental reservoirs of PFAS
- Regulate the PFAS chemical family, not individual chemical by chemical
- Identify all sources of exposure for regulation including Truax Air National Guard base
- Ensure the resulting policy will protect sensitive populations including low-income families living near Truax
- Prevention is a better solution than cleanup, including banning production and use. Don't bring the F-35 fighter jets to Truax - they require PFAS firefighting foam in the event of a fire.
- Disposal must not create more potentials for pollution
- Make polluters (manufacturers and industrial users of PFAS and the military) pay for the cleanup

Q34

Respondent skipped this question

Would you like to upload a written submission?

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Yes, I am wondering how you are communicating with key Wisconsin populations on final document and outreach that may have a primary language other than English?

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

see attached. thank you.

Q34

Would you like to upload a written submission?

WisPAC-ActionPlanComment-10-31-20.pdf.docx (13.7KB)

#34

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Saturday, October 31, 2020 8:21:02 PM
Last Modified: Saturday, October 31, 2020 8:31:16 PM
Time Spent: 00:10:13

Page 2

Q1

Yes

Would you like to comment on specific Action Items?

Page 3: Action Item Comments (1)

Q2

Which Action Item would you like to comment on?

4.2 Facilitate Environmental Justice and Health Equity in Wisconsin Communities

,
 Add your comments here (250 character limit)::
 What is the plan to assess effective implementation of facilitating environmental justice and health equity in Wisconsin Communities?

Q3

Which Action Item would you like to comment on?

4.5 Enhance Collaboration Between Wisconsin and Federal Agencies on PFAS Relating to Military Installations

,
 Add your comments here (250 character limit)::
 "Finding funding alternatives" is a phrase that occurs. The military is the responsible party and should pay for this. Embedding F-35s at Truax is adding fuel to this fire.

Q4

Which Action Item would you like to comment on?

Respondent skipped this question

Q5

Which Action Item would you like to comment on?

Respondent skipped this question

Q6

Which Action Item would you like to comment on?

Respondent skipped this question

Q27

Respondent skipped this question

Which Action Item would you like to comment on?

Q28

Respondent skipped this question

Which Action Item would you like to comment on?

Q29

Respondent skipped this question

Which Action Item would you like to comment on?

Q30

Respondent skipped this question

Which Action Item would you like to comment on?

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

Clearly what is missing is holding the parties responsible for creating this problem to account. That includes, with regards to Truax, the military. What a disaster for the state of Wisconsin, our beautiful lakes, wildlife and people. Epoch disaster.

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

It is impressive in scope and seems like a loosely woven almost unwieldy plan at this point, but something that could be effective with good leadership and money.

Q34

Respondent skipped this question

Would you like to upload a written submission?

#36

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Saturday, October 31, 2020 6:27:34 PM
Last Modified: Saturday, October 31, 2020 10:18:35 PM
Time Spent: 03:51:01

Page 2

Q1

Yes

Would you like to comment on specific Action Items?

Page 3: Action Item Comments (1)

Q2

Which Action Item would you like to comment on?

3.2 Amend Firefighting Foam Law, Wis. Stat. § 299.48,
 Add your comments here (250 character limit)::
 Is the Wisconsin law more or less strict than the new
 DOD/FAA regulations? Does the DNR further recommend
 not using foam in all situations (incl. testing and
 emergency)? How much "testing" or training will be
 necessary for emergency situations?

Q3

Which Action Item would you like to comment on?

8.2 Develop New Tools to Address PFAS Contaminated Sites
 ,
 Add your comments here (250 character limit)::
 Please be more specific about financial assurances and
 natural resources damage claims on pg. 104. Can we count
 on legislators to make it any more specific without stronger
 and explicit DNR recommendations?

Q4

Respondent skipped this question

Which Action Item would you like to comment on?

Q5

Respondent skipped this question

Which Action Item would you like to comment on?

Q6

Respondent skipped this question

Which Action Item would you like to comment on?

Q27

Respondent skipped this question

Which Action Item would you like to comment on?

Q28

Respondent skipped this question

Which Action Item would you like to comment on?

Q29

Respondent skipped this question

Which Action Item would you like to comment on?

Q30

Respondent skipped this question

Which Action Item would you like to comment on?

Q31

Respondent skipped this question

Do you have more Action Items that you would like to comment on?

Page 8: General Comments

Q32

Do you have concerns about PFAS that are not addressed in the PFAS Action Plan? In the box below, briefly describe what you think is missing from the plan (500 character limit).

The State of Michigan seems to have gotten dirty actors to take responsibility for their pollution, beyond just testing standards. What teeth has Michigan used and how could Wisconsin law enable the DNR to have teeth like those? There is also no mention of which PFAS sites are in areas of greatest population and also no mention of the biggest actors in this environmental tragedy, the National Guard and its operations at military installations throughout the state.

Q33

Do you have any other general comments on the PFAS Action Plan? (500 character limit)

I write not as a scientist but someone who reads media. I ask you to foreground the important things, like "tools to address contaminated PFAS sites." (pg. 104) I wish that the DNR had focused its attention in the executive summary on the key measures proposed in this document that responded to the largest public outcry, which was around changing the fire-fighting foam law (pgs 42-44) and creating accountability for cleanup of the contaminated sites (pgs 101-104).

Q34

Respondent skipped this question

Would you like to upload a written submission?

D. ATTACHMENTS TO ONLINE SURVEY OR EMAILS



WAMA

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MANAGEMENT ASSOCIATION

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Michael Stephens
Madison

Matt Grenoble
Sheboygan

Richard Brekke
Cumberland

TO: WI PFAS Action Council (WisPAC)

**FROM: WI Airport Management Association,
Brian Grefe, President & Lisa Maroney, Executive Director**

DATE: October 7, 2020

Thank you for allowing us the opportunity to comment on the WI PFAS Action Plan. It is an extensive document covering a wide range of issues relating to PFAS and the Council and DNR staff should be commended for its development. Our comments below are specific to items relating to airports.

1. Current Agency Responses to PFAS, p. 8, DOT, Bullet 3

The third sub-bullet states, "This is more dependent on the relationship each airport has with their FAA regional certification inspector." This is incorrect; 14 CFR Part 139.317 and supporting FAA Advisory Circulars very specifically requires airport to maintain, use, and ensure the functionality of AFFF and apparatuses. The standard and application is the same for all airports. We request the language be removed.

2. 2.1 Expanding PFAS Site ID Using GIS Mapping

In the background summary, 3rd bullet, airports are listed as using AFFF for industrial application. Airports are no different than fire departments who have used AFFF for testing, training and emergency applications. Airports, as with fire departments, are governmental entities and not industries. PFAS is not "directly used in industrial applications". We request that language be removed or modified.

In the Action section, we are very concerned about the database listing known and potential PFAS sources. As we have already seen at one WI airport, just because the DNR has identified PFAS at a site **DOES NOT** mean it is the source of contaminated groundwater, wells, etc. We believe the DNR should not list "potential" source information for PFAS impacted areas. Source information should only be included in a public website when the source has been indisputably confirmed.

3. 3.1 Partnering with Firefighting Associations and Municipal Airports on PFAS

We support participation in a collaborative partnership with the state between us and the various firefighting groups. Discussion and sharing of information between like parties benefits each group and ultimately the citizens of Wisconsin.

4. **3.2 Amend Firefighting Foam Law, WI Statute 299.48**

Generally, we support state law mirroring federal law as it relates to prohibiting the use of firefighting foam containing PFAS. We are, however, very concerned about how that language might be drafted. Our greatest concern is the state unintentionally prohibits airports from using fluorinated foam before there are safe alternatives available and approved by the FAA.

The 2018 FAA Reauthorization Act (sec 332.) says, “not later than 3 years after the date of enactment...(FAA) shall not require the use of fluorinated chemicals to meet performance standards...” **This is not an outright ban on using fluorinated foams, but rather provides the option for airports to use fluorine-free foams (assuming FAA approves some), if airports choose to do so.** By October, 2021, the FAA is required to stop requiring that PFAS foam be used. While the date given to FAA to approve some fluorine free foams is October 5, 2021, it is questionable if they will meet it, thus the concern about inserting actual dates in state statute. **Again, the 2018 FAA language is not a ban on using PFAS and any change to state statute should clearly reflect that, rather than inserting a prohibition date that does not reflect Congressional action.**

Lastly, in the Action item it states, “The state should assist fire departments with funds to transition their foam inventory to non-fluorinated foams.” We request that airports also be included in this assistance program.

5. **7.2 Collection & Disposal Program for PFAS**

Again, we request that airports also be included in this program. It is especially important for participation if indeed an effective fluorinated foam alternative is developed and approved by the FAA.

6. **8.2 Develop New Tools to Address PFAS Contaminated Sites**

We do not think it is appropriate to apply natural resource damage claims against airports or fire departments because our use is solely for public safety and we are municipal entities. The only reason airports use PFAS containing foam is that it's the most effective tool in saving lives during a fire and is required by the FAA. We urge you to consider a provision that would exempt airports and fire departments from any and all liability for the use of PFAS containing foam and would further recommend a clean-up fund for municipal entities.

Again, thank you for allowing us input and we look forward to working with you in the future. Please do not hesitate to contact us if you desire additional information.

Delivered via electronic mail

October 8, 2020

Wisconsin Department of Natural Resources
Secretary Preston Cole
101 South Webster St.
P.O. Box 7921
Madison, WI 53707-7921
Preston.Cole@wisconsin.gov

RE: PFAS Testing—The Public Right to Know

Secretary Cole:

The undersigned organizations respectfully request that the Wisconsin Department of Natural Resources (DNR) order public water systems within the state to test for per- and polyfluoroalkyl substances (PFAS).¹ The people of Wisconsin have a right to know if their drinking water is contaminated with toxic chemicals, and the only way to obtain that information is through widespread, comprehensive testing.

Testing for PFAS is a crucial first step to protecting public health. These chemicals are extremely dangerous because they persist in the environment and build up in the human body over time. PFAS have been linked to an increased risk for a wide range of adverse health impacts, including certain types of cancer, reproductive and developmental problems, thyroid hormone disruption, high cholesterol, ulcerative colitis, and more.

Pregnant mothers and infants are particularly important populations to protect from exposure due to the vulnerability of developing babies and the potential presence of PFAS in blood, placenta, amniotic fluid, and breast milk. Drinking contaminated water is the most easily preventable exposure pathway, and reducing exposure can significantly improve public health outcomes. But that only works if the public knows when their water is contaminated.

Wisconsin is significantly lagging behind other Great Lakes states like Michigan, Minnesota, Ohio, and Illinois when it comes to systematically testing public water supplies. Michigan, for example, started a statewide sampling initiative in 2018 with the goal of verifying that public water supplies, schools, daycares, and Tribal systems are protective of the populations they serve. Nearly every one of those systems was tested, and elevated concentrations of PFAS were detected in public water systems that together serve nearly half a million people.²

¹ DNR has explicit authority to issue orders requiring testing of unregulated contaminants like PFAS. Wis. Stat. § 280.11; Wis. Stat. § 281.17(8); Wis. Admin. Code NR § 809.73.

² AECOM, 2018 PFAS Sampling of Drinking Water Supplies in Michigan (July 26, 2019), available at https://www.michigan.gov/documents/pfasresponse/2018_PFAS_Sampling_of_Drinking_Water_Supplies_in_Michigan_663543_7.pdf.

We support DNR's ongoing rulemaking efforts to regulate PFAS but also understand that those rulemakings will not be finalized for years. And while DNR may request testing as part of those rulemakings, such a request is not an order and is therefore unenforceable. Public water systems may simply refuse to test for PFAS, just as wastewater treatment plants refused a similar request last year.³

Furthermore, testing is needed for all PFAS that are detectable in drinking water, not just PFOA and PFOS, which are the only two PFAS that currently proposed administrative rules will address. PFAS exist in the world as complex, inconsistent, and transforming mixtures. Individual compounds are rarely if ever detected in humans by themselves, and exposure to multiple toxic chemicals at the same time can increase the risk of adverse health impacts. Testing for all detectable PFAS would also be consistent with drinking water sampling at known priority sites like the Tyco/JCI site in Marinette.

The people of Wisconsin cannot afford to wait any longer. They need to know if their drinking water is contaminated with PFAS or not. Each day the public is deprived of that information is another day that exposure to these toxic chemicals could have been prevented.

Thank you for your attention to this important matter. Please let us know if you would like to discuss any questions or concerns that arise as you consider our request.

Sincerely,

Tony Wilkin Gibart, Midwest Environmental Advocates
tgibart@midwestadvocates.org; (608) 251-5047 x 4

Laura Olah, Citizens for Safe Water Around Badger
info@cswab.org; (608) 643-3124

Carly Michiels, Clean Wisconsin
cmichiels@cleanwisconsin.org; (608) 251-7020 x 30

Jennifer Giegerich, Wisconsin Conservation Voters
jennifer@conservationvoters.org; (608) 661-0845

Tom Kilian, Citizens for a Clean Wausau
Dean Hoegger, Clean Water Action Council of NE Wisconsin
Dale and Lea Jane Burie, Coalition to SAVE the Menominee River, Inc.
Vicki Quint, Code PFAS

³ Chris Hubbuch, *Sewage treatment plants pass on DNR request for PFAS testing*, WISCONSIN STATE JOURNAL (Oct. 19, 2019), available at https://madison.com/wsj/news/local/environment/sewage-treatment-plants-pass-on-dnr-request-for-pfas-testing/article_381916c1-b7c4-5308-9a47-01f75c1c2087.html.

Melody Morrell, The Cornucopia Institute
Forest Janke, Crawford Stewardship Project
John Peck, Family Farm Defenders
Lance Green, Friends of Starkweather Creek
Eric Uram, Headwater LLC
Debra Cronmiller, League of Women Voters of Wisconsin
Shedd and Caroline Farley, Linda and Gene Farley Center for Peace, Justice & Sustainability
Matthew Reetz, Madison Audubon
Maria Powell, PhD, Midwest Environmental Justice Organization
Cheryl Nenn, Milwaukee Riverkeeper
Brenda Coley and Kirsten Shead, Milwaukee Water Commons
Kelly Lundeen and John LaForge, Nukewatch
Laura Olah, PFAS Community Campaign
Amy Schulz, RN, and Ann Behrmann, MD, Physicians for Social Responsibility Wisconsin
Nancy Koch, Protect Wood County and It's Neighbors
Raj Shukla, River Alliance of Wisconsin
Vicki Berenson, Safe Skies Clean Water Wisconsin
Jeff Lamont and Cindy Boyle, Save Our Water (SOH20)
Elizabeth Ward, Sierra Club – John Muir Chapter
Tom Lukens, Valley Stewardship Network
Megan Severson, Wisconsin Environment
Claire Gervais, MD, and Beth Neary, MD, Wisconsin Environmental Health Network
Sarah Metzel, Wisconsin Public Interest Research Group
Al Gedicks, Wisconsin Resources Protection Council
Mike Kuhr, Wisconsin Trout Unlimited
George Meyer, Wisconsin Wildlife Federation

Cc: Governor Tony Evers
Beth Bier
Todd Ambs
Cheryl Heilman
Darsi Foss
Jim Zellmer
Adam DeWeese



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BROWNFIELDS STUDY GROUP
since 1998

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October 14, 2020

Via Email

Ms. Melanie Johnson
Office of Emerging Chemicals
Wisconsin Department of Natural Resources
P.O. Box 7921
Madison, WI 53707-7921

Re: Wisconsin PFAS Action Council – Proposed PFAS Action Plan

Dear Ms. Johnson:

On behalf of the Wisconsin Brownfields Study Group, we are submitting suggested revisions and comments on several proposed recommendations of the Wisconsin PFAS Action Council. In order to facilitate the Council's review, a redline/strikeout version of the proposed Plan is provided.

The Brownfields Study Group was organized in 1998 by the Wisconsin Legislature for the purpose of evaluating and promoting laws, rules, and policies that foster the redevelopment of contaminated properties. A key aspect of our mission is to facilitate and promote the redevelopment of contaminated land in a manner that not only is protective of the environment but also returns the property to productive use. From that perspective, an overarching concern with the recommendations are two-fold: (1) they should build on existing brownfields programs (as opposed to creating a new PFAS regulatory/grant program) and (2) they should recognize that creating unnecessary costs and barriers to brownfields redevelopment will, in practice, deter remediation and redevelopment, creating blighted properties, deteriorated neighborhoods, reduced tax base and tax revenue, and increased social costs. In short, the Brownfields Study Group urges that the mistakes of the 1990s when (well intentioned) remediation programs were first set up by the Department (and which unintentionally stymied distressed property redevelopment) not be repeated in the effort to address PFAS.

Members of the Brownfields Study Group are available to discuss the comments with you at your convenience.

Very truly yours,

Mark A. Thimke / Dave Misky
Co-Chairs, Brownfields Study Group

1.1 Establish Science-Based Environmental Standards for PFAS

Background

As part of the state's groundwater law, the Wisconsin Department of Natural Resources (DNR) is required to maintain a list of substances that have been discovered in groundwater or have a reasonable probability of entering groundwater, and to routinely provide those lists to the Wisconsin Department of Health Services (DHS) for groundwater standard recommendations. In March 2018, DNR requested that DHS provide a groundwater enforcement standard for two of approximately 4,000 PFAS substances: PFOA and PFOS. In April of 2019, the DNR requested groundwater enforcement standards for an additional 34 PFAS substances.

Having clear, consistent and science-based environmental standards is a DNR priority for the protection of public health safety, welfare, and the environment for the citizens of the State of Wisconsin. The DNR establishes science-based environmental standards as part of its mission, including standards for:

- Safe drinking water in NR 809
- Groundwater in NR 140
- Water quality, and possibly biosolids, in NR 102-211
- Soil standards in NR 720
- Development of emission standards for hazardous air contaminants in the NR 400 rule series
- Site-specific sediment standards in NR 722

Action

WisPAC recommends that state agencies take pro-active and consistent action towards establishing science-based environmental standards for PFAS. Standards should be developed in a manner that recognizes new science but also provides certainty for entities working to address PFAS concerns through treatment, remediation and/or brownfield redevelopment to address the expanding number of PFAS compounds of emerging concern in a variety of environmental media and substances.

~~The~~ When appropriate the DNR should routinely send PFAS related substance recommendations to DHS, consistent with ch. 160, Wis. Stats., the state's Groundwater Law and when appropriate initiate. ~~Upon receiving the groundwater enforcement standard recommendation, DNR should also simultaneously begin rulemaking for PFAS standards for those substances in surface water, and drinking water.~~ In addition, DNR should update the ch. NR 720 soil direct contact and soil-to-groundwater cleanup standards as well as establishing guidelines through rule or guidance for land application of biosolids. Further, DNR should work with the U.S. Environmental Protection Agency's (EPA) Office of Research and Development, academia, other states, stakeholders and

Department of Defense to identify a model for calculating a ch. NR 720 soil standard for PFAS substances that would be protective of groundwater.

Finally, the DNR should continue to work with EPA on the implementation of a federally approved stack testing method and monitoring method, technical information to consider when evaluating best available control technology and the development of federal air toxics standards for PFAS.

Additional supporting actions include:

- Evaluating the necessity of establishing PFAS standards for biosolids, solid waste, and sediment.
- Evaluating the necessity of adding PFAS to the list of hazardous constituents under the ch. NR 600 rule series.

Time to initiate: Parts of this action are already underway. The Rulemaking process has started for PFOA and PFOS for groundwater, surface water and drinking water with approximately 30 months to complete.

Additional work is required and would be implemented on an ongoing basis, driven by future DNR requests for PFAS substance groundwater standard recommendations from DHS, and DHS providing those health-based recommendations upon which other media-specific standards would be developed.

Proposed lead agency: DNR

Proposed partnerships: DHS, EPA (Office of Research and Development) academia, other states, stakeholders and Department of Defense)

Type of action: Budgetary Legislative Administrative (rulemaking)

Reason for Action: Having science-based standards provides the regulated community and the public with a clear benchmark on what level of PFAS in the air, land or water is protective or actionable under state law. This allows the regulated community and brownfields redevelopers to determine how to address the contaminated media and the costs of those actions. Establishing standards for PFAS removes regulatory uncertainty for municipalities, businesses, and the public.

Anticipated resource needs: It is expected that additional funding and staff for rule writing, toxicity research, sampling to develop economic analyses are required to support full and efficient implementation of this action in the long term.

Additional Information: The following comments or proposed actions related to this action were forwarded through the Local Government external advisory group:

- “The WisPAC Action Plan should include expedited state action, such as emergency rule development or executive order, to develop interim statewide clean-up standards for soil and groundwater.”
- “The WisPAC Action Plan should direct state researchers to gather and assess data on chemical toxicity and environmental exposures for PFAS of highest concern; health impacts...”

The following comments or proposed actions related to this action were forwarded through the Citizens external advisory group:

- “Provide greater flexibility in code/statute to address additional compounds (e.g., water quality values) as knowledge base increases.”
- “Expand toxicology understanding.”
- “PAG participants expressed a desire for clearer definition of the proposal to “expand” our understanding of PFAS toxicology. This could be through encouraging the U.S.EPA to address toxicology, as one of the pillars of the February 2019 federal PFAS Action Plan, more quickly.”
- “Evaluate legislative solutions to allow local government/municipalities to set and implement more restrictive standards to address local PFAS issues and concerns.”
- “Consider impacts of federal or state preemption of state or local standards, respectively.”
- “A PAG participant suggested that municipalities should set more stringent standards than state law.”

Establishing environmental standards for PFAS was one of the most commonly addressed topics received from the public during WisPAC’s initial public outreach via an online survey in February 2020.

Comment

In general, the Brownfields Study Group agrees with the establishment of science-based standards for PFAS. However, success in brownfield redevelopment in the State of Wisconsin over the past 20+ years is based on eliminating uncertainties with regard to case closure. With the strong likelihood that the methods used to establish PFAS standards will continuously change, the development community needs confidence that a clear path forward exists in investigating and remediating PFAS issues. This certainty will allow development to continue to attain case closure even with newly-established PFAS standards. As we witnessed in the early to mid-1990 and as starting to occur again, developers and investors will be much more reluctant investing in projects where there is uncertainty when it comes to changing environmental standards.

2.1 Expanding PFAS Site Identification Using GIS Mapping

Background

PFAS are a widespread and large class of chemicals used in hundreds of industries. While there are ~~likely known~~ sources of PFAS contamination in the State of Wisconsin, ~~most some of these~~ potential sources have not been identified. In addition, we have a growing understanding of what the most significant or concentrated sources of PFAS contamination are and how the various PFAS compounds and uses enter and impact the environment and human health. While these scientific details continue to evolve daily, relative exposure and risk can be identified by broad categories of uses, including:

- Direct manufacture of PFAS raw materials
- PFAS directly used in industrial applications (e.g. direct application of AFFF at airports, Department of Defense facilities, petroleum/oil refineries, etc.)
- PFAS used in the manufacturing process
- Secondary sources of PFAS (landfills, wastewater treatment plants, etc.)
- Emergency response situations, such as chemical fires
- ~~• Industries with potential PFAS use where less is known about the location and operations~~

~~Identification of potential exposure and risk to PFAS chemicals can serve as a valuable first step in screening potential sources and prioritizing receptors for sampling.~~ The Wisconsin Department of Natural Resources (DNR), with funds provided in the 2019-21 biennial budget, has contracted with a consultant to analyze the prevalence of PFAS in Wisconsin. This information will help Wisconsin continue to identify and summarize known sources of PFAS and help build a geo-database and conceptual site models. ~~Locating these areas of contamination can also prevent future exposure during construction, well drilling, or redevelopment, and help map potential sources should contamination be discovered in the future.~~

For those sources of PFAS contamination that have already been identified, the degree and extent of contamination often expands beyond one property and one media and is sometimes known to affect human receptors. It is important that these known areas of contamination are effectively communicated to the public, along with any health advisories issued for drinking water, fish or wildlife consumption. Up-to-date information regarding one's own property is critical, but also data that is searchable by county, municipality and parcel is important for property acquisition, environmental assessments, infrastructure design and construction, and public information.

Action

WisPAC recommends that the DNR should continue to build upon the prioritization model that they are working to complete, as initially funded by the 2019-21 state budget. Implementing the screening and prioritization protocol developed for the state, and continuing to analyze incoming data from contaminated sites, POTWs, drinking water wells, and health advisories the state can

prioritize locations for sampling in a process that is well-documented, transparent and reproducible. As part of this effort, the DNR has also begun building a database that will feed into a geospatial viewer and interactive public map. The database combines known PFAS sources (e.g. contaminated sites and wells) and base layer information of interest (e.g. PFAS impacted waterways, fish consumption advisories, parcel data), ~~as well as the potential source information and risk analysis~~. The DNR should continue to build upon this database with input and collaboration from the EPA, USGS, DOD, Wisconsin Public Service Commission (PSC) and local governments, in order to ensure a “one-stop-shop” for all PFAS-related environmental impact data for the public and for ~~risk and exposure analysis~~ for WisPAC to maintain. A companion interactive online mapping system for the public would provide up-to-date information on sites impacted by PFAS around the state in a story map format. This interactive map would provide a “snapshot” of impacts, links to complete data for each media affected, and a link to a website with more information about the source site (for selected sites with ongoing efforts). Similar systems have been implemented at the Michigan Department of Environment, Great Lakes and Energy, and the California State Water Resources Control Board. Additional base layers, like the state-wide digital parcel map developed and funded by the Wisconsin Land Information Program together with existing hydrology and Wiscland data, could be added to interactive map to provide the public with greater searchability over time.

Time to initiate: Already underway, but requires additional resources before finalized, and will require upkeep.

