



DOA:.....Richter, BB0430 - PFAS CLEAR Act

FOR 2025-2027 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

Spills law exemptions and requirements

Under current law provisions known as the “spills law,” a person that possesses or controls a hazardous substance or that causes the discharge of a hazardous substance must notify DNR immediately, restore the environment to the extent practicable, and minimize the harmful effects from the discharge. If action is not being adequately taken, or the identity of the person responsible for the discharge is unknown, DNR may take emergency action to contain or remove the hazardous substance; the person that possessed or controlled the hazardous substance that was discharged or that caused the discharge of the hazardous substance must then reimburse DNR for expenses DNR incurred in taking such emergency actions. The spills law allows DNR to enter property to take emergency action if entry is necessary to prevent increased environmental damages, and to inspect any record relating to a hazardous substance for the purpose of determining compliance with the spills law. DNR may also require that preventive measures be taken by any person possessing or having control over a hazardous substance if existing control measures are inadequate to prevent discharges.

The bill exempts a person who possesses or controls property where a PFAS discharge occurred from all of the requirements, if all of the following apply:

1. The property is exclusively used for agricultural use or residential use.
2. The discharge was caused by land application of sludge according to a water pollution (WPDES) permit.
3. The person who possesses or controls the property allows DNR, any responsible party, and any consultant or contractor of a responsible party to enter the property to take action to respond to the discharge.
4. The person who possesses or controls the property does not interfere with any action taken in response to the discharge and does not take any action that worsens or contributes to the PFAS discharge.
5. The person who possesses or controls the property follows any other condition that DNR determines is reasonable and necessary to ensure that DNR, the responsible party, or any consultant or contractor of the responsible party is

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able to adequately respond to the discharge, including taking action necessary to protect human health, safety, or welfare or the environment, taking into consideration the current or intended use of the property.

6. The person who possesses or controls the property allows DNR to limit public access to the property if DNR determines it is necessary to prevent an imminent threat to human health, safety, or welfare or to the environment.

Under the bill, this exemption applies only to PFAS for which there is a state or federal standard, a public health recommendation from DHS, or a health advisory issue by the federal Environmental Protection Agency. The exemption also does not apply after December 31, 2035. The exemption does not apply to any substances other than PFAS, and does not apply if the person that possesses or controls the property takes action that worsens or contributes to the PFAS discharge.

The bill requires a person that is exempt from these provisions to provide written disclosure of the type and location of the PFAS contamination and remediation activities to any prospective purchaser or tenant of the property. The bill also provides that the exemption may not be transferred to subsequent owners of the property; each person that possesses or controls the property must establish eligibility for the exemption.

The bill also provides that DNR may not use the fact that a person has applied for financial assistance under the state's well compensation program, the county well testing grant program created in this bill, or any other state grant programs funded by the federal American Rescue Plan Act of 2021 to determine whether the person is a person that possesses or controls a hazardous substance or that causes the discharge of a hazardous substance for purposes of applying the spills law.

Finally, the bill provides that, if there is no existing standard for a hazardous substance, the person that possesses or controls the hazardous substance or that caused the discharge of the hazardous substance must propose site-specific environmental standards for DNR approval.

Groundwater standards for PFAS

Under current law, DNR maintains a list of substances that have a reasonable probability of entering the groundwater resources of the state and that are shown to involve public health concerns. DHS recommends groundwater enforcement standards for substances on this list, which DNR then proposes as DNR rules in its rule-making process. The bill requires DNR to begin the rule-making process to adopt DHS's recommended groundwater enforcement standards for any PFAS within three months after receiving DHS's recommendation.

Rule-making exemptions for PFAS

Current law requires an agency to suspend working on a permanent rule if it determines that the proposed rule may result in more than \$10,000,000 in implementation and compliance costs over any two-year period. Current law also allows standing committees of the legislature and the Joint Committee for the Review of Administrative Rules (JCRAR) to review, approve, object to, or modify a proposed rule. If JCRAR objects to all or part of a proposed rule, that rule may not

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be promulgated unless a bill is introduced and enacted that authorizes the promulgation of the rule. In addition, current law allows JCRAR to suspend rules that have already been promulgated; if the rule suspended is an emergency rule, the agency that promulgated the emergency rule is prohibited from proposing a permanent rule that contains the same substance as the suspended emergency rule. The bill creates an exemption from these provisions for any proposed or existing DNR rule that establishes acceptable levels and standards, enforcement standards and preventative action limits, performance standards, monitoring requirements, or required response actions for any PFAS compound or group or class of PFAS in groundwater, drinking water, surface water, air, soil, or sediment.

