

Testimony on 2019 Senate Bills 774 and 775

Senator Robert Cowles

Senate Committee on Natural Resources and Energy – February 7, 2020

Thank you, Committee Members, for allowing me to testify on 2019 Senate Bills 774 and 775. This legislation provides clean drinking water to people in areas of the state with the worst contamination and studies the extent of PFAS pollution in Wisconsin. These areas of the state with the worst contamination will be labeled ‘PFAS Management Zones.’

Per- and polyfluoroalkyl compounds, also known as PFAS, are a family of chemicals found in an array of products including non-stick cookware, stain-resistant carpet, water-resistant apparel, food packaging, paints, waxes, and firefighting foam. PFAS contamination of water used for drinking in a growing number of locations around the state is causing hardship for some Wisconsin households.

As the Legislature continues discussions on addressing this emerging contaminant and the Department of Natural Resources (DNR) begins the rulemaking process for certain PFAS compounds, we’re looking to determine the true extent of PFAS contamination in Wisconsin. That’s why I’m here today to offer this legislation which establishes PFAS Management Zones as part of the solution to this lack of testing information and more importantly as a way to immediately remedy residents’ concerns over access to clean drinking water.

PFAS Management Zones will be established through a statutorily prescribed process wherein the Department tests drinking water sources, whether that’s ground or surface water, for elevated levels of PFOA and PFOS. While not specified, the DNR could pursue potentially contaminated locations by using their Bureau of Remediation and Redevelopment Tracking System (BRRTS) or through a tip from concerned residents who’ve tested their own well water and have the result confirmed by the DNR. The Zone would first expand in a cyclical process, then by following the path of contamination, such as the flow of a groundwater or river, if positive tests keep appearing.

Before establishing a final PFAS Management Zone, the DNR shall consider releasing portions of the Zone in the opposite direction of the path of contamination or where few positive tests were found based on a number of listed factors. The Department shall also hold a public meeting before establishing a Zone.

This legislation requires the DNR to establish emergency rules to require that public water systems test for PFOA, PFOS, PFHxS, PFHpA, PFNA, and PFBS if drinking water is pulled from inside a PFAS Management Zone. Additionally, wastewater utilities must test biosolids if: 1) The biosolid is from a utility serving portions of a PFAS Management Zone and is being taken offsite, or; 2) The biosolids are going to be spread in a PFAS Management Zone. If both apply, tests must only be completed once. Test results must be submitted to the DNR. SB 775 provides \$200,000 for grants to local governments to complete required or voluntary testing.

Along with testing required of local governments, this legislation also requires the DNR to test for PFOA, PFOS, PFHxS, PFHpA, PFNA, and PFBS in soil and sediment, including lake and river bed sediment, groundwater, surface water, drinking water, biosolids, and fish and wildlife tissue. SB 775 provides \$150,000 to conduct this testing.

The results of the testing to establish a Zone along with other testing done in a Zone must be posted on a webpage that the DNR establishes for each Zone. Other information must be posted on the website, including an overview of the Zone, information on how best to test a private well and what labs accept samples, some of the potential health impacts of PFAS, and more. Zones will also be discussed in an annual report to the Legislature.

The DNR must provide notification to local governments impacted by a PFAS Management Zone in three different stages, including the first positive test, upon establishment of a Zone, and when the webpage mentioned above is active.

Drinking water and wastewater utilities that serve an area with a PFAS Management Zone are prioritized, to the extent possible, within the Safe Drinking Water Loan Program and Clean Water Fund, respectively. Well owners inside of a PFAS Management Zone that may otherwise qualify for the Well Compensation Grant Program based on income eligibility will be prioritized within the program, with the highest levels of contamination first. SB 775 will provide an extra \$100,000 to the Well Comp Program targeted towards filtration for PFAS contamination.

Additionally, SB 775 provides \$50,000 for research on PFAS containment, treatment, remediation, and disposal techniques in watersheds that contain PFAS Management Zones, and provides the DNR with one project position, lasting for 4.5 years, and one position that may be appropriated through a JFC request to test and manage the Zones.

Finally, SB 774 has two nonstatutory provisions to ensure information gathered in the Zones can be used to inform future actions. First, this bill requires the establishment of an advisory committee with potentially impacted parties to discuss economically and technically attainable standards that protect human health. The bill also requires the DNR to work with persons and entities likely to be affected by the promulgation of permanent rules to look at the technological and economic feasibility of meeting standards and ways to help municipal utilities achieve these standards.