Proposed lead agency: DNR

Proposed partnerships: Department of Military Affairs; Department of Agriculture, Trade and Consumer Protection; Department of Justice; Department of Transportation; Department of Administration; US Geologic Survey, Wisconsin Land Information Program; PSC, EPA, DOD

Type of action: Budgetary, Legislative, Administrative (rulemaking,) Administrative (operations) Research, Other

Reason for Action: Knowledge of PFAS use and presence is expanding rapidly, and the state must utilize all available data to identify the extent of PFAS contamination and inform the appropriate response by creating a database of ~~potential~~ known sources and utilizing spatial analysis tools to prioritize sites for responses and risk management, the state can focus limited resources. The same tools will also allow the state to inform the public of known PFAS issues through an interactive mapping feature. This will allow them to make informed health-and financial-related decisions.

Anticipated resource needs: It is expected that additional staff and funding and may be needed to implement the protocol (including collecting, analyzing, and presenting/summarizing data), as well as for development and upkeep of the database and online GIS system. In addition, funding will be needed to sample at prioritized sites.

Comment

The Department's mapping tools are a valuable resource for brownfield redevelopment. The Brownfields Study Group supports continued use of mapping of verified and known data regarding contaminated sites.

The Brownfields Study Group opposes mapping "potential source information" and "areas of potential risk." Labeling an area or property as a "potential source" or "area of potential risk" will adversely affect redevelopment opportunities, discouraging investors and development. Past experience shows that "blacklisting" property in this manner serves to create more unused, dilapidated properties in urban areas that adversely affect tax base and lead to economically and socially distressed neighborhoods. These "unintended" but real and significant consequences are often overlooked when only focusing on environmental concerns. The purpose behind the Department's brownfield program is to eliminate perceived barriers to redevelopment. Listing properties based on potential contamination as opposed to actual site conditions is directly contrary to that goal.

The Department has not taken a potential source/potential risk approach to mapping with respect to other chemicals or contaminants. No reason is given for changing the Department's long-standing approach.

The proposed Action Plan notes that other states (such as Michigan) have taken this approach. We disagree as Michigan's MPART program only maps locations based on known data.

Finally, listing potential sources will lead to challenges, disputes and litigation, weakening the value of the Department's mapping database and imposing additional costs and burdens on the Department's limited resources.

3.3 Develop and Apply Best Management Practices (BMPs) for Proper Handling of PFAS-containing Waste

Background

Due to their widespread use, and the approximate 5,000 individual chemicals within the PFAS group, these chemicals have many and varied pathways into waste streams and environmental media (e.g., groundwater and soil).

Determining the appropriate method for ultimate disposal, treatment, storage and containment methods for solid wastes and contaminated media (e.g., soil or groundwater) containing PFAS is a complex issue due to their varied volatility, solubility, and environmental mobility and persistence. Examples of PFAS waste includes contaminated soil, wastewater and groundwater, but also includes consumer products such as certain nonstick cookware, personal care products, grease-resistant papers, stain-resistant carpeting, textiles and furniture as well as industrial byproducts from PFAS use in manufacturing.

PFAS compounds can be found in either solid or hazardous wastes, or environmental media such as soil or sediments. It can be determined that a waste includes PFAS by waste generator knowledge, industry standards and safety data sheets, sampling and analytical information, or a combination of information sources. The fate of PFAS in waste managed at engineered landfills, the predominant means of waste management in Wisconsin, is not yet clear. Research is needed to determine whether and to what extent landfills may serve to sequester PFAS in biosolids, soils and other waste types. Presently, soil contaminated with PFAS is considered a solid waste, but not a hazardous waste. [Comment: The deleted statement seems confusing, since any non-hazardous waste contaminated with PFAS is considered a solid waste.] While other types of solid waste or contaminated media may have regulations that manage the materials from cradle-to-grave, given the emerging nature of PFAS those regulatory safeguards generally have not been put in place on a national or state level for PFAS.

Newly enacted Wis. Stat § 299.48 prohibits training with firefighting foam with intentionally added PFAS as of September 1, 2020. Further, it requires those that test PFAS-containing firefighting foam to have appropriate containment, treatment and disposal or storage measures to prevent discharges of foam to the environment. The Department of Natural Resources (DNR) is required to promulgate emergency and permanent administrative rules to “determine the appropriate containment, treatment, disposal or storage measures for testing facilities... to prevent discharges of foam to the environment”.

Action

WisPAC recommends that guidance and best management practices be developed for generators of PFAS containing solid waste, and environmental media including wastes from manufacturing, water treatment systems and environmental cleanups, on proper disposal, storage and treatment methods that contain, destroy or permanently keep PFAS out of the environment. Once there is enough experience with those BMPs and EPA research has addressed several of the waste treatment and disposal issues, the DNR should amend the relevant portions of DNR’s

administrative rule series to include standards for PFAS testing, sampling, lab certification, treatment, storage, disposal and transportation.

To ensure that resulting BMPs and any administrative rule amendments comprehensively address the handling of PFAS-containing waste and include practicable measures, consultation and collaboration with a broad set of partners is important. Early input from those who will use or be impacted by application of the BMPs and ultimately administrative rules is crucial to their successful development and implementation.

Comment

Research is needed to determine whether landfills have a role in sequestering certain PFAS compounds in various waste types. Where justified, the availability of local disposal outlets will avoid burdening POTWs, brownfield redevelopers and other generators with unnecessary expense. The proposed additional text simply clarifies that research may ultimately determine that non-hazardous landfills could play a role in sequestering PFAS.

4.1 Develop PFAS Risk Communication Infrastructure

Background

Comprehensive and proactive risk communication through accessible channels to impacted businesses and communities is a key variable in supporting Wisconsin across both the economic and public health impacts of PFAS contamination. The need for effective risk communication was called out by Governor Evers in Executive Order #40, where he requested that the state develop a public information website specific to PFAS.

Action

WisPAC recommends that the state undertake measures to develop PFAS risk communication and public education infrastructure. This includes the following items:

- Construct and launch of a central PFAS website supported by all relevant state agencies;
- Create a unified, multi-agency communication strategy that will outline the development and implementation of targeted messaging and communication materials to engage the public, local governments and businesses;
- With respect to potential and actual brownfield redevelopment sites, develop targeted messaging that presents information on environmental risks and economic benefits in a manner that promotes the State's goal of fostering environmentally sound reuse and redevelopment of contaminated properties.
- Engage state agencies, school districts and boards to share PFAS-related educational materials with K-12 programs, modeled after standing initiatives like Green & Healthy Schools Wisconsin;
- Involve the public in legislative decisions and rulemaking through listening sessions, public comment periods and other opportunities for active engagement, hosted through accessible virtual platforms such as Zoom web conferencing.

Time to initiate: Can be implemented 7-12 months from now

Proposed lead agency: DNR

Proposed partnerships: Department of Health Services (DHS); Department of Public Instruction (DPI); School Districts; Local Government (including Local Health Departments); Local Media; Community Organizations; Stakeholder Groups

Type of action: Budgetary, Legislative, Administrative (operations), Other

Business Case: Communication and education are important steps toward building an empowered and informed public that can self-advocate and work within individual communities or industries to assess and understand risks, work to solve problems and grow new and better infrastructure.

Anticipated resource needs: It is expected that some additional staff and financial resources are required to implement this action, including:

- Staff time dedicated to participating in a task force, building a website and creating a communication strategy and associated materials
- Funding for the creation and dissemination of information through multiple channels

Additional Information: Risk communication was one of the most common themes addressed in comments received from the public during WisPAC's initial public outreach via online survey in February 2020. Comments fielded in the public survey identified a lack of consistent, accessible, accurate and up-to-date information as a significant impediment to assessing risk and enabling families and communities to make decisions. Additionally, survey submissions as well as comments offered in the local government and citizen advisory group meetings pointed to the need for general outreach efforts to be undertaken with an awareness to the challenges that underprivileged and minority communities face in gaining access to information, including language barriers. WisPAC was also advised by these groups to be mindful of the sovereignty of our tribal partners and to offer them the information and resources they need to manage the impacts of PFAS contamination in their communities as they see fit.

Comment

Risk communication needs to be undertaken so as to promote (not deter from) existing State priorities. With respect to the goal of fostering redevelopment of contaminated property, the Brownfields Study Group recommends avoiding creating the perception that the presence of PFAS on a property makes it unsuitable for redevelopment. One of the biggest challenges facing brownfield redevelopment is the perception (as opposed to reality) of "excess" environmental risks and that redevelopment will incur excessive costs to mitigate those risks. The more significant exposure risk associated with the presence of PFAS either in the soil or groundwater is the potential impact to drinking water supplies. It is important that communication provided by State agencies provide perspective to future property users and financial lending institutions on the likely risk associated with PFAS contamination considering development end use and including discussions of mitigation and risk reduction strategies. Where appropriate, communication should put risks into perspective to avoid the perception that any property with PFAS is an unacceptable risk for redevelopment, especially on those brownfield sites serviced by municipal water where the presence of PFAS is detected in soil and/or groundwater.

7.3 Provide Financial Tools ~~for Local Governments~~

Background

PFAS contamination poses health and safety concerns to already financially challenged communities. These financial issues have been accentuated by the COVID-19 pandemic. The ability to address and treat contaminated drinking water, hold or treat municipal biosolids, contain and treat firefighting foam, address legacy contamination at commercial airports or address abandoned contaminated sites for the safety of their citizens can be significant barriers for local governments. New public/private partnerships, financial tools, and preventative planning are needed to reduce the costs on tax- and rate- payers of these forever chemicals.

Action

WisPAC recommends that the state provide financial assistance to municipalities, non-profits and private parties engaged in redevelopment projects to properly manage, respond to, investigate and address PFAS contamination. Specifically, this assistance should include the following (in order of highest to lowest priority):

1. Create a ~~municipal~~ grant program to fund the following: investigate potential PFAS contamination/sources; sample a private water supply; provide temporary emergency water, water treatment or bulk water supply; or remediate PFAS contamination. Check out the Additional Information section below for an example of how this might read in a newly proposed statute.
2. Create a ~~municipal~~ loan program to provide infrastructure upgrades or new systems due to PFAS contamination and/or pollution prevention (e.g. water system upgrades, wastewater treatment facilities, solid waste/compost facilities, upgrades to firefighting equipment for testing and containment, etc.). Similar programs have been implemented in New York, Michigan, and Massachusetts. Funding for such a program could come from bonding or state or federal repayments to the Clean Water or Safe Drinking Water Act revolving loans. This was done for brownfields in the 1990's.
3. Utilize DOA's State Community Development Block Grant Program (CDBG) to provide clean-up and remediation funding for public facilities (i.e. water systems), underserved neighborhoods and blighted areas, as well as other areas in need. This program provides federal funding to local governments to support community development through the provision of decent affordable housing, a suitable living environment, and the expansion of economic opportunities, principally for the benefit of persons of low and moderate income.
4. Contract with a state-certified laboratory to offer discounted PFAS lab analysis rates for municipalities. Similar programs have been implemented in Michigan and Vermont.

Time to initiate: To be determined, based on legislation and more specific implementation planning

Proposed lead agency: DNR and WSLH (Items 1, 2 and 4) DOA (Item 3)

Proposed partnerships: Local government, fire departments, municipal airports, municipal associations.

Type of action: Budgetary, Legislative, Administrative (rulemaking), Administrative (operations)

Reason for Action: Municipalities may not have the financial wherewithal to investigate and clean up these forever chemicals, whether caused by businesses in their communities or through use of firefighting foams. Grant and loan programs for investigation, cleanup and upgrades to infrastructure are essential for addressing these legacy contamination problems. In many cases, local governments, non-profits and private brownfield redevelopers are able to address issues specific to their areas more efficiently than the State if they are provided adequate funding.

Anticipated resource needs: It is expected that additional budget is required to implement this action, including grants and loans for local governments and funding for laboratory analyses.

Additional Information:

The following comments or proposed actions related to this action were forwarded through the Local Government external advisory group:

- This Action Plan should also identify possible sources of funding for local government resources and staffing.
- The WisPAC Action Plan should...provide guidance and funding for the redevelopment of property affected by PFAS contamination.
- WisPAC Action Plan should include a plan and funding for additional studies to identify and alert Local Government Units of PFAS contamination.

Sample Language for Proposed PFAS Municipal Grant Program:

SECTION 12. 292.66 of the statutes is created to read:

292.66 PFAS municipal grant program.

(1) DEFINITIONS. In this section:

- (a) “Municipality” means any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district, sewerage district or metropolitan sewage district.
- (b) “PFAS” means a perfluoroalkyl or polyfluoroalkyl substance.

(2) GRANTS. (a) The department shall administer a program to ~~provide~~ expand existing grants and redevelopment loan alternatives to municipalities for the purpose of conducting any of the PFAS-related eligible activities under sub. (3).

- (b) The department may provide a grant, or expand the scope of an existing grant, to a municipality if the municipality proposes to conduct any of the eligible activities in sub (3) in response to:
1. The municipality testing or training with a Class B firefighting foam or using a Class B firefighting foam as part of an emergency firefighting or fire prevention operation, if the testing, training, or use occurred, in accordance with state and federal law. In this subdivision, “Class B firefighting foam” means a foam designed for use on a flammable liquid fire and may include a dual action Class A and B foam.
 2. The municipality applying biosolids to land, if the land application or discharge was done in accordance with a pollution discharge elimination system permit issued under ch. 283
 3. The discharge of PFAS or environmental pollution that is suspected to have impacted or is known to be impacting a municipal or private water supply, and the

Comment

The Brownfields Study Group assisted the State of Wisconsin in creating numerous brownfield-related grant/loan financial incentive programs, including but not limited to the Site Assessment Grant Program, the Green Space and Public Facilities Grant Program, the Wisconsin Assessment Monies, the Blight Elimination & Brownfield Redevelopment Program, and the Wisconsin Plant Recovery Initiative. The Brownfields Study Group is certainly supportive of providing more tools for local governments, non-profits and private brownfield redevelopers to address the PFAS issue; however, creating new grant/loan programs that are specific to PFAS may conflict with existing programs or create unnecessary administration costs or delays for brownfield projects. We strongly encourage augmenting the existing program to gain efficiencies and limit confusion.

8.2 Develop New Tools to Address PFAS Contaminated Sites

Background

There are at least 30 known PFAS sites in Wisconsin that require further investigation and likely cleanup. More sites will likely be found in the coming years, given the heightened awareness of PFAS. At the known PFAS sites, or sites yet-to-be-discovered, the current ~~proprietors~~ owners may not be responsible for the contamination, or may not have the resources to clean up the contamination, ~~may not be willing to undertake needed actions or a combination of those things.~~ The state State funding should be available should improve its ability to facilitate investigation and cleanup for sites that pose an immediate threat to human health and the environment where no financially viable party exists or where there is a lack of financial resources is there were tools available in state law to assist the Department of Natural Resources (DNR) and Department of Justice (DOJ) in doing so. These tools are available in some federal cleanup programs [*comment – could the specific tools be mentioned*], like the federal Superfund program, or other states may have such tools available, as well It may be appropriate to incorporate “active” continuing obligations, such as long-term groundwater treatment, as part of the remedial action. In those situations, it may be appropriate to require financial assurance for long-term care activities.

Action

WisPAC recommends that the state government provide DNR ~~and DOJ~~, through legislation, additional tools to address contaminated PFAS sites by enacting the following:

1. Requiring responsible parties to establish financial assurance to cover the ~~investigation, cleanup and~~ long-term continuing obligations at a PFAS site ~~if directed by the DNR that involves active continuing obligations.~~
2. ~~Creating a natural resources damage claims provision for PFAS whereby the state could recover from the responsible parties environmental damages from a contaminated site. This provision should apply to the producer of the product as well as the person that discharged the hazardous substance or created the environmental pollution.~~
3. ~~Creating a PFAS action fund for moneys, collected by DNR for future~~ Increasing the amount in the Environmental Repair Fund for DNR use related to PFAS.

Time to initiate: To be determined, based on more specific implementation planning.

Proposed lead agency: DNR

Proposed partnerships: DOJ

Type of action: Legislative

Business case: For a variety of reasons, it is not always clear where responsibility lies for the cleanup of environmental contaminations. Moreover, contaminated sites – including the increasing number of PFAS sites – must be addressed as quickly as possible to limit negative

impacts on the environment and public health. The recommendations for additional funding included in this action have been used ~~in different jurisdictions, and~~ for other types of contamination, to take effective action in investigating and cleaning up sites and paying for the work. Active long-term continuing obligations may take years to implement. Establishing financial assurance requirements to cover the cost of such active measures assures the state that financial resources are available to continue to implement the remedy.

Anticipated resource needs: It is expected that additional legislation is required to fully implement this action, which would likely include a request for funding and staffing resources.

Additional information: The following comments or proposed actions related to this action were forwarded through the Local Government external advisory group:

- Several participants in the public survey emphasized the importance of accountability in addressing PFAS contamination, particularly in how cleanups were paid for and how public health and environmental impacts could be mitigated or how compensation could be allocated after the fact;
- LGU#5: “The most significant action we need to take today is to remove these chemicals of emerging concern from commerce and pursue cleanup and remediation at contaminated sites and waterbodies.”

Comment

From a brownfield redevelopment perspective, imposing broad financial assurance requirements only serves to add costs to the project, which discourages the redevelopment of contaminated property. The goal of brownfield redevelopment is to promote the reuse of contaminated land rather than create barriers through increased costs that result in development projects being incented to occur in greenfield areas.

Also, from a policy standpoint, there is no justification provided for singling out “PFAS sites” for financial assurance. Cleanup requirements were first enacted in 1978, and over that time span, financial assurance was not required for cleanup projects involving thousands of other chemicals, many of which involve substantial costs.

We would also note that other states with active brownfield remediation programs do not require financial assurance for remediation projects, including PFAS related cleanups.

With respect to long-term active continuing obligations, we agree that financial assurance is appropriate to consider. In these instances, issues as to who is responsible for maintaining the active continuing obligations may become difficult to determine over time, especially in redevelopment projects. Financial assurance provides a backstop in the event the state needs to step in and conduct maintenance.

As to natural resource damages, creating a new, broad liability program that attaches to brownfield property will substantially discourage any redevelopment of these properties. The state has existing authority under CERCLA to pursue (where appropriate) natural resource damage claims. Adding a separate state claim is unnecessary and will create substantial

barriers to brownfield redevelopment of waterfront properties that have a higher potential to be associated with possible natural resource damage claims.

We agree that increasing funding to DNR to address “orphan” sites or sites where there is an inability to pay is appropriate. However, the funding should not be restricted to only PFAS sites but to any remediation site.

COOPERATIVE PFAS APPROACHES

The PFAS Action Plan lacks recommendation on developing cooperative approaches to addressing PFAS related concerns. The Department's Green Tier program offers a model for developing a cooperative approach for PFAS, and in that regard, we recommend the Plan include recommendations for developing a Green Tier based cooperative approach.

In addition, the Department's EDGE program provides an excellent platform for incorporating proactive PFAS related measures into an industrial redevelopment project. For example, the EDGE program could build in enhanced spill control, contingency planning and storm water control measures to address fire situations where AFFF may be used.

Comments on Draft PFAS Action Plan

I live in Madison and I am terribly concerned about bringing F-35 fighter jets to our beautiful city. I have been alerted to many ways the Draft PFAS Action Plan does not adequately address potential harm to the environment and the community. In particular, there should be increased testing methods for all PFAS chemicals. PFASs should be not be regulated only individually, chemical by chemical - there should also be a level that the total of all PFASs together must stay under. Above all, the resulting policy must protect sensitive populations, especially low-income families living near Truax. Polluters (manufacturers and industrial users of PFAS and the military) must pay for clean-up, and clean-ups must be thorough.

But above all, I would urge that we not bring the F-35s to Madison in the first place. Preventing the environmental harms that would surely result from the F-35s seems like a much better solution than trying to figure out how to clean-up and mitigate these harms after they occur. The chemicals that the F-35s would put in our lakes and environment are the type that don't break down and stay in the environment for many years. We should not allow these chemicals to pollute our city and its lakes. PFASs cause health problems in people and animals, and once they are in the environment, it may be impossible to get rid of them.

Margaret Lamm
Madison, WI



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Correspondence Memorandum

Date: September 14, 2020
To: WisPAC Members
From: Chief Christopher Garrison, WSFCA President
Re: WisPAC Recommendation

Thank you for allowing the Wisconsin State Fire Chiefs Association (WSFCA) to provide further input and recommendations for WisPAC members to include as action items.

As the WSFCA has indicated in previous communications and will continue to impress upon WisPAC members, our priority and primary support remains focused on the inclusion of Action Item – **Launch a PFAS foam collection and disposal program (Issue Paper 10.1)**. This support could not be more indicative than the recent release of the [Fluorinated Firefighting Foam Survey Results](#) which highlighted a majority of Wisconsin's fire departments would be interested in a collection and disposal program that could remove over 30,000 gallons of PFAS-based firefighting foam throughout the state.

The WSFCA also supports the following items within the WisPAC PFAS DRAFT Action Plan.

- Collaborate to address firefighting foams (Issue Papers 4.3 & 9.2)
- Provide financial tools for local governments (Issue Papers 5.2 & 10.4)
- Facilitate timely collection of environmental PFAS data (Issue Paper 5.1)
- Standardize PFAS sampling methods and support statewide implementation (Issue Paper 7.1)

In addition to our support of the items identified above, the basis for the recommendations below are respectfully submitted to ensure that the 825 licensed Wisconsin Fire Departments are provided with technical support and assistance to ensure they are doing their part to reduce their PFAS use and as a result, protecting our shared environment.

Recommended Action Items for WisPAC Consideration

1. **Collaborate on and implement research (Issue Papers 6.1-6.6)** - Action item recommendation that the DNR collaborate with University of Notre Dame Professor Peaslee, who has been conducting extensive research on PFAS and fluorine in foam and firefighter turn-out gear. Further research and testing also needs to be prioritized and conducted to determine the effectiveness of PFAS-free foam products.
2. **Develop and promote new partnerships to increase understanding of PFAS (Issue Paper 4.1)** – Both large municipal and small rural fire departments are dependent upon the



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firefighting foam manufacturer's label to determine the foam contents. This was evident following the City of Madison FD using presumed PFAS-free firefighting foam when responding to the 2019 ATC fire; only to be informed thereafter, that the foam used contained PFAS.

- Action item recommendation - DNR create position authority to conduct PFAS-foam analysis and determination of PFAS content for municipal fire departments current inventory or potential purchase
- 3. Minimize the states purchase of PFAS-containing products (Issue Paper 9.3) – Expand DRAFT Action Item to include “minimize municipality purchase of PFAS-containing products”.**
- Action item recommendations:
 - DNR create and maintain a "clean-list" of PFAS-free foam products for fire departments to reference prior to purchase.
 - DNR create program where fire departments can purchase new "safe" foam products through a centralized source. Currently, DNR does have a similar program in place for the sale of Class A foam products to Wisconsin fire departments through the forestry program. This could be used as a model to do the same for Class B/Fluorine-free foam products.
 - Truth-in-Labeling – Create Wisconsin state agency contacts/clearinghouse to review content labeling prior to Fire Department purchase of PFAS-free foam to replace existing or recently disposed of PFAS-based firefighting foam

Thank you once again for engaging and seeking Wisconsin fire service expertise and input to address PFAS within our state and your sincere consideration to include our recommendations in the final WisPAC PFAS Action Plan.



Wisconsin Chapter

October 14, 2020

TO: The Wisconsin PFAS Action Council via DNRPFASInquiries@wisconsin.gov**FROM: The Members of the Wisconsin Chapter of NWRA/Peggy Macenas, Midwest Vice President****RE: Proposed Wisconsin PFAS Action Plan**

On behalf of the Wisconsin Chapter of the National Waste & Recycling Association (NWRA), thank you for the opportunity to offer comments on Wisconsin's proposed PFAS Action Plan. The NWRA represents private solid waste companies offering waste collection, recycling and landfill disposal services to communities, local governments, commercial, industrial, and residential customers throughout Wisconsin and in all 50 states. For your convenience, Attachment I to this memo provides suggested edits that might be incorporated into the Plan, should you choose to do so.

Section 1.2 Develop Recommendations for Management of PFAS-Containing Landfill Leachate

We appreciate and strongly support the plan's call for collaborative exploration of recommendations on safely managing PFAS in leachate and minimizing related impacts. Foundational to this effort is measurement of proposed PFAS initiatives against their ultimate effect on reducing actual PFAS exposure. The approach will allow development of strategies targeted to deliver the greatest benefit, ideally factoring in complexities such as these:

- While our operations neither manufacture nor use PFAS, we receive wastes containing undefined PFAS from those we serve.¹ PFAS cannot be significantly reduced in leachate so long as PFAS continue to circulate in the economy in the form of food packaging, construction materials, carpeting, myriad household products, manufacturing byproducts, and other goods.
- PFAS concentrations in leachate may be sensitive to changes in PFAS use, based on unpublished data gathered over the course of several years and submitted to the State of Minnesota. The data suggest a downward trend in concentrations of PFOA and PFOS in leachate that appears to correlate with U.S. policies phasing out manufacture and use of PFOA and PFOS.
- The mass of PFAS leachate contributes at POTWs is typically low, but highly variable. Even where PFAS concentrations in leachate are relatively high, the leachate received at a POTW often constitutes a small fraction of mass flow. In those cases, reducing PFAS in leachate will have a negligible effect on concentrations of PFAS in POTW influent and effluent. Comprehensive studies in the states of Michigan²

¹ National PFAS Receivers Factsheet. November 1, 2019.

https://cdn.ymaws.com/wasterecycling.org/resource/resmgr/issue_brief/National_PFAS_Receivers_Fact.pdf

² Michigan EGLE. Michigan PFAS Action Response Team. Landfills Workgroup. Website: https://www.michigan.gov/pfasresponse/0,9038,7-365-86513_99807_99808-527972--,00.html;

Michigan Waste & Recycling Association. Statewide Study on Landfill Leachate PFOA and PFOS Impact on Water Resource Recovery Facility Influent. Technical Report. March 1, 2019. <https://www.bridgemi.com/sites/default/files/mwra-technical-report.pdf>

and North Carolina³, for example, concluded that non-leachate sources are the most significant mass contributors for PFOA and PFOS at POTWs, whereas landfill leachate represents a minor contribution.