County PFAS well testing grant program

The bill also creates a grant program, under which DNR provides grants to counties to provide sampling and testing services to private well owners to sample and test for PFAS, nitrates, bacteria, and lead. The bill creates an appropriation to be funded from the segregated PFAS fund for this purpose.

PFAS under the Safe Drinking Water Loan Program

Under current law, DOA and DNR administer the Safe Drinking Water Loan Program (SDWLP), which provides financial assistance from the environmental improvement program to municipalities, and to the private owners of community water systems that serve municipalities, for projects that will help the municipality comply with federal drinking water standards. DNR establishes a funding priority list for SDWLP projects, and DOA allocates funding for those projects.

The bill requires DNR, when ranking the priority of SDWLP projects, to rank a project relating to PFAS in the same manner as if a maximum contaminant level for PFAS had been attained or exceeded, if DHS has recommended an enforcement standard for the type of PFAS involved in the project.

Mediator for municipalities seeking alternate water sources due to PFAS

Under the bill, if a municipality's private water supplies have been contaminated by PFAS and the municipality is seeking an alternate water supply from another municipality, DNR may appoint a mediator to assist in negotiations between the two municipalities. Under the bill, this provision only applies if the contaminating PFAS is in excess of a state or federal drinking water standard, a state groundwater standard, or a public health recommendation from DHS. The bill provides that the person responsible for the contamination may participate in the negotiations. The bill requires DNR to promulgate rules to implement these provisions, including rules for the allocation of the cost of a mediator.

WPDES permit conditions

Under current law, a wastewater treatment facility, and any person that wishes to land spread sludge, must obtain a water pollution permit (WPDES permit) from DNR. DNR is required to include conditions in such permits to ensure compliance with water quality standards.

Under the bill, a WPDES permit that allows the permittee to land spread

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sludge must also include a condition that requires the permittee to annually test the sludge for any type of PFAS for which there is a state or federal standard, a public health recommendation from DHS, or a health advisory from the federal Environmental Protection Agency. The permittee must report the sampling and testing results to DNR and to the property owner before applying the sludge.

Additionally, a WPDES permit issued to a treatment work must require the permittee to test all sludge for the presence of PFAS and to report the testing results to DNR.

Access to information on solid or hazardous waste

In addition, the bill requires a person who generates solid or hazardous waste at a site or facility under investigation by DNR to provide DNR with access to information relating to any transportation to or treatment, storage, or disposal at another site, facility, or location.

Proof of financial responsibility for PFAS contamination

The bill also provides that DNR may, if it determines doing so is necessary to protect human health or the environment, require a person who possesses or controls or who causes the discharge of PFAS, or who manufactures products that contain intentionally added PFAS, to provide proof of financial responsibility for remediation and long-term care to address contamination by a potential discharge of PFAS or environmental pollution that may be caused by a discharge of PFAS. This financial responsibility requirement does not apply to a person that is exempt from the spills law under the provisions of this bill.

Environmental justice impacts of PFAS transportation and disposal

The bill requires a person disposing of PFAS, or transporting PFAS for the purpose of disposal, to attempt to the greatest extent possible to avoid disposing of PFAS in, or transporting PFAS to, any location where such disposal or transportation will contribute to environmental justice concerns and to consider all reasonable alternatives for transport and disposal of PFAS. The bill requires DNR to assist in evaluating the environmental justice impacts of a person's PFAS disposal or transportation.

Statewide PFAS biomonitoring studies

The bill requires DHS to conduct biomonitoring studies across the state to assess PFAS exposure levels and better understand the factors that affect PFAS levels in residents of different communities. As part of these studies, DHS may survey volunteer participants, test blood samples for PFAS, and analyze the results.

DATCP testing for PFAS

Under current law, DATCP conducts several statewide monitoring programs, sampling programs, and surveys related to testing groundwater quality for agricultural purposes. The bill requires that, when collecting and testing samples

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under one of these statewide programs, DATCP must also, at its discretion and where appropriate, test samples for the presence of PFAS.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.370 (4) (pf) of the statutes is created to read:

20.370 (4) (pf) *General program operations — PFAS; general fund.* As a continuing appropriation, from the general fund, the amounts in the schedule for addressing and preventing perfluoroalkyl and polyfluoroalkyl substances contamination in this state.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 20.370 (4) (pq) of the statutes is created to read:

20.370 (4) (pq) *General program operations — PFAS innocent landowner remediation.* As a continuing appropriation, from the environmental fund, the amounts in the schedule for actions taken under s. 292.31 to address and prevent perfluoroalkyl and polyfluoroalkyl substances contamination in this state.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 3. 20.370 (6) (ew) of the statutes is created to read:

20.370 (6) (ew) *Environmental aids — county well testing grant program.* From the PFAS fund, as a continuing appropriation, the amounts in the schedule for the county well testing grant program under s. 281.54.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 4. 92.14 (18) of the statutes is created to read:

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92.14 (18) PFAS MONITORING. As part of any statewide monitoring program, sampling program, or survey conducted by the department, any samples that are collected and tested shall also, at the department's discretion and where appropriate, be tested for the presence of any perfluoroalkyl or polyfluoroalkyl substance.

