

-Transmitted Electronically-

Doug Oitzinger
2572 S. Circuit Drive
Marinette, WI 54143
715-735-6805

Joint Committee for Review of Administrative Rules (JCRAR)
Senator Stephen Nass, Senate Chair
Representative Joan Ballweg, Assembly Chair

December 16, 2020

Subject: DNR Emergency Rule NR-159 Firefighting Foam

My name is Doug Oitzinger. I am the former Mayor of the City of Marinette and a current Alderman on its City Council. I am also a member of a local PFAS community group: Save our Water (S.O.H2O). I submit this testimony in favor of NR-159 as written to implement Wisconsin Act 101. I should like to inform you of some history behind Act 101 regulating the use of firefighting foam containing PFAS, specifically as it relates to its use in testing and disposal.

Act 101 began as AB 323/SB 310 when it was introduced in June/July 2019 in the Assembly and Senate. The original bill did not include the following language: ***“Appropriate containment, treatment, and disposal or storage measures may not include flushing, draining, or otherwise releasing the foam into a storm or sanitary sewer.”*** In previous testimony during the rule making process, representatives from the Wisconsin Manufacturers and Commerce and others have asserted this language does not mean what it says and the DNR is somehow exceeding the legislative intent of Act 101.

I should like to explain how this language came to be included in the legislation and why it means exactly what it says. The City of Marinette’s Wastewater Treatment Plant was subjected to contamination from PFAS for decades. This occurred because Tyco/Johnson Controls Inc (JCI) regularly “flushed” AFFF firefighting foam containing PFAS down the sanitary sewer after testing “batches” of foam it produced. They told the wastewater treatment plant employees the foam was harmless and biodegradable. They coordinated their discharges with the plant so not to overwhelm it, which could literally cause foam to float up to the top of the clarifiers and disperse into the ambient air.

Starting in 2017 when PFAS contamination was discovered in private wells in the Town of Peshtigo from groundwater emanating from the Tyco/JCI Fire Technology Center, the Marinette Wastewater Treatment Plant tested its influent, effluent, and its biosolids or “sludge” that was normally spread on agricultural fields. PFAS was coming into the plant, leaving the plant and discharging into the Menominee River, and it was also collecting and concentrating in the biosolids. The biosolids stored in the summer of 2018 had concentrations the equivalent of 210,000 Parts per Trillion of PFOA and 10,000 Parts per Trillion of PFOS. We now know these biosolids should never have been used on agricultural

fields, as they had been for over twenty years with high levels of PFAS contamination. Tyco/JCI did not stop disposing of its foam down the sanitary sewer until March of 2019.

Unfortunately, we now know from testing in 2020 that private wells have been contaminated with PFAS as far away as twenty miles from the city where these biosolids had been spread.

With this background, I began a series of conversations in 2019 with John Cronin, a staff person in Rep. John Nygren's office, asking that AB 323 be amended to prohibit the discharge of firefighting foam containing PFAS into the sanitary and storm sewers. I have attached a copy of one of many e-mail exchanges with Mr. Cronin on this topic. There were also conversations between Rep. Nygren's office and the DNR, and between me and Darsi Foss at the DNR on this topic. All with the goal of prohibiting PFAS firefighting foam from being discharged into the sewers.

On July 9, 2019 several of us from the S.O.H2O group met in person with Rep. Nygren in Marinette to discuss amending his bill and other legislation dealing with PFAS. In that meeting Rep. Nygren agreed to amend AB 323 to prohibit using sanitary and storm sewers to dispose of firefighting foam. (See Attachment 1) That amendment was subsequently introduced at the committee level, adopted, and became law in February of this year. As a representative of S.O.H2O, I testified before the Speaker's Task Force on Water Quality in August of 2019 stating that we were seeking this amendment and we would be supporting the passage of AB 323/SB 310. Ultimately I submitted my Task Force PowerPoint presentation as testimony before the Assembly and Senate Committees supporting the bill as amended including the prohibition of disposal of PFAS foam via the sanitary and storm sewers.

There is no ambiguity in the words "***may not include flushing, draining, or otherwise releasing the foam into a storm or sanitary sewer.***" Those words mean zero PFAS foam. Treating the foam to any level above "zero" and discharging it into the sanitary or storm sewers is a violation of the law. Arguing that some level above non-detect would satisfy Act 101 is simply turning the English language on its head. "May not include" means you can't do it.

But I do understand there are technical issues in terms of detection science and determining at what point a reliable detection can be made. The NR-159 addresses that in a responsible way by incorporating the 14 PFAS compounds in Table 1 as measurable detection levels to ensure treatment systems are working properly. Industry needs to know what is permissible under the law and how they can achieve and maintain compliance. The DNR has done an excellent job of identifying reliable detection levels in Table 1 and has not exceeded its authority or the intent of the law. The law does not prescribe that a "safe" level be established for PFAS in fire fighting foam; it prohibits firefighting foam containing intentionally added PFAS from being discharged into the sewers.

The contaminated biosolids in Marinette were ultimately removed and transported to a licensed landfill in the State of Oregon at a cost of \$3 million. Keep in mind; we are a community of less than twelve thousand people. Tyco/JCI paid for this disposal because they caused it. The Wastewater Treatment Plant is still contaminated; new biosolids continue to be contaminated. This contamination will be with us long after all of us are gone. Even though some sewer lines coming from Tyco/JCI were lined at a cost of \$1 million, PFAS continues to seep in to the system from groundwater. It was absorbed into the concrete structures in the plant, and the sewer lines sit in a sponge of contaminated groundwater that leaks into the sewer pipes. On August 17, 2020, the Marinette Water/Wastewater Board approved the purchase of equipment costing \$1.3 million to grind, compress, and dewater the City's biosolids to reduce their volume and thereby the cost of disposal in a special landfill in Oregon or possibly Canada. In total, it has cost Marinette \$5.3 million to dispose of and respond to PFAS contamination in our biosolids. Tyco/JCI has reimbursed us for those expenses but has also strong-armed us into an agreement where future expenses will be Marinette's liability. The landfill expense will cost the City \$20,000 more annually than it cost to land-spread the biosolids on agricultural fields and we won't be reimbursed for that going forward.

Had Act 101 been the law twenty years ago and "zero" PFAS firefighting foam had been introduced into the sanitary and storm water sewers, then none of this would have happened. That is why we asked for, and Rep. Nygren agreed to amend his bill to prevent this from ever happening again anywhere in Wisconsin.

Act 101 and NR-159 will not help Marinette from what was done in the past but it will prevent any further deliberate discharge of foam products containing PFAS into our sewers. The amendment we sought and that was included in Act 101 is going to help the rest of the State from experiencing our nightmare. We don't want any other community to go through what we are going through. The only way to ensure this is to prevent the reckless discharge and disposal of firefighting foam containing PFAS into our sewers and into our environment.

I know of only one major manufacturer of Fire Fighting Foam in Wisconsin affected by this emergency rule: Tyco/JCI. They did not object to the final draft of this rule when it went before the Natural Resources Board for approval in October. Tyco/JCI is right now in the process of building a wastewater pre-treatment facility that will meet this rule to treat their firefighting foam before discharging it into the Marinette sanitary sewer. If they are not opposing this rule as written, why are others? Without a statewide rule, you leave local governments to try to protect themselves from PFAS contamination, and local governments don't have the money or the attorneys to do it.

Finally, let me point out that PFAS is a 100% manmade compound. It doesn't exist in nature. If it is found in the environment, or in your blood serum, it is there because it was carelessly put there by the use of PFAS in manmade products. I won't go into the history of when

companies knew this was a dangerous compound that should never be released into our environment. Let me just say, we know it now and Act 101 was a very specific attempt of dealing with only one source, abet a major source, of this contamination crisis in our State. This rule only addresses PFAS in firefighting foam and affects no other sources of contamination in sewer systems or in the environment. The DNR has the responsibility to establish an emergency rule that implements the clear intent of Act 101 and not bend to the wishes of industry that doesn't care that thousands of people now live in a beautiful area that is contaminated PFAS from firefighting foam. The DNR was given the authority to determine what the appropriate treatment and disposal of firefighting foam shall be. The law requires that if it contains PFAS, it cannot be disposed of through the sanitary or storm water sewers.