These bills on PFAS Management Zones do not interfere or supersede anything in Senate Bills 772 and 773. The two ideas can work in unison. Further, the idea that anyone would be opposed to providing clean water to those impacted and learning more about the scope of PFAS contamination in Wisconsin as the permanent rulemaking process continues unimpeded is puzzling.

Most importantly, while Senate Bills 772 and 773 have numerous provisions to advance PFAS regulations in Wisconsin, there are no provisions to ensure the state helps to provide clean water now to Wisconsin residents. Getting clean water now is the most important thing for those impacted. Senate Bills 774 and 775 set aside new funding for filtration for impacted residents. Additionally, by prioritizing municipal water and wastewater utilities for state loan programs, those on public water supplies may also be seeing cleaner water sooner rather than later.

Finally, those in the greater Marinette and Peshtigo area have continuously dealt with the frustration of not knowing the true extent of the plume of contamination. PFAS Management Zones directs the DNR to figure that out and provide that information to those impacted. This in no way slows the rulemaking process, but instead provides the only opportunity to accurately identify the most significant and concerning cases of PFAS contamination in Wisconsin. Senate Bill 774 also sets up public avenues through websites and meetings so residents don't have to piecemeal the latest information from the news, but instead actually hear this information directly from the DNR themselves.

No one bill can be the complete solution to PFAS contamination in Wisconsin. By setting up PFAS Management Zones, we will compliment and strengthen Senate Bill 772 and 773 as we work to make Wisconsin a leader in addressing PFAS pollution.



Senate Committee on Natural Resources and Energy

2019 Senate Bill 774 and Senate Bill 775

PFAS Management Zones

February 7, 2020

Good morning Chairman Cowles and members of the Committee on Natural Resources and Energy. My name is Darsi Foss, and I am Administrator of the Environmental Management (EM) Division with the Wisconsin Department of Natural Resources. With me today is Jim Zellmer, Deputy Director of the EM Division, to assist with this testimony and to answer any questions you may have. We thank you for the opportunity to testify on SB 774 and SB 775. We are testifying for informational purposes only.

PFAS has become one of the defining environmental issues of the 2020's. At one time, we considered PFAS a specialty chemical that had limited geographic impacts – mostly associated with 3M in the Twin Cities in Minnesota or as result of Dupont operations in Parkersburg, West Virginia. As recent as three years ago, Wisconsin could point to no known, major sources of PFAS contamination in this state. Fast forward three years. Our understanding of the nature and scope of PFAS contamination in Wisconsin and concerns associated with exposure to PFAS has increased by orders of magnitude.

PFAS are often referred to as forever chemicals in that they persist in the environment and bioaccumulate in mammals, fish, and wildlife. In other words, they do not naturally break down into less harmful substances in the environment. EPA has concluded that continued exposure to certain types of PFAS above a certain chemical concentration may lead to adverse health effects. According to EPA, most people in the United States have been exposed to PFAS. PFAS is an international issue, with many countries banning the use of PFAS in products or PFAS foam use at airports. In Wisconsin, elevated levels of PFOA or PFOS – the most studied 8-chain carbon (C8) PFAS compounds – have been found in Wisconsin fishermen, diving ducks, in eaglets along the Wisconsin River, fish in the Mississippi River, and most recently in surface water and fish in Madison's Starkweather Creek and Lake Monona.

In our own backyard, at the University of Wisconsin, resides the National Atmospheric Deposition Program (NADP), an internationally recognized lab that studies deposition of chemical contaminants – like acid rain and mercury – through the air transport pathway. In the last few months, NADP published a national study in which they sampled 30 sites across the U.S. in the spring and summer of 2019 for 36 PFAS compounds in rainwater. All site samples contained at least one type of PFAS; the second highest total level of PFAS in a rainwater sample was from the monitoring station located near Devils Lake State Park, in Wisconsin.

Further, the DNR has identified over 30 contaminated sites in the state where PFAS has impacted the air, land, or water. These sites represent the traditional sources of where PFAS has been found nationally: commercial airports, military sites (state and federal), refineries, cookware manufacturers,

and electroplaters. While our neighbor of Michigan has over 75 identified sites, Michigan has been more systematic in their efforts to identify sources of PFAS contamination. Given Wisconsin's manufacturing history and the general improvements in the science of analyzing environmental samples, we can expect PFAS impacts to soil, groundwater, drinking water, and surface water to be much more common in communities across the state in the coming years.