SECTION 5. 160.07 (5) of the statutes is renumbered 160.07 (5) (a) and amended to read:

160.07 (5) (a) ~~Within~~ Except as provided under par. (b), within 9 months after transmitting the name of a substance to the department of health services under sub. (2), the department of natural resources shall propose rules establishing the recommendation of the department of health services as the enforcement standard for that substance and publish the notice required under s. 227.16 (2) (e), 227.17 or 227.24 (3).

SECTION 6. 160.07 (5) (b) of the statutes is created to read:

160.07 (5) (b) Within 3 months after receiving a recommended enforcement standard for a perfluoroalkyl or polyfluoroalkyl substance from the department of health services under sub. (3), the department of natural resources shall prepare a statement of scope under s. 227.135 of proposed rules that establish the recommendation of the department of health services as the enforcement standard for that substance.

SECTION 7. 227.139 (5) of the statutes is created to read:

227.139 (5) This section does not apply to a proposed rule of the department of natural resources establishing acceptable levels and standards, performance

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standards, enforcement standards and preventative action limits, monitoring requirements, and required response actions for any perfluoroalkyl or polyfluoroalkyl substance or group or class of such substances in groundwater, drinking water, surface water, air, soil, or sediment.

SECTION 8. 227.19 (7) of the statutes is amended to read:

227.19 (7) NONAPPLICATION. This section does not apply to rules promulgated under s. 227.24, or to rules proposed by the department of natural resources establishing acceptable levels and standards, performance standards, enforcement standards and preventative action limits, monitoring requirements, and required response actions for any perfluoroalkyl or polyfluoroalkyl substance or group or class of such substances in groundwater, drinking water, surface water, air, soil, or sediment.

SECTION 9. 227.26 (5) of the statutes is created to read:

227.26 (5) This section does not apply to a proposed rule of the department of natural resources establishing acceptable levels and standards, performance standards, enforcement standards and preventative action limits, monitoring requirements, and required response actions for any perfluoroalkyl or polyfluoroalkyl substance or group or class of such substances in groundwater, drinking water, surface water, air, soil, or sediment.

SECTION 10. 281.54 of the statutes is created to read:

281.54 County well testing grant program. (1) DEFINITIONS. In this section:

(a) "PFAS" means a perfluoroalkyl or polyfluoroalkyl substance.

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(b) "Private water supply" has the meaning given in s. 281.77 (1) (a).

(2) FINANCIAL ASSISTANCE. The department shall administer a program to provide grants from the appropriation under s. 20.370 (6) (ew) to counties for the purpose of providing sampling and testing services to owners of private water supplies to sample and test for PFAS, nitrates, bacteria, and lead.

(3) RULEMAKING. The department shall promulgate rules to administer this section.

SECTION 11. 281.61 (6) of the statutes is amended to read:

281.61 (6) PRIORITY LIST. The department shall establish a priority list that ranks each safe drinking water loan program project. The department shall promulgate rules for determining project rankings that, to the extent possible, give priority to projects that address the most serious risks to human health, that are necessary to ensure compliance with the Safe Drinking Water Act, [42 USC 300f](#) to [300j-26](#), and that assist applicants that are most in need on a per household basis, according to affordability criteria specified in the rules. For the purpose of ranking projects under this subsection, the department shall treat a project to upgrade a public water system to provide continuous disinfection of the water that it distributes as if the public water system were a surface water system that federal law requires to provide continuous disinfection. For the purpose of ranking projects under this subsection, if the department of health services has recommended an enforcement standard for a perfluoroalkyl or polyfluoroalkyl substance, the department of natural resources shall treat a project relating to that perfluoroalkyl

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or polyfluoroalkyl substance as if a maximum contaminant level for that substance has been attained or exceeded.

SECTION 12. 281.79 of the statutes is created to read:

281.79 Negotiations for alternate source of water due to PFAS contamination. (1) DEFINITIONS. In this section:

(a) “Municipality” means a city, village, town, county, utility district, lake protection district, sewerage district, or municipal airport.