- Landfills and POTWs are highly interdependent, and both are vital to Wisconsin communities. Landfills provide safe, environmentally protective management of Wisconsin's municipal solid waste. They rely on POTWs for leachate treatment; POTWs, in turn, increasingly rely on landfills for biosolids management. Efforts to address PFAS at landfills and POTWs must avoid disrupting this interdependence. If landfills curtail acceptance of biosolids from POTWs to avoid PFAS, or POTWs are forced to exclude landfill leachate, those waste streams will be stranded. At best, that would impose significant costs for alternative management of those wastes; at worst, it could curtail the ability of the landfill or POTW to continue operating.
- Lastly, we question whether enhanced regulation of leachate would translate into material reductions in exposure, given the relatively low mass involved as compared to continued household exposures and the fact that leachate management practices essentially eliminate the potential for direct exposure to the general population.

For these reasons, imposing a simplistic numeric standard for PFAS in leachate would be both ineffective and needlessly costly. Wisconsin's approach should avoid those downfalls.

As a minor note, it would perhaps be helpful to move action 1.2 to the "Pollution Prevention" section of the list on pg. iii, consistent with the intended multi-pronged approach.

Source Reduction

We support the plan's focus on avoiding use of those PFAS that are scientifically determined harmful. Source reduction is by far the most effective and least costly path to reducing PFAS risks. As noted previously, PFOA and PFOS concentrations in leachate are already declining as a result of phase-outs. More importantly, the National Health and Nutritional Examination Survey (NHANES)⁴, which measured PFAS in blood in 1999, found average blood levels for PFOA and PFOS actually exceeded levels in leachate. With the phase-out of PFOA and PFOS, these blood levels have declined from 1999 to 2014 by 60 and 80% respectively. We urge the State to continue seeking means of assisting PFAS users to transition away from their use and avoid importation of PFAS containing consumer products into Wisconsin.

Section 2.1 – Expanding PFAS Site Identification Using GIS Mapping

Adding potential, but unverified, PFAS sources to the State's environmental database would have little value. Because the State does not have the ability to comprehensively and consistently identify and map all potential PFAS sources, the information would be needlessly alarming where included, and unduly reassuring where omitted. This appears to be a departure from the State's past practice of adding property to the database under well-defined and documented circumstances, undermining the credibility of the database going forward.

The proposed action mistakenly conflates the presence of PFAS with PFAS exposure and risk, stating "relative exposure and risk can be identified by broad categories of uses" and presumes that if PFAS are present, contamination is sure to follow. In listing sources of risk, the plan equates exposure risks related to landfills and

³ North Carolina DEQ. Waste Management Work on Emerging Compounds. Website: <https://deq.nc.gov/news/key-issues/emerging-compounds/waste-management-work-emerging-compounds#nc-collective-study-emerging-compounds-in-landfill-leachate>; National Waste & Recycling Association – Carolina Chapters. North Carolina Collective Study Report. Collection Study of PFAS and 1,4-Dioxane in Landfill Leachate and Estimated Influence on Wastewater Treatment Plant Facility Influent. March 10, 2020.

⁴ Agency for Toxic Substances and Disease Registry. PFAS in the U.S. Population. Website: <https://www.atsdr.cdc.gov/pfas/health-effects/us-population.html>

POTWs to actual releases of PFAS during emergency responses at airports and in firefighting. No basis is provided for this sweeping assumption, which is directly contradicted by the role landfills can and are playing in sequestration of PFAS.

Section 3.3 – Develop and Apply Best Management Practices (BMPs) for Proper Handling of PFAS Containing Waste

We offer three potential modifications to this section for your consideration. First, we recommend clarifying that research may conclude that Subtitle D landfills reliably sequester certain PFAS compounds. For example, an October 2019 study directed by the State of Vermont⁵ collected 100 samples from waste streams suspected to contain PFAS compounds entering the New England Waste Services of Vermont, Inc. Landfill in Coventry, VT. The study found an imbalance consists in aggregate of less PFAS mass leaving the landfill in leachate compared to the PFAS mass entering the landfill in waste streams; therefore, the data indicate that a small fraction of the PFAS entering the landfill in wastes leave it in leachate versus what is sequestered. Because modern lined landfills contain waste and protect the groundwater, they may prove to be among the preferred solutions currently available for safe disposition of PFAS containing waste.

Second, it is important to note that so long as PFAS remain ubiquitous, they will find their way into landfills and landfill leachate. Initiatives that reduce PFAS sources and help PFAS-intensive industries reduce use of PFAS, and thus PFAS wastes, are the most effective means of reducing PFAS in landfills and thus leachate. Crucially, though, state policymaking must be grounded in an understanding that PFAS cannot be completely eliminated from landfills. Landfills cannot and should not avoid receipt of PFAS-containing wastes from households and other generators, who routinely discard household products, packaging, and goods containing PFAS. While the amount of PFAS contributed to the waste stream by each individual generator may be small, their collective impact can be significant. At landfills servicing few industrial generators, small-volume generators may be the primary source of PFAS.

Similarly, BMPs should avoid disrupting the State's successful and growing composting infrastructure. Like landfills, composters are unable to avoid receiving PFAS contained in food, packaging, and some biodegradable utensils and service ware. Policies affecting composters should balance the minimal impact of PFAS at composting operations with the significant environmental value those facilities provide.

Finally, we recommend the State make it a priority to establish BMPs for those waste disposal methods that pose the greatest risk of PFAS release and exposure. In addition to landfilling, waste is managed through incineration, composting, in-situ management, placement in quarries, and other methodologies. Of those, the practice of depositing contaminated soil, gravel and sediment in quarries presents the most immediate need to develop BMPs for PFAS-bearing wastes. Quarries have accepted hundreds of thousands of tons of contaminated material into unlined and unmonitored pits, and continue to do so. Stringent practices to avoid receipt of PFAS wastes at these sites are crucial.

Section – 8.2 Develop New Tools to Address PFAS Contaminated Sites

The proposed financial assurance requirements need further analysis. At present, the science around PFAS risk is unsettled, Wisconsin has not established background threshold values for PFAS, and State regulatory standards for PFAS are under development. Given these uncertainties it would be difficult, if not impossible, to establish fair and reliable remedial costs. Additionally, it is unclear how the cost of remediation and continuing obligations would be established before investigation occurs. The plan doesn't fully explain why the Department's current authority to

⁵ Vermont DEC. Vermont PFAS Investigation and Response. Website: <https://dec.vermont.gov/pfas>; Sanborn, Head & Associates, Inc. PFAS Waste Source Testing Report. October 2019. <https://anrweb.vt.gov/PubDocs/DEC/SolidWaste/OL510/OL510%202019.10.15%20NEWSVT%20PFAS%20Source%20Testing%20Rpt%20-%20Final.pdf>

require financial assurance is inadequate to address PFAS contamination. Rather than calling for a new form of assurance, perhaps the plan should call for further analysis of the potential need for additional authority.

On behalf of the Wisconsin Chapter of the National Waste & Recycling Association, thank you for your consideration of our input. If you have any questions regarding our comments or require additional insight, please do not hesitate to contact me at 630-234-7476 or Peggym@wasterecycling.org.

cc: Fred Radandt, Wisconsin Chapter Chairman
Ann Germain, NWRA Chief Operating Officer & Senior Vice President, Regulatory Affairs
Jason Johns, Wisconsin Chapter Lobbyist

Enclosed: Attachment I, Examples of Plan Edits

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Attachment I:
Examples Illustrating Incorporation of Proposed Changes

Example of Proposed Change to p. iii

Standard Setting

1.1 : Establish Science-Based Environmental Standards for PFAS

Sampling

2.1: Expanding PFAS Site Identification Using GIS Mapping

2.2: Facilitate Timely Collection of Environmental PFAS Data

2.3: Standardize PFAS Sampling Methods and Support Statewide Implementation

2.4: Test Public Water Systems for PFAS

Pollution Prevention

3.1 : Partnering with Firefighting Associations & Municipal Airports on PFAS

3.2 : Amend Firefighting Foam Law, Wis. Stat. 299.48

3.3 : Develop Recommendations for Management of PFAS-containing Landfill Leachate

3.4 : Develop and Apply Best Management Practices (BMPs) for Proper Handling of PFAS Containing Waste

3.5 : Identify PFAS Sources and Reduce Discharge to Wastewater Facilities

Example of Proposed Change to

2.1 Expanding PFAS Site Identification Using GIS Mapping

Background

PFAS are a widespread and large class of chemicals used in hundreds of industries and myriad consumer goods. While there are documented instances of PFAS contamination in the State of Wisconsin, it is likely additional instances will be identified in the future. In addition, while scientific details are evolving daily, we have a growing understanding of what the most significant or concentrated sources of PFAS contamination are and how the various PFAS compounds and uses enter and impact the environment and human health.

While the presence or use of PFAS is not an indication of contamination or exposure risk, identification of broad categories of facilities where PFAS may be found can serve as a valuable first step in screening potential sources and prioritizing receptors for sampling. Examples of such facilities include:

- Direct manufacture of PFAS raw materials
- PFAS directly used in industrial applications (e.g. direct application of AFFF at airports, Department of Defense facilities, petroleum/oil refineries, etc.)
- PFAS used in the manufacturing process
- Secondary sources of PFAS (landfills, wastewater treatment plants, etc.)
- Emergency response situations, such as chemical fires
- Industries with potential PFAS use where less is known about the location and operations

The Wisconsin Department of Natural Resources (DNR), with funds provided in the 2019-21 biennial budget, has contracted with a consultant to analyze the prevalence of PFAS in Wisconsin. This information will help Wisconsin continue to identify and summarize known sources of PFAS and help build a geo-database and conceptual site models. Locating these areas can also prevent future exposure during construction, well drilling, or redevelopment, and help map potential sources should contamination be discovered in the future.

For those sources of PFAS contamination that have already been identified, the degree and extent of contamination often expands beyond one property and one media and is sometimes known to affect human receptors. It is important that these known areas of contamination are effectively communicated to the public, along with any health advisories issued for drinking water, fish, or wildlife consumption. Up-to-date information regarding one's own property is critical, but also data that is searchable by county, municipality and parcel is important for property acquisition, environmental assessments, infrastructure design and construction, and public information.

Action

WisPAC recommends that the DNR should continue to build upon the prioritization model that they are working to complete, as initially funded by the 2019-21 state budget. Implementing the screening and prioritization protocol developed for the state, and continuing to analyze incoming data from contaminated sites, POTWs,

Attachment I:
Examples Illustrating Incorporation of Proposed Changes

drinking water wells, and health advisories the state can prioritize locations for sampling in a process that is well-documented, transparent and reproducible. As part of this effort, the DNR has also begun building a database that will feed into a geospatial viewer and interactive public map. The database combines known PFAS sources (e.g. contaminated sites and wells) and base layer information of interest (e.g. PFAS impacted waterways, fish consumption advisories, parcel data), as well as documented source information and risk analysis. The DNR should continue to build upon this database with input and collaboration from the EPA, USGS, DOD, Wisconsin Public Service Commission (PSC) and local governments, in order to ensure a “one-stop-shop” for all PFAS-related environmental impact data for the public and for risk and exposure analysis for WisPAC to maintain. A companion interactive online mapping system for the public would provide up-to-date information on sites impacted by PFAS around the state in a story map format. This interactive map would provide a “snapshot” of impacts, links to complete data for each media affected, and a link to a website with more information about the source site (for selected sites with ongoing efforts). Similar systems have been implemented at the Michigan Department of Environment, Great Lakes and Energy, and the California State Water Resources Control Board. Additional base layers, like the state-wide digital parcel map developed and funded by the Wisconsin Land Information Program together with existing hydrology and Wiscland data, could be added to interactive map to provide the public with greater searchability over time.

Time to initiate: Already underway, but requires additional resources before finalized, and will require upkeep.

Proposed lead agency: DNR

Proposed partnerships: Department of Military Affairs; Department of Agriculture, Trade and Consumer Protection; Department of Justice; Department of Transportation; Department of Administration; US Geologic Survey, Wisconsin Land Information Program; PSC, EPA, DOD

Type of action: Budgetary, Legislative, Administrative (rulemaking,) Administrative (operations) Research, Other

Reason for Action: Knowledge of PFAS use and presence is expanding rapidly, and the state must utilize all available data to identify the extent of PFAS contamination and inform the appropriate response by creating a database of documented sources and utilizing spatial analysis tools to prioritize sites for responses and risk management, the state can focus limited resources. The same tools will also allow the state to inform the public of known PFAS issues through an interactive mapping feature. This will allow them to make informed health-and financial-related decisions.

Example of proposed changes to

3.3 Develop and Apply Best Management Practices (BMPs) for Proper Handling of PFAS-containing Waste

Background

Due to their widespread use, and the approximate 5,000 individual chemicals within the PFAS group, these chemicals have many and varied pathways into waste streams and environmental media (e.g., groundwater and soil).

Determining the appropriate method for ultimate disposal, treatment, storage and containment methods for solid wastes and contaminated media (e.g., soil or groundwater) containing PFAS is a complex issue due to their varied volatility, solubility, and environmental mobility and persistence. Examples of PFAS waste includes contaminated soil, wastewater and groundwater, but also includes consumer products such as certain nonstick cookware, personal care products, grease-resistant papers, stain-resistant carpeting, textiles and furniture as well as industrial byproducts from PFAS use in manufacturing.

So long as PFAS remain ubiquitous in the economy, they will find their way into landfills and landfill leachate. Even if PFAS-intensive industries eliminated generation of PFAS wastes, PFAS would not be completely eliminated from landfills. Landfills cannot avoid receipt of PFAS-containing wastes from households and other generators who sporadically discard household products, packaging and goods containing PFAS. While the amount of PFAS contributed to the waste stream by each individual generator may be small, collectively the amount of PFAS disposed can be significant. At landfills servicing few industrial generators, small-volume generators may be the primary source of PFAS. Moreover, growing evidence suggests that landfills can and are safely sequestering PFAS in many circumstances.

These factors suggest that BMPs must focus on safe practices for PFAS-bearing wastes, rather than ineffective and needlessly costly efforts to eradicate PFAS from the waste stream.

Similarly, BMPs should avoid disrupting the State's successful and growing composting infrastructure. Like landfills, composters of post-consumer food wastes are typically unable to avoid receiving PFAS contained in food, packaging, and some biodegradable utensils and serviceware. Policies affecting composters should balance the minimal impact of PFAS at composting operations with the significant environmental value those facilities provide, and the role they play in diverting waste for reuse.

Quarries and similar non-landfill facilities manage a growing volume of contaminated soils and sediment, accepting fill to achieve restoration grades while providing a low-cost disposal alternative. Like landfills, though, it is probable that quarries are receiving PFAS in some of the wastes they accept. Because these sites are unlined and do not collect and manage leachate, establishing BMPs that curtail their continued acceptance of PFAS-bearing wastes will be a priority.

PFAS compounds can be found in either solid or hazardous wastes, or environmental media such as soil or sediments. It can be determined that a waste includes PFAS by waste generator knowledge, industry standards and safety data sheets, sampling and analytical information, or a combination of information sources. Presently,

Attachment I:
Examples Illustrating Incorporation of Proposed Changes

soil contaminated with PFAS is considered a solid waste, but not a hazardous waste. While other types of solid waste or contaminated media may have regulations that manage the materials from cradle-to-grave, given the emerging nature of PFAS those regulatory safeguards generally have not been put in place on a national or state level for PFAS.

Newly enacted Wis. Stat § 299.48 prohibits training with firefighting foam with intentionally added PFAS as of September 1, 2020. Further, it requires those that test PFAS-containing firefighting foam to have appropriate containment, treatment and disposal or storage measures to prevent discharges of foam to the environment. The Department of Natural Resources (DNR) is required to promulgate emergency and permanent administrative rules to “determine the appropriate containment, treatment, disposal or storage measures for testing facilities... to prevent discharges of foam to the environment”.

Action

WisPAC recommends that guidance and best management practices be developed for generators of PFAS containing solid waste, and environmental media including wastes from manufacturing, water treatment systems and environmental cleanups, on proper disposal, storage and treatment methods that contain, destroy or permanently keep PFAS out of the environment. Once there is enough experience with those BMPs and EPA research has addressed several of the waste treatment and disposal issues, the DNR should amend the relevant portions of DNR’s administrative rule series to include standards for PFAS testing, sampling, lab certification, treatment, storage, disposal and transportation.

To ensure that resulting BMPs and any administrative rule amendments comprehensively address the handling of PFAS-containing waste and include practicable measures, consultation, and collaboration with a broad set of partners is important. Early input from those who will use or be impacted by application of the BMPs and ultimately administrative rules is crucial to their successful development and implementation.

Example of proposed changes to

8.2 Develop New Tools to Address PFAS Contaminated Sites

Background

There are at least 30 known PFAS sites in Wisconsin that require further investigation and likely cleanup. More sites will likely be found in the coming years, given the heightened awareness of PFAS. At the known PFAS sites, or sites-yet-to-be-discovered, the current proprietors may not be responsible for the contamination, may not have the resources to clean up the contamination, may not be willing to undertake needed actions or a combination of those things. The state should improve its ability to facilitate investigation and cleanup if there were tools available in state law to assist the Department of Natural Resources (DNR) and Department of Justice (DOJ) in doing so. These tools are available in some federal cleanup programs, like the federal Superfund program, or other states may have such tools available as well.

Action

WisPAC recommends that DNR and DOJ, in collaboration with interested stakeholders, determine whether expanded agency authority is needed for

- Requiring responsible parties to establish financial assurance to cover the cleanup and long-term continuing obligations at a PFAS site if directed by the DNR.

WisPAC further recommends that the state government provide DNR and DOJ, through legislation, additional tools to address contaminated PFAS sites, by enacting the following:

- Creating a natural resources damage claims provision for PFAS whereby the state could recover from the responsible parties' environmental damages from a contaminated site. This provision should apply to the producer of the product as well as the person that discharged the hazardous substance or created the environmental pollution; and,
- Creating a PFAS action fund for moneys collected by DNR for future DNR use related to PFAS.



October 23, 2020

WisPAC Draft Wisconsin PFAS Action Plan Public Comment Submittal by Madison Metropolitan Sewerage District

Comments submitted via email - DNRPFASInquiries@Wisconsin.gov ; Comments submitted via electronic submittal <https://www.surveymonkey.com/r/WisPFASPlan>

On behalf of Madison Metropolitan Sewerage District, thank you for the opportunity to comment on the Draft Wisconsin PFAS Action Plan. We are encouraged that the State of Wisconsin is addressing PFAS by putting together a blueprint with specific actions that state agencies and partners can work toward. These actions can provide clarity that the District can use when looking toward reduction of these compounds within our own operations and the operations of our permitted industrial and commercial customers.

The District looks forward to a science-based action plan that takes a complete look at PFAS and holistically considers potentially affected parties and the economic impacts of these regulations on these parties. This is especially true for WPDES permittees, such as the District, that have industrial pretreatment programs and whose dischargers may be asked to install pretreatment for PFAS or be required to undertake product substitution or elimination. This is one example of how some of the actions may not only affect WPDES permittees that discharge to surface waters, but also entities that are part of the wastewater cycle.

We have identified a few areas in the Wisconsin PFAS Action Plan themes where we have comments:

Theme 1 – Standards: A research component related to biosolids and sediment is needed here; this can be accomplished by adding a research component for the science-based standards action.

With regards to landfill leachate, that action calls for the Wisconsin DNR to develop a strategy with wastewater treatment plants (WWTPs) and landfills to safely manage leachate. While the strategy has not been created, the action plan should provide recommendations on the direction of the strategy. For instance, landfills and WWTPs will be challenged to meet standards if the strategy imposes numeric standards on the WWTPs via surface water rules and those standards are then passed on to WWTP customers like the landfill. This contrasts with a recommended strategy of using narrative standards to assist WWTPs in safely managing PFAS through a pollutant minimization plan with the landfill.

Finally, this theme could benefit from additional recognition of budgetary concerns related to landfill leachate as PFAS is expensive to treat in order to meet standards.

Theme 3 – Pollution Prevention: We are very pleased to see that this theme includes actions for the development of Best Management Practices (BMPs) for PFAS-containing waste as a step

toward standards for this type of waste. We also appreciate the attention given to the importance of collaborating with partners, like WWTPs, for early input. We are also happy to see that through this action the State of Wisconsin aims to help with the identification of PFAS sources by working with businesses to get data on influent to the WWTP.

Theme 4 – Communications: We are happy to see that the action plan calls for a unified risk communication strategy aimed at targeted messaging to a variety of audiences. However, WWTPs are not named as key strategic partners to collaborate with in this action. As this theme supports the pollution prevention actions and other actions, such as sampling and testing, the information around these actions must be put into context using a risk communication lens. WWTPs should be listed as partners to bring resources and additional information to assist with risk communication around WWTPs and PFAS.

Theme 5 – Research and Monitoring: The actions around research provide for research priorities around fate and transport, treatment, and source fingerprinting. While the actions list external research partners, there is a gap in research partners with WWTP expertise. The action plan should consider all sources for research and collaboration specific to the research priorities listed. We recommend examining and partnering on research with the Water Research Foundation (WRF) and the Water Environment Federation (WEF)

<https://www.waterrf.org/research/topics/and-polyfluoroalkyl-substances-pfas>
<https://www.wef.org/globalassets/assets-wef/3---resources/online-education/webcasts/presentation-handouts/2-27-20-final-presentation-handouts.pdf>

Additionally, one area of research that was missing that should be added is examining the fate and transport of PFAS in the soil plant pathway. This research will better help understand the relationship between land applied biosolids, PFAS, and plant uptake.

We fully believe that actions based in science can help in understanding PFAS beyond the water utility sector and should be part of the conversation as decisions are being made regarding how to manage these compounds. Science can further help our response to PFAS if we better understand what different levels of PFAS mean in surface water and other media (wastewater, biosolids, etc.) in relation to the context of the various pathways of PFAS exposure in our lives (e.g. everyday household products, etc.). Acknowledging that different pathways may have different risk and exposure levels will help maintain a balanced approach to solutions while attempting to address concerns around PFAS.

Please feel free to contact me at marting@madsewer.org or 608-222-1201 if you would like more information or to discuss this any further.

Regards,



Martin Griffin
MMSD Director of Ecosystem Services



Together, improving life

October 29, 2020

To whom it may concern:

Thank you for the opportunity to provide comments. Gore values such work to both address important health and environmental topics, as well as promote regulatory consistency.

About Gore

W. L. Gore & Associates is a global materials science company dedicated to transforming industries and improving lives. Since 1958, Gore has solved complex technical challenges in demanding environments — from outer space to the world's highest peaks to the inner workings of the human body. With more than 11,000 Associates and a strong, team-oriented culture, Gore generates annual revenues of \$3.8 billion.

Gore is a user of fluoropolymers, which are a sub-category of PFAS with distinct characteristics. We have over six decades of expertise using the unique properties of PTFE (polytetrafluoroethylene) and other fluoro-materials to invent valuable products, including implantable medical devices such as vascular grafts and stents; technical applications such as components for aircraft, automobiles, mobile phones and computers; protective apparel for first responders; high performance outerwear; and filters, seals, and vents that reduce emissions from power generation, industrial processes and packaging.

A broad PFAS definition will have unintended consequences

As indicated in the **WI PFAS Action Plan**, per- and polyfluoroalkyl substances are a very broad group of substances. Not all PFAS are the same and as the State explores how best to regulate and mitigate potential impacts regulating the group as a whole will restrict the use of materials that are demonstrated to be non-toxic and deliver valuable societal benefits. The PFAS group includes thousands of substances with different properties: polymers and non-polymers; solids, liquids, and gases; persistent and non-persistent substances; highly reactive and inert substances; mobile and insoluble substances; and toxic and nontoxic chemicals. Therefore, we believe it is important to be specific when discussing PFAS.

We have observed that many groups who are working to address important health and environmental topics will use the term PFAS, when they are most interested in a distinct sub-group of PFAS (e.g., perfluoroalkyl acids or PFAAs, like PFOA) that is relevant to their concern. Many of those concerns are associated with selected properties of substances which may include water solubility, toxicity, the potential for a substance to bioaccumulate, and its propensity to degrade into other substances of concern.



Together, improving life

Fluoropolymers are a distinct class within the broad PFAS group. According to the OECD criteria for Polymers of Low Concern¹, many fluoropolymers like PTFE when evaluated, demonstrate and meet all the criteria and represent the low risk end of the spectrum for PFAS. PTFE is a distinct member of the fluoropolymer class of PFAS. PTFE is non-toxic. High molecular weight fluoropolymers like PTFE, are highly stable, too large to be bioavailable, and do not have the potential to become widespread in the environment.² While they do contain one or more fully fluorinated carbon atoms, like other PFAS, data show that their properties present low health and environmental hazards.

PFAS which meet the polymers of low concern criteria are clearly different from substances that are driving the most urgent needs about human health and the environment. The difference is evident from objective data on their properties, the biologically sensitive applications where they have been extensively used and studied for decades (e.g. medical devices and pharmaceutical processing), and their absence from environmental media.