Before you today are two bills – SB 774 and SB 775 – that establish PFAS management zones and requirements for those zones; notification and reporting; grant and loan priorities; staffing; and creation of a PFAS advisory committee. While the DNR has not had a great deal of time to evaluate the merits of these two bills and their ability to help us collectively address this statewide concern, we'd like to offer some initial comments for your consideration:

PFAS management zones:

1. Estimate of Eligible Communities: Based on our initial evaluation, the DNR estimates that two communities may be eligible for establishment of a PFAS management zone, which could result in the testing of the community's water supply, biosolids or both.

Based on the DNR's initial review, the bill may help the following communities in the following ways:

- the city of La Crosse – DNR could ask to test their municipal water system and biosolids, after writing emergency rules and creating the zone. Presently, La Crosse is conducting an investigation of their airport and municipal well.
 - the city of Marinette – DNR could ask the city to test their biosolids, after writing an emergency rule and creating a zone; however, the criteria in the bill does not apply to their municipal water system, because their surface water intake is outside the PFAS management zone.
 - the town of Peshtigo – which has no municipal systems for wastewater or drinking water, and has a responsible party paying for an investigation. Approximately 20 private wells above 70 ppt, and an additional 30 private wells between 20 ppt and 70 ppt.
 - Communities impacted by elevated levels of PFAS in surface water, groundwater, fish, and soil – such as the cities of Madison, Peshtigo, Manitowoc, Milwaukee, and Rhinelander do not appear to be eligible for the assistance contemplated by these bills – because they do not exceed 70 ppt trigger for PFOA or PFOS.
2. Triggers for the PFAS Zone: The bill is silent on how the DNR would obtain the original PFAS sampling data to evaluate the need for a PFAS management zone. Presently, the DNR is informed of environmental contamination when a property owner, operator, or person who causes the contamination takes samples and reports it to DNR.
 3. Establishment and Expansion of PFAS Management Zones: Under ch. 292, Wis. Stats., the DNR has authority to commence an investigation of PFAS contamination, and expand the investigation as needed to fully determine the nature and extent of PFAS contamination. While the DNR believes the authors of this bill are well intended, the bill appears to put unintentional limits and sideboards on the DNR's existing authority to

assist communities. The bill prescribes narrow criteria the DNR must use to make unique and site-specific investigation decisions. The DNR currently has rules in place that guide site investigation decision making, as part of the NR 700 administrative rule series.

4. Rulemaking: Requires the DNR to establish emergency rules for testing water supplies and biosolids and to share the results of those tests with the public. For those existing Wisconsin communities already impacted by PFAS, the DNR has worked cooperatively with them to obtain the drinking water and biosolids sampling contemplated by this bill. In addition, DNR currently has authority to require or take samples at these municipal systems.
5. Other Administrative Items: This legislation calls for the DNR to establish a PFAS advisory committee for rulemaking, which the DNR already has three: for surface water, groundwater, and drinking water. In addition, the DNR also hosts a general PFAS Technical Advisory Committee and the Wisconsin PFAS Action Committee, both groups having average attendance in person or on-line of over 150 people per event.
6. Well Compensation Funds: Private drinking water well owners impacted by PFAS are eligible for well compensation. The DNR estimates that with the additional \$100,000 for the well compensation program, 19 well owners could be assisted on a statewide basis; in the town of Peshtigo there are 50 wells that attain or exceed 20 PPT of PFAS.
7. SDWA and CWA Loans: Funds in the Safe Drinking Water Act (SDWA) Loan program would only be available to assist PFAS management zone communities once the DNR or the EPA establishes a drinking water maximum contaminant level (MCL) for those PFAS substances. Funds in the Clean Water Act (CWA) Loan program would only be available to assist PFAS management zone communities once the DNR or the EPA establishes a water quality PFAS standard, that is incorporated into a WPDES permit, and the municipality exceeds its permitted PFAS standard. The DNR estimates that eligibility for SDWA or CWA loans to address PFOA or PFOS will not occur for at least 24 months or more – until those state standards are promulgated.