Sincerely,

Doug Oitzinger

CC: Sen. Robert Cowles, Darsi Foss, Mayor Steve Genisot

ATTACHMENT 1, 12-15-2020

Sent: Monday, July 29, 2019 2:56 PM
To: Doug Oitzinger
Cc: 'Chuck Boyle'; Cindy Boyle
Subject: RE: AB 323/SB 310

Good afternoon Doug,

Per our discussions, I have an amendment drafted to AB 323/SB310 that states appropriate containment, treatment, and disposal methods may not include flushing, draining, or otherwise discharging AFFF down the sewer.

Sen. Cowles, who is both the bill's co-author and chair of the Senate committee through which this legislation will proceed, customarily waits until after a public hearing is held to introduce amendments to bills. For the sake of simplicity, if there are additional changes to the bill, we would likely roll those changes and the discharge language into one larger amendment.

In speaking to the Cowles' office, it sounds like they are aiming for the latter part of August or early September for a public hearing. Rep. Joel Kitchens, chair of the Assembly Committee on the Environment, has indicated a similar timeline.

I hope this information is helpful. Let me know if you have additional questions.

Best,

John Cronin
Office of State Representative John Nygren
Co-Chair, Joint Committee on Finance
89th Assembly District
308 East, State Capitol
608.266.2343

From: Doug Oitzinger <doitzinger@new.rr.com>
Sent: Monday, July 29, 2019 2:27 PM
To: Cronin, John <John.Cronin@legis.wisconsin.gov>
Cc: 'Chuck Boyle' <chuck@boyledesigngroup.net>; Cindy Boyle <cindy@boyledesigngroup.net>
Subject: AB 323/SB 310

John: As I'm sure you are aware, Rep. Nygren met with several of us on July 9th and committed to add the ban on the discharge of AFFF fighting foam containing PFAS into the sanitary sewer systems. Can you update us on how this amendment to the original bill is proceeding? Thank you. Doug

Grosz, Scott

From: doitzinger@new.rr.com
Sent: Thursday, December 17, 2020 12:49 PM
To: Joint Committee - Review of Administrative Rules; Sen.Cowles; Foss, Darsi J - DNR
Subject: Fwd: Response to inquiry

Please amend my testimony on NR 159 to include this e-mail from Katie McGinty of Johnson Controls. In it, she confirms that the new pretreatment system being built to treat firefighting foam will meet the new standards in NR 159 and does not express opposition by JCI to the rule as I had previously stated in my testimony. Doug Oitzinger

From: "Mary Gade"
To: "Doug Oitzinger"
Cc:
Sent: Thursday December 17 2020 11:31:24AM
Subject: Fwd: Response to inquiry

Alderman Oitzinger, As discussed, please find attached a response to your inquiry. Best, Mary Gade

Begin forwarded message:

From: Katie McGinty <katie.mcginty@jci.com>
Date: December 17, 2020 at 11:20:26 AM CST
To: Mary Gade <mary.gade@yahoo.com>
Subject: Response to inquiry

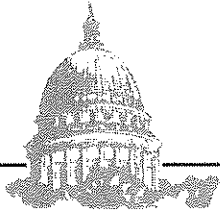
Thanks Mary for sharing the inquiry with me. The following represents Tyco's reply:

Alderman Oitzinger:

Thank you for your outreach. Below is Tyco Fire Products statement on Emergency Rule 2045.

"Tyco's major concern about this rulemaking as identified in our written comments was that the Advanced Research and Testing facility be allowed to proceed such that we could discover and develop the next generation of nonfluorinated firefighting foam. As revised, Tyco believes the design and technical requirements embedded within the Emergency Rule represent the most significant treatment technology in the country for PFAS containing wastewater. Tyco's own design and treatment technology will actually exceed the technology requirements of the Emergency Rule and result in almost non-detectable levels of PFAS in Tyco's wastewater."

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WISCONSIN STATE SENATOR
DAVE HANSEN
SENATOR – 30TH DISTRICT

State Capitol P.O. Box 7882 Madison, Wisconsin 53707-7882 Phone: (608) 266-5670

December 16, 2020

Senator Stephen Nass, Senate Chair, JCARA
Representative Joan Ballweg, Assembly Chair, JCRAR
Committee Members

Testimony in Support of EmR 2045 Relating to PFAS in Firefighting Foam

Thank you for the opportunity to provide testimony in support of EmR 2045, relating to fire foams containing PFAS as approved by the Natural Resources Board. I would also like to take this opportunity to clarify comments made in an earlier letter to the Natural Resource Board in support of the DNR staff recommendations to this rule.

After reviewing comments made during the Natural Resources Board hearing prior to the vote on the rule, I am concerned that my some of the statements in my letter are being used to suggest that DNR staff overreached in their writing of the rule to go beyond the law's intent.

From the beginning of the debate on Senate Bill 310 I made it clear that I believed the bill did not go far enough to address PFAS contamination in our state, not because the bill as amended did not go far enough. But because I believed then, as I still do, that passage of the bill by itself without further legislative action, ignored more important issues that needed to be addressed to protect my constituents from PFAS and other toxic compounds.

From the moment I attempted to address those issues through introduction of the CLEAR Act I made it clear that both SB-310 and the Clear Act needed to be passed together in order for me to support SB-310. My concern was that if SB-310 passed alone it would not provide the important protections needed to help my constituents and address the statewide problem of PFAS and other toxic compounds in our environment as well as the related impacts on public health and taxpayers.

When no Republican agreed to support the CLEAR Act, I worked out a compromise with Representative Nygren. Unfortunately, after intense lobbying by corporations and their surrogates who opposed both the CLEAR Act and the compromise, it became clear that neither the CLEAR Act nor compromise would receive a full vote in either the State Senate or Assembly. For that reason I voted against the bill.

Let me be clear, I do not believe DNR staff "colored outside the lines" in drafting the rule to implement SB-310. To the contrary, I believe the rule as approved by the Natural Resources Board on a 5-2 vote achieves what the law intended and no more. I believe the five Board members who voted for the rule agree.

My constituents who are suffering the impact of JCI/Tyco's negligent behavior that caused PFAS and other toxic compounds to infiltrate their drinking water, groundwater, surface water, farm fields and likely their air deserve, at the very least, the important protections this law and the recently approved rule

provide. So does every person and community in this state who are dealing with similar PFAS-related problems.

It would be a shame if those corporations and their surrogates who oppose the rule were to use the comments in my earlier letter to the Board as their argument to kill or weaken the rule. It would also be inaccurate.

Grosz, Scott

From: Town of Peshtigo Sup3 <topsup3@townofpeshtigo.org>
Sent: Wednesday, December 16, 2020 1:36 PM
To: Joint Committee - Review of Administrative Rules
Cc: Town of Peshtigo Sup4
Subject: EmR 2045

Dear Joint Committee for Review of Administrative Rules,

We are writing today in support of EmR 2045 (Relating to: regulating firefighting foam that contains certain contaminants -- DNR). As Town Board Supervisors in the Town of Peshtigo (Marinette County), we see the direct results and consequences of unregulated AFFF testing and usage (via the Tyco/Johnson Controls/Ansul PFAS contamination in Marinette County). Marinette County's PFAS contamination is the largest and most complex environmental contamination and clean-up site in the history of the state of Wisconsin, as well as one of the three largest PFAS sites in the United States. Our constituents and county face this PFAS Contamination crisis and the realities of contaminated wells, multiple exposure pathways throughout the community, adverse health impacts, and many unknowns for themselves and their families. This rule will not fix our current contamination, but if passed, this rule has the potential to protect other communities from the same massive contamination our community is facing.