Because there are PFAS, such as PTFE and other fluoropolymers, which are demonstrated to be non-toxic and serve important functions that benefit human health, safety and environmental stewardship, we respectfully request when developing regulations to address health and environmental concerns that you are specific and (1) provide identification of the most appropriate individual or sub-groups of the PFAS, and (2) include a risk criteria, like the criteria for Polymers of Low Concern, to avoid inclusion of safe materials and their valuable products.

Sincerely,

A handwritten signature in black ink, reading "Peggy J. Horst". The signature is fluid and cursive, with a long horizontal stroke at the end.

Peggy J. Horst, CHMM
Product & Chemical Stewardship

¹ Organization for Economic Co-operation and Development. 2009. Data analysis of the identification of correlations between polymer characteristics and potential for health or ecotoxicological concern. OECD Task Force on New Chemicals Notification and Assessment, Expert Group Meeting on Polymers; 2007 Mar; Tokyo, Japan. Paris (FR)

² Henry BJ et al., 2018. A Critical Review of the Application of Polymer of Low Concern and Regulatory Criteria to Fluoropolymers. Integrated Environmental Assessment and Management Volume 14, Number 3, pp. 316–334.)



WISCONSIN CIVIL JUSTICE COUNCIL, INC.

Promoting Fairness and Equity in Wisconsin's Civil Justice System

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To: Wisconsin Department of Natural Resources

From: R.J. Pirlot, Executive Director

Date: October 30, 2020

Re: Draft PFAS Action Plan

The Wisconsin Civil Justice Council has grave reservations regarding item 8.2, “Develop New Tools to Address PFAS Contaminated Sites,” contained in the draft PFAS Action Plan.

As we have noted in comments previously filed with the Department of Natural Resources, PFAS are a group of more than 4,000 compounds. These chemicals are found in many everyday products, including nonstick pans, cleaning products, paints, medical equipment and firefighting foam.

Moreover, the most extensively studied PFAS compounds, PFOA and PFOS, have been phased out of domestic manufacturing over the past decade. The federal Environmental Protection Agency has set a health advisory limit of 70 ppt for PFOA and PFOS but is still studying the potential health effects of the thousands of other PFAS compounds. Similarly, the Wisconsin Department of Health Services has thus far studied and issued health recommendations only on PFOA and PFOS. Few other jurisdictions have regulated PFAS chemicals other than PFOA and PFOS.

Insufficient science is available generally on PFAS compounds to justify enactment of what appear to be, in the draft PFAS Action Plan, very broad authority to allow the Department of Natural Resources to determine long-term financial and legal liability relating to many chemicals for which there is little established science confirming negative human health effects. Such action would likely result in a significant negative impact on Wisconsin's economy without clear benefits for human health.

The Wisconsin Civil Justice Council's mission is to promote fairness and equity in Wisconsin's civil justice system, with the ultimate goal to make Wisconsin a better place to work and live

Contact: R.J. Pirlot at pirlot@hamilton-consulting.com or 608-258-9506.



Barron County

Waste to Energy

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Barron County comments to WISPAC (Wisconsin PFAS Action Council)

Barron County is drafting this letter in response to the Draft Wisconsin PFAS Action Plan. Within the Action Plan there are several Action Items that will be responded to and will be identified as to the number of the action item within the draft action plan. Barron County is responding to this draft action plan due to the environmental and health concerns of its citizens. While many of the concerns regarding PFAS have been identified within the action plan, Barron County would like to consider some recommendations to resolve or mitigate exposure of PFAS to the environment and to its citizens.

Action Item 1.1

While establishing science-based environmental standards for PFAS, an approach utilizing the Research Development and Demonstration criteria NR 514.10(2)(a) should be used. The Barron County Waste to Energy Facility would assist in engineering tests to evaluate the best available control technologies in development of an air toxic standard for PFAS.

Other possible science-based resolutions to mitigate groundwater contamination through landfill leachate should be researched. Barron County would undertake Research Development & Demonstration to determine if Waste to Energy bottom ash would act as carbon filtration sequestering PFAS while used as a daily cover for landfilled waste.

Action Item 1.2

This section specifically describes efforts that need to take place such as collaborating with key public and private stakeholders such as landfills and WWTP's. The Barron County Waste to Energy Facility believes that their operations could be significant to safely manage PFAS in landfill leachate. It has been suggested that high temperature incineration may be a viable option for safely treating PFAS. Another possible option may be the utilization of the incinerator bottom ash as a carbon filtration media to sequester PFAS from the landfill leachate.

Action Item 3.3

Developing and applying the best management practices for the proper handling of PFAS contained waste is one of the front line defense measures that can be taken to reduce future exposures to the environment. The Barron County Waste to Energy Facility collaboration within this action item would be paramount to successful application of an administrative rule. Barron County input into application of BMP's could include Research Development and Demonstration.

Action Item 3.4

Although identification of PFAS sources are so important, Barron County believes that the **reduction** of discharges to WWTP's is equally as important. As described in earlier action items a reduction in a source to the WWTP may be high temperature incineration of MSW and filtration of known PFAS leachate through the ash residue of a waste to energy combustor. The WWTP byproducts of its treatment produces a bio solid that is known to contain PFAS and at times is field spread, thus promoting contamination of groundwater. A viable treatment of these bio solids from a WWTP would be incineration at a waste to energy facility reducing or eliminating the discharge of PFAS to the groundwater. A Research Development & Demonstration process would need to be implemented and the results reviewed. Associated regulations related to these processes would be NR 502.13, NR 504.11, NR 506.05, NR 506.055 and NR 514.10.

Action Item 7.3

Providing financial assistance through a municipal grant program or municipal loan program is paramount for a local municipality or county to aggressively pursue Research Development & Demonstration practices. As a county or municipality engages in testing, sampling and developing mitigation procedures, there may be ongoing changes within an original investigative format and this should be taken into consideration. As the ever changing knowledge of PFAS moves forward, financial assistance should have the flexibility to change with the possibility of additional testing and analysis.



Ray Zeman, Plant Manager

10-29-2020
Date



October 30, 2020

Wisconsin PFAS Action Council
c/o Secretary Preston Cole, Chair of WisPAC
101 South Webster St.
P.O. Box 7921
Madison, WI 53707-7921

Re: Draft PFAS Action Plan

Dear Secretary Cole and members of the Wisconsin PFAS Action Council:

Midwest Environmental Advocates commends the work of the Wisconsin PFAS Action Council in evaluating PFAS contamination and setting forth a vision for advancing PFAS regulation and addressing PFAS contamination in the Draft PFAS Action Plan. Given the federal government's lack of comprehensive regulatory action on PFAS, its failure to set federal drinking water standards, and continued delay in regulating PFAS as a hazardous substance under CERCLA, it is imperative that state governments like Wisconsin take action to fill the void.

As you know, PFAS chemicals pose a significant threat to public health due to their toxicity and their persistence in the environment and in the human body. PFAS have been linked to an increased risk for a wide range of adverse health impacts, including, but not limited to, certain types of cancer, reproductive and developmental problems, thyroid hormone disruption, high cholesterol, decreased antibody response to vaccines in children, and ulcerative colitis. It is important that Wisconsin join its neighboring states in comprehensively testing Wisconsin's air, land, and water for PFAS. Wisconsin should also ensure that facilities in the state stop producing and importing PFAS. Finally, Wisconsin's government must establish stringent and effective regulations to address existing pollution and prevent further contamination of the environment.

All Actions: need for metrics and deadlines

While we support the Actions set forth in the draft plan, the final plan should include more metrics for evaluating success and specific timetables and deadlines for the Actions. Undue delay in taking many of the Actions in the draft plan has a real-world impact on people through continued exposure. For example, each Action that includes a "time to initiate" should also include a "target completion date" to provide accountable deadlines for the Actions. We also recommend interim metrics and goals that will ensure meaningful progress and help achieve success in meeting those deadlines. In addition, we have specific suggestions related to the following Actions:

Action 1.1

The background section and reason statement for this Action should consistently emphasize that the primary goal is to protect human health. This background and reason statement should also acknowledge that clear regulatory standards for PFAS, including stringent cleanup standards, protect human health *and* provide regulatory certainty.

Action 1.2

Action 1.2 – Develop Recommendations for Management of PFAS-containing landfill leachate, should include a requirement that landfill operators with elevated PFAS levels be required to test neighboring private drinking water wells within a distance that is appropriate based on local hydrogeology and, if elevated levels are found, provide alternative sources of drinking water and install treatment systems. Action 1.2 should also include a one-year deadline (October 31, 2021) to produce the identified “comprehensive strategy” to address how to safely manage PFAS in leachate and to communicate those recommended management options to stakeholders. Recommendations included in the strategy should then be codified as enforceable best management practices.

Action 2.1

As noted in the introductory comments, Action 2.1 – Expanding PFAS Site Identification Using GIS Mapping, should include a target completion date to produce the interactive map and website showing known and possible areas of PFAS contamination.

Given that PFAS compounds are highly mobile, the Action should identify the need for hydrogeological evaluation and modeling of known and suspected PFAS groundwater contamination and list partners who can evaluate fate and transport to better identify likely contaminated drinking water wells. This work can build off existing groundwater monitoring and modelling efforts throughout the state.

Action 2.4

We support Action 2.4 – Test Public Water Systems for PFAS. WisPAC should add a timeline for the plan to test all facilities listed in Action 2.4 as soon as possible. The people of Wisconsin deserve to know about the contamination of their public drinking water supplies. The reason section for this Action should explain that all people in Wisconsin have an intrinsic right to clean drinking water. Our neighboring states already have a clear plan to test all drinking water facilities or, like Michigan, have already undertaken such testing. Wisconsin is lagging significantly behind its neighbors. For families with contaminated water, each day they are deprived of that information is another day of potential unnecessary exposure to these toxic chemicals.

Some testing is already scheduled to occur in the next five years, but it is not timely and does not constitute the comprehensive testing that Action 2.4 identifies. As WisPAC notes, EPA’s UCMR 5 results will not be available until 2025 at the earliest and will only require testing of larger water systems. DNR’s current rulemaking efforts, if successful, will result in a requirement to test municipal drinking water systems for PFOA and PFOS, but those rulemakings and testing requirements will not be finalized for years.

Action 2.4 should include a deadline to test municipal drinking water systems and community and non-community water systems for all detectable PFAS as soon as possible. For this reason, MEA and our partners [have called on DNR to order](#) the municipal water systems to test their facilities under the DNR’s existing authority.¹ The plan should echo this call and include a provision that DNR exercise its authority to test facilities now. All Wisconsinites should know whether their

¹ Please see the attached letter.

drinking water is contaminated with PFAS and how to secure clean drinking water if that contamination is confirmed.

Finally, Action 2.4 should also include a requirement to notify impacted community members of all PFAS test results and to publicly disclose those results on an accessible website.

Actions 3.1, 3.2, and 4.4

We support these actions and recommend that the plan include a concerted effort to identify alternatives to PFAS-containing personal protective equipment for firefighters and, if no alternatives are available, to identify and support ongoing efforts to develop that equipment. In addition, the plan should identify the funding needed to make these efforts possible and ultimately procure that equipment.

Action 4.2

We support Action 4.2 – Facilitate Environmental Justice and Health Equity in Wisconsin Communities – and community participation in efforts to address PFAS contamination. However, the Action should be revised to include a commitment to foster community participation in the Environmental Justice and Health Equity Advisory Group, rather than only members of the WisPAC agencies. Additionally, government agencies receiving the advice of the Advisory Group should be required to respond to that advice and explain why it was adopted or not adopted to ensure that it is adequately considered and not just received. Finally, the plan should include metrics for accomplishing the goal of community participation by tracking outreach (e.g., names of groups and individuals contacted, number of times contacted, follow up conducted, meetings held in the community, and total number of participants) to ensure that meaningful effort is made to engage with community groups. Outreach to community groups should include efforts to schedule meetings at times that are convenient for working people, those with children, and those with other commitments. In addition, when meetings are virtual, those with limited or no internet access should be provided options for joining by phone or through other methods that allow people to safely and meaningfully participate. The government should also consider compensating community members for time spent providing input.

Finally, we agree that communities affected by PFAS contamination should be provided food alternatives when consumption advisories are issued and bottled or treated water when contaminated water is identified, but the plan should identify a timeline for those actions. For example, the plan should recommend the establishment of a fund and a response team supported by industries that are known sources of PFAS in the state that can be used to provide alternative water or food sources within 24 hours of identifying contamination in a community.

Sincerely,

/s/

Tony Wilkin Gibart
Executive Director
Midwest Environmental Advocates



October 30, 2020

Wisconsin PFAS Action Council

Sent via Email

DNRPFASInquiries@wisconsin.gov

Members of the Wisconsin PFAS Action Council:

These comments regarding the Wisconsin PFAS Action Council's draft PFAS Action Plan are submitted on behalf of the Wisconsin Paper Council (WPC) and Wisconsin Manufacturers & Commerce (WMC). WPC is the premier trade association that advocates for the papermaking industry before regulatory bodies, and state and federal legislatures to achieve positive policy outcomes. WPC also works to educate the general public about the social, environmental, and economic importance of paper, pulp, and forestry production in Wisconsin and throughout the Midwest.

The pulp and paper sector employs over 30,000 people in Wisconsin and has an annual payroll of \$2.5 billion. Wisconsin is the number one paper-producing state in the United States, with the output of paper manufactured products estimated to be over \$18 billion. Our members are dedicated to maintaining both a healthy environment and a healthy economy in Wisconsin and believe both are attainable together through appropriate regulation and responsible manufacturing practices.

WMC is the state's largest general business trade association, representing roughly 3,800 members businesses of all sizes and throughout all regions of the state. WMC members do business in all sectors of the economy, including manufacturing, retail, financial services, healthcare, agriculture, and energy. Since its founding in 1911, WMC has advocated for policies that make Wisconsin the most competitive state in the nation to do business.

As an initial matter, there appears to be a misperception that the pulp and paper industry uses large amounts of PFAS on a widespread basis. Within our industry, intentional use of PFAS is extremely limited, and the compounds that are in use have been approved by the Food and Drug Administration (FDA) as safe for use as food

packaging. This issue is discussed in more detail in the comments on WisPAC's proposed Wisconsin PFAS Action Plan (Plan) set forth below.

1. Public Input into the Plan

WisPAC's process for obtaining input regarding PFAS issues was to create two "advisory groups" who were charged to "provide educational and feedback forums for the introduction of PFAS and WisPAC." These groups took comments from the public, and had no formal membership, other than the co-chairs. The "Citizen/Public Policy Group" co-chairs included two state agency representatives, a private sector attorney and a "business representative." The Local Government Group co-chairs included two state agency representatives and two private sector attorneys.

Appendix C contains recommendations made by the co-chairs based upon public comments received. Appendix A contains the public comments. The Plan notes that the majority of WisPAC's recommendations are like or related to those proposed by advisory groups' chairs.

It is somewhat of a misnomer to refer to this process as using "advisory groups" when the process consists of appointed co-chairs proposing recommendations based on public input. The Department of Natural Resources (Department) has frequently used advisory groups to obtain input into rulemaking and other policy-making activities. While the Department is a separate entity from WisPAC, the Department lead this effort and will be directly involved in most the recommendations made by WisPAC. Advisory groups typically entail the Department convening together experts and groups with significant interest in the issue at hand, including environmental, government and industrial organizations to discuss the relevant issues.

In this instance, WPC believes these proposals could have benefited from additional discussions with stakeholders. We also note that unlike public comments that are made in the context of legislation or rulemaking, none of the comments in the Plan are attributed to an individual or organization. Thus, it is unknown whether the comment came from a large or small organization, an organization with a specific agenda, or an individual. Thus, much of the context of the comments has been lost.

2. Lack of Cost Data

Most of the proposals in the Plan indicate that additional resources are necessary to implement them. For example, WisPAC proposes in Paper 5.2 an extensive effort to measure background PFAS levels statewide for all different media, including air, surface water, wastewater, biosolids, drinking water, groundwater, soil, sediment, fish, wildlife and other biota. As another example, in Paper 7.3, WisPAC proposes to create a municipal grant and loan program.

While the papers note that additional resources are needed, no cost information is provided in the Plan. The absence of cost information, and how such costs would be

funded, makes it difficult for policymakers and other interested parties to evaluate and prioritize these proposals.

3. Paper 1.1: Establish Science-Based Environmental Standards for PFAS

WPC agrees that environmental standards should be based on sound science and developed in conformance with the applicable law. Standards should also be based on appropriate assumptions that reflect realistic risks. Moreover, policy makers need to have a firm understanding of the feasibility of achieving those standards, and the costs associated with achieving the standards.

Throughout its documents, however, WisPAC generally references “PFAS.” PFAS consists of thousands of different compounds. In order to take a science-based approach to PFAS regulation, it is important that individual PFAS compounds be evaluated separately to assess their respective impacts. For example, the Department indicates the likely range of surface water criteria to protect human health is less than or equal to 2 parts per trillion (ppt) for PFOS, and 35-45 ppt for PFOA. Thus, while not necessarily agreeing with these ranges, it is clear that all PFAS compounds do not have the same impacts on health and the environment.

In this paper, WisPAC recommends the Department act on groundwater standards, surface water standards, drinking water standards, soil direct contact and soil-to-groundwater standards, and biosolids standards. The paper also recommends DNR work with EPA on air PFAS issues, and that it evaluates the need for solid waste and sediment standards. Finally, WisPAC recommends the Department examine the need to list PFAS as hazardous under Wisconsin’s hazardous waste management rules.

Given the number of PFAS compounds, and variety of standards in different programs this recommendation entails, the Department will need to prioritize those compounds and establish pathways on which to focus. The Department should include stakeholders in establishing its priorities.

4. Paper 2.1: Expanding PFAS Site Identification Using GIS Mapping

This paper focuses on identifying potential sources of PFAS. This includes broad categories of uses, such as PFAS used in industrial applications or the manufacturing process, secondary sources of PFAS (landfills and wastewater treatment plants), and “industries with potential PFAS use where less is known about the location or operations.” The paper recommends the Department should build on a prioritization model and implement the screening and prioritization protocol developed for the state.

This “prioritization model” has not been released to the public. Stakeholders should have an opportunity to provide input in this identification and prioritization process prior

to implementation. This model has the potential to have significant social and economic impacts to the state and should not be developed and implemented in a vacuum.

In addition, it is critical that if the Department plans to publish a list of potential PFAS sites, that it do so based on actual data, and not by broad categories. Classifications based on no data are so broad as to have little use, have the potential to create misperceptions, and to “blacklist” facilities that have not intentionally used PFAS. Thus, identification of PFAS sources should be done with caution, and based on actual data.

5. Paper 2.3: Standardization of PFAS Sampling

WPC agrees that standardized sampling protocols for PFAS should be established. Given the extremely low levels at which the compounds can be measured, it is critical to have sampling and analytical protocols that minimize the risks of cross-contamination. Such protocols should be established through rulemaking, as in many other instances, to ensure consistency. Ideally, these protocols would apply nationally.

6. Paper 3.2: Amending Firefighting Foam Law

Paper 3.2 recommends a prohibition on Firefighting Foam containing intentionally added PFAS. While the paper discusses amending a state statute, the “Type of action” portion of the paper indicates the action taken would be administrative rulemaking.

This paper inaccurately indicates that an administrative agency has the authority to ban products. Agencies do not have the authority to ban products through administrative rules without statutory authority.

7. Paper 3.3: Develop and apply Best Management Practices for Handling PFAS-Containing Waste

In Paper 3.3, WisPAC recommends that best management practices (BMPs) be established for the generators of PFAS containing waste. WisPAC indicates that rulemaking would not begin until there is enough experience with the BMPs, and until EPA research has addressed several research and disposal issues.

WPC appreciates WisPAC’s recognition that additional information and experience is needed prior to initiating rulemaking. Because these BMPs would not initially be contained in administrative rules or statutes, the BMPs would not have the force or effect of law until such practices were adopted as legally promulgated rules.

Some important considerations regarding waste disposal include the following:

- WisPAC references the disposal of PFAS generically rather than by listing specific compounds. The broad spectrum of PFAS compounds do not pose universally identical risks, and such risks at a given concentration level. Thus, an important question is this; what concentration of different PFAS compounds in a

waste stream triggers the need for waste management practices beyond those currently employed, such as landfilling? Furthermore, what practicable alternative disposal methods are available?

- This paper specifically references “grease-resistant papers.” These types of specialty papers make up an extremely small portion of the paper market. Use of these compounds have been approved by the FDA as safe for use as food packaging. If these papers are approved to come in contact with food consumed by humans, they should be acceptable for disposal in a solid waste landfill. Moreover, alternatives to the use of FDA- approved PFAS are currently being pursued by that specialty paper segment of the industry.

8. Paper 3.4: Identify PFAS Sources and Reduce Discharges to Wastewater Facilities

This paper indicates that the Department may require businesses to test their effluent for PFAS if they have a WPDES permit, and may require businesses that discharge to a municipal wastewater treatment plant to test their influent. The paper indicates this can be done immediately, but also notes that this type of action is legislative. This paper needs to be amended to clarify that legislation is needed before these actions can be taken, and therefore cannot be implemented “immediately” as it currently indicates.

9. Paper 6.1: Develop and Support Product Stewardship Mechanisms to Reduce PFAS Use

The background portion of this paper discusses the use of PFAS products in manufacturing. Regarding paper products, the paper indicates:

PFAS-containing paper products are of particular concern. There are approximately 25 paper companies operating mills at over 30 locations in Wisconsin. There are also approximately 200 converters that operate facilities in the state. Converters take paper produced at a mill and change it to a finish product. These products are as varied as art paper, food packaging, tissues and towels, medical papers, industrial papers, and printing and writing paper.”

This description inaccurately suggests that there is widespread use of PFAS in the paper industry. As mentioned above:

- PFAS is not produced by the pulp and paper industry.
- PFAS is not intentionally used as part of the manufacturing process to aid, for example, in the pulping or secondary fiber recycling.
- PFAS is used for some specialty papers that are grease-resistant and used for certain food packaging.
- Specialty papers constitute a very small portion of the paper market.

- PFAS compounds that are currently used for specialty papers are not long chain compounds, such as PFOS and PFOA. Those compounds were phased out by suppliers over 10 years ago. The compounds that are currently used have been approved by FDA as safe.
- Largely due to market demand, there is an effort to find alternatives to the use of PFAS. As noted in this Paper, for example, there was a recent agreement with suppliers and FDA to phase-out some PFAS compounds used to produce grease resistant paper.
- Trace amounts of legacy PFAS may enter a paper producing facility, even though it is not intentionally being used as part of the manufacturing process. Because PFAS is so ubiquitous in the environment, it is possible that PFAS could come in as part of the influent water of the facility.
- One of the key environmental attributes of paper is that it is easily recycled and used to make new products. Paper is one of the most recycled products in the world. Moreover, environmental agencies have been supportive of these recycling efforts. It is possible that negligible amounts food packaging paper containing PFAS could come into a facility that recycles paper. Any amounts of PFAS would be minimal, because specialty paper containing PFAS is such a small portion of the market. As mentioned above, these compounds have also been approved as safe as food packaging.

In the Action portion of this paper, WisPAC advocates:

The Wisconsin Legislature should pass laws requiring responsible stewardship and comprehensive and informative labeling to ensure that consumers are sufficiently informed to make healthful and environmentally sound purchasing decisions. The Toxics in Packaging Clearinghouse has draft model legislation available, based off of and already utilized by other states, to add PFAS as among regulated or banned chemicals.

WisPAC's proposal raises numerous questions and significant concerns. For example, would the proposal apply to all PFAS compounds, including those that have been approved for certain uses by FDA? Would there be threshold amounts below which some PFAS would be allowed? What amount PFAS content would requiring labeling? How would it be determined what products are safe and what warrants a label?

WisPAC references above the Toxics in Packaging Clearinghouse's model legislation. This legislation applies to lead, mercury, cadmium and hexavalent chromium in packaging, and not to PFAS. It does not deal with labeling requirements.

It is important to note that this legislation, however, generally deals with substances that are "intentionally introduced" into packaging. Moreover, the use of recycled materials as feedstock, where a portion of the recycled materials contains a regulated material, is not considered "intentionally introduced" if it is below the threshold amounts specified in the legislation. Thus, this law specifically recognizes the value of recycling

by allowing certain trace amounts of the regulated substances potentially contained in the recycled materials used as feedstock, to continue to be used.

Also, WPC does not support individual states regulating products that are being put into the nation-wide stream of commerce. Any such regulations should be developed at the federal or international level.

10. Paper 6.2: Minimize the State's Purchase of PFAS-Containing Products

WisPAC proposes that the state and the university system should minimize or eliminate the purchase of PFAS-containing products, unless they are a necessity or there is not an appropriate and cost-effective alternative.

This proposal appears to target all PFAS, regardless of whether there are any known health or environmental impacts, and regardless of the concentration of PFAS in the product. Consequently, this proposal is overly broad. There are also, of course, numerous other chemical compounds that potentially can impact health or the environment, which would not be subject to this restriction that could be purchased.

11. Paper 8.2: Develop New Tools to Address PFAS Contaminated Sites

In this paper, WisPAC proposes three new “tools” to address contaminated PFAS sites. First, WisPAC proposes to require responsible parties to establish financial assurance reserves to cover investigation, cleanup and long-term continuing obligations at PFAS sites.

WPC believes that this proposal is unnecessary and increases the cost of cleanups. Numerous contaminated sites have been remediated in Wisconsin without the need to provide financial assurance. There is not a need to apply financial assurance requirements based on this particular group of compounds.

Second, WisPAC proposes creating a new claim for damages in Wisconsin. This proposal would allow the state to not only require a responsible party to remediate a site, or pay for remediation, it would also allow for the recovery of additional funds for damage to the environment. Furthermore, liability would be expanded to the producer of the product, in addition to a person who discharged a hazardous substance.