Again, these are the questions and considerations that we have initially identified in reviewing the bills this week. On behalf of the DNR, we would like to thank you for your time today. We would be happy to answer any questions you may have.

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Wisconsin Senate, Committee on Natural Resources and Energy
February 7, 2020

Senate Bills SB 774 and SB 775 Testimony

Less than forty-eight hours ago I became aware of two additional bills introduced by Chairman Cowles, Senate Bills SB 774 and SB 775. I haven't had enough time to fully analyze them thoroughly, but I do have questions and concerns that prevent me from endorsing them at this time. I will quickly try to summarize a few questions or concerns about them for you.

The bill proscribes the creation of a PFAS management zone if the discovery of PFAS in drinking water occurs. I fail to see how this will proactively protect Wisconsin's residents. PFAS testing is a specialized test with certified labs performing the testing. Why would anyone go to the expense of this testing if a standard wasn't in place and testing was required by a regulatory agency?

Marinette may be the worst contamination site thus far but it is not a unique situation. There are currently ongoing PFAS investigations by the DNR in Manitowoc, Superior, Camp Douglas, Camp McCoy, Milwaukee, La Crosse, Rhinelander, and Madison to mention a few. Many of these investigations involve multiple sites within the area. This problem isn't going to get smaller as we go through time; it is going to get bigger.

I'm having trouble understanding why we would want to create more hoops to jump through just to trigger a series of repetitive testing in and around the management zones. There doesn't appear to be any enforcement actions required, only testing. We need statewide enforceable standards, because the danger level for PFAS in groundwater or drinking water in Marinette is going to be the same danger everywhere else in Wisconsin. What could poison you in Marinette, could poison you in Green Bay, Oshkosh, or Racine too.

Testing "positive" in drinking water is defined in the bill as PFOA and PFOS being present in excess of 70 parts per trillion. After eighteen months of study, the Wisconsin Department of Health issued a recommendation for the combined PFOA and PFOS in groundwater to be no more than 20 parts per trillion. Why would the bill reference an outdated measurement? In our contaminated well area, the 20 parts per trillion DHS recommendation almost doubled the number of homes with drinking water concerns when it was announced last summer. Our community would never accept taking a step backward to 70 parts per trillion. If our municipal

drinking water tested at 70 parts per trillion, you would have the entire city down here demanding action. It is an unreasonably high threshold.

In addition, there are many more PFAS compounds currently under review by DHS that could result in serious groundwater recommendations. Limiting this legislation to only two PFAS compounds as the trigger for the management zones is contrary to the effort to use “science based” evidence for regulatory action.

The onus for conducting the testing in a PFAS management zone seems to fall on the DNR and not on a “responsible party.” This is exactly the position advocated by Johnson Controls in the biosolids testing dispute with the DNR and is completely unacceptable to the residents in Marinette County. Johnson Controls has not tested a single well or field where sludge likely contaminated with PFAS was spread. This has been a public issue for a year and they are under direction from the DNR to get moving on this. This requirement would pull the rug out from under the efforts to get Johnson Controls to do the right thing and on their nickel, not the taxpayers.

Additionally, the distance between fields where potentially contaminated sludge was spread in Marinette County exceed the five mile radius in the bill and would never trigger a PFAS management zone. We have sixteen different field locations in Marinette County spread over approximately 150 square miles. How would these management zones be effective for us?

It is hard to see how these new proposals would bring any near term help to our area, and in fact, they could hamper the authority of the DNR to hold Johnson Controls liable for the testing and remediation. I thank the Chairman for his concern for the problems we are experiencing but at this time I cannot support the proposed legislation and oppose SB 774 and SB 775.

Thank You. I would be happy to answer any questions you might have.

**Before the Senate Committee on Natural Resources and Energy
Testimony of Vanessa D. Wishart
On behalf of the Municipal Environmental Group – Wastewater Division**

*Regarding 2019 Senate Bill 774
February 7, 2020*

I am here today 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 such as Racine and Green Bay.

The mission of our members is to protect public health and the environment through the treatment and reclamation of wastewater. Publicly owned treatment works are the boots on the ground that make clean water happen. On behalf of our members, we share the concern about PFAS compounds, and we support the regulation of these compounds based on due deliberation and credible science.

We appreciate the effort that the authors have made to address potential PFAS hotspots in SB 774. We have concerns about language in the bill that singles out the land application of biosolids from publicly owned treatment works for testing, but we continue to be willing to work with the members of this committee on that language.