A positive outcome for our community, and all of Wisconsin, in regards to PFAS will take collaboration and a concerted effort on all fronts in order to be protective of people's health, homes, and the local economy. The very first step and most basic protection is passing EmR 2045. We urge the Joint Committee for Review of Administrative Rules to support EmR 2045 in its entirety.

Respectfully,

Kayla Furton
Town of Peshtigo
Supervisor 3
topsup3@townofpeshtigo.org

Kristen Edgar
Town of Peshtigo
Supervisor 4
topsup4@townofpeshtigo.org

Grosz, Scott

From: Town of Peshtigo Citizens Advisory Committee <townofpeshtigocac@gmail.com>
Sent: Wednesday, December 16, 2020 1:38 PM
To: Joint Committee - Review of Administrative Rules
Subject: EmR 2045

Dear Joint Committee for Review of Administrative Rules,

We are writing today in support of EmR 2045 (Relating to: regulating firefighting foam that contains certain contaminants -- DNR). As citizens in the Town of Peshtigo, Marinette County, we have been advocating for clean water in the face of one of the largest and most complex PFAS contamination sites in the U.S., which is the direct result of Tyco/Johnson Controls/Ansul's AFFF usage and testing. The Town of Peshtigo Citizens Advisory Committee continues to work toward a positive outcome for all Town of Peshtigo residents, as well as the surrounding communities. While this rule will not fix our current contamination, it has the potential to protect other communities from the same massive contamination our community is facing, with the dire long-term consequences of exposure, health impacts, and property contamination.

In order to be protective of people's health, homes, and the local economy, we urge the Joint Committee for Review of Administrative Rules to take this first step to provide the most basic protection by passing EmR 2045 in its entirety.

Respectfully,

Town of Peshtigo Citizens Advisory Committee
townofpeshtigoCAC@gmail.com

Grosz, Scott

From: Jessica Boll <jboll262@gmail.com>
Sent: Wednesday, December 16, 2020 2:46 PM
To: Joint Committee - Review of Administrative Rules
Subject: Approve EmR 2045

To the Joint Committee for Review of Administrative Rules:

I'm writing to you today to ask that you approve EmR 2045, which regulates PFAS in fire fighting foam.

These chemicals are carcinogenic, disrupt early development, and interfere with human endocrine systems, posing an unchecked threat to human health. They build up over time and have been dubbed "forever chemicals" because they are difficult to break down. To date, there are no regulations in Wisconsin restricting PFAS use. This puts our drinking water and safety at risk.

Throughout Wisconsin, there are 30 PFAS contamination sites under investigation and four public drinking water suppliers with high levels of PFAS chemicals detected. A water supply in Marinette contained 95 times more PFAS chemicals than the EPA's recommended limit.

It is crucial that we act to prevent further contamination of our water and that we always value human health over industry interests. I ask you to consider this, and to vote to approve this rule.

Thank you,
Jessica Boll - A concerned Wisconsin resident

Grosz, Scott

From: J Sonoda <jadine.sonoda@gmail.com>
Sent: Wednesday, December 16, 2020 3:07 PM
To: Joint Committee - Review of Administrative Rules
Subject: EmR 2045 comment

To the Joint Committee for Review of Administrative Rules:

I'm writing to you today to ask that you approve EmR 2045, which regulates PFAS in fire fighting foam.

These chemicals are carcinogenic, disrupt early development, and interfere with human endocrine systems, posing an unchecked threat to human health. They build up over time and have been dubbed "forever chemicals" because they are difficult to break down. To date, there are no regulations in Wisconsin restricting PFAS use. This puts our drinking water and safety at risk.

Throughout Wisconsin, there are 30 PFAS contamination sites under investigation and four public drinking water suppliers with high levels of PFAS chemicals detected. A water supply in Marinette contained 95 times more PFAS chemicals than the EPA's recommended limit.

It is crucial that we act to prevent further contamination of our water and that we always value human health over industry interests. I ask you to consider this, and to vote to approve this rule. Thank you.

Grosz, Scott

From: Norda Gromoll <gromoll@nnex.net>
Sent: Wednesday, December 16, 2020 3:12 PM
To: Joint Committee - Review of Administrative Rules
Subject: PFAS

To the Joint Committee for Review of Administrative Rules:

I'm writing to you today to ask that you approve EmR 2045, which regulates PFAS in fire fighting foam.

These chemicals are carcinogenic, disrupt early development, and interfere with human endocrine systems, posing an unchecked threat to human health. They build up over time and have been dubbed "forever chemicals" because they are difficult to break down. To date, there are no regulations in Wisconsin restricting PFAS use. This puts our drinking water and safety at risk.

Throughout Wisconsin, there are 30 PFAS contamination sites under investigation and four public drinking water suppliers with high levels of PFAS chemicals detected. A water supply in Marinette contained 95 times more PFAS chemicals than the EPA's recommended limit.

It is crucial that we act to prevent further contamination of our water and that we always value human health over industry interests. I ask you to consider this, and to vote to approve this rule. Thank you.

-- Norda Gromoll

Grosz, Scott

From: Leigh Begalske <anriliselle@yahoo.com>
Sent: Wednesday, December 16, 2020 3:16 PM
To: Joint Committee - Review of Administrative Rules
Subject: EmR 2045 PFAS rule

I'm writing to you today to ask that you approve EmR 2045, which regulates PFAS in fire fighting foam.

These chemicals are carcinogenic, disrupt early development, and interfere with human endocrine systems, posing an unchecked threat to human health. They build up over time and have been dubbed "forever chemicals" because they are difficult to break down. To date, there are no regulations in Wisconsin restricting PFAS use. This puts our drinking water and safety at risk.

Throughout Wisconsin, there are 30 PFAS contamination sites under investigation and four public drinking water suppliers with high levels of PFAS chemicals detected. A water supply in Marinette contained 95 times more PFAS chemicals than the EPA's recommended limit.

It is crucial that we act to prevent further contamination of our water and that we always value human health over industry interests. I ask you to consider this, and to vote to approve this rule.

Thank you for your consideration.

Leigh A Begalske

Grosz, Scott

From: Zach Smith <r.zachary.smith@gmail.com>
Sent: Wednesday, December 16, 2020 3:18 PM
To: Joint Committee - Review of Administrative Rules
Subject: Please approve EmR 2045

To the Joint Committee for Review of Administrative Rules:

I'm writing to you today to ask you to please approve EmR 2045, which regulates PFAS in fire fighting foam.

All of the long-term studies released on these chemicals clearly show that they are a huge threat to human health. They cause cancer, affect the development of our children, mess with human endocrine systems and much more.

These forever chemicals need to be regulated for our healthy and safety, and the health and safety of our entire community. As of current, there are 30 PFAS contamination sites under investigation in WI, and four public drinking water suppliers with high levels of PFAS chemicals detected. The limit set by the EPA was arbitrary, and obviously too low after these studies, and even with their limit, some of our communities are reporting huge amounts over the limit.

Please vote to approve this so we can act now to prevent further contamination of our water, and to clearly show that we value human health over industry interests.

Sincerely,
Zach Smith
Madison, WI

Grosz, Scott

From: Abigail Mapes <abigail.mapes@gmail.com>
Sent: Wednesday, December 16, 2020 4:17 PM
To: Joint Committee - Review of Administrative Rules
Subject: Comment on EmR 2045

To the Joint Committee for Review of Administrative Rules:

I'm writing to you today as a concerned Wisconsinite asking you to approve EmR 2045, which regulates PFAS in fire fighting foam.

These chemicals are carcinogenic, disrupt early development, and interfere with human endocrine systems, posing an unchecked threat to human health. They build up over time and have been dubbed "forever chemicals" because they are difficult to break down. To date, there are no regulations in Wisconsin restricting PFAS use. This puts our drinking water and safety at risk.