WPC does not support creating this new cause of action. The state has adequate authority to address discharges of hazardous substances under current law, as demonstrated by the thousands of cleanups that have been conducted throughout the state.

Finally, WisPAC proposes that a PFAS action fund be created with moneys collected by DNR for future DNR use related to PFAS. While it is unclear from this proposal what moneys would be collected by DNR, presumably the reference is to money DNR would receive from natural resource damages claims it would make under the proposal discussed above.

If this is the case, this is akin to a police agency keeping the funds from the tickets it issues. This creates an incentive for DNR to pursue litigation because it retains the funds it obtains for its use. This sort of "bounty hunter" provision is not good public policy.

Thank you for the opportunity to comment on WisPAC's Action Plan recommendations.

Sincerely,



Scott Manley
Executive Vice President,
Government Affairs
Wisconsin Manufactures & Commerce

/s/ Patrick Stevens

Patrick Stevens
Vice President
Environment & Regulatory Relations
Wisconsin Paper Council



October 31, 2020

Wisconsin PFAS Action Council
Wisconsin Department of Natural Resources
101 S. Webster Street PO Box 7921
Madison, WI 53707-7921
DNRPFASInquiries@wisconsin.gov

RE: **American Forest & Paper Association's Comments on the Wisconsin PFAS Action Council's Draft PFAS Action Plan**

Dear Wisconsin PFAS Action Council:

The American Forest & Paper Association (AF&PA) respectfully submits comments in response to the Wisconsin PFAS Action Council's (WisPAC) Draft PFAS Action Plan (the "Plan")¹ in accordance with the October 31, 2020 deadline. AF&PA and its members have serious concerns with the Plan as it disregards best available science and could potentially have major unintended socioeconomic and environmental consequences. In addition, AF&PA supports the views outlined in the comments submitted by the Wisconsin Paper Council and the PFAS Regulatory Coalition.

AF&PA serves to advance a sustainable U.S. pulp, paper, packaging, tissue and wood products manufacturing industry through fact-based public policy and marketplace advocacy. AF&PA member companies make products essential for everyday life from renewable and recyclable resources and are committed to continuous improvement through the industry's sustainability initiative — [Better Practices, Better Planet 2020](#). The forest products industry accounts for approximately four percent of the total U.S. manufacturing GDP, manufactures nearly \$300 billion in products annually and employs approximately 950,000 men and women. The industry meets a payroll of approximately \$55 billion annually and is among the top 10 manufacturing sector employers in 45 states.

¹ Wisconsin PFAS Action Council, *Wisconsin PFAS Action Plan* (Draft) (Oct. 1, 2020) (<https://dnr.wisconsin.gov/sites/default/files/topic/PFAS/wispac/DraftActionPlan20201001.pdf>).

AF&PA's sustainability initiative — *Better Practices, Better Planet 2020* — comprises one of the most extensive quantifiable sets of sustainability goals for a U.S. manufacturing industry and is the latest example of our members' proactive commitment to the long-term success of our industry, our communities and our environment. We have long been responsible stewards of our planet's resources. We are proud to report that our members have already achieved the greenhouse gas reduction and workplace safety goals. Our member companies have also collectively made significant progress in each of the following goals: increasing paper recovery for recycling; improving energy efficiency; promoting sustainable forestry practices; and reducing water use.

AF&PA supports actions that provide uniformity in chemical-related legislation, regulation, and policy across the country. AF&PA further advocates for legislation and regulations that do not duplicate efforts between jurisdictions, do not regulate PFAS compounds as a class and do not impose requirements that are not technically supported or practically implementable. To those ends, AF&PA respectfully submits these comments on the Plan.

I. The Paper Industry Is Not A Large User Of PFAS

As an initial observation upon reading the Plan, there appears to be a misperception that the paper manufacturing industry is a large user of PFAS on a widespread basis. Based on our knowledge of our members' practices, intentional use of PFAS is nominal compared with the total production of paper products. It also is important to recognize that, to the limited extent there is intentional use, it is only of short-chain PFAS chemistries, which are used for limited applications, such as grease and moisture resistance. These modern PFAS chemistries have been reviewed and approved by the U.S. Food and Drug Administration (FDA) as safe for use in food packaging through the food contact notification process. These chemistries do not have the toxicity profile of PFAS of concern, such as perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS), which were voluntarily phased out by the chemical manufacturers and have not been used by the industry for at least 10 years. In the Plan, there seems to be a misunderstanding about the profile of paper-based products and a lack of consideration about whether PFAS is actually intentionally added to products manufactured in Wisconsin. Moreover, if any such products are approved to come into contact with food consumed by humans, they should be acceptable for disposal in a solid waste landfill.

The background portion of the Plan discusses the use of PFAS in paper manufacturing. The plan states:

PFAS-containing paper products are of particular concern. There are approximately 25 paper companies operating mills at over 30 locations in Wisconsin. There are also approximately 200 converters that operate facilities in the state. Converters take paper produced at a mill and change it to a finish product. These products are as varied as art paper, food packaging, tissues and towels, medical papers, industrial papers, and printing and writing paper.”²

However:

- PFAS chemistry is not manufactured by the paper industry;
- PFAS is not intentionally used as part of the manufacturing process to aid, for example, in pulping or secondary fiber recycling;
- PFAS is used for some specialty products that are grease-resistant and moisture-resistant e.g., microwavable popcorn bags or certain food packaging) and constitute a very small portion of the paper products market;
- Largely due to market demand, there are ongoing efforts to find alternatives to PFAS, some of which already have been announced;
- Given that PFAS are ubiquitous in the environment, trace amounts of legacy PFAS could enter a paper producing facility, even though it is not intentionally being used as part of the manufacturing process (e.g., due to its ubiquity, PFAS could enter a mill through its intake process water (influent).

II. The Plan Should Not Include “PFAS” As an Entire Class of Compounds

AF&PA agrees that environmental standards should be based on the best available science and developed in conformance with the applicable law. Standards also should be based on appropriate assumptions that reflect realistic risks. Moreover, policy makers

² Wisconsin PFAS Action Council, *Wisconsin PFAS Action Plan* (Draft) (Sept. 16, 2020) (<https://dnr.wisconsin.gov/sites/default/files/topic/PFAS/wispac/DraftActionPlan20200916.pdf>).

need to have a firm understanding of the feasibility of achieving those standards, and the costs associated with achieving the standards.

One of the most concerning aspects of this proposal is that it threatens to upend the benefits provided by products such as safe and effective packaging by banning entire classes of chemistry that contribute to the unique properties that make them so effective. The Plan ignores a broad consensus among the scientific community and leading government authoritative bodies: individual compounds within the broad PFAS chemistry class clearly are not the same. To the contrary, they have widely varying properties, uses and environmental and health profiles. In fact, leading authorities such as the U.S. Food and Drug Administration, U.S. Environmental Protection Agency, Interstate Technology and Regulatory Council, and Organisation for Economic Co-operation and Development have recognized this to be the case.

Given the wide variations in potential human health, environmental, and other characteristics exhibited by different PFAS chemistries, it is without scientific merit to bundle thousands of PFAS into a single group to assess exposure to and risk from PFAS chemistry or to make inferences about properties such as bioaccumulation and persistence. From a toxicological perspective, regulatory agencies must have sufficient and relevant science to determine health-based values before promulgating specific chemical standards, limits, and related regulations. The most prevalent and available science regarding the incidence and potential health effects of PFAS is focused on PFOA and PFOS. There is significant ongoing research on a wide variety of PFAS compounds, and new information is being released on a regular basis. As more is being learned about the multitude of individual chemistries in this class and their variability in toxicity, there must be flexibility to allow the use of chemistries and uses that pose de minimis risk. If the state decides to include any PFAS in the Plan, the definition in the Plan must be amended to specify risk-based priorities for PFAS chemistries. The Wisconsin Department of Natural Resources should consider stakeholder input in establishing its priorities.

III. The Plan Should Not Rely on the Draft Toxics in Packaging Clearinghouse's Model Legislation in Support of Its Agenda

The Toxics in Packaging Clearinghouse's Model Toxics in Packaging Legislation (the "Model Legislation") in its current form is unclear and unusable regarding the regulation of PFAS in paper. As written, the current Model Legislation (discussed on p. 84 of the Plan) would ban PFAS that "has been intentionally introduced as an element during

manufacturing or distribution as opposed to the incidental presence of any of these elements.”³ The definition of “intentional introduction” focuses on the deliberate use of a regulated chemical where “its continued presence is desired in the final package or packaging component to provide a specific characteristic, appearance, or quality.”⁴ The Model Legislation also specifically states that amounts contained in post-consumer recycled materials for feedstock are not considered “intentional introduction.” This definition is helpful, and pragmatic recognizing the value of recycling and should be retained for any PFAS in paper regulation.

However, the revised Model Legislation becomes unclear in Section 4, where it states: “There shall be no detectable PFAS in any package or packaging component.”⁵ This language is at odds with the support for the use of post-consumer content expressed by the model legislation, as well as the provision on “intentional introduction.” PFAS compounds are now ubiquitous in the environment, and very low levels of PFAS could be introduced into manufacturing processes from other sources such as recovered fiber and process intake water.

The Plan should focus on those PFAS that are intentionally added to impart a specific function to the paper product. Without such limitations, the Plan is over-inclusive and may likely be counterproductive, affecting paper packaging that may have only trace levels of PFAS near the detection limit. One of the key environmental attributes of paper is that it is easily recycled and used to make new products. Paper is one of the most recycled products in the world. Moreover, environmental agencies have been supportive of these recycling efforts. It is possible that negligible amounts of food packaging paper containing PFAS could come into a facility that recycles paper. Any amounts of PFAS would be minimal, because specialty paper containing PFAS is such a small portion of the market. As mentioned above, these compounds have also been approved as safe in food packaging uses.

³ The Toxics in Packaging Clearinghouse, *Model Toxics in Packaging Legislation* (July 2012) at Section 4a (<https://toxicsinpackaging.org/model-legislation/model/>).

⁴ *Id.* at Section 3.

⁵ Letter from Toxics in Packaging Clearinghouse, re: *TPCH Requests Comments on Updates to their Model Legislation for Toxics in Packaging* (July 9, 2020) (<https://toxicsinpackaging.org/wp-content/uploads/2020/07/TPCH-Call-for-Comments-For-Model-Legislation-Update-2020-Revised-7.24.20.pdf>).

IV. The State's Purchase of PFAS-Containing Products Should Use A Risk-Based Approach

WisPAC proposes that the state and the university system should minimize or eliminate the purchase of PFAS-containing products unless they are a necessity or there is not an appropriate and cost-effective alternative.

This proposal appears to target all PFAS, regardless of whether there are any known health or environmental impacts, and regardless of the exposure and risk of PFAS from a product use. Consequently, this proposal is overly broad. There are also, of course, numerous other chemistries that potentially could impact public health or the environment, which would not be subject to this restriction that could be purchased. Such a process that minimizes or eliminates products that have been shown to be safe by the FDA is unproductive and burdensome to the industry and the public in general.

V. Conclusion

Thank you for your careful consideration of these comments. If you have any questions, please do not hesitate to contact me directly.

Sincerely,

/s/ Stewart E. Holm

Stewart E. Holm
Chief Scientist
American Forest & Paper Association
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October 27, 2020

To The Honorable Members of WisPAC:

RE: A response to and comments pertaining to the Wisconsin PFAS Action Plan

Wisconsin's Solid Waste PFAS Coalition (SWPFAS Coalition) wishes to express how appreciative we are that WisPAC operated in an open and transparent fashion during its long deliberations. Moreover, we appreciate the massive public input allowed, which clearly helped shape the draft Action Plan.

While we generally support the findings of WisPAC and the recommendations of the Action Plan, the SWPFAS Coalition think that the solutions proposed appear to target the solid waste industry, who are receivers of PFAS, as the parties responsible for fixing the entire system of problems caused by PFAS. This may not have been the intention of WisPAC, but the receivers of PFAS clearly cannot solve a massive global issue. Given what is known about exposure science, efforts targeting the solid waste industry are unlikely to net the highest and best results to protect humans and our environment from PFAS.

The SWPFAS Coalition consists of waste resource professionals, all of whom are dedicated to protecting human health and the environment. As such, we stand ready to assist WisPAC in enhancing and implementing many of the recommendations of the Action Plan.

.....

General suggestions and comments:

1. Consider opening the Action Plan with Section 5-Research and Knowledge. Every recommendation of this Action Plan must be underpinned by research and knowledge.
 - a. In particular, research on the fate and transport of PFAS in "air, surface water, sediment, wastewater, stormwater, groundwater, soil, biosolids, fish and animal tissue and humans" is absolutely essential to identifying how and where to best invest in mitigation strategies.
2. Consider making "Section 6-Phase Out" part of "Section 3-Pollution Prevention". The best course of action to prevent pollution is to never produce the material that is causing the pollution.
 - a. In particular, Recommendation 6.1-Develop and Support Product Stewardship Mechanisms to Reduce PFAS Use,

WISCONSIN SOLID WASTE PFAS COALITION



About us

The Wisconsin Solid Waste PFAS Coalition was formed in 2019 to educate and inform our industry members, lawmakers, and the public about the relationship between PFAS and our waste.

The solid waste industry supports regulating these chemicals and has always held protection of human health and the environment as a core value; however, the health risks of PFAS need to be fully evaluated and weighed against other environmental pollutants before stringent standards are implemented.

Contact us

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- could serve as not only a significant pollution prevention strategy, but could also be a critical component to fund end of life care for PFAS and PFAS-containing products.
- b. SWPFAS Coalition has long ascribed to the concept that a global ban on the production and use of PFAS is the only way to truly solve this issue.
 3. Consider emphasizing minimizing impacts to solid waste systems in a similar way in which the Action Plan explicitly and implicitly expresses the need to minimize impacts to wastewater treatment facilities. As both industries are receivers, not generators, of PFAS they should be treated equally within this plan.
 4. SWPFAS Coalition strongly supports all efforts to educate the public and expand an understanding of how ubiquitous PFAS are in our lives. We believe that all involved in this system, from manufacturers to wholesalers to retailers to consumers, all play a role in developing the most sustainable solution to PFAS.

Specific Responses:

1.2 Develop Recommendations for Management of PFAS-Containing Landfill Leachate

While solid waste systems, including landfills, transfer facilities, compost facilities and material recover facilities are receivers of PFAS waste, the SWPFAS Coalition does not understand why recommendations on managing PFAS-containing leachate merits such a prominent place in the report, appearing under section 2 of the report. In contrast, developing and applying “best management practices (BMPs) for property handling of PFAS-containing waste” netted a position in the recommendations under 3.3. And paper manufacturing facilities, including post-consumer paper mills, receive PFAS-containing wastes in the form of recyclable paper, is mentioned only under 6.1.

SWPFAS Coalition appreciates the narrative provided within item 1.2, specifically regarding collaborating with stakeholders to develop strategies to minimize impacts from leachate. We strongly recommend that any work on this topic will include how any technological investments actually produce a significant benefit and not just cycle PFAS within the solid waste system. Even the referenced Vermont Conceptual Leachate Treatment Scoping Study for New England Waste Services of Vermont (NEWSVT) Landfill indicates of the eight (8) technologies listed, none destroy PFAS, only cycle them within the system.

As well, SWPFAS Coalition urges regulators and researchers to evaluate the relative mass contributions of PFAS in leachate against all other sources, including the unregulated sources such as households. Will the investment in expensive technologies result in a reduction in PFAS exposures and have a commensurate impact on public health? Is the investment at landfills the most effective use of treatment dollars? Or, would it be more effective to treat PFAS from leachate at wastewater treatment facilities?

Finally, the Draft Plan references both Vermont and New York requirements that landfills test neighboring potable wells for PFAS, with landfill operators then providing an alternate source of drinking water if PFAS are found. This logic prejudices the outcome and presumes landfills are potential source of groundwater impacts which has not to our knowledge been proven in any of the other statewide studies. As such, we respectfully request this language be revised to not unnecessarily alarm the general public. If regulators pursue this course of action, then the SWPFAS Coalition would want to see significant analysis done to “fingerprint” PFAS so as to eliminate the impact from septic systems, Teflon plumbing tape, Teflon pump gaskets and incidental PFAS deposition from rainwater which would migrate to groundwater.

7.2 Launch a Collection & Disposal Program for PFAS-containing Firefighting Foam

The SWPFAS Coalition supports this recommendation, however, we wish to suggest that funding come from general purpose revenue and not from any existing segregated fund, particularly the Environmental Management Account (EMA). The EMA is funded primarily by landfill tipping fees and support such critical programs as pharmaceutical collections, household hazardous waste collection (Clean Sweeps), grants to counties to fund conservation programs, non-point source grants to counties and recycling funding to the nearly 2000 Responsible Units of Recycling. Pulling funding from this account threatens all of those great programs in the future.

7.3 Provide Financial Tools for Local Governments

The SWPFAS Coalition strongly supports the creation of a low-interest loan program, for solid waste facility owner/operators, to help cover the costs associated with the installation of new or upgraded treatment systems to consolidate PFAS. According to the Vermont Conceptual Leachate Treatment Scoping Study for New England Waste Services of Vermont (NEWSVT) Landfill, the cost for onsite (at landfills) wastewater treatment systems are a minimum of nearly \$1 million a year. While some of these



Comments in Support of Wisconsin PFAS Action Plan October 31, 2020

Wisconsin Conservation Voters works with our network of over 40,000 members and supporters to engage voters to protect our environment. We work in close partnership with many local conservation groups. We have offices in Madison, Milwaukee, Green Bay, and Eau Claire. We appreciate the opportunity to provide comments in support of the state implementing a comprehensive approach to PFAS contamination.

PFAS chemicals are having a profound impact on public health. These chemicals build up in our environment and our bodies and do not breakdown. This makes them extremely difficult to remediate once we find them in our environment. The U.S. Centers for Disease Control has advised doctors that PFAS are linked to increased rates of testicular and kidney cancer. Exposure can also lead to liver lesions, kidney degeneration, and damage to liver function. In addition, a number of large epidemiological studies have related higher maternal exposure to these chemicals to lower birth weights.ⁱ There are also numerous studies showing that PFAS have a negative impact on the effectiveness of various vaccinations, which in the age of COVID-19 is particularly concerning.ⁱⁱ

Wisconsin Conservation Voters support the overall recommendations made in the draft PFAS Action Plan. We specifically support the state prioritizing:

- **Action Item 1.1: Establish Science-Based Environmental Standards for PFAS**

It is critical the DNR move as swiftly as possible to develop and implement standards for PFAS, which are currently being developed under NR 809 (Safe Drinking Water), NR 140 (Groundwater), and NR 105 (Surface Water Quality). These rules are the first efforts to establish new enforceable standards that are critical to protecting public health and ensuring communities can be certain of the threats in their water. We support efforts to prioritize the staff and toxicology research necessary to develop this rule. As these rules are being developed, we also support efforts to continuously update these standards with new PFAS substances, or mediums for their transport, as data supports.

- **Action Item 2.4: Test Public Water Systems for PFAS**

We know that PFAS are already present in 30 public water systems, but we don't know where else they're lurking since the vast majority of public water systems in Wisconsin chose to ignore the DNR's request to voluntarily test their water for PFAS. Failure to

test for PFAS not only ignores the current threats they pose, but it also allows the chemicals to continue to proliferate in our drinking water. This will make it much more difficult and expensive to treat in the future. We cannot solve problems that we are not measuring.

Wisconsin should require all public water systems to test for PFAS so we can understand where contamination is happening. This will allow communities and families to know who is at risk and begin to address the pollution. Other states in the Midwest have required municipal water systems to test for PFAS and we believe the DNR should prioritize making this process mandatory as soon as possible. We support the recommendation that Wisconsin should invest the \$750,000, in addition to the federal funds already received, to make this happen.

- **Action Item 4.2: Facilitate Environmental Justice and Health Equity in Wisconsin Communities**

We support the recognition that systemic and structural racism have made low-income and communities of color more likely to be victims of polluting industries in their neighborhoods and makes them more vulnerable to the impacts of that pollution. We support efforts by all state agencies to be proactively working with underserved communities to identify existing pollution concerns and work to ensure they are not targeted by polluters in the future. We encourage funding staff to perform, specifically, this community outreach work, with a clear focus on making sure that all government outreach has sufficient translation and interpretive services. We support ongoing training of staff to understand the underlying cultural and structural barriers to these communities and individuals fully participating in rule-making or public participation processes.

In closing, we appreciate Governor Evers' making PFAS pollution a priority and for the DNR and other agencies making recommendations on how we can comprehensively address this public health crisis. We are committed to working with all stakeholders to make this possible.

Thank you for your time and consideration.

For more information, contact Jennifer Giegerich at Jennifer@conservationvoters.org or 608-208-1130. Visit Wisconsin Conservation Voters at www.conservationvoters.org.

ⁱ https://www.atsdr.cdc.gov/pfc/docs/pfas_clinician_fact_sheet_508.pdf

ⁱⁱ <https://www.ewg.org/news-and-analysis/2019/06/pfas-chemicals-harm-immune-system-decrease-response-vaccines-new-ewg>

costs could be passed on to users of the facilities, closed landfills have no means of passing along those costs. Also, due to economies of scale, smaller landfills will have higher treatment costs than larger landfills. This could create competitive disadvantages within our industry. The largest user of landfills are municipalities who coordinate waste/recycling collection and management. Eventually, those passed along costs mean the costs are borne by rate and tax payers.

The PFAS Regulatory Coalition
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October 30, 2020

Wisconsin PFAS Action Council
DNRPFASInquiries@wisconsin.gov

Re: PFAS Regulatory Coalition's Comments on Wisconsin's Draft PFAS Action Plan

Dear Wisconsin PFAS Action Council:

The PFAS Regulatory Coalition (Coalition) appreciates the opportunity to submit comments on the Wisconsin PFAS Action Council's (WisPAC) Draft PFAS Action Plan. Wisconsin Governor Evers established WisPAC through Executive Order #40, which tasks WisPAC with producing a PFAS Action Plan, "including a comprehensive set of recommendations from local government and the general public with regard to addressing PFAS contamination" in Wisconsin.

The Coalition appreciates WisPAC's comprehensive approach to these complicated set of issues. The Coalition supports implementation of the elements of the Action Plan that further research and funding, and we support national efforts in those areas as well. On the other hand, the Coalition does not support those elements of the Draft Action Plan that would be duplicative of or counter to federal actions or that further the creation of confusing, multiple state-specific standards.

A. The Coalition's Interest

The Coalition is a group of industrial companies, municipal entities, agricultural parties, and trade associations that are directly affected by the development of legislation, policies and regulations related to per- and polyfluoroalkyl substances (PFAS). Coalition membership includes entities in the automobile, coke and coal chemicals, iron and steel, municipal, paper, petroleum, and other sectors. None of the Coalition members manufacture PFAS compounds. Coalition members, for purposes of these comments, include: Airports Council International – North America; American Coke and Coal Chemicals Institute; American Forest and Paper Association; American Fuel & Petrochemical Manufacturers; American Petroleum Institute; American Iron and Steel Institute; Barr Engineering; Gary Sanitary District (IN); Illinois Association of Wastewater Agencies; Lowell, MA; Pueblo, CO; Tempe, AZ; Trihydro; Toyota; TRS Group; Utility Solid Waste Activities Group; and Yucaipa Valley Water District (CA).

The Coalition supports and advocates for actions that provide uniformity across the country of PFAS-related legislation, regulation and policy. Additionally, the Coalition supports and advocates for legislation and regulations that do not duplicate efforts between jurisdictions, do not regulate PFAS compounds as a singular class, and do not impose requirements that are not technically supported or practicably implementable.

B. The Coalition's Comments on the Draft Action Plan

1. Action 1.1 Establish Science-Based Environmental Standards

PFAS is a broad chemical class used to refer to many individual chemical compounds with a wide variety of risk profiles. The Coalition supports regulatory efforts that focus on individual compounds that present unreasonable risks to human health. Generally, any PFAS regulations should clearly specify the individual compounds of PFAS that it seeks to regulate. Given the wide variations in toxicities and other characteristics exhibited by different PFAS chemicals, it is not scientifically appropriate to group all PFAS together for purposes of risk assessment or to assume that exposures to mixtures of PFAS necessarily bioaccumulate in one's body in interchangeable 1:1 ratios.

Accordingly, the Coalition supports the Draft Action Plan's approach to using specificity in identifying which PFAS compounds to regulate and recommends that any regulation of individual PFAS substances reflect peer-reviewed science regarding the physical, chemical, and toxicological properties of each compound. Similarly, the Coalition recommends against including any combined PFAS standards or limits unless science clearly demonstrates that the mixture of the PFAS compounds subject to the combined limit results in bioaccumulation in hazardous concentrations.

The Coalition strongly urges WisPAC to take an approach that supports EPA's efforts towards national standards for regulating PFAS compounds. EPA is focusing significant resources on developing appropriate regulatory mechanisms related to various PFAS compounds. EPA's PFAS Action Plan provides a multi-media, multi-program, national research, and risk communication plan to address the emerging PFAS challenge. Part of EPA's PFAS Action Plan involves expanding the scientific foundation for understanding and managing risk from PFAS, including researching improved detection and measurement methods, generating additional information about PFAS presence in the environment and drinking water, improving the understanding of effective treatment and remediation methods, and developing more information regarding the potential toxicity of a broader set of PFAS. In turn, EPA expects that this information will help states and others better manage PFAS risks.