MEG Wastewater greatly appreciates the opportunity to participate in this hearing.

For more information contact Paul Kent at pkent@staffordlaw.com or Vanessa Wishart at vwishart@staffordlaw.com.



SENATE COMMITTEE ON NATURAL RESOURCES AND ENERGY
February 7, 2020

TESTIMONY ON SB 774 & SB 775: PFAS Management Zones and related funding

The Wisconsin Paper Council (WPC) appreciates the opportunity to testify on Senate Bills 774 and 775 regarding PFAS Management Zones. Wisconsin is the number one paper-making state in our nation. Our members are proud stewards of the environment. We rely on renewable energy, provide charitable support to our local communities, and strive to be national leaders in sustainability all while providing employment to over 30,000 highly skilled men and women, mostly in rural areas of Wisconsin.

WPC agrees with reasonable regulation of perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS). There are areas in the state where PFOA and PFOS are found in concentrations high enough to cause concern, and those areas should absolutely be addressed. Our citizens should all have access to clean water, and we hope to work with the legislature and regulators to address those concerns expeditiously.

WPC supports the concept proposed in Senate Bills 774 and 775. Specifically, gathering information on where contamination exists, making sure citizens in areas of concern have immediate relief even if it's temporary, and letting the science behind these compounds develop *before* setting state-wide regulatory standards is a much sounder approach to regulation.

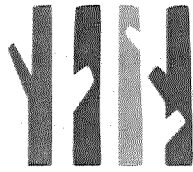
Yesterday, during assembly testimony on Senate Bills 772 and 773, we heard the Department of Health Services (DHS) say things like there "is not enough information about levels of PFAS in blood at which health problems occur" and "evidence connecting PFAS to cancer is limited." DHS also noted that most of the studies show an association between PFAS and health impacts, not an actual causal link. These comments illustrate the many unknowns surrounding what, if any, impacts each PFAS compound has on human health. Until the scientific community gets closer to a consensus, the best approach for the state is to work to understand the status of contamination and ensure there is immediate relief for areas of concern.

One of the proposals in this bill makes in-home filtration an option for citizens in the designated Management Zones. This is an approach used in other states, but that has not been supported by DNR because the solution is considered temporary in nature. WPC supports adding in-home filtration as an option. It is relatively low cost and provides immediate results.

In addition, WPC supports the creation of an advisory committee to inform and assist the agencies with their ongoing regulatory development, and of increased transparency surrounding DNR's testing and results.

However, WPC also has some concerns with the language proposed. We have not fully evaluated the scientific information available for all PFAS compounds listed in the bill. We also would like to address the sample collection and testing methods to ensure the integrity of the testing done.

Thank you for the opportunity to testify on this important issue, and thank you Senators Cowles and Petrowski for proposing a common-sense approach to tackling a very complex issue. This bill is a great first step, and we look forward to working with the authors to create a law that provides efficient relief to citizens in areas of contamination, and works toward true science-based regulation where necessary.



Midwest
Environmental
Advocates

To: The Senate Committee on Natural Resources and Energy
From: Attorney Rob Lee, Midwest Environmental Advocates
Date: February 7, 2020
Re: Opposition to SB 774 & SB 775

Chairperson Cowles and Members of the Committee, thank you for the opportunity to provide testimony in opposition to SB 774 and SB 775. My name is Rob Lee, and I am a staff attorney at Midwest Environmental Advocates (MEA). MEA is a public interest environmental law center that has worked for over two decades to protect Wisconsin's land, air, and water. We recognize and applaud the intent behind these bills. Wisconsin absolutely needs to get a handle on the water quality crisis stemming from per- and polyflouroalkyl substances (PFAS) contamination. However, all indications point to the problem being much more widespread than those areas that would qualify under these bills as PFAS management zones. Wisconsin needs more.

I. Wisconsin needs widespread testing of all public water utilities to better understand PFAS contamination throughout the state.

As drafted, these bills only require and fund public water utilities to conduct testing if those utilities are located within a PFAS management zone. To establish a PFAS management zone though, initial testing must be conducted. There is no requirement in these bills that such initial testing occurs, and it is vital that lawmakers require and fund widespread testing of water utilities throughout the state. DNR has begun the administrative rulemaking process that would result in the establishment of drinking water standards for PFOA and PFOS, which in turn would require widespread testing to occur. But there is no guarantee that those rules will ultimately be promulgated, particularly due to cost considerations. In any event, those rules will not go into effect for two to three years, and we need to get a handle on this situation now, not three years from now.