Throughout Wisconsin, there are 30 PFAS contamination sites under investigation and four public drinking water suppliers with high levels of PFAS chemicals detected. A water supply in Marinette contained 95 times more PFAS chemicals than the EPA's recommended limit.

It is crucial that we act now to prevent further contamination of our water and that we always value human health over industry interests. I ask you to consider this, and to vote to approve this rule. Thank you.

Sincerely,
Abigail Mapes
Madison, WI

Grosz, Scott

From: Jess Haven <jesshaven@gmail.com>
Sent: Wednesday, December 16, 2020 5:14 PM
To: Joint Committee - Review of Administrative Rules
Subject: Comment on EmR 2045

Hello,
This message is for the Joint Committee for Review of Administrative Rules.

I'm writing to you today to ask that you approve EmR 2045, which regulates PFAS in fire fighting foam.

These chemicals are carcinogenic, disrupt early development, and interfere with human endocrine systems, posing an unchecked threat to human health. They build up over time and have been dubbed "forever chemicals" because they are difficult to break down. To date, there are no regulations in Wisconsin restricting PFAS use. This puts our drinking water and safety at risk.

Throughout Wisconsin, there are 30 PFAS contamination sites under investigation and four public drinking water suppliers with high levels of PFAS chemicals detected. A water supply in Marinette contained 95 times more PFAS chemicals than the EPA's recommended limit.

It is crucial that we act to prevent further contamination of our water and that we always value human health over industry interests. I ask you to consider this, and to vote to approve this rule. Thank you.

Jess Haven
410 N. Paterson St. #1
Madison WI 53703

414-336-9095

Grosz, Scott

From: susan susan <sunlightrising@gmail.com>
Sent: Wednesday, December 16, 2020 6:08 PM
To: Joint Committee - Review of Administrative Rules
Subject: Comments on EmR 2045 re PFAS regulation deadline 12/17/20 3pm

To the Joint Committee for Review of Administrative Rules:

I request you to approve EmR2045 to regulate PFAS in fire fighting foam that is so disastrous to the water in the local areas which then spreads out long term to wider and wider areas of contamination.

It is becoming increasingly clear that the COVID-19 "spread" problem is not solely "spread" but rather the massive amount of environmental toxins in our environment, food, air, and water that adversely alter, per the science, our innate immune systems.

If we did not have toxins in our bodies that do not belong in our bodies, PFAS included along with other extremely toxic fluorides--fluoridated water and pesticides made with halogens (Fluorides, chlorides, and bromides),---Americans would not be so sick. Fluoride is a very toxic element with systemic harm to humans. The F in PFAS represents fluoride. The toxicity of Teflon in Teflon cooking pans also comes from fluoride. Many of the drugs recalled for excessive deaths and injuries over the last 2 decades contained fluoride. Fluoride was used in these drugs mostly to speed up the chemistry, particularly in antibiotics, where that speed of delivery has a needed advantage, but the fact that fluoride is the most electronegative element in the periodic chart of elements with the fastest chemical reactions is a two-edged sword in terms of harm to health, and thus these pharmaceuticals proved too toxic and too dangerous after being FDA-approved to be prescribed drugs under certain conditions by a licensed medical doctor (who didn't put that fluoride in those drugs and who was not responsible for safety evidence, but just doing his/her job based on the info s/he was given in the science and from the manufacturer). There is science available showing the fluoride's electronegativity as ions pull the lead out of lead water distribution pipes (where do people think this lead magically appears from in the quantities being found in tap drinking water?), if anyone might be sufficiently interested in that poisoning problem in drinking water beyond replacing the pipes, but stopping the fluoride-lead chemical interactions. All fluorides cause people to get sick. In 2006, National Academy of Sciences Natural Resources Committee published the first state-of-the-art Fluoride Review conducted in the world. I refer you to that easy-to-read review for you to understand the fluoride effects of PFAS and a recent Toxicology Report for you to get an idea of the symptoms of fluoride as distinguished from the symptoms of PFAS. This will help you integrate your understanding of toxins that include fluoride in their molecular structure. When human health is at stake, we must prioritize removing substances that cause illness and disease, and those substances, when chemicals, are virtually mostly toxins.

Heavy medical research in the last few years shows that it is toxins in general that damage our gut and make it leaky from the toxins that break through the tight junctions of the gut wall lining (and similarly with the blood brain barrier) to cause havoc and chronic illnesses, starting with permeability of the GI organ, as this is the way that the innate immune system is compromised to leak with broken, malfunctioning tight junctions.

Dr. Zak Bush, MD, is working wonders as a regenerative doctor working with the Los Angeles Food Pantry to clean up the soil and food from toxins for the poor, and he studies toxins impact on the gut wall lining, and has decided to do people oriented intervention to decrease toxin exposure in the food supply of the poor. Most of our immune system is lined up behind the tight junctions to protect us from gut wall penetration of toxins. The

immune system views toxins as foreign invaders that do not belong inside the body. When toxins leave the microbiome tube of the external world that the gut wall is supposed to keep as external, or not us, per the new science developed by the GI specialists, the GI doctors now know that causes allergies and seems to be the root of all disease, just like Hippocrates wrote two-thousand years ago after which it was forgotten until the 2000s when intensive research began a renewal of medical knowledge. We need a fully functional innate immune system to heal ourselves naturally of infections, and it does heal us quickly when we do not have leaky gut. If we weren't exposed to such excessive amounts of toxins particularly in our food and water, we wouldn't get leaky gut from those toxins damaging the gut walls, and our innate immune systems would function much better.

It is the fact that chronic illnesses and long term disease (comorbidities) are caused by toxins combined by nutritional deficiencies roughly 90-95% of the time that cause Americans to be sickest, and only the remaining 5-10% of chronic illnesses have a genetic cause. People with the non-genetic diseases can be put on a different trajectory where wellness and health will develop, when the toxins are removed from their environment, food, water, and breathing air. Science shows this. This nation has recently watched the science explained in the Court cases where Monsanto was a defendant for harms done by its pesticides, which contain fluoride or another harmful halogen with similar chemical properties.

When the scientific information from the "germ theory" and the "terrain theory" are combined based on the scientific evidence, it becomes obvious that the germs do exist to spread and make people sick, but the degree of that spread depends upon the degree to which the population has toxin exposure in order for that "community spread" to occur. The medical debate over germ or terrain theory is now being refocused to align with ALL the scientific facts--not with someone's cherry picking of facts which is pseudoscience, by definition.

I believe that the USA wouldn't have the worst rates of COVID-19 in the world if we weren't so highly exposed to toxins that permeate our gut walls and get into our blood system.

America is waking up that the major contributor to COVID-19 severity is too many toxins without proper regulation, and that cry is getting loud that the toxins must be regulated. Environmental Working Group and other groups have found over 200 toxins in 100% of all tested Americans in which their bodies were proven by lab tests to contain all these manmade toxins that do not belong in our bodies, and each of these toxins is known to cause serious adverse health effects, and these toxins are found in newborn babies and fetuses. Nobody knows how much worse the entire soup of toxins makes an individual or a population. This is untested territory. We can project the theory that it is highly probably that the health is worsened, that COVID-19 will have much more severe effects in people with over 200 measureable toxins as is found in the ENTIRE US POPULATION. These toxins no longer are found in only a percentage of the population. These manmade toxins are so ubiquitous in our environment that they are found in every American tested! This is unacceptable.

Do not hesitate to regulate PFAS which is extremely dangerous to health. The States must start regulating products because the federal government is insufficiently interested in healthy Americans, based on the fact that PFAS has not been regulated by the federal government, as their highest priority, which it should be, as the incoming Biden-Harris Administration is already starting to hear that PFAS must be banned in fire fighting foam and in any other products that it may be found.