As part of EPA's PFAS Action Plan, the agency is moving towards possible federal Maximum Contaminant Level (MCL) standards for PFOA and PFOS—two of the most well-known and prevalent PFAS chemicals. On March 10, 2020, EPA released for public comment its Regulatory Determination for Contaminants on the Fourth Drinking Water Contaminant Candidate List. The proposed Regulatory Determination supports regulating

PFOA and PFOS under the Safe Drinking Water Act, meaning EPA is proposing to move forward with setting MCLs for these two PFAS compounds. EPA explained that, “[p]roposing a regulatory determination is the next step in the maximum contaminant level [] rulemaking process under the Safe Drinking Water Act; it enables the EPA to propose and solicit comment on information critical to regulatory decision-making towards protecting public health and communities across the nation.” Additionally, EPA is gathering and evaluating information to determine if similar regulations are appropriate for a broader number of PFAS compounds.

EPA has also issued “Interim Recommendations for Addressing Groundwater Contaminated with PFOA and PFOS.” Those recommendations provide clear and consistent guidance for federal cleanup sites being evaluated and addressed under federal programs. The interim recommended screening levels followed under federal environmental statutes are risk-based values that are used to determine if levels of contamination may warrant further investigation at a site. The recommendations are intended to be used as guidance for states to evaluate state cleanup and corrective action sites. The interim guidance recommends in relevant part:

- Using a screening level of 40 parts per trillion (ppt) to determine if either PFOA, or PFOS, or both, is present at a site and may warrant further attention.
- Using EPA’s PFOA and PFOS Lifetime Drinking Water Health Advisory level of 70 ppt as the preliminary remediation goal (PRG) for contaminated groundwater that is a current or potential source of drinking water, where no state or tribal MCL or other applicable or relevant and appropriate requirements (ARARs) are available or sufficiently protective.

While EPA is working through its rulemaking procedures, Congress continues to consider ways to expedite and fund various national standards-setting approaches. For example, Congress passed and the President signed into law the National Defense Authorization Act (NDAA) (P.L. 116-92) that mandates additional federal actions to regulate and manage various risks associated with many PFAS. While we recognize that not all states and stakeholders can agree on specific priorities or approaches to PFAS regulations, congressional actions such as this, combined with EPA’s efforts, are important national developments that should be supported by the states through their contribution of expertise, resources, and efforts as the Nation works to respond to PFAS exposure risks.

Standards-setting must reflect more national and uniform collaboration and cohesion. We must work to avoid the undesirable outcome of 50 separate state rules. With this in mind, we urge WisPAC to work closely with EPA to establish science-based and peer-reviewed federal standards that serve as the basis for comparable state standards. Such an approach is consistent with how EPA and the states have addressed environmental and human health risks since the inception of EPA.

Indeed, a patchwork of 50 different state solutions is unworkable and contrary to how the U.S. has previously addressed similar emerging contaminant issues. While some limited variations related to groundwater, surface water, or soil cleanup levels may be expected and appropriate, the highly variable regulatory health advisories, action levels, and drinking water standards currently being developed or under consideration across the country create unnecessary confusion and complexity for the public and the regulated community.

Implementation of any future federal standards likely will be more complex and resource-consuming for states that set their own limits in advance of federal action. Indeed, the purpose of federal law is to protect against a patchwork of state law. Accordingly, the State should clearly articulate what it will do to foster consistency and uniformity with neighboring states, and how the State will defer to federal standards or revise standards based on future federal action and improved scientific understanding about exposure, dose, and toxicology. Rather than expending significant resources implementing independent standards, WisPAC should develop an action plan where state resources are used to support the development of science upon which EPA could base its federal standards. This would protect the State from expending resources on establishing and enforcing its own PFAS regulations that are inconsistent with other states and with federal science-based and peer-reviewed standards.

If Wisconsin chooses to move forward with its own state-specific standards, the Department of Health Services must develop health-based recommendations, subject to public notice and comment that must be the scientific basis for state-level regulations. Critically, all costs of new regulations must be considered as the economic impact of any new PFAS regulations could easily exceed \$10 million, triggering the need for legislative involvement in DNR rulemakings.

2. Action 3.1 Partnering with Firefighting Associations & Municipal Airports on PFAS

The Coalition supports WisPAC engaging with partnerships with Municipal Airports. The issues facing federally-regulated Part 139 municipal airports are unique. The industries we represent are engaged nationally in issues related to PFAS and aqueous film-forming foams (AFFF) and collaborate at the state level as well.

3. Action 3.2 Amend Firefighting Foam Law, Wis. Stat. §299.48

Any amendments to state-specific firefighting foam laws must exclude Part 139 airports, which are governed by federal law, including their use of AFFF. State laws that attempt to address these same issues risk creating conflict with federal law and imposing needless state requirements. While we recognize the environmental risks associated with using AFFF that contains PFAS, there may be situations (apart from airports) in which the risk to the public associated with possible significant petroleum or chemical fires outweighs what could be short-term environmental threats from AFFF. Non-fluorinated

AFFF is improving; however, these products do not yet perform at the same level as fluorinated AFFF. The state should allow for waivers when balancing the risks may favor using existing AFFF. In addition, many localities and industries have mutual aid agreements, including airports, and there may be instances in which AFFF must be used off airport property because of mutual aid agreements. Therefore, any ban on the use of AFFF must include appropriate waivers for required use, where the risk of not using it is outweighed by risk to the public, or when mutual aid agreements are in place.

4. Action 3.3 Develop and Apply Best Management Practices (BMPs) for Proper Handling of PFAS-Containing Waste

The Coalition supports the approach outlined in the Draft Action Plan that first calls for developing guidance and BMPs to dispose, store, and treat/destroy PFAS-containing waste and then, "once there is enough experience with those BMPs and EPA research has addressed several of the waste treatment and disposal issues," amend relevant portions of administrative rules to include, as appropriate. We are concerned that, in some situations, airports, municipalities, and manufacturing facilities are being asked to investigate PFAS impacts and potentially PFAS-containing waste, without being first provided with guidance as to how any identified impacts should be handled. Efforts are being made to address this problem, including by EPA, which as directed by the most recent NDAA, has been developing guidance regarding PFAS destruction. The Coalition supports WisPAC's approach to furthering these efforts and encourages WisPAC to collaborate with other states and EPA on these issues.

5. Action 3.4 Identify PFAS Sources and Reduce Discharges to Wastewater

The Coalition recognizes that other states, such as Michigan, have undertaken efforts to identify PFAS sources impacting municipal wastewater treatment plants (WWTPs). If the final PFAS Action Plan includes a similar effort, it also must include a plan for funding. Costs of sampling or any additional administrative burdens on WWTPs to address PFAS impacts through pre-treatment programs, should not be to the responsibilities of the municipalities to figure out. Additionally, WisPAC makes no attempt to indicate which PFAS compounds are potentially subject to this effort. DNR's current PFAS regulatory scope statement only identifies PFOS and PFOA, and the DNR has not received health recommendations for other compounds. Without those standards, it will be impossible to guide what levels are acceptable, and what required actions are needed for "minimizing the amount of PFAS that goes into a wastewater treatment" or for evaluating "effectively treating the remainder" at WWTPs.

6. Action 4.1 Develop PFAS Risk Communication Infrastructure

The Coalition supports the Draft Action Plan's inclusion of addressing risk communication infrastructure. We discourage WisPAC from taking actions that make risk communication more difficult, such as developing state-specific standards that lead to

confusing differences that are hard to communicate to the public and regulated entities alike. We instead encourage WisPAC to support the development of uniform standards and work with EPA and other organizations like the Environmental Council of States (ECOS) on the risk communication tools they are developing.

7. Action 5.1 Collaborate on and Implement Research

The Coalition supports the Draft Action Plan's inclusion of collaboration on research. As enumerated in the Action Plan, there are multiple areas where more research is needed. The Coalition encourages WisPAC to collaborate with ECOS, United States Geological Survey (USGS), and EPA's Office of Research and Development (ORD). This will ensure that WisPAC makes the best use of its funds, by not overlapping with or duplicating current research efforts.

8. Action 5.3 Collect Data on Drinking Water Treatment and Costs

The Coalition supports the Draft Action Plan's inclusion of gathering data on drinking water treatment and costs. The Coalition encourages WisPAC to make sure this data gathering is inclusive of all the costs, not just for building and operating the treatment systems, but also for increased testing and disposal of treatment by-products. This should also include the increased costs of private systems as well as the increased costs for remediation projects that are addressing groundwater impacts.

9. Theme 6: Phase Out

Actions 6.1 and 6.2 are aimed at supporting product stewardship mechanisms and reducing the state's purchase of PFAS-containing products. WisPAC should not encourage development of programs to address products in situations where the federal government already regulates use. For example, the use of limited PFAS products in a small portion of the paper products market is already regulated by the U.S. Food & Drug Administration, as well as other federal programs. Model legislation, such as that available from the Toxics in Packaging Clearinghouse, is too broad and does not account for the availability of substitute products and related safety concerns. WisPAC should support national efforts for regulation in these areas and not expend its resources adding to a patchwork of state requirements.

10. Action 7.2 Launch a Collection & Disposal Program for PFAS-Containing Firefighting Foam

The Coalition supports WisPAC including in the Action Plan the development of a take-back program for AFFF that contains PFAS. This take-back program should include fire departments for municipal airports in its list of priority fire departments to implement the program.

11. Action 7.3 Provide Financial Tools for Local Governments

The Coalition supports WisPAC including in the Action Plan additional financial tools for local governments. Other Parts of the Action Plan could impose financial obligations on local governments, making it difficult or impossible for the actions to actually be implemented. For this reason, the Action Plan must include the source of funding for each and every action in the Plan.

12. Action 8.2 Develop New Tools to Address PFAS Contaminated Sites

The Coalition disagrees that new tools are needed to address sites impacted with PFAS compounds. Wisconsin already has a robust remediation program that can address all remediation, whether it is due to PFAS or other contaminants. No new causes of action are warranted. Moreover, implementing requirements like financial assurance can increase costs of cleanups, and would divert funds from being deployed for actual remediation work.

The Action Plan also mentions creating a PFAS action fund from moneys collected by DNR for future DNR use related to PFAS. The proposal does not state from where and how the DNR is to collect this money or whether additional legislative authority is required. DNR funding to address remediation needs should be addressed on a comprehensive basis, rather than creating a new fund for a specific set of contaminants such as PFAS.

C. Conclusion

The Coalition appreciates the opportunity to submit these comments concerning the Draft PFAS Action Plan. Please feel free to call or e-mail if you have any questions, or if you would like any additional information concerning the issues raised in these comments.



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Rene Buys
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October 30, 2020

Dear Mr. Buys,

Wisconsin's Green Fire (WGF) appreciates the offer to comment on the WisPAC PFAS Action Plan. Our WGF experts, who offer the comments listed below, have decades of experience in the Department's Legislative, Solid Waste, Water and R&R programs.

Overall, we find the plan to be comprehensive and well written. **WGF supports the Recommendations in the WisPAC Plan and recommends the following additions.** We hope that you find these comments useful in completing your final draft.

We have arranged our comments in the same order that the sections appear in the plan.

WGF Recommendations:

Section 1.1: WGF also supports evaluating the necessity of establishing PFAS standards for biosolids in solid waste and sediment. Such an evaluation should be conducted in a publicly transparent fashion and provide an opportunity for interest groups to adequately participate.

Section 1.1: WGF also supports expediting clean-up standards by using the emergency rule process for soil, groundwater, and drinking water standards as suggested by the Local Government Advisory Committee.

Section 1.2: This collaborative process should be conducted in a transparent fashion and provide an opportunity for interest groups to adequately participate.

Section 2.2: WGF is unable to find the necessary substance in this section and hopes this section is fleshed out further in the future to include a specific timeline for collection and reporting.

Section 2.4: This testing should be conducted as soon as possible, but not later than the 2020-2021 state fiscal year.

In support of the administrative rule making for NR 890 and NR 140, a subsample of public water systems should also be sampled in the 2020-2021 fiscal year.

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Section 2.5: WGF strongly suggests creating a new action plan section, 2.5, for testing municipal and industrial wastewater treatment systems for PFAS, similar to the section on testing public water systems for PFAS.

This section should call for sampling, as appropriate, influent, effluent, and biosolids of these permitted facilities and consolidate recommended actions from elsewhere in this action plan, especially those in section 5.2 under the heading of “background” sampling.

In support of the administrative rule making for surface waters and associated actions related to permit requirements for these facilities, a subsample of wastewater treatment systems should be sampled in the 2020-2021 fiscal year.

Section 3.2: We agree that we must identify methods to reduce exposure to contamination including source control. Because this could be a significant source reduction and pollution prevention strategy, we suggest legislative action take place as early as possible in the next legislative session so we have the necessary laws that will be compatible with the Federal Aviation Administration Reauthorization Act of 2018.

Section 3.3: Additional evaluations under this recommendation should include:

- Evaluation of whether current non-hazardous waste landfills would be required to become licensed as hazardous waste landfills if PFAS are classified under CERCLA.
- A hazard potential analysis of the various PFAS-containing wastes
- Defining how exempt waste streams will be managed in the hazards potential analysis and any BMPs.

Section 4.1: WGF supports efforts to create a PFAS czar to coordinate communication both within the DNR but also within all state agencies to develop targeted and consistent messaging on PFAS. We believe a designated person who can champion the issue is critical. We also believe that DPI should coordinate state agency development of PFAS-related educational material for the classroom.

Section 4.2: Given the disproportionate impact of PFAS on low income communities and people of color, WGF supports the creation of the Environmental Justice and Health Equity Advisory Group. All of the actions contained in this plan should be reviewed through a lens of ensuring environmental justice and health equity. The Group’s efforts need to be supported by research into disparate risk faced by these groups and give priority to sampling, monitoring, and abating PFAS contamination in communities with known releases. DNR should adopt a “no-harm” approach that avoids placing additional burden on these communities when it comes to controlling, containing, and destroying PFAS chemicals.

Section 4.3: WGF supports efforts to have WisPAC lead an educational campaign to inform the public on how they can reduce their exposure to PFAS in their everyday lives. As part of that effort WGF requests that WisPAC host a PFAS summit to provide a forum for sharing information and the latest research. In addition, WisPAC should also work with consumer groups and partner organizations to support consumers in their ability to properly dispose of household materials containing PFAS and in making informed decisions about the products they buy and whether PFAS may be found in those products.

Section 4.5: Given the number and the magnitude of releases of PFAS that occurred at DOD facilities across the state, WGF supports a coordinated approach to the investigation and cleanup of those sites. We encourage the state through the WDNR to enter into a Cooperative Agreement with the DOD that ensures they fully evaluate fate and transport issues associated with the release at these sites.

Monitoring programs should be designed to collect baseline information as well as defining the degree and extent of contamination. The agreement should address an expedited schedule for the investigation, evaluation and remediation of those sites. Information obtained through the work conducted under the Cooperative Agreement should be shared with other regulatory staff and the public to enhance their understanding of PFAS in the environment.

Section 5.1: WGF supports the adoption of an approach like the Groundwater Coordinating Council to increase the efficiency and facilitate the coordination of state agencies in their response to PFAS. The model created by the Council creates an environment where there is a formal mechanism for the exchange of information, monitoring results, data management, public education, lab analysis, coordination of research activities and the allocation of funds for research. Those efforts should include our research partners including the University system and appropriate federal agencies.

Section 5.2: WGF supports research consistent with previous efforts to understand the prevalence of PCBs and arsenic to expand our understanding of the prevalence of PFAS in the environment. Those efforts should include the collection of randomized data in watersheds and ecosystems in Wisconsin. The data collection efforts need to address all potentially impacted media to foster a better understanding of ambient concentrations of PFAS.

Section 7.2: Funding is needed. There is a recognized need to understand how to destroy PFAS to prevent it from cycling through our environment.

Section 7.3: Previous legislation has been insufficient. Legislation and funding should be focused on public health. Local communities need help if they're going to deal with PFAS adequately.

Section 8.2: We should reference and rely on groups such as Interstate Technology and Regulatory Council (ITRC) to leverage standards, approaches, protocols, and expertise for guidance on addressing PFAS contaminated sites.

In addition, we offer these final comments:

1. WGF supports efforts to have WDNR identify a process for collecting information relating to the presence of and treatment of PFAS in public water supplies across the state. We support the proposal to have the WisPAC collect information relating to treatment options and their costs on an annual basis. The information should be reported in a manner that is easily accessed and understood.
2. Additional evaluation under this recommendation should include defining how residential PFAS-containing wastewater will influence any source reduction efforts.

3. WGF suggests that the legislature be asked to pass legislation that will control PFAS in the manufacturing supply chain. For instance, consider phasing out the use of PFAS, even short-chain, and new generation PFAS from the food packaging supply chain.

Thanks again for the opportunity to comment. If you have any questions, please contact John Robinson at robinson.john@hotmail.com.

October 30, 2020

VIA EMAIL

DNRPFASInquiries@wisconsin.gov

Wisconsin Department of Natural Resources

RE: Comments of the Municipal Environmental Group – Wastewater Division
WisPAC Draft Action Plan

Dear Sirs or Madams:

We are submitting these comments on behalf of the Municipal Environmental Group–Wastewater Division (MEG Wastewater). MEG Wastewater is an organization of approximately 100 municipalities statewide who own and operate wastewater treatment plants. We represent facilities ranging in size from small sanitary districts to larger utilities. MEG appreciates the opportunity to comment on the Wisconsin PFAS Action Council (WisPAC) Draft Action Plan (the “Plan”). We also appreciated the opportunity to participate in the WisPAC Local Government Advisory Group and support those recommendations contained in Appendix C.

MEG continues to support a science-based and holistic approach to regulation of PFAS compounds. To that end, MEG has the following comments on the Plan.

Theme 1: Standard Setting

Theme 1 includes a recommendation for the development of standards for water quality and possibly biosolids. MEG continues to advocate for the creation of narrative standards in lieu of numeric standards. The numeric surface water quality standards currently under consideration approach background concentrations of PFAS and are likely to be exceeded in the wastewater at most municipal wastewater treatment facilities, given the ubiquity of PFAS compounds in the environment. Wastewater treatment facilities would need to spend tens to hundreds of millions of dollars in plant upgrades to meet these limits in addition to tens of millions of dollars a year in operating costs, which is not economically feasible. The alternative would be to obtain variances which are temporary and inflexible solutions even if available. If granted, variances would require wastewater facilities to implement source reduction measures to reduce PFAS entering the facility. These source reduction measures, however, are not tied to numeric standards and can be more efficiently and adaptively implemented in the absence of numeric standards. This would achieve the goal of reducing the amount of PFAS discharged into surface waters while simultaneously reducing the significant financial impact on municipal wastewater treatment facilities that would arise with numeric standards.

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With respect to limitations for biosolids, there is currently little scientific data regarding the fate and transport of PFAS in biosolids, or the impact of PFAS in biosolids on human health. Limitations for biosolids should not be developed until the necessary research is completed such that limitations can be based on sound science.

Theme 1 also recommends the development of a strategy to safely manage landfill leachate. The relationship between landfills and municipal wastewater treatment facilities underscores the necessity of taking a holistic approach to PFAS regulation. Municipal treatment facilities accept and treat leachate from landfills and, in turn, sometimes dispose of residual wastes in landfills. This interrelationship must be considered as part of a strategy to safely manage PFAS in leachate and landfills. MEG supports the concept of developing a comprehensive strategy to safely manage PFAS in leachate, but emphasizes that the development of this strategy should include significant input jointly from landfills and municipal wastewater treatment facilities.

Theme 2: Sampling

Theme 2 includes a recommendation to standardize PFAS sampling methods. MEG supports the development of consistent, science-based methods for sampling and analyzing PFAS compounds in wastewater. This is a necessary first step toward gathering accurate data regarding PFAS compounds in different media, including wastewater.

Themes 3 and 6: Pollution Prevention and Source Phase Out

MEG supports a pollutant minimization approach to the reduction of PFAS compounds in our wastestreams. As the Plan notes, municipal wastewater treatment facilities are not sources of PFAS compounds and do not have the ability to treat for PFAS. Thus, in order to reduce the amount of PFAS in wastewater, the sources of that PFAS must be reduced. This can be best accomplished through the creation of narrative standards with pollutant minimization programs, rather than the imposition of numeric standards. MEG appreciates that the plan prioritizes working with municipalities and WPDES holders, as well as businesses, to identify sources of PFAS and will continue to work with the Department on this topic. Ultimately, the solution to PFAS compounds is to phase them out as happened on the federal level with PCBs.

Theme 4: Engagement, Education and Communication

It is vital to provide scientifically supported and clear information to the public and other stakeholders regarding PFAS compounds. MEG supports the recommendation in the Plan to create a central PFAS website that provides easy access to such information. However, the Plan does not specifically include municipalities and WPDES permit holders as partners in development of this information. These groups are working on the frontlines of PFAS research and development on a daily basis and have valuable knowledge that provides important context regarding PFAS compounds. The Plan should be revised to specifically include municipalities and WPDES permit holders as parties to be consulted in the development of this critical information. In addition, the Plan should provide for clear public communication on the relative risks associated with different kinds of PFAS exposure. The exposure risk of PFAS in soil or biosolids is entirely different than in drinking water or surface water.

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Page 3

Theme 7: Financial Resources.

Municipalities have limited resources and many environmental priorities. It is important to note that costs in addressing PFAS are not just direct costs for treatment or even source reduction but indirect costs. For example, if wastewater facilities are unable to land apply biosolids, the disposal costs increase by several orders of magnitude. Increasing costs means increased rates to individual ratepayers. Municipalities would welcome state grants or loans to assist in these projects.

Thank you for consideration of these comments.

Sincerely,

STAFFORD ROSENBAUM LLP

A handwritten signature in black ink, appearing to read "Vanessa D. Wishart".

Vanessa D. Wishart

Paul G. Kent

VDW:mai



Joe Fitzgerald
Milwaukee Water Commons
Water City Program Coordinator
jfitzgerald@milwaukeewatercommons.org
414-526-1575

October 31st, 2020

Wisconsin PFAS Action Council Members,

I am writing today on behalf of Milwaukee Water Commons to call for urgent and equitable action to address PFAS contamination in the state of Wisconsin. PFAS contamination throughout our state is a crisis impacting public and environmental health in ways beyond our understanding. Any conversation around this crisis should center accountability and justice.

Wisconsin communities with no knowledge of PFAS continue to drink poisoned water and suffer immeasurable losses. We are calling on our state to represent the commons, and be accountable to hold our waters in public trust, we depend on you to have the interests of public health held paramount. This draft PFAS Action Plan includes strategies and programs that should be mobilized urgently and financed by polluters. The PFAS crisis has been wrought with closed doors, private interests, and negotiations that include economic assessments of remediation and best practices. It is critical that at this time that we follow the leadership of those most impacted by PFAS pollution, not those responsible for that pollution.

We know that any meaningful actions to address this crisis will require a relationship with Wisconsin communities that is built on respect, trust, and solidarity. That is why we are writing today to advocate that these actions center accountability, transparency, and environmental justice.

Section 4.2 of this report calls on members of the Wisconsin PFAS Action council to center environmental justice and health equity noting, "While health studies have determined that PFAS substances are detectable in the blood of 98% of the human population, further studies have shown that communities of color and low-income communities are disproportionately impacted by PFAS contamination". We urge you that the recommendations in this section are put into action and structured into the decision making in each department dealing with the PFAS crisis.

To build these actions we urge that:

- The Wisconsin PFAS Action Council Environmental Justice and Health Equity Advisory Group should be a decision making body rather than an advisory group, their decision making power should be determined before the group is organized and should include the role of reviewing actions and processes of the Wisconsin PFAS Action Council and its members.
- The Wisconsin PFAS Action Council Environmental Justice and Health Equity Advisory Group should have structured requirements for diverse representation, that include criteria around racial, gender, age, geographic, and economic diversity. This committee should actively seek input from communities known to be directly impacted by PFAS pollution such as in Marinette, Peshtigo, Madison, and along Milwaukee's Kinnickinnic River.
- Each department working to address the PFAS crisis in Wisconsin should be required to report an assessment of their work around environmental justice to the public as a component of any action being taken to address this crisis.
- As our knowledge of the PFAS crisis grows, and new sources are identified, the Wisconsin PFAS Action Council should consult with community-based organizations to form representative local community advisory committees that coordinate with the Wisconsin PFAS Action Council and the Environmental Justice and Health Equity Advisory Group to identify local actions to address PFAS contamination.

Sincerely,



Brenda Coley

Co-Executive Director

Milwaukee Water Commons



Kirsten Sheard

Co Executive Director

Milwaukee Water Commons



Joe Fitzgerald

Water City Program Coordinator

Milwaukee Water Commons



To Whom It May Concern:

The 3M Company (3M) is pleased to submit these comments on Wisconsin's Draft PFAS Action Plan. 3M is a science-based company with substantial experience, expertise, and product stewardship related to PFAS. It is with that background in mind that 3M offers comments on the Draft PFAS Action Plan.

I. Sound Science Must Form the Basis of Policy and Regulatory Action

3M strongly supports prioritizing "clear, consistent and science-based environmental standards," as described in the Draft Action Plan. Draft Action Plan at 25. WisPAC's statements that treat PFAS as a class, however, are not consistent with the concept of establishing "science-based environmental standards." *Id.* at 25. The thousands of PFAS substances have widely varying characteristics and chemical properties, including toxicity profiles, chemical structure, and fate and transport characteristics. As the Draft Action Plan notes, there is "significant difference between individual PFAS compounds. . . ." *Id.* at 67-68. Given the variety among PFAS substances, any evaluation of toxicity, bioaccumulation, fate and transport, and exposure issues, will vary depending on the specific PFAS under consideration. The effectiveness and availability of remedial technologies may also depend on the specific PFAS chemical. *See* Draft Action Plan at 69.