II. The applicable health advisory level in Wisconsin for PFOA and PFOS is 20 ppt not 70 ppt.

Although the U.S. Environmental Protection Agency issued a lifetime drinking water health advisory level at a combined concentration of 70 ppt for PFOA and PFOS in late 2016, the Wisconsin Department of Health Services' (DHS) nonpartisan and unbiased review of the continually evolving scientific literature led it to make a groundwater enforcement standard recommendation of 20 ppt for PFOA and PFOS in June of last year. That EPA's 70 ppt health advisory level is outdated is confirmed simply by reviewing health advisories and standards for PFOA and PFOS adopted in other states. Appended to these comments you will find a chart outlining those health advisories and standards, which include enforceable standards as low as 10 ppt for groundwater. The point is that DHS's recommended standard of 20 ppt is not an overly stringent outlier, and the outcome of its exhaustive, health-based, scientific review should be respected.

III. Limiting "positive tests" to PFOA and PFOS ignores the possibility that other PFAS may be present in drinking water at toxic levels without PFOA and PFOS exceeding health advisory levels.

When it comes to what constitutes a “positive test” under these bills, limiting it to PFOA and PFOS ignores the possibility that other PFAS may be present in drinking water at toxic levels without PFOA and PFOS exceeding health advisory levels. For example, in Madison, PFHxS has been detected in municipal wells in excess of 20 ppt, while the combined concentration of PFOA and PFOS has only been detected as high as 12 ppt. In Rhinelander, one well was shut down due to high concentrations of PFOA, PFOS, and PFHxS while another was shut down due to high concentrations of PFHxS alone. Other PFAS such as PFHxS, while less studied, have been linked to many of the same adverse health impacts linked to PFOA and PFOS.

MEA urges this committee to reject SB 774 and SB 775 and to consider instead more comprehensive legislation that will allow Wisconsin to better understand and address the full extent of PFAS contamination throughout the state.

Standards and Guidance Values for PFAS in Drinking Water, Groundwater, and Surface Water/Effluent—current as of January 2020

Location	*Standard	**Type	PFOA	PFOS	PFNA	PFBA	PFBS	PFHxS	PFHxA	PFPeA	PFHpA	PFOSA	PFDA	PFDS PFUnA PFDoA PFTrDA PFTeDA	Gen-X
USEPA	HA	DW	70	70											
AK	CL	GW	400	400											
	AL	DW/GW/SW	70	70											
CA	NL	DW	5.1	6.5											
CO	GQS	GW	70	70											
CT	AL	DW/GW	70	70	70			70			70				
DE	RL	GW	70	70											
	SL	GW	70	70			38,000								
IN	SL	Protected GW					400,000								
IA	SS	Protected GW GW	70	70 1,000											
ME	RAG	GW	400	400			400,000								
MA	DWV	DW	20	20	20			20			20		20		
	GW-1	GW	20	20	20			20			20		20		
	GW-2	GW	40,000,000	500,000	40,000,000			500,000			40,000,000		40,000,000		
MI	HNV	SW	420	11											
	GCC	DW/GW	70	70											
	SL	DW	9	8	9		1,000	84							
MN	HRL-sc	DW/GW	35			7,000	9,000								
	HRL-c	DW/GW	35	30		7,000	7,000								
	HBV-sc	DW/GW		15			3,000	47							
	HBV-c	DW/GW		15			2,000	47							
MT	WQS	GW	70	70											
NV	BCL	DW	667	667			667,000								
NH	AGQS	GW	12	15	11			18							
NJ	GWQS	GW			13										
	MCL	DW	14	13	13										
	ISGWQC	GW	10	10											
NC	IMAC	GW	2,000												140
	HG	DW													700
OH	AL	DW	70	70	21		140,000								
OR	IL	SW	24	300	1,000						300,000	200			
PA	MSC	GW	70	70											
RI	GQS	DW/GW	70	70											
TX	PCL	GW	290	560	290	71,000	34	93	93	93	560	290	370	290	
VT	HA	DW/GW	20	20	20			20			20				
	PAL	GW	10	10	10			10			10				
WI	ES	GW	20	20											
	PAL	GW	2	2											

Notes. Data collected from Interstate Technology & Regulatory Council factsheets and state government websites. Alabama (AL), Arizona (AZ), Colorado (CO), and West Virginia (WV) use the USEPA Health Advisories. All units are in parts per trillion. Enforceable standards are in bold. Concentrations that represent the sum of more than one compound are in italics.