PFAS, like other fluoride-containing chemicals, are carcinogenic, disrupt early development of humans and wildlife, and interfere with human endocrine systems, posing an unchecked threat to human health. They build up over time, or bioaccumulate inside the body where they cause cancers and tumors. They have been dubbed "forever chemicals" because they are difficult to break down. To date, there are no regulations in Wisconsin restricting PFAS use. This puts our drinking water and safety at risk of extremely harmful contamination. This puts our health at graver danger from infections that go through "community spread" like COVID-19 and other infectious agents. The evidence of this can be found by

comparing our COVID rates with those of other developed western nations such as Europe, Australia, New Zealand, Scandinavia, and Japan where it seems that toxins are much better regulated than in the USA in differing degrees.

Throughout Wisconsin, there are 30 PFAS contamination sites under investigation and four public drinking water suppliers with high levels of PFAS chemicals detected. A water supply in Marinette contained 95 times more PFAS chemicals than the EPA's recommended limit.

It is crucial that we act to prevent further contamination of our water and that the State of Wisconsin takes steps to show we always value human health over industry interests and profits.

I ask you to consider the urgent and top priority to protect our drinkwater and our bodies from this PFAS, and to vote to approve this rule. Thank you.

Susan Michetti

We must end shaming, blaming, and vilifying. We must demand full transparent and open debate of scientific facts and rigorous analysis for all matters that affect our health and safety.

Grosz, Scott

From: Yvonne Besyk <ybwblue@comcast.net>
Sent: Wednesday, December 16, 2020 6:25 PM
To: Joint Committee - Review of Administrative Rules
Subject: Comment on EmR 2045

To the Joint Committee for Review of Administrative Rules:

I'm writing to you today to ask that you approve EmR 2045, which regulates PFAS in fire fighting foam. This is important to me.

These chemicals are carcinogenic, disrupt early development, and interfere with human endocrine systems, posing a serious threat to human health. They build up over time and have been dubbed "forever chemicals" because they are difficult to break down. To date, there are no regulations in Wisconsin restricting PFAS use. This puts our drinking water and safety at risk.

There are 30 PFAS contamination sites under investigation throughout Wisconsin and four public drinking water suppliers with high levels of PFAS chemicals detected. A water supply in Marinette contained 95 times more PFAS chemicals than the EPA's recommended limit.

It is crucial that we act to prevent further contamination of our water and that we always value human health over industry interests. I ask you to consider this, and to vote to approve this rule. Thank you.

Yvonne Besyk
8818 Camp Lake Rd
Salem, WI 53168

Grosz, Scott

From: Patrick Wilson <pbwilson@centurytel.net>
Sent: Wednesday, December 16, 2020 6:44 PM
To: Joint Committee - Review of Administrative Rules
Subject: Please Approve EmR 2045

I'm asking you to approve EmR 2045, which regulates PFAS in firefighting foam. It's crucial that we act to prevent further contamination of our water and that we always value human health over industry interests.

Thanks,
Patrick Wilson
2222 Hoeschler Dr.
La Crosse, WI 54601

Grosz, Scott

From: Dick Russo <russo.biker@gmail.com>
Sent: Wednesday, December 16, 2020 7:43 PM
To: Joint Committee - Review of Administrative Rules
Subject: EmR2045

Water is vital for life and precious. Please protect from PFS

Grosz, Scott

From: Deb Martin <debmartin04@gmail.com>
Sent: Wednesday, December 16, 2020 7:52 PM
To: Joint Committee - Review of Administrative Rules
Subject: EmR2045 - request approval

To the Joint Committee for Review of Administrative Rules:

I'm writing to you today to ask that you approve EmR 2045, which regulates PFAS in fire fighting foam. I am a grandmother who wants the best for my grandkids and all Wisconsin kids.

These chemicals are carcinogenic, disrupt early development, and interfere with human endocrine systems, posing an unchecked threat to human health. They build up over time and have been dubbed "forever chemicals" because they are difficult to break down. To date, there are no regulations in Wisconsin restricting PFAS use. This puts our drinking water and safety at risk.

Throughout Wisconsin, there are 30 PFAS contamination sites under investigation and four public drinking water suppliers with high levels of PFAS chemicals detected. A water supply in Marinette contained 95 times more PFAS chemicals than the EPA's recommended limit.

It is crucial that we act to prevent further contamination of our water and that we always value human health over industry interests. I ask you to consider this, and to vote to approve this rule. Thank you.

Deb Martin
164 Wyldewood Dr
Oshkosh, WI 54904

"I don't speak because I have the power to speak; I speak because I don't have the power to remain silent" – Rabbi A.Y. Kook

Grosz, Scott

From: Aleks Kosowicz <guerillawordfare@yahoo.com>
Sent: Wednesday, December 16, 2020 8:50 PM
To: Joint Committee - Review of Administrative Rules
Subject: Comment RE: EmR 2045

To the Joint Committee for Review of Administrative Rules:

The quality of our health is inextricable from the quality of our natural resources. I'm writing to you today to ask that you approve EmR 2045, which regulates PFAS in fire fighting foam.

These chemicals are carcinogenic, disrupt early development, and interfere with human endocrine systems, posing an unchecked threat to human health. They build up over time and have been dubbed "forever chemicals" because they are difficult to break down. To date, there are no regulations in Wisconsin restricting PFAS use. This puts our drinking water and safety at risk.

Throughout Wisconsin, there are 30 PFAS contamination sites under investigation and four public drinking water suppliers with high levels of PFAS chemicals detected. A water supply in Marinette contained 95 times more PFAS chemicals than the EPA's recommended limit.

It is crucial that we act to prevent further contamination of our water and that we always value human health over industry interests. I ask you to consider this, and to vote to approve this rule. Thank you for all you can do to make our world a safer, healthier place for all beings to live.

Sincerely,

(Miss) Aleks Kosowicz
Abrams, WI

Sent from Yahoo Mail for iPad

Grosz, Scott

From: Lisa Olson <lisa11olson@gmail.com>
Sent: Wednesday, December 16, 2020 10:03 PM
To: Joint Committee - Review of Administrative Rules
Subject: EmR 2045

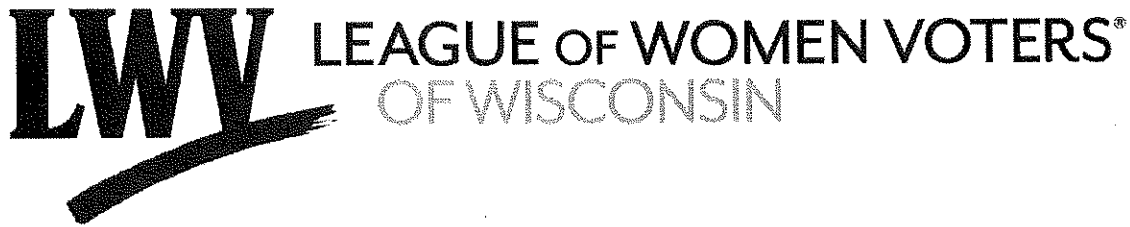
To the Joint Committee for Review of Administrative Rules:

I'm writing to you today to ask that you approve EmR 2045, which regulates PFAS in fire fighting foam.

These chemicals are carcinogenic, disrupt early development, and interfere with human endocrine systems, posing an unchecked threat to human health. They build up over time and have been dubbed "forever chemicals" because they are difficult to break down. To date, there are no regulations in Wisconsin restricting PFAS use. This puts our drinking water and safety at risk.

Throughout Wisconsin, there are 30 PFAS contamination sites under investigation and four public drinking water suppliers with high levels of PFAS chemicals detected. A water supply in Marinette contained 95 times more PFAS chemicals than the EPA's recommended limit.

It is crucial that we act to prevent further contamination of our water and that we always value human health over industry interests. I ask you to consider this, and to vote to approve this rule. Thank you.



612 W. Main Street, #200
Madison, WI 53703

Phone: (608) 256-0827
www.lwwwi.org



TO: Joint Committee for Review of Administrative Rules

RE: 2019 Wisconsin Act 101 and Emergency Rule EmR 2045

The League of Women Voters of Wisconsin has long been a strong supporter of clean drinking water and the regulation of any contaminants. Firefighting foam is a major source of PFAS contamination of our groundwater from which about two-thirds of Wisconsin residents derive their drinking water. We therefore write to you concerning 2019 Wisconsin Act 101 and EmR 2045.