Accordingly, any actions proposed or taken should focus on specific PFAS chemicals and their specific traits rather than PFAS as a class. Any action on a PFAS substance should have adequate support in scientific literature for that specific substance. Scialli et al. (2007 Reg Toxicol Pharmacol 49 195-202) and Peters and Gonzalez (2011 Chem Res Toxicol 24 1601-1609) independently evaluated the scientific feasibility of combining perfluoroalkyl exposures for risk assessment. They concluded that Perfluoroalkyl exposure should not be combined or treated as a single class based on wide difference in toxicokinetic profiles as well as inconsistencies of toxicities observed, in addition to the lack of a common biological mode of action among the perfluoroalkyls.

With this variability in physical and physiological characteristics, it is important to ensure that there is adequate support for each action proposed in the Draft Action Plan for each chemical. As the Draft Action Plan acknowledges, there is a need for expanded toxicological and occurrence information for many PFAS. Draft Action Plan at 67. Additionally, any future consideration of PFAS must be intentional and should entail evaluation of the specific traits of each PFAS involved. For instance, the Draft Action Plan's Theme 6.2 would focus on minimizing the state's purchase of PFAS

containing products generally, but such a broad objective ignores the variety of PFAS chemicals used in products, the significant value each PFAS chemical may provide, the lack of alternatives that may be available, and the challenges for implementing such a prohibition that affects thousands of distinct chemicals.

a. The Draft Action Plan should not make unsupported assertions regarding potential health and environmental impacts of PFAS.

The Draft Action Plan mentions potential health and environmental impacts of PFAS in passing, without providing citations or data to support the alleged impacts. For example, the Draft Action Plan makes the following statement without evidence: “In recent years, it has been discovered that PFAS substances bioaccumulate in the human body and certain PFAS substances pose a number of risks to human health, including development problems in fetuses and infants, certain types of cancer, reduced antibody response and kidney disease.” *Id.* at 1-2. Such sweeping and unsupported assertions should not be made in the Draft Action Plan, particularly given the current state of the science, which does not support such statements, and the variations in the traits of individual chemicals within the class of PFAS.

Each PFAS chemical has a unique set of traits, including its toxicological profile and bioaccumulation potential. As the Draft Action Plan acknowledges and proposes to address, there is a need to expand the toxicological and occurrence data available for individual PFAS chemicals. *Id.* at 67

While there remains some uncertainty in the science, the evidence available today still does not support the statements made in the Draft Action Plan. 3M has provided extensive comments to other agencies, including the Agency for Toxic Substances and Disease Registry, regarding the lack of scientific support and consensus around claimed impacts on fetuses and infants, cancer, antibody response, and other issues. 3M will provide those comments to WisPAC and participate in a technical discussion if helpful. 3M is eager to review the scientific support that WisPAC has relied on in making its own statements. It is difficult, however, to evaluate these assertions without more detail on the evidence WisPAC has used.

The uncertainty in the science and the lack of support for WisPAC’s assertion underscore the need to fully evaluate and potentially build on the existing body of research before making statements about the potential health and environmental effects about any individual chemical (or the class of chemicals). Furthermore, the uncertainty emphasizes the importance of taking care in describing any potential health or environmental traits or impacts, absent complete scientific information. For instance:

- The Draft Action Plan states: “PFAS contamination throughout the State of Wisconsin is prevalent and can therefore be a significant threat to human health

and the environment.” Draft Action Plan at 71. First, this statement is inconsistent with WisPAC’s position there is a need to expand the toxicological and occurrence data for individual PFAS chemicals. *Cf. id.* at 67. Second, this imprecise language overstates the potential threat of “PFAS” as a class to human health and the environment. It does so in part by broadly referring to PFAS without specificity and in part by equating prevalence to a threat to human health to the environment. Prevalence alone does not establish threat.

- The Draft Action Plan provides: “[PFAS] are also exceptionally resistant to degradation and, when discharged into the environment, linger for prolonged periods of time and may bioaccumulate in fish and wildlife.” Draft Action Plan at 1. Without scientific support, it is inappropriate to refer to the entire class of PFAS as “exceptionally resistant to degradation” or to indicate that they linger “for prolonged periods of time.”

b. The Draft Action Plan should account for the phase-outs of PFOA and PFOS, as well as the decline of those chemicals in blood serum.

In assessing actions to propose in the Draft Action Plan, WisPAC should have accounted for the fact that PFOA and PFOS have been voluntarily phased out across the United States. The United States Environmental Protection Agency (EPA) has, for example, reported a decrease of over 75% in the 95th percentile serum PFOS concentrations between the 1999-2000 cycle and the 2015-2016 cycle. *See* 85 Fed. Reg. 14115. Accordingly, WisPAC’s assessment of PFOS and PFOA in blood serum and the environment should reflect the voluntary phase out of those chemicals and the declines in blood serum levels.

But, WisPAC should also accurately capture the state of phase-outs – it is inaccurate to say that federal authorities are “in the process of phasing out and banning the use of PFAS compounds” without explaining the voluntary nature and precise scope of the phase-outs. *See* Draft Action Plan at 86. The federal government is not in the process of phasing out or banning the use of all PFAS compounds. Moreover, some of the phase-outs are not in process – they are complete.

For example, 3M was one of the main manufacturers of PFOS in the United States. The company initiated a voluntary phase-out of these chemicals in 2000. That phase-out was largely complete in the United States by the end of 2002- a full 18 years ago. After 3M ceased the manufacture of PFOS, EPA promulgated federal regulations that prevent other manufacturers (as well as 3M) from manufacturing or importing PFOS or PFOS precursors, subject to a handful of very narrow critical use exceptions with limited exposure potential approved by EPA. These regulations have been in place for nearly two decades. EPA’s rules allowed the continuation of a few specifically limited, highly technical uses of these chemicals for which no alternatives were available,

and which were characterized by very low volume, low exposure and low releases. Any other uses of these chemicals would require prior notice to and review by US EPA.

PFOS has not been reported to EPA as manufactured or imported into the United States since at least 2006. <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/fact-sheet-20102015-pfoa-stewardship-program#mfg>. In addition, countless countries have signed onto the international Stockholm Convention, including China, which now requires the elimination of PFOS in essentially all consumer and other goods originating in member countries. And, significant federal action relating to PFOS and PFOS precursors has been underway since 2002, and EPA has imposed and continues to ratchet up strong restrictions on the manufacture, import, and use of PFOS and PFOS precursors pursuant to its Significant New Use Rule authority under the Toxic Substances Control Act.

Since the phase-out of PFOS began in 2000, there has been an unmistakable downward trend in residues of PFOS in human blood.¹ Studies show that from 1999 to 2014, blood PFOS levels in the United States have declined by more than 80%. Agency for Toxic Substances and Disease Registry, PFAS in the U.S. Population, <https://www.atsdr.cdc.gov/pfas/health-effects/us-population.html> (last accessed October 16, 2020).

The PFOS example provides a snapshot of why it is so important that Wisconsin present a full and accurate picture of the state of the science, use, and exposure potential for each PFAS it considers regulating.

II. ROLE OF STATE REGULATORY STANDARDS

a. Regulation of PFAS must follow the established regulatory procedures in Wisconsin.

As noted above, in the Draft Action Plan, WisPAC states: “Having clear, consistent and science-based environmental standards is a DNR priority for the protection of public health safety, welfare, and the environment for the citizens of the State of Wisconsin.” Draft Action Plan at 24. 3M agrees that DNR should prioritize clear and consistent standards based on current science, as required under the relevant statutes and regulations. *See, e.g.*, Wis. Stat. 281.15 (water quality standards), NR 720.12 (direct contact soil standards). Not only would the regulatory activities identified in the Draft Action Plan require scientific support, they would also require

¹ The mere presence of PFOS in blood serum, without a full understanding of the broader influencing factors, provides only a limited view of exposure risk.

the state agency to, at a minimum, undertake an economic impact analysis addressing the costs and benefits of the proposed rule. *See* Wis. Stat. 227.137. While the Draft Action Plan can identify potential actions for regulators and legislators to take, the required procedures and processes should be followed for each action and should be based on reliable science.

b. There is insufficient scientific and economic support for regulating PFAS under the established state standards.

The Draft Action Plan highlights several information gaps that should be addressed before PFAS can be regulated under the standards described above. The state should rely on full scientific and economic information to inform the appropriate response to any PFAS-related concerns it may have. WisPAC proposes several actions that would help to generate the information needed to develop any regulatory responses. *See, e.g.*, Draft Action Plan Action Items 2.1 (Expanding PFAS Site Identification Using GIS Mapping), 2.2 (Facilitate Timely Collection of Environmental PFAS Data), 2.4 (Test Public Water Systems for PFAS), 4.3 (Develop and Promote New Partnerships to Increase Understanding of PFAS), 5.1 (Collaborate on and Implement Research), 5.2 (Monitor Background Levels of PFAS in the Environment), 5.3 (Collect Data on Drinking Water Treatment and Costs). And, WisPAC recognizes the role that this information should play in identifying appropriate responses and regulatory actions:

- “A better understanding of PFAS properties and source types in general, as well as their abundance and prevalence at sites in Wisconsin, is vital in order to identify sources, establish appropriate health-protective interventions, minimize exposure to humans and ecosystems, mitigate historical discharges, and limit future discharges.” *Id.* at 71-72.
- “A better understanding is needed of how different PFAS compounds migrate within and between environmental media such as air, surface water, sediment, wastewater, stormwater, groundwater, soil, biosolids, fish and animal tissue, and humans. . . . This fate and transport understanding will partially guide the development of future standards for various media.” *Id.* at 69.
- “Since PFAS sample collection and analysis is an emerging science, there is limited information on PFAS concentrations state-wide for all environmental matrix types. Knowing these PFAS baseline concentrations is required to move forward and make informed decisions about monitoring and regulation. The Wisconsin Department of Natural Resources (DNR) is in the process of developing standards for groundwater, drinking water, soil, and surface water, but generally only for two (PFOA and PFOS) of the over 5,000 known PFAS compounds. There is a need to expand toxicological information for more of

the commonly detected PFAS, as well as document their presence in other media such as air, fish and wildlife tissue, sediment, human blood, or landfill leachate.” *Id.* at 67.

- “WisPAC recommends that the state explore ways to facilitate timely collection of PFAS data, which will in turn inform appropriate measures toward effective risk communication, mitigating exposure and making sound health-protective decisions in the short-term.” *Id.* at 34.
- “WisPAC recommends that the state conduct statewide drinking water testing. . . . The testing would include all municipal systems, as well as some other priority community and non-community water systems. The data collected would help develop a base of environmental and economic information for new PFAS drinking water and groundwater standards. . . . PFAS occurrence information is crucial to complete an accurate economic analysis of PFAS drinking water standards for rulemaking.” *Id.* at 38-39.

The Draft Action Plan includes a recommendation that the Public Services Commission work with DNR “to identify information gaps and determine appropriate approach for collecting data regarding PFAS treatment options and associated costs. . . .” Draft Action Plan at 81. WisPAC explains that “[a]dditional data may help better dimension the statewide scope of financial challenges facing drinking water utilities in meeting emerging regulatory requirements and could potentially be used to direct federal funding to Wisconsin in the future.” Draft Action Plan at 82. Such cost information is critical to the adoption of any regulations related to PFAS, and it must be available before any such regulations are considered.

Lastly, the Draft Action Plan notes some practical challenges that WisPAC and regulators should consider before proposing regulatory actions. For instance, WisPAC repeatedly describes challenges and uncertainties around the disposal of PFAS-containing wastes, recommends developing guidance on the disposal of PFAS-containing wastes, and states that a “better understanding of remedial technologies will be particularly important for potentially impacted potable water sources.” *See* Draft Action Plan at 48, 67-69.

Despite all of these identified needs for additional information, WisPAC assumes that subsequent regulatory action is appropriate. WisPAC’s recommendations about the presumed appropriateness of regulatory action pre-supposes certain outcomes of the information gathering and analysis it recommends. Such biases and suppositions have no place in “science-based environmental standards.” Rather than assume the outcome of its recommended information gathering and evaluation processes, a more appropriate next step would be to have the relevant responsible agency evaluate the

resulting information in accordance with evidence-based standards and processes required by law to develop appropriate regulatory recommendations.

III. ROLE OF STANDARDS AND ACTIONS IN OTHER STATES AND AT THE FEDERAL LEVEL

a. 3M agrees with Wisconsin that federal action would likely be preferable to state action.

3M agrees with the Wisconsin Attorney General's call for the federal EPA to regulate PFAS under the Safe Drinking Water Act (SDWA). *See* Draft Action Plan at 4-5. The SDWA requires precisely the kind of science-based standards, taking into account the costs and benefits of the specific standards, that the Draft Action Plan and 3M support. Establishing a nationwide standard would remove regulatory uncertainty and lead to consistency across states. *See* Draft Action Plan at 26 ("Establishing standards for PFAS removes regulatory uncertainty for municipalities, businesses, and the public."). Only in the absence of federal standards should state action be taken. *See* Draft Action Plan at 56; Executive Order #40. But EPA has already taken steps towards establishing a federal maximum contaminant level for PFOA and PFOS under the Safe Drinking Water Act, and has already finalized guidance on soil and groundwater remediation standards for those substances.

b. Reliance on other states' actions must entail thorough review of the states' analysis, comments provided on it, and the scientific support underlying it.

The Draft Action Plan cites to actions taken and analysis conducted by other states in several places. Any reliance on the actions and analysis of other states as a model for action in Wisconsin must also involve a thorough assessment of the analysis conducted, public comments provided, and the underlying scientific support. This should include a review of new and updated scientific research released since the other agency's analysis was conducted.

IV. RECONCILING ADVISORY GROUP INPUT

3M appreciates WisPAC's efforts at public engagement and transparency, both of which are key aspects of sound decision-making. Recommendations and input from the public advisory groups appear to be included in the Draft Action Plan without evaluation by WisPAC regarding the appropriateness, soundness, or feasibility of the suggested actions. 3M is concerned that inclusion of all such proposals or requests from the public without comment or analysis by WisPAC may be misleading to readers that have no context for the appropriateness of the requested action. 3M encourages

WisPAC to contextualize advisory group input with regard to economic, legal, and technical feasibility and soundness of a suggested action.

3M appreciates the opportunity to provide these comments. We reiterate our offer above to provide any comments to other agencies or other technical input that may be of use to WisPAC as it evaluates next steps. Thank you for your consideration.

Thank you for this multi-agency effort to strategically reduce the impact of PFAS on our health and all facets of our environment. I ask that the proposed Action Plan ensure measurements to determine:

- Increased testing methods for all PFAS chemicals
- Increased testing of potential environmental reservoirs of PFAS
- Regulation of the PFAS chemical family, not individual chemical by chemical
- Identification of all sources of exposure for regulation
- Ensure the resulting policy will protect sensitive populations
- Ways to ban production and use of PFAS chemicals
- Disposals of PFAS that do not create more potentials for pollution
- Make polluters (manufacturers and industrial users of PFAS) pay for the cleanup



John Muir Chapter

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October 31, 2020

TO: WDNR WisPAC via email DNRPFASInquiries@wisconsin.gov

FROM: Sierra Club – John Muir Chapter, 754 Williamson Street, Madison, WI 53703

Sierra Club thanks Wisconsin for the thoughtful and far reaching efforts to contain and control the impacts of toxic per- and poly-fluoroalkyl substances (or PFAS) within the state. We find the draft Wisconsin PFAS Action Plan to be well developed and thorough. We support many, if not all, aspects under consideration. Our major comments regard the use and management of AFFF foams in fire fighting, the broader issue of PFAS management and disposal, as well as environmental justice.

AFFF use and management (section 3.2) - Wisconsin has correctly identified the use of AFFF as one of the most “clearly identifiable and accessible sources of potential contamination.” The state has already limited foam use to emergency fire fighting, and contained training sites, recently embarking on efforts to set numeric standards to ensure training sites fully contain PFAS chemicals. The current report recommendation is to set a deadline for a total prohibition of PFAS in fire fighting. We strongly support this effort, and recommend **Wisconsin must not pin its timeline for AFFF actions to the federal timeline.**

Congress has mandated that large airports end the requirement for PFAS-based foams by fall 2021, and the military by 2024. However other sectors can adopt PFAS-free Class B foams much sooner. Municipal and volunteer fire fighting does not require PFAS, and other sectors like transportation and industrial facilities could also switch to PFAS-free fire fighting foams ahead of the federal timeline.

In addition to a more aggressive timeline, **Wisconsin should support industries in selecting the safest and most effective replacement technologies.** For example, due to the secrecy surrounding the actual chemicals used in AFFF, Minnesota is now requiring the use of Clean Production Action’s Green Screen, which reviews proprietary data and identifies products free of major environmental hazards.

AFFF Take Back program and waste (section 3.3 and 7.2) - Sierra Club supports new rules to limit PFAS migration out of AFFF training sites. However Wisconsin statute §299.48 also requires the DNR to promulgate rules for “treatment, disposal or storage of AFFF waste.” Allowing any type of PFAS-based Class B foam use poses a huge challenge

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because there are no safe, efficient and validated ways to destroy the PFAS in waste foam, runoff water, and contaminated soil.

The most common “disposal” methods - incineration, deep well injection and solidification/landfilling - each pose major risks of failure. Deep well injection and landfilling are bad options for these poorly regulated chemicals that last centuries with no known source of breakdown. Incineration could form a wide variety of problematic breakdown products or allow PFAS to escape out of incinerators unchanged. As a result, Sierra Club recommends that **all retired AFFF as well as PFAS contaminated soil and waters should ideally be held in a secure manner until destruction methods are developed and verified.**

Similarly we support efforts to pick up unused AFFF from fire stations and hold it in a secure manner until destruction technologies exist. We do not agree that the state should limit its take back efforts to pre-2003 foams, as newer generation PFAS pose similar threats to people and the environment. Prioritizing older AFFF is good practice, but only collecting these older products does not eliminate documented concerns related to PFAS releases from allowing not just use, but possession of PFAS-containing AFFF of any formulation. Similarly we urge **take back programs must reach across all industrial sectors. Companies who made PFAS and AFFF should bear the cost of take back and destruction of AFFF, and replacement with safer chemistries.**

Environmental justice (section 4.2)

It is essential to examine the way that PFAS pollution impacts lower income and racial/ethnic communities in Wisconsin in addition to the EJ communities living closest to polluting industries. We were heartened to see this as a specific recommendation of the state PFAS plan. **Wisconsin must continue to actively identify communities at high risk for PFAS exposures, since many of the people catching and eating wild fish or game, or living near polluting industry may not currently have access to information about PFAS.** The known EJ concerns include people living near refinery/petroleum processing sites, historic industrial sites, poorly managed landfills in addition to firefighter and military veterans.

We also offer the following comments on sections of the draft PFAS action plan:

1.1 Establish Science-Based Environmental Standards for PFAS

Sierra Club strongly supports the efforts to set science-based environmental standards for specific PFAS chemicals. These should include chemicals in addition to PFOS and PFOA, which have been largely withdrawn from commerce. However the state should also set standards for additional compounds beyond the 34 currently under review. EPA estimates that thousands of PFAS chemicals are present in commerce or found in the environment, and information about chemical identities and uses are commonly withheld from the public. Thus we recommend that Wisconsin explore ways of setting class-based limits on PFAS in air, water, consumer products or other media. Analytical methods to measure total organic fluorine are under development and should be applied when identifying

contaminated sites, ensure clean up methods remove all PFAS chemicals, or screen consumer products and environmental media for potential health hazards.

We support Wisconsin's proposal to set numerical standards for drinking water, groundwater, biosolids, soil and air releases, as well as sediment, and echo community calls for expedited action through emergency rules or executive orders.

1.2 Develop Recommendations for Management of PFAS-containing Landfill Leachate

We strongly support the effort to investigate and control PFAS in landfill leachate. Wisconsin should take quick action to get monitoring data from landfills and set guidelines for leachate management. The most obvious and immediate step to contain PFAS is to ensure that leachate is not sent to waste water treatment plants, since they are not equipped with treatment technologies to strip out PFAS compounds.

2.1 Expanding PFAS Site Identification Using GIS Mapping

We support this effort and urge all GIS data to have easily-accessible centralized public access.

2.2 Facilitate Timely Collection of Environmental PFAS Data

Wisconsin could lead the country by requiring any company who sells or distributes products containing PFAS compounds in the state to provide laboratory standards for analytical purposes prior to allowing any of their product to be distributed.

2.4 Test Public Water Systems for PFAS

We strongly support the state's efforts to get statewide drinking water results in advance of the EPA UCMR program, which will not provide the public with vital information before 2025. We disagree with the proposal to only notify people if PFOS+PFOA levels that exceed state or federal advisory levels, and note that several states now have enforceable drinking water standards as low as 20 ppt for a group of 5 or 6 PFAS chemicals. Wisconsin should disclose any detectable PFAS in drinking water to state residents when analysis includes such data.

3.3 Develop and Apply Best Management Practices (BMPs) for Proper Handling of PFAS-containing Waste

Wisconsin indicates research and BMPs will allow them to set guidance for management and handling of PFAS-containing wastes. Actions must be taken now to prevent rushing to action when time will provide better solutions. Safely containing and storing waste until proven methods for safe and effective management must be weighed during this process. In addition, WDNR must address industrial, commercial and residential biosolids from wastewater management. These have the potential for spreading contamination into gardens and farm fields adding to the environmental burden and potential for exposure.

3.4 Identify PFAS Sources and Reduce Discharges to Wastewater Facilities

Wisconsin appropriately identifies wastewater discharges as an appropriate way to prevent additional contamination of water resources. The states should build on successes

from Michigan and other states to address and avert PFAS discharges into wastewater, including metal plating and paper production. One important note is that Michigan's [recent wastewater update](#) reports that it hasn't been able to identify major point or non-point discharges into about half of contaminated wastewater treatment plants. (https://www.michigan.gov/pfasresponse/0,9038,7-365-88059_91299---,00.html) Therefore we recommend broad sampling is needed, not just targeting known or suspected industrial sources.

5.3 Collect Data on Drinking Water Treatment and Costs

Here the state should prioritize treatment methods that remove all organo-fluorines, and include life-cycle analyses through consideration of long-term management of treatment materials in the cost of treatment when evaluating options.

6.1 Develop and Support Product Stewardship Mechanisms to Reduce PFAS Use

We definitely support suggestion to review and discontinue use of non-essential PFAS in all applications.

6.2 Minimize the state's purchase of PFAS-containing products

Products procured using any taxpayer funds should be prohibited unless they are identified as essential uses. Even with essential use items, alternatives should be explored and implemented when and where there are alternatives to PFAS-containing products. States, including Washington and New York, have limited purchasing and provide some areas for exploration - including using screening and selection process through their environmentally-preferable purchasing program and limits on consumer products.

7.1 Provide Support to Wisconsin Veterans to Address PFAS-related Health Risks

Proposal - blood testing, medical services, and disability benefits need to be provided to the members of the armed services and public sector who serve(d) in capacities exposing them to health risks from PFAS chemicals.

8.2 Develop New Tools to Address PFAS Contaminated Sites

WDNR needs to explore partnerships through existing relationships with other state-funded entities both in Wisconsin and throughout the region (including universities and their affiliates) to pursue expedited solutions and for achieving advantages in funding to explore research into new tools for addressing PFAS contamination. The Great Lakes, Mississippi River and other regional collaborative quasi-government programs that have water and agricultural priorities should be prioritized.

For any further questions or for additional information, contact Eric Uram, at (608) 233-9022 / Eric.Uram@Headwater.US direct or through the Sierra Club Chapter office at (608) 256-0565.



October 31, 2020

Wisconsin PFAS Action Council
Via Email

To Whom It May Concern,

On behalf of Milwaukee Riverkeeper, we are writing to comment on the Wisconsin PFAS Action Plan (Plan) that outlines coordinated and prioritized actions that State Agencies can take to address PFAS contamination. Our mission at Milwaukee Riverkeeper is to protect water quality and wildlife habitat and advocate for sound land use in the Milwaukee River Basin. Our vision is for clean, fishable, swimmable, and drinkable waters that are used and enjoyed by everyone in our community.

PFAS contamination threatens the drinking water, groundwater, surface waters, fish and wildlife, soils/sediment, and public health of our communities. In the Milwaukee area, PFAS contamination has been documented at General Mitchell Airport and the adjacent National Guard/former US Air Force properties, and this contamination is an ongoing PFAS source to the Kinnickinnic River and downstream rivers and Lake Michigan, which is the source of our drinking water. In addition, widespread PFAS contamination has been found in water samples as well as soil and fish samples from the Milwaukee River Estuary Area of Concern. We hope to be spending considerable taxpayer money to clean up PCB-contaminated sediments in the next 5 years, and will be leaving PFAS contaminated sediments behind due to lack of standards, which is unfortunate to say the least. We also suspect that PFAS contamination is present in many other areas of our river system with past and present industrial use, in particular, there is some evidence of contamination adjacent to the West Bend Air Support Facility.

In general, the PFAS Action Plan seems to contain all the right elements that will be required to deal with this source of contamination, as well as a general understanding of the types of actions that will need to be taken by State Agencies and the resources that will be required for that work. There doesn't seem to be a distinct prioritization of these actions overall. For example, it would make sense that banning production and use of new sources of PFAS in the State should be a priority, as well as preventing future environmental contamination from disposal (e.g., via landfills, sludge spreading, etc.), which will be difficult and expensive to address.

While there seems to be a lot of consideration of the impact of this Plan on polluting industries, there is little discussion of how this Plan will affect and protect sensitive populations that are impacted the most from PFAS contamination including communities of color, subsistence fishermen, etc., other than mention in section 4.2 around providing normal opportunity for public comment, tribal consultation, etc. Although environmental justice, health equity, and pollution prevention are listed as general principles that relate to

the entire plan, it would be great to include actual action items to ensure these principles are carried forward into work by the Agencies. For example, specific outreach and education campaigns and health screenings could be targeted toward BIPOC communities adjacent to known sites of contamination, as well as provided to groups like subsistence fishermen that might be impacted more than other groups. Below are comments relating to specific elements of the Action Plan.