(b) “Private water supply” has the meaning given in s. 281.77 (1) (a).

(2) MEDIATION. A municipality that contains private water supplies that have been contaminated by a perfluoroalkyl or polyfluoroalkyl substance in excess of a state or federal drinking water standard, a state groundwater standard, or a public health recommendation from the department of health services under s. 160.07 may request that the department appoint a mediator to assist in negotiations for the supply of an alternate source of water provided by or connected to a water supply located within another municipality. The department may not appoint a mediator under this section unless the department receives written consent from both municipalities. A person responsible under s. 292.11 (3), if any, may participate in negotiations. The department shall promulgate rules to implement this section, including rules for the allocation of the cost of the mediator.

SECTION 13. 283.31 (4) (g) of the statutes is created to read:

283.31 (4) (g) That, if the permit allows for the land application of sewage sludge, the permittee shall, before first applying sludge and at least once per year thereafter, sample and test the sludge for all perfluoroalkyl or polyfluoroalkyl

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substances for which there is a state or federal standard, a public health recommendation from the department of health services under s. 160.07, or a health advisory issued by the federal environmental protection agency. The permittee shall, before applying sludge to land in any year, report the sampling and testing results to the department and to the property owner of each tax parcel upon which sludge will be applied. The sampling and testing required under this paragraph shall be in addition to any sampling and testing otherwise required under the permit.

SECTION 14. 283.31 (4) (h) of the statutes is created to read:

283.31 (4) (h) That, if the permittee is a treatment work, the permittee will test all sewage sludge for the presence of perfluoroalkyl or polyfluoroalkyl substances and report the testing results to the department.

SECTION 15. 292.11 (8m) of the statutes is created to read:

292.11 (8m) SITE-SPECIFIC STANDARDS. If no standard exists for a hazardous substance, the person responsible under sub. (3) shall propose site-specific environmental standards for department approval for the actions required under this chapter and rules promulgated under this chapter.

SECTION 16. 292.11 (9) (g) of the statutes is created to read:

292.11 (9) (g) 1. In this paragraph, “PFAS” means a perfluoroalkyl or polyfluoroalkyl substances for which there is a state or federal standard, a public health recommendation from the department of health services under s. 160.07, or a health advisory issued by the federal environmental protection agency.

2. Except as provided in subd. 3, a person who possesses or controls property

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where a PFAS discharge occurred is exempt from subs. (3), (4), and (7) (b) and (c) for the PFAS discharge if all of the following apply:

- a. The property is exclusively used for agricultural use or residential use.
- b. The discharge was caused by land application of sludge permitted under ch. 283.
- c. The person who possesses or controls the property where the PFAS discharge occurred agrees to allow the department, any authorized representatives of the department, any party that possessed or controlled the PFAS or caused the discharge of the PFAS, and any consultant or contractor of such a party to enter the property to take action to respond to the discharge.
- d. The person who possesses or controls the property where the PFAS discharge occurred does not interfere with any action taken in response to the discharge and does not take any action that worsens or contributes to the PFAS discharge.
- e. The person who possesses or controls the property where the PFAS discharge occurred follows any other condition that the department determines is reasonable and necessary to ensure that the department or other person described in subd. 2. c. is able to adequately respond to the discharge, including taking action necessary to protect human health, safety, or welfare or the environment, taking into consideration the current or intended use of the property.
- f. The person who possesses or controls the property where the PFAS discharge occurred allows the department to limit public access to the property if the department determines such limitation of access is necessary to prevent an imminent threat to human health, safety, or welfare or to the environment.

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3. a. The exemption under subd. 2. does not apply to any substances other than PFAS.

b. The exemption under subd. 2. does not apply if the person that possesses or controls the property where the PFAS discharge occurred takes action that worsens or contributes to the PFAS discharge.

4. A person who is exempt from subs. (3), (4), and (7) (b) and (c) pursuant to subd. 2. shall provide written disclosure to any prospective purchaser of the property, either through sale or land contract, before entering into a contract and to prospective tenants of the property, including agricultural and residential tenants before entering into a lease agreement. Written disclosure shall be provided to any current tenants as soon as reasonably practicable and upon any reissuance or renewal of a lease. Written disclosure shall include, at a minimum, a description of the type of contamination, the location and description of any action taken to control or treat the contamination, PFAS sample dates and results, and a description of compliance with reporting required under sub. (2). A copy of the disclosure shall be provided to the department upon request.