PFAS is a highly toxic substance. The aim of 2019 Wisconsin Act 101 is to protect Wisconsin residents from further PFAS contamination of the environment from a major source: firefighting foam. Act 101 is therefore not concerned with the foam but rather with the PFAS it contains.

To protect Wisconsin residents, 2019 Wisconsin Act 101, except in an emergency:

1. prohibits the use or discharge of firefighting foam that contains PFAS
2. permits the use for testing purposes if the foam is appropriately treated to prevent the PFAS contained in the foam from entering the environment

The treatment process for foam used in testing that is outlined in the Emergency Rule is designed to remove the PFAS in order to prevent further PFAS contamination of the environment from this source. To ensure that the system is working, operators are required to check the treatment system by testing for 14 PFAS compounds frequently contained in firefighting foam. Presence of these compounds in excess of the lowest detectable level acts as a warning signal that the treatment system needs adjusting. The numerical values in Table 1 are "Action Levels" to measure the success of the PFAS removal from the foam, not enforcement standards for drinking water.

Objection to the Emergency Rule centers on one aspect of the rule: the treatment of foam used for testing. A number of organizations with interest in weak regulation have expressed concern. However, the arguments in support of making the requirements less stringent confuse the regulation of drinking water to protect the public with the need to prevent any further PFAS

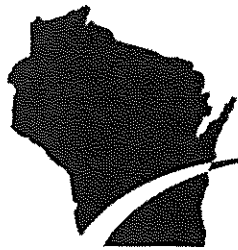
contamination of our environment. Corporate profit should not be more important than public health!

A health crisis already exists in the Marinette/Peshtigo area where the PFAS concentration in drinking water in at least one location was found to be nearly 100 times the DHS recommended DNR groundwater enforcement standard. PFAS can have serious health effects, including cancer, liver damage, and developmental defects. To prevent further exposure to this toxic chemical through drinking water, residents are being supplied with bottled water while DNR is working on the problem.

PFAS contamination of the state's drinking water is growing. La Crosse, Madison, and Rhinelander have had to shut down one or more of their water wells due to the presence of this toxic chemical. PFAS contamination has been found in places like Sparta and Milwaukee. The Speaker's Task Force on Water Quality, traveling around the state, received a significant amount of testimony and comments regarding concerns about PFAS contamination. Because of lack of testing, we do not know in how many locations PFAS contamination is threatening our health.

This Emergency Rule will not help with these existing problems but we need to stop any further PFAS contamination of our environment! EmR 2045 is one step toward that goal.

The League of Women Voters of Wisconsin therefore urges you to approve this rule without changes.



WAMA

WISCONSIN AIRPORT
MANAGEMENT ASSOCIATION

TO: Members of the Joint Committee for Review of Administrative Rules

President

Brian Grefe, A.A.E.
Mosinee

FROM: Brian Grefe, President and Lisa Maroney, Executive Director

Vice President

Greg Cullen, C.M.
Janesville

DATE: December 17, 2020

RE: EmR 2045

Treasurer

Rachel Engeler, MS
Green Bay

Thank you for the opportunity to provide written testimony on the DNR's firefighting foam emergency rule. We respectfully request that three sections of the rules be suspended. We believe these sections go well beyond the scope of Act 101 and could prove costly for municipally operated airports.

Secretary

Jim Schell, C.M.
Oshkosh

1. Act 101 regulates firefighting foam containing PFAS. The rule has been expanded to include a new definition of "Foam contaminated material." It means that any material the foam may come in contact with is subject to treatment and disposal, contrary to Act 101.
2. Act 101 very clearly states that a person who uses or discharges firefighting foam for an emergency shall notify the DNR immediately, and with this we have no concerns. The rule, however, is expanded to state that notification to the DNR shall be done under NR 706, the Spills law. This triggers potential remediation plans and cleanup for an airport using PFAS foam, required by the Federal Aviation Administration, to extinguish a fire. This is a significant and financially costly difference from the legislative intent of Act 101 and we urge removal.
3. Table 1 listing the 14 different PFAS compounds and numeric values should also be removed. The Table greatly expands the scope of Act 101 to include numeric limits that were rejected by the Legislature. Currently, no PFAS substances have been designated as a hazardous substance under the statutes or rules promulgated by the DNR. Further, the DNR has not promulgated any soil clean-up standards. This seems at best a backdoor approach to an issue that needs thoughtful deliberation and analysis.

Executive Director

Lisa Maroney
Madison

Board of Directors

Charity Zich, C.M.
Eau Claire

Kurt Stanich
Waukesha

Abe Weber, A.A.E.
Greenville

Harold Mester, C.M.
Milwaukee

Matthew Leitner
Rhineland

Michael Stephens
Madison

Matt Grenoble
Sheboygan

Richard Brekke
Cumberland

Again, thank you for the opportunity to provide input. Please do not hesitate to contact us if you have questions or desire additional information.

Grosz, Scott

From: Waltraud Brinkmann <waltraudbrinkmann@att.net>
Sent: Thursday, December 17, 2020 9:59 AM
To: Joint Committee - Review of Administrative Rules
Subject: DNR Emergency Rule EmR 2045

Dear Members of the Joint Committee for Review of Administrative Rules,

PFAS contamination of our drinking water is growing. Several cities have had to shut down one or more of their water wells and a health crisis exists in the Marinette/Peshtigo area. Firefighting foam containing PFAS is a major source of PFAS contamination of our groundwater from which about two-thirds of Wisconsin residents derive their drinking water. **The purpose of EmR 2045 is to prevent further PFAS contamination of our environment from this source.**

I urge you to approve this rule without changes.

Thank you,
Waltraud Brinkmann
5575 Tancho Drive, Madison WI 53718

Grosz, Scott

From: dskyrms <dskyrms@gmail.com>
Sent: Thursday, December 17, 2020 10:06 AM
To: Joint Committee - Review of Administrative Rules
Subject: PFAS legislation

Please support the DNR Emergency Rule EmR 2045 on PFAS in fire fighting foam.
These are dangerous chemicals and we need to protect our families and environment from them .

Sent from my U.S.Cellular© Smartphone

Grosz, Scott

From: Andi Rich <andreakay25@gmail.com>
Sent: Thursday, December 17, 2020 10:15 AM
To: Joint Committee - Review of Administrative Rules
Subject: Please vote for the betterment of the people you represent, not corporate greed. Please pass this bill.

Hello, My name is Andi Rich. I'm a resident of Marinette County, I grew up near farm fields contaminated with PFAS from biosolid spreading, and this bill is important to me. I hope you will pass it as written in its entirety.

I am of the understanding that there is pressure to reduce the restrictions of this bill, including removal of the prohibition of disposal of PFAS down municipal drains, and that this pressure is coming from corporations and lobbyists who are interested in minimizing their short term costs.

The problem is, that reducing these restrictions will not reduce the overall costs, just the costs for the corporations. The true cost will be transferred to innocent people. The citizens of Marinette County already know this from experience. My community is contaminated, and it is evident by our alarmingly high rates of various cancers and other illnesses, that science has definitively linked back to these chemicals. The cost to innocent people is far greater than any costs imaginable to corporations, to simply require proper disposal per their own guidelines.

We know that drinking water for families living in the Town of Peshtigo, the entire city of Marinette, our pets, dairy and cattle, wildlife including deer, ducks, and other game animals, are all exposed to toxic PFAS from irresponsible industry practices. Our area of contamination is also multiplied by the practice of dumping PFAS foam down the municipal drains, which ends up in the biosolids spread on our farm fields. Dumping PFAS down municipal drains is against the recommendations of industry's own Safety Data Sheets, clearly prohibiting this method of disposal.

Marinette is facing a horrific reality, and as bad as it is, we also know we haven't even begun to identify the full scope of the damage.