1.1 Establish Science Based Environmental Standards for PFAS

WDNR has requested groundwater enforcement standard recommendations from DHS for 2 of the PFAS chemicals (PFOA and PFOS), which is expected to take 30 months, as well as expedited work on enforcement standards for an additional 34 chemicals of perhaps 4,000-5,000 total known PFAS chemicals. This is to be followed by standards for other media, such as surface water and drinking water. Given how long this process will take and the vast uncertainty due to the sheer level of variations of these fluorinated carbon chain chemicals that have been and continue to be created, it may make sense to regulate the entire family or class of compounds cumulatively, especially in the interim. As more information comes to light to allow standards for each individual chemical, than those more specific standards could be promulgated. This would be more protective than polluters evading cleanup because their PFAS chemical does not yet have standards, and allowing some contaminated sites and affected communities to fall in the regulatory cracks.

This section also states as an action item that the Agencies should evaluate whether standards are needed for biosolids, sediment, and solid wastes, as well as if PFAS should be added the NR600 series list of hazardous chemicals. The answer to both of these questions is clearly yes. These standards should be developed as soon as possible, to ensure that disposal of PFAS chemicals—either via land application or in a landfill—doesn't just send the contamination from one place to another. If these standards are not put in place, we will continue to have ongoing sources of PFAS to the environment long into the future. Creating a standard for sludge would create an additional incentive for industries and POTWs to identify and eliminate sources. POTWs would be forced to enact and enforce pretreatment standards, which could eliminate new PFAS sources more quickly.

2.2 Facilitate Timely Collection of PFAS Data and 2.3 Standardize PFAS Sampling Methods and Support State Implementation

Incorporating PFAS data collection into routine monitoring regimes for WDNR and others make sense, and NGOs and citizen scientists could also collect this data for streams and lakes. Milwaukee Riverkeeper and our 100+ volunteers have been conducting routine stream monitoring since 2006, and we also send water samples to the State Lab of Hygiene (SLOH) regularly to be analyzed for total phosphorus and chloride. We could easily take samples for PFAS analysis if trained in the proper protocols. Citizen groups doing this monitoring are professional, cost effective, and efficient, and most of us have existing relationships with DNR and SLOH staff, and access to the State SWIMs database. We are also highly motivated to protect our streams. We would also recommend that more research be done to increase testing methods for PFAS. We would be happy to do more baseline testing, but currently the costs of PFAS testing are prohibitive.

2.4 Test Public Water Systems for PFAS

This action item should be prioritized based on the public health threat to our communities from drinking PFAS tainted water. All utilities should be required to conduct this testing. In Michigan, there was a very small percent of utilities that were tested that had contamination (less than 5%), and it's important to allocate resources to affected communities as quickly as possible. While larger utilities like the City of Milwaukee have already been doing this testing on a voluntary basis, we have no information on other utilities in the Milwaukee River Basin. We know that EPA has found PFAS in wells in West Bend, and DNR is doing an investigation there. While EPA is updating their federal drinking water regulations, monitoring of water supplies for PFAS would not be required until after December 2021, and utilities would have at least 3 years to do that sampling. The likely result is that citizens would not know if their water is contaminated until 2025 or later. That is unacceptable. We agree with the recommendation that all public drinking water systems be tested. Wisconsin should require this testing immediately, as the State of Michigan has, and if necessary pay for this testing or subsidize the cost to ensure protection of our communities.

3.1 Partnering with Firefighting Associations and Municipal Airports on PFAS and 3.2 Amend Firefighting Foam Law

General Mitchell Airport has extreme groundwater contamination, from suspected use of firefighting foams at the Airport and adjacent National Guard and former Air Force Reserve properties. PFAS contamination is also suspected at the West Bend Air Support Facility, but less information is known. We support the rules put forth by DNR to eliminate the use of these firefighting foams except for in case of certain emergencies. Many of the actions listed seem appropriate as far as collaboration and developing partnerships to facilitate training exercises, establishing BMPs, etc. We also support state funding for disposal of PFAS containing foams as well as for replacing foams, if necessary.

However, all of the actions listed in this section seem very passive, while we have active contamination of our rivers and drinking water supplies. While we know that DNR has asked General Mitchell airport to conduct more extensive testing, there is no indication or plans as to how this ongoing source of contamination can be stopped or minimized at General Mitchell or other airports and military bases in the State. For example, could the State fund BMPs or a pilot project to clean contaminated stormwater and groundwater that is draining into the Kinnickinnic River, similar to carbon filtration units being used in Marinette? Are there specific and enforceable monitoring requirements that can be established for airports? While legislative action is mentioned as a potential action item, it is unclear what other concrete actions can be taken. We need more direct and proactive action to address these major sources of PFAS to our communities.

3.3 Develop and Apply BMPs for Proper Handling of PFAS Containing Waste

This action item recommends that guidance and BMPs be established for generators of PFAS products and contaminated waste, and that based on the results of these BMPs, that standards be put in place for testing, sampling, disposal, storage, treatment, etc. This is another example where there will be significant ongoing contamination of the environment from these PFAS generators in future years, and so work on this item should be prioritized and expedited. Guidance and BMPs are not enforceable. At a minimum, it seems reasonable

that those industries still using PFAS or generating waste contaminated with PFAS, should be required to sample or monitor that waste in whatever form it takes during production, as well as to monitor wastewater discharge or landfill leachate. Cradle to grave monitoring is required to generate the data needed to better understand treatment options, standard development, etc., as well as to protect communities. In particular, like PCBs and other industrial contaminants, it is critical that biosolids are monitored before land spreading occurs to limit any soil and groundwater contamination. We realize there is a lot of industry pushback against these actions, but where the paper industry and others continue to use these chemicals, they must fund monitoring, safe disposal, and cleanup activities.

3.4 Identify PFAS Sources and Reduce Discharges to Wastewater Facilities

We support the recommendations of this section, but would suggest that monitoring should be required of effluent on a frequency that makes sense (probably not daily or annually). We understand that a letter that DNR sent out to POTWs asking for voluntary testing was largely ignored. Required testing will provide DNR information on how effective treatment technologies are in removing these chemicals, and identify POTWs of concern that need more attention. Testing of influent periodically may also identify the extent of contamination coming in from pretreatment facilities (and/or from contaminated groundwater), and allow for more targeted pretreatment standards or treatment targets going forward. This testing could be funded by the State or subsidized in some way.

4.5 Enhance Collaboration Between WI and Federal Agencies on PFAS Relating to Military Installations

Establishing a working group to enhance collaboration is entirely reasonable, but it's very passive. It's unclear why the State should not take immediate action, but rather wait to enter into a formal MOU with the Federal Government per the 2020 National Defense Authorization Act. It is our understanding that an MOU could facilitate quicker action by the Federal Government in monitoring, removal, and remediating pollution caused by Department of Defense facilities. If entering in an MOU would expedite review of PFAS investigations and remedial actions, it's unclear why the State should wait for the results of a working group before entering into negotiations. In any event, the Federal Government is responsible for contamination of existing and former military sites throughout the State, and it seems that DOJ should prioritize this work, if they haven't already, and ensure that the Federal Government pays for this cleanup as quickly as possible.

5.1 Collaborate On and Implement Research and 5.2 Monitor Background Levels of PFAS in the Environment

We support the recommendations provided. In addition, the State should expedite PFAS compounds for research that we know are causing contamination from Department of Defense sites so that we can begin cleanup efforts and force action (e.g., PFHxS, GenX, etc.). PFAS chemicals could also be prioritized for research based on toxicity as well as environmental exposure and health impacts. The State should also prioritize research on BMPs for all parts of the PFAS lifecycle (storage, treatment, disposal, destruction, etc.). Maybe the State could partner with the Regional Planning Commissions and/or Universities to more quickly devise "State of the Art" reports on these BMPs. As previously mentioned, the State should also consider use of citizen monitoring groups for help in conducting

monitoring on background levels of PFAS. Many groups, like Milwaukee Riverkeeper, have been conducting baseline monitoring in surface waters for decades, have solid relationships with DNR biologists and the SLOH, have access to the SWIMs database, etc., and would be well positioned to quickly obtain data to help the PFAS Action Council and State in its work to implement this Plan.

**6.1 Develop and Support Product Stewardship Mechanisms to Reduce PFAS Use and
6.2 Minimize the State's Purchase of PFAS-containing Products**

We support immediate phase-out of PFAS-containing products that are non-essential or have alternatives available without PFAS. The European Union has a 2030 date for complete phase out, and we should consider an earlier date, if possible, to put pressure on manufacturers. Product labelling is also very important, as many citizens are at risk from using PFAS-containing products that they are unaware of. And it makes great sense for the State to lead by minimizing the state's purchase of any PFAS-containing products.

Thank you for your consideration of these comments, and for all the hard work put into this effort by the Wisconsin PFAS Action Council. If you have any questions, please feel free to contact me at (414) 378-3043.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl Nenn", with a long horizontal flourish extending to the right.

Cheryl Nenn
Riverkeeper

Cc: Jennifer Bolger Breceda, Executive Director



National Wildlife Federation

Great Lakes Regional Center

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October 31, 2020

Wisconsin Department of Natural Resources

101 S. Webster Street PO Box 7921

Madison, WI 53707-7921

dnrpfasinquiries@wisconsin.gov

Re: Comments on Wisconsin PFAS Action Plan Draft

Dear Wisconsin PFAS Action Council:

On behalf of the National Wildlife Federation (“NWF”), I thank you for the opportunity to submit these comments on WisPAC’s draft PFAS Action Plan (“Action Plan”). NWF commends WisPAC’s efforts to develop a roadmap to address per- and polyfluoroalkyl substances (“PFASs”) pollution that addresses the need for significant inter-agency coordination and public involvement. In addition, NWF believes the Action Plan should:

1. Emphasize in Action Item 4.2 the need for State agencies to prioritize action in communities disproportionately burdened by PFAS contamination;
2. Underscore in Action Item 1.1 the importance of expeditiously setting standards for PFASs beyond PFOA and PFOS;
3. Provide more details on the environmental standards to be developed through Action Item 1.1, including the specific water quality standards to be adopted through NR 102-211;
4. Note in Action Item 3.4 the importance of using the WPDES permitting process to limit PFAS discharges from all types of facilities that discharge their effluent to surface waters;
5. Prioritize in Action Item 5.1 and elsewhere the development of methods for managing PFASs as a class; and
6. Indicate in Action Item 5.2 the need to develop a program to prioritize research and monitoring of wildlife in the state.

First, we request that WisPAC include in Action Item 4.2 (“Facilitate environmental justice and health equity in Wisconsin communities”) additional ways in which the State can help reduce the burdens of PFAS contamination on particularly vulnerable communities. We appreciate WisPAC’s recognition that structural inequities make certain populations, including low-income communities, communities of color, and tribal

nations, more vulnerable to PFAS pollution. To ensure that these disproportionate effects are properly accounted for in agency decision-making, WisPAC should prioritize the prevention, reduction, and cleanup of PFAS contamination in environmental media where that contamination disproportionately burdens vulnerable communities. It is critical, for example, that fish advisories and the provision of food alternatives be short-term, temporary strategies where needed, to allow Native American, certain Asian American and other subsistence anglers to safely consume locally caught fish as soon as possible. To avoid that result, the State must act with urgency to reduce the underlying risks from PFAS contamination in lakes and streams upon which such populations rely. Furthermore, WisPAC should identify in more depth any additional research planned, including for example more systematic studies assessing PFAS exposures among communities of color.

Second, we urge WisPAC to highlight in Action Item 1.1 (“Establish science-based environmental standards for PFAS”) the importance of acting quickly to set enforceable standards for PFASs beyond PFOA and PFOS. Elsewhere, the draft Action Plan cites the need to increase research capacity to better understand the toxicity and migration patterns of PFASs other than PFOA and PFOS. Without diminishing the importance of that goal, we note that although PFOA and PFOS have historically been the focus of research concerning toxicity and environmental cycling, there is increasing research demonstrating that other PFASs may be similarly unsafe.¹ In light of this understanding, multiple states, including Colorado, Indiana, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, Oregon, Texas, and Vermont, have already established various standards for PFASs other than PFOA and PFOS in groundwater, drinking water, and/or surface water.² As these states have shown, the present state of scientific research provides a sufficient basis to swiftly establish enforceable standards for other PFASs.

Third, we request that WisPAC provide more details in Action Item 1.1 on the approach the Wisconsin Department of Natural Resources (“DNR”) will be following concerning development of environmental standards through NR 201-211. For example, we urge the agency develop water quality standards (“WQS”) for multiple PFASs, including water quality criteria (“WQC”) for protection of human health, aquatic life, and wildlife. We recognize development of WQC is an involved process, and may require additional research to provide toxicological and other data to inform the derivation of water quality criteria. WisPAC should identify any plans to both develop PFAS WQS as well as ancillary research, whether to be carried out by the DNR or in partnership with academic researchers, other states, and/or federal agencies with relevant experience. It is also important that this process explicitly include wildlife, given the potential for many PFASs to pose risks to wildlife that may be greater than risks to aquatic life.

¹ See, e.g., Ronald E. Cannon, Alicia C. Richards, Andrew W. Trexler, Christopher T. Juberg, Birandra Sinha, Gabriel A. Knudsen, & Linda S. Birnbaum, *Effect of GenX on P-Glycoprotein, Breast Cancer Resistance Protein, and Multidrug Resistance-Associated Protein 2 at the Blood-Brain Barrier*, 128 ENVTL. HEALTH PERSPECTIVES 037002-1 (2020), https://ehp.niehs.nih.gov/doi/10.1289/EHP5884?url_ver=Z39.88-2003&rft_id=ori:rid:crossref.org&rft_dat=cr_pub%20%200pubmed; Penelope A. Rice, Jason Aungst, Jessica Cooper, Omari Bandle, & Shruti V. Kabadi, *Comparative Analysis of the Toxicological Databases for 6:2 Fluorotelomer Alcohol (6:2 FTOH) and Perfluorohexanoic Acid (PFHxA)*, 138 FOOD & CHEM. TOXICOLOGY 111210 (2020), <https://www.sciencedirect.com/science/article/abs/pii/S0278691520300983>.

² Interstate Tech. Reg. Council, *PFAS Fact Sheets*, <https://pfas-1.itrcweb.org/fact-sheets/> (“PFAS Water and Soil Values Table Excel file,” last updated Sept. 2020).

Fourth, we ask that WisPAC amend Action Item 3.4 (“Identify PFAS sources and reduce discharges to wastewater facilities”) so that it stresses the need to limit PFAS discharges from *all* facilities which discharge PFASs – whether indirectly or directly – to surface waters. Currently, the draft Action Plan only prioritizes source identification for indirect dischargers of PFASs and reduction of PFASs in effluent from wastewater treatment plants. While these efforts are certainly critical, we note that the DNR, along with any other relevant State agencies, should also work proactively to identify industrial direct dischargers whose effluent contains PFASs and use the WPDES permitting process to require that those facilities limit their discharges of PFASs.

Fifth, we advise that WisPAC state in the Action Plan, including in Action Item 5.1 (“Collaborate on and implement research”), the need to work toward developing a class-based approach to managing PFASs. Regulators have successfully assessed the risks of and treated as a class other chemical groups sharing a similar mechanism of toxicity, including polychlorinated biphenyls (“PCBs”) and dioxins. Regulating PFASs as a class is appropriate, given their high persistence, accumulation potential, mobility, and/or hazardous nature, as well as for other reasons, including in efforts to avoid “regrettable substitution.”³ Furthermore, a chemical-by-chemical management approach will inevitably result in continued accumulation and harm to human health and the environment. Thus, we recommend that State agencies in Wisconsin – working together with federal agencies and outside researchers – prioritize the investigation, development, and eventual implementation of a class-based approach to managing PFASs.

Last, we encourage WisPAC to provide details in Action Item 5.2 (“Monitor background levels of PFAS in the environment”) on plans to monitor wildlife in the state for PFASs.⁴ The draft report notes at the start of the section that wildlife will indeed be part of the monitoring program, but the “Additional Information” section does not contain any information on wildlife monitoring, in contrast to other environmental compartments, such as surface water, soil, and fish. We recommend that the DNR develop a process for prioritizing wildlife for PFAS research and monitoring, considering both game and non-game species. Concerning non-game species, in addition to working within existing state monitoring programs for other contaminants, the agency can draw on lessons from other research studies involving PFASs and Great Lakes wildlife, including for example those involving tree swallows and bald eagles in the region as summarized in NWF’s 2019 report.⁵ Furthermore, in developing a process involving research and monitoring, we urge the DNR to consider designing studies that can identify potential spatial patterns of PFAS exposures and effects in wildlife, including near contaminated industrial sites and military facilities in

³ Carol F. Kwiatkowski, David Q. Andrews, Linda S. Birnbaum, Thomas A. Bruton, Jamie C. DeWitt, Detlef R. U. Knappe, Maricel V. Maffini, Mark F. Miller, Katherine E. Pelch, Anna Reade, Anna Soehl, Xenia Trier, Marta Venier, Charlotte C. Wagner, Zhanyun Wang, & Arlene Blum, *Scientific Basis for Managing PFAS as a Chemical Class*, 7 ENVTL. SCI. & TECH. LETTERS 8, 532-43 (2020), <https://pubs.acs.org/doi/10.1021/acs.estlett.0c00255>.

⁴ One general comment on the section is the reference in the first sentence to PFASs as “water soluble”. While it is true that many PFASs do indeed have high water solubilities, data show aqueous solubilities for individual PFASs can differ by orders of magnitude. E.g., PFAS – Per- and Polyfluoroalkyl Substances, 4. *Physical and Chemical Properties*, INTERSTATE TECH. REG. COUNCIL (Sept. 2020), <https://pfas-1.itrcweb.org/4-physical-and-chemical-properties/>. Hence, it would be preferable to note that many (but not all) PFASs are “water soluble.”

⁵ Michael W. Murray & Oday Salim, *The Science and Policy of PFASs in the Great Lakes Region: A Roadmap for Local, State and Federal Action*, NAT’L WILDLIFE FEDERATION GREAT LAKES REG’L CENTER (2019), <https://www.nwf.org/Educational-Resources/Reports/2019/09-09-19-PFAS-Great-Lakes>.

the state. Finally, we urge the state to coordinate with other Great Lakes state agencies, federal agencies, academic researchers, and others in developing an effective research and monitoring program for PFASs in wildlife.

In summary, we appreciate the efforts by agencies in Wisconsin to develop a thorough roadmap for addressing multiple aspects of the PFAS problem in the state, and believe addressing the recommendations above will result in a stronger plan.

Respectfully submitted,

Mike Shriberg
Regional Executive Director
Great Lakes Regional Center
National Wildlife Federation

GREAT LAKES INDIAN FISH & WILDLIFE COMMISSION

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www.glifwc.org

• MEMBER TRIBES •

MICHIGAN

Bay Mills Community
Keweenaw Bay Community
Lac Vieux Desert Band

WISCONSIN

Bad River Band
Lac Courte Oreilles Band
Lac du Flambeau Band

MINNESOTA

Fond du Lac Band
Mille Lacs Band



November 6, 2020

VIA ELECTRONIC MAIL

Ms. Melanie Johnson
WDNR Policy Director, Office of Emerging Contaminants
Wisconsin PFAS Action Council

Subject: GLIFWC Comments on WisPAC's *Draft Wisconsin PFAS Action Plan*

Dear Ms. Johnson:

Great Lakes Indian Fish and Wildlife Commission (GLIFWC) staff submit the following comments on the Wisconsin PFAS Action Council's *Draft PFAS Action Plan*. The comments are submitted from the off-reservation, ceded territory perspective and relate to these aspects of the tribes' sovereignty and retained rights. They do not preclude comments submitted directly by any GLIFWC member tribe pursuant to its individual sovereign prerogatives. We thank you for the opportunity to provide feedback on this important document.

Through the Treaties of 1836, 1837, 1842, and 1854, Chippewa tribes ceded territories across northern Minnesota, Wisconsin, and Michigan to the United States. These treaties guaranteed the tribes certain hunting, fishing, and gathering rights throughout these ceded territories to ensure the tribes could continue their way of life to meet subsistence, economic, cultural, spiritual, and medicinal needs. The United States Supreme Court and other federal courts have affirmed the treaty rights of the tribes within the ceded territories.

GLIFWC is an intertribal natural resource agency comprised of eleven federally recognized tribal governments¹. It was established in 1984 to assist its member tribes in implementing their treaty rights by providing support in the conservation and management of the natural resources subject to those rights, and protecting the habitats and ecosystems that support those resources. GLIFWC exercises delegated authority from its eleven member tribes regarding their treaty reserved hunting, fishing, and gathering rights.

¹ GLIFWC member tribes are: in Wisconsin -- the Bad River Band of the Lake Superior Tribe of Chippewa Indians, Lac du Flambeau Band of Lake Superior Chippewa Indians, Lac Courte Oreilles Band of Lake Superior Chippewa Indians, St. Croix Chippewa Indians of Wisconsin, Sokaogon Chippewa Community of the Mole Lake Band, and Red Cliff Band of Lake Superior Chippewa Indians; in Minnesota -- Fond du Lac Chippewa Tribe, and Mille Lacs Band of Chippewa Indians; and in Michigan - Bay Mills Indian Community, Keweenaw Bay Indian Community, and Lac Vieux Desert Band of Lake Superior Chippewa Indians.

We support the development of a Wisconsin PFAS Action Plan. The draft plan is far more comprehensive than the federal PFAS plan, particularly in its commitments to monitor and establish guidelines for PFAS chemicals beyond PFOS and PFOA. We have identified certain gaps in the plan, though, that are of particular importance for GLIFWC's member tribes. We hope you will address these items in the final version of the Action Plan.

I. Recognition of Elevated PFAS Exposure to Tribes due to Higher Rates of Fish Consumption

We applaud the inclusion of Environmental Justice and Health Equity as overarching principles for the PFAS Action Plan. The document rightly recognizes that PFAS contamination has disproportionately impacted low-income communities and communities of color. But, the plan does not specifically recognize the fact that tribal members are disproportionately exposed to PFAS as a result of consuming locally caught fish at a much higher rate than the general population of Wisconsin.

The main routes of human exposure to PFAS are through food and drinking water, with fish consumption being the primary food source. But the plan is heavily focused on PFAS exposures via water and lacking in recognition of the significant exposure to tribal members and other high-end fish consumers resulting from fish consumption. The presence of PFAS compounds and other environmental contaminants in fish creates an environmental justice issue for tribes and contributes to the health disparities experienced within these communities. This important exposure route needs to be recognized explicitly and its impact on the health of tribal communities and their ability to safely exercise their treaty rights to harvest and consume fish should be stated.

II. Need for Development of PFAS Guidelines for Fish Consumption

The Action Plan commits to taking action toward establishing science-based standards for PFAS in drinking, surface, and groundwater for PFOS, PFOA and a suite of 34 additional PFAS chemicals (Action Item 1.1). But there is no parallel commitment to working toward establishing PFAS guidelines for safe fish consumption despite fish consumption being the other primary route of PFAS exposure.

The Wisconsin Department of Natural Resources is currently testing for a suite of over 25 PFAS chemicals as a part of its routine fish contaminant monitoring program. Yet, there is only a guidance value for one chemical, PFOS, that can be used to develop and issue fish consumption advisories. Guidance values for other PFAS chemicals with the potential to be detected in fish need to be established so that appropriate fish consumption advisories can be issued when needed. The Action Plan should propose actions that support this need in order to protect Wisconsin residents who consume locally caught fish, especially tribal members who harvest and consume fish at a rate higher than the general population and who rely on these activities for subsistence and cultural purposes.

III. Need for Increased Understanding of PFAS Dynamics in Aquatic Food Webs

PFAS compounds do not follow classic organic contaminant tissue distribution or bioaccumulation patterns in fish, such as those observed for contaminants including PCBs, dioxins, and PBDEs. The mechanism behind their divergent patterns is not fully understood. For

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example, PFAS are not lipophilic and are typically more strongly associated with protein-rich tissues like blood, liver, and muscle, rather than with fatty tissues. This affects the way these compounds biomagnify throughout the food web. Further, PFAS compounds do not necessarily increase with increasing trophic level. These factors make PFAS risk assessments for fish consumers difficult and complex.

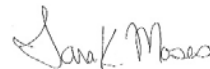
Additional specific research priorities should be included in the Wisconsin PFAS Action Plan to increase understanding of PFAS dynamics in the aquatic food webs and species of Wisconsin's inland waters and the Great Lakes. Filling these knowledge gaps is essential to being able to perform adequate risk assessments to protect Wisconsin fish consumers.

IV. Need for a Specific Plan for Monitoring PFAS in Deer and Issuing Consumption Advisories

The Action Plan makes only vague references to monitoring PFAS in wildlife. In light of the recent discovery of elevated PFAS concentrations in deer in areas of the state, a specific plan for monitoring deer tissues for PFAS statewide as well as developing, issuing, and communicating deer consumption advisories should be included in the plan. Deer are not only an important resource for state hunters but also a critical subsistence resource for Wisconsin tribes. The risks associated with PFAS in deer need to be assessed and clearly communicated to the public. Aspects of this work are already being carried out or are planned by the Wisconsin Department of Natural Resources. This should be explicitly detailed and expanded upon in the Action Plan.

We thank you for your consideration of these comments. Any questions can be directed to me at s.moses@glifwc.org or (715) 292-8348.

Sincerely,

A handwritten signature in dark ink, appearing to read "Sarah K. Moses".

Environmental Biologist