*Standard acronyms: AGQS (ambient groundwater quality standards), AL (action level), BCL (basic comparison level), CL (groundwater cleanup level), CS (cleanup standard), DWV (drinking water value), ES (enforcement standard), GC (generic cleanup criteria), GQS (site-specific groundwater quality standard), GV (guidance values), GWQS (groundwater water quality standard), HA (lifetime health advisory), HBV (health-based value; subchronic and chronic), HG (health goal), HNV (human non-cancer value for surface drinking water), HRL (health risk limit; subchronic and chronic), IL (initiation level), IMAC (interim maximum allowable standard), ISGWQS (interim specific ground water quality standard), MCL (maximum contaminant level), MEG (maximum exposure guideline), MSC (medium-specific concentration), NL (notification level), PAL (preventive action level), PCL (protective concentration level), RAG (remedial action guideline), RL (reporting level), SL (screening level), SS (state-wide standards), WQS (water quality standard)

**Type acronyms: DW (drinking water), GW (groundwater), SW (surface water and/or effluent)



TO: Senate Committee on Natural Resources

FROM: Jason Culotta
President
Midwest Food Products Association

DATE: February 7, 2020

RE: Comments on Senate Bill 774 and Senate Bill 775

The Midwest Food Products Association (MWFPA) appreciates the opportunity to comment on Senate Bill 774 and Senate Bill 775, which would establish management zones for perfluoroalkyl and polyfluoroalkyl substances, known as PFAS.

MWFPA is the trade association representing food processors and their allied industries throughout Illinois, Minnesota, and Wisconsin. As Governor Evers noted in his State of the State address, Wisconsin is among the leading states for the growing and processing of vegetables. The state ranks second in the nation in vegetable production, only behind California.

Our food processors and their contract growers, along with others in the agricultural industry, have an interest in PFAS legislation designed to regulate and test for the presence of these compounds. Our industry can be downstream of water containing PFAS compounds, the impact of which on the growing and harvesting of crops is not yet fully known.

Water is an essential ingredient for the agriculture and food industries. Food manufacturers use water in many products but also utilize it to clean, peel, heat, and steam raw products. Purchasing, pumping, and treating water represents a major cost to food manufacturers. While we support efforts to manage and ensure access to clean, healthy water – including groundwater, we recognize the need to proceed deliberately to ensure new regulations are effective in addressing problems where they exist.

Senate Bill 774 appears designed to address the unfortunate situation in the Marinette area as well as others around the state where high concentrations of PFAS compounds have been identified.

Other PFAS legislation introduced this session includes much broader reach over all PFAS compounds – most of which little is known of the human health impacts – and would also establish potentially harsh litigation, financial, and air regulatory measures for a wide group of actors in the stream of commerce.

Senate Bill 774 enumerates testing for six of the longer-chain PFAS compounds. Human health impacts have been extensively studied on several and perhaps all six of these compounds.

Among our concerns with the language of Senate Bill 774 are:

- Tightening the definition of “drinking water” in Subsection 1 on page 4, which should be linked to a public or private water supply.
- Removing the exemptions for issuing a scope statement and gubernatorial approval of the final rules found in Subsection 4 on page 8.
- Defining in Subsection 6 on page 8 what “commonly accepted PFAS collection protocols” are. The federal government recently announced testing standards for these compounds. Having a clear link to a national standard will make adhering to this legislation practical.
- Also in Subsection 6, defining what “a laboratory accredited for PFAS testing” means is crucial.
- Clarifying the reference in Subsection 8 on page 9 to the Joint Committee for Review of Administrative Rules, which we believe was the authors’ intent.

This legislation is much more responsible and reasonable in dealing with the issues of high levels of PFAS found in drinking water than some others considered this session. With improvements like those suggested above, real relief could be delivered in the current legislative session with a clear regulatory process for impacted parties to operate within.

MWFPA is interested in working with the authors and other lawmakers on making the changes suggested above and perhaps others to arrive at a sustainable solution that properly protects human health while providing regulatory certainty.