If we are truly considering costs as a reason to make adjustments to this bill, the changes would need to be in the direction of more restrictive, not less.

We are well aware that the cost to clean up contaminants is far more expensive than the cost to prevent it from occurring in the first place. We also know from experience, that industry will do everything in its power to maximize their profits, with zero regard for the health and safety of people or the environment. Please do not look at their incomplete cost analysis, and make a decision to help them reduce their expenses.

If you do this, you will not be responsible for reducing costs. You will be responsible for transferring them to taxpayers and citizens in the form of agricultural devastation, the extreme costs of medical bills from exposure, and increased taxes to clean our drinking water and food supplies that never should have been contaminated in the first place.

We already have enough data from other states, to know that as soon as we can afford to test our dairy, crops, and cattle, we will find this toxin in Marinette County's agricultural goods. If Arendale Maine is any indication, we are likely to find levels of accumulation that will ruin our farming industry connected to biosolid spread fields, and I don't know what will be worse, the devastation to our local agriculture industry once we test and find dangerous levels, or realizing how many people we fed toxic dairy and meat for the last decade or more.

Failing to prohibit disposal of PFAS down municipal drains in Foam, will contribute to a foreseeable and preventable catastrophe. As other countries continue to enforce more and more strict regulations on PFAS, we risk ruining our agricultural exports by ignoring this problem now.

You have the opportunity to harm people, or help people. I hope you will weigh the true costs of failing to address this poison, and choose to do no further harm. We need to acknowledge the common sense cost/benefit analysis, that an ounce of prevention is worth a pound of cure. Industry needs to stop pushing their costs onto the people of the communities in which they operate. Please choose to learn from our mistakes, and protect other communities from devastation like that found in Marinette. We need strict regulations on PFAS foam, not more pain and suffering in the communities where it is used, so corporations can make record profits at our expense. It is not unreasonable to expect them to clean up their mess. Vote for people, not for corporate greed. Thank you.

Andi Rich

Citizen in a Poisoned Community

andreakay25@gmail.com

906-290-6856

Grosz, Scott

From: Steven Schmitt <repsteveschmitt@gmail.com>
Sent: Thursday, December 17, 2020 10:36 AM
To: Joint Committee - Review of Administrative Rules
Subject: Foam bill

I stand in support of the foam bill, limiting dumping waste in storm drains. We can ill afford to continue poisoning ourselves.

Yes, I am a voter, watching both your political actions and your inactivity.

Steven Schmitt
2640 Gilbert St
Marinette, WI 54143

Grosz, Scott

From: Cheryl Hobbs <hobbshaus@gmail.com>
Sent: Thursday, December 17, 2020 10:44 AM
To: Joint Committee - Review of Administrative Rules
Subject: EmR2045

I am a resident of Lincoln County and live between Rhinelander and Tomahawk. I am well aware of the PFAS contamination in the area and am concerned about any leakage into the Wisconsin River, even as one well has been shut down. I urge approval and the passage of EmR2045 and Act101 to stop further contaminations in other critical areas of our State. Thank you, Cheryl Hobbs, Tomahawk, Wisconsin

Grosz, Scott

From: Nora Eiesland and David Huebsch <noradave@gmail.com>
Sent: Thursday, December 17, 2020 10:52 AM
To: Joint Committee - Review of Administrative Rules
Subject: EmR 2045

To the Joint Committee for Review of Administrative Rules:

I'm writing to you today to ask that you approve EmR 2045, which regulates PFAS in fire fighting foam.

These chemicals are carcinogenic, disrupt early development, and interfere with human endocrine systems, posing an unchecked threat to human health. They build up over time and have been dubbed "forever chemicals" because they are difficult to break down. To date, there are no regulations in Wisconsin restricting PFAS use. This puts our drinking water and safety at risk.

Throughout Wisconsin, there are 30 PFAS contamination sites under investigation and four public drinking water suppliers with high levels of PFAS chemicals detected. A water supply in Marinette contained 95 times more PFAS chemicals than the EPA's recommended limit.

It is crucial that we act to prevent further contamination of our water and that we always value human health over industry interests. I ask you to consider this, and to vote to approve this rule. Thank you.

Grosz, Scott

From: cindy <cindy@boyledesigngroup.net>
Sent: Thursday, December 17, 2020 10:54 AM
To: Andi Rich
Cc: Joint Committee - Review of Administrative Rules
Subject: Re: Please vote for the betterment of the people you represent, not corporate greed. Please pass this bill.

Excellent!!! Thanks Andi.

Cindy Boyle's iPhone

On Dec 17, 2020, at 10:15 AM, Andi Rich <andreakay25@gmail.com> wrote:

Hello, My name is Andi Rich. I'm a resident of Marinette County, I grew up near farm fields contaminated with PFAS from biosolid spreading, and this bill is important to me. I hope you will pass it as written in its entirety.

I am of the understanding that there is pressure to reduce the restrictions of this bill, including removal of the prohibition of disposal of PFAS down municipal drains, and that this pressure is coming from corporations and lobbyists who are interested in minimizing their short term costs.

The problem is, that reducing these restrictions will not reduce the overall costs, just the costs for the corporations. The true cost will be transferred to innocent people. The citizens of Marinette County already know this from experience. My community is contaminated, and it is evident by our alarmingly high rates of various cancers and other illnesses, that science has definitively linked back to these chemicals. The cost to innocent people is far greater than any costs imaginable to corporations, to simply require proper disposal per their own guidelines.

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Marinette is facing a horrific reality, and as bad as it is, we also know we haven't even begun to identify the full scope of the damage.

If we are truly considering costs as a reason to make adjustments to this bill, the changes would need to be in the direction of more restrictive, not less.

We are well aware that the cost to clean up contaminants is far more expensive than the cost to prevent it from occurring in the first place. We also know from experience, that industry will do everything in its power to maximize their profits, with zero regard for the health and safety of people or the

environment. Please do not look at their incomplete cost analysis, and make a decision to help them reduce their expenses.

If you do this, you will not be responsible for reducing costs. You will be responsible for transferring them to taxpayers and citizens in the form of agricultural devastation, the extreme costs of medical bills from exposure, and increased taxes to clean our drinking water and food supplies that never should have been contaminated in the first place.

We already have enough data from other states, to know that as soon as we can afford to test our dairy, crops, and cattle, we will find this toxin in Marinette County's agricultural goods. If Arendale Maine is any indication, we are likely to find levels of accumulation that will ruin our farming industry connected to biosolid spread fields, and I don't know what will be worse, the devastation to our local agriculture industry once we test and find dangerous levels, or realizing how many people we fed toxic dairy and meat for the last decade or more.

Failing to prohibit disposal of PFAS down municipal drains in Foam, will contribute to a foreseeable and preventable catastrophe. As other countries continue to enforce more and more strict regulations on PFAS, we risk ruining our agricultural exports by ignoring this problem now.

You have the opportunity to harm people, or help people. I hope you will weigh the true costs of failing to address this poison, and choose to do no further harm. We need to acknowledge the common sense cost/benefit analysis, that an ounce of prevention is worth a pound of cure. Industry needs to stop pushing their costs onto the people of the communities in which they operate. Please choose to learn from our mistakes, and protect other communities from devastation like that found in Marinette. We need strict regulations on PFAS foam, not more pain and suffering in the communities where it is used, so corporations can make record profits at our expense. It is not unreasonable to expect them to clean up their mess. Vote for people, not for corporate greed. Thank you.

Andi Rich
Citizen in a Poisoned Community
andreakay25@gmail.com
906-290-6856

Grosz, Scott

From: Megan Miller <meganamiller42@gmail.com>
Sent: Thursday, December 17, 2020 11:29 AM
To: Joint Committee - Review of Administrative Rules

Good Morning,

I am writing out of concern for EmR 2045. I, like many other Wisconsin residents, want action on PFAS and the first step is adopting the DNR Emergency Rule EmR 2045 on PFAS in Fire Fighting Foam. Especially during a pandemic, health and well-being for Wisconsin residents should be top of mind for every leader and decision maker. We trust you and elect you to keep us safe. As a mother of three it is unconscionable to me that a law making body would refuse to take action on keeping poison out of our water.