5. The exemption under subd. 2 may not be transferred to a subsequent owner of the property on which the PFAS discharge occurred. Each person that possesses or controls the property where the PFAS discharge occurred must establish eligibility for the exemption under subd. 2.

6. A person may submit to the department information supporting that the person satisfies the requirements of subd. 2. The department shall issue a written determination that a person who possesses or controls property where the PFAS discharge occurred is exempt from subs. (3), (4), and (7) (b) and (c) if the person

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satisfies the requirements in subd. 2. The department may request additional information before issuing a determination. The department may revoke its determination if it determines that any of the requirements of subd. 2 cease to be met. The department may, in accordance with rules that it promulgates, assess and collect fees to offset the costs of issuing determinations under this subdivision.

7. The exemption under subd. 2. does not apply after December 31, 2035.

SECTION 17. 292.11 (14) of the statutes is created to read:

292.11 (14) DETERMINATION OF RESPONSIBLE PARTY. Applications for compensation or grants under the well compensation program under s. 281.75, the county well testing grant program under s. 281.54, or any state financial assistance program funded by the federal American Rescue Plan Act of 2021, P.L. 117-2, may not be used by the department to determine responsibility under sub. (3).

SECTION 18. 292.31 (1) (d) (intro.) of the statutes is amended to read:

292.31 (1) (d) *Access to information.* (intro.) Upon the request of any officer, employee, or authorized representative of the department, any person who generated, transported, treated, stored, or disposed of solid or hazardous waste ~~which~~ that may have been disposed of at a site or facility under investigation by the department and any person who generated solid or hazardous waste at a site or facility under investigation by the department that was transported to, treated at, stored at, or disposed of at another site, facility, or location shall provide the officer, employee, or authorized representative access to any records or documents in that person's custody, possession, or control which relate to:

SECTION 19. 292.31 (1) (d) 1m. of the statutes is created to read:

292.31 (1) (d) 1m. The type and quantity of waste generated at the site or

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facility that was transported to, treated at, stored at, or disposed of at another site, facility, or location, and the dates and locations of these activities.

SECTION 20. 292.74 of the statutes is created to read:

292.74 Financial responsibility for PFAS. The department may, if it determines doing so is necessary to protect human health or the environment, require a person who possesses or controls or who causes the discharge of a perfluoroalkyl or polyfluoroalkyl substance, and any person who manufactures any product that contains intentionally added perfluoroalkyl or polyfluoroalkyl substances, to provide proof of financial responsibility for conducting emergency response actions, remedial actions, environmental repair, and long-term care to address contamination by a potential discharge of a perfluoroalkyl or polyfluoroalkyl substance or environmental pollution that may be caused by a discharge of such substances. The department shall establish, by rule, the procedure for determining whether requiring a proof of financial responsibility is necessary to protect human health or the environment, and may establish requirements for types of financial responsibility, methods for calculating amounts of financial responsibility, access and default, bankruptcy notifications, and any other requirements the department determines is necessary under this section. The proof of financial responsibility required under this section shall be in addition to any other proof of financial responsibility or financial assurance required under this chapter. This section does not apply to a person exempt under s. 292.11 (9).

SECTION 21. 299.487 of the statutes is created to read:

299.487 Transportation and disposal of PFAS. (1) In this section:

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(a) “Environmental justice” means the fair treatment and meaningful involvement of all individuals, regardless of race, color, national origin, educational level, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies to ensure that no population of color or community of color, indigenous community, or low-income community shall be exposed to a disproportionate burden of the negative human health and environmental impacts of pollution or other environmental hazards.

(b) “PFAS” means a perfluoroalkyl or polyfluoroalkyl substance.

(2) A person disposing of PFAS, or transporting PFAS for the purpose of disposal, shall attempt to the greatest extent possible to avoid disposing of PFAS in, or transporting PFAS to, any location where such disposal or transportation will contribute to environmental justice concerns and shall consider all reasonable alternatives for transport and disposal of PFAS. The department shall assist any person, upon request, in evaluating the environmental justice impacts of the person’s disposal or transportation of PFAS.

SECTION 9132. Nonstatutory provisions; Natural Resources.

(1) STATEWIDE BIOMONITORING STUDIES. The department of health services shall conduct biomonitoring studies across the state to assess perfluoroalkyl and polyfluoroalkyl substance exposure levels and better understand the factors that affect perfluoroalkyl and polyfluoroalkyl substance exposure levels in different communities. The department may, as part of these studies, survey volunteer

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participants, test blood samples for the presence and levels of perfluoroalkyl and polyfluoroalkyl substances, and analyze the results.

(END)