Please exercise your power to protect us.

Sincerely,

Megan Miller
1136 Partridge Ave
Beloit, WI 53511

--

Megan Miller
Pronouns: she/her/hers
608.931.6598

*Vice President of the Board of Education
School District of Beloit
mmiller@sdb.k12.wi.us*

*Board Member
Little Turtles Playhouse Parent Cooperative*

*Board Member
Beloit Public Library
Religious School Teacher
Congregation Bnai Abraham*

Grosz, Scott

From: Patsy <panolan@wi.rr.com>
Sent: Thursday, December 17, 2020 11:45 AM
To: Joint Committee - Review of Administrative Rules
Subject: Fire Fighting Foam

We need action on PFAS and the FIRST Step is adopting the DNR Emergency Rule EmR 2045 on PFAS in Fire Fighting Foam. **Keep poisons out of our water!!**

ACTION needed!

Pat Klein, Kenosha, WI

Sent from my Galaxy

Grosz, Scott

From: Susan Johnson <susan.johnson072@gmail.com>
Sent: Thursday, December 17, 2020 11:56 AM
To: Joint Committee - Review of Administrative Rules
Subject: PFAS Emergency Rule EmR 2045

The PFAS Emergency Rule EmR 2045, adopted by the Natural Resources Board (NRB) this week, is a FIRST step for Wisconsin to protect its residents from PFAS in fire fighting foam. As fire fighting foam seeps into the ground, so does the PFAS, contaminating Wisconsin groundwater. PFAS is a known carcinogen. It can cause kidney cancer and testicular cancer, as well as, liver damage and thyroid disease. PFAS is also harmful to unborn babies bringing lower birth weights and a diminished response to vaccines. In addition, it causes miscarriages and low sperm counts.

Wisconsinites CARE about the purity of their water! They care about healthy babies! Wisconsinites are working hard to defeat cancer, not cause more cancer! Please, the PFAS Emergency Rule needs to be considered by the Joint Committee for Review of Administrative Rules, which needs to pass the rule for consideration by the full legislature.
Thank you!

Susan Amber Johnson,
2113 Mt. Zion Avenue,
Janesville, WI 53545
Janesville City Council Member



To: Members of the Joint Committee for the Review of Administrative Rules

From: C.A.C. (Peshtigo Citizens Advisory Committee on PFAS), Citizens for Safe Water Around Badger, Clean Wisconsin, Midwest Environmental Justice Organization, Milwaukee Riverkeeper, PFAS Community Campaign, River Alliance, Sierra Club, Wisconsin Conservation Voters, Wisconsin Lakes, Wisconsin Wildlife Federation.

Date: December 17, 2020

RE: EmR 2045 – Relating to regulating firefighting foam that contains certain contaminants (DNR)

Our group of environmental organizations write today in support of emergency rule 2045 relating to PFAS-containing firefighting foam. We appreciate the time and dialogue that went into creating this rule with the Department of Natural Resources, the Natural Resources Board, and numerous stakeholders. Although this rule is minimal in scope, and only addresses one source of PFAS contamination, we believe it is an important step forward in protecting Wisconsin’s water resources.

PFAS-containing firefighting foam is the source of a massive water contamination problem in Marinette, WI, from a local firefighting training facility. In Marinette, one source of drinking water tested above 1,900 parts per trillion (ppt) – 95 times higher than the Department of Health Services’ recommended statewide standard of 20 ppt. While this rule might not be able to address that specific contamination problem, it would put in place protections to help prevent another one like it.

There are significant costs to PFAS pollution that justify this rule as a preventative measure. PFAS pollution has serious public health impacts, disproportionately affects low income and/or communities of color, decreases home values, impacts recreational fishing, and may have significant impacts on the dairy industry. Because of the costly and varied impacts to our water and public health, it is particularly important that this decision be guided by science and not influenced by industry profit motives.

Despite industry’s strategy to cloud the entire rulemaking process in doubt, the emergency rule is consistent with the rulemaking requirements in Chapter 227 and well within the statutory authority conferred by the legislature. The rule is consistent with the approved statement of scope, addressing the precise issues identified in that statement. Moreover, DNR exercised its expertise to engage in a diligent, rigorous scientific process to identify appropriate measures to address this public health crisis.

Maintaining the treatment indicator parameters and outlined treatment requirements are minimal but appropriate protections to limit PFAS exposure and protect public health in this rule. We are confident that compliance will reduce PFAS contamination, protect public health and the environment.

ACT 101 was the only piece of PFAS water quality protections to get approved by the state legislature and passed into law. After nearly a year of Wisconsinites across the state demanding options to address PFAS pollution through the Speaker's Water Quality Taskforce, budget listening sessions, and public hearings on other PFAS-related bills – Act 101, banning PFAS firefighting foam in testing and training scenarios, was the only bill that got enough bipartisan support, so it is particularly surprising to see it come under attack by the very Legislature that passed it. Although this is an incredibly limited action to address PFAS contamination, developing this rule has generated significant yet unwarranted industry pushback throughout the process, and despite changes to mollify industry concerns, it is under threat again at JCRAR.

Weakening this rule any further ignores the very pleas for help from the Wisconsin families struggling with PFAS contamination. We do not support any revisions, as have been requested by some who stand to benefit at others' expense from weakening the protections that would further undermine this rule. We support the rule as written and approved by the NRB.



City of Marinette

1905 Hall Avenue Marinette, WI 54143-1716 ph:715.732.5139/fx:715.732.5122

Steve Genisot, Mayor

sgenisot@marinette.wi.us

12/17/20

Joint Committee for Review of Administrative Rules (JCRAR)
Senator Stephen Nass, Senate Chair
Representative Joan Ballweg, Assembly Chair

Subject: DNR Emergency Rule NR-159 Firefighting Foam

Senator Nass, Representative Ballweg, Joint Committee for Review of Administrative Rules:

As the Mayor of the City of Marinette, I am writing to support NR 159, the emergency rule adopted by the Department of Natural Resources Board with respect to the management and disposal of firefighting foam containing PFAS. We support the efforts to prevent improper disposal for PFAS containing chemicals into our wastewater treatment facility and the issues that have arisen from this past practice. We continue to work with our local industry towards clean-up of PFAS chemicals and their continued use and proper disposal that is in compliance with DNR recommendations.

NR 159 addresses the future use and disposal of this chemical particular to firefighting foam. The rule recognizes the role that municipal treatment plants have to restrict PFAS compounds from coming into their system. The rule also identifies treatment technology designed to allow for appropriate disposal of PFAS contaminants. As the community that is most affected by having to deal with PFAS contamination from firefighting foam, it is helpful to have clear guidance in place to address these issues. Therefore, we support the rule as adopted.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Genisot", is written over a white background.

Mayor Steve Genisot

CC: Sen. Robert Cowles, Admr. Darsi Foss

Grosz, Scott

From: Louise Petering <l.petering14@att.net>
Sent: Thursday, December 17, 2020 12:31 PM
To: Joint Committee - Review of Administrative Rules
Subject: DNR Emergency Rule EmR 2045 on PFAS in Fire Fighting Foam.

Thank you for accepting my comments and considering them as you review EmR 2045.

We in Wisconsin are at a watershed moment. We must decide whether we indeed want clean water available for all purposes - drinking water, recreational, industrial, business.

It is all but certain that you and I, and everyone in Wisconsin has PFAS in their blood given its wholesale use in clothing, in non-stick cookware and as a soil release agent on household fabrics and carpet. No doubt, you are keenly aware of Wisconsin families with young and older members - especially in the Peshtigo area - suffering from a mix of non-curable, damnable maladies due to high levels of PFAS exposure that you and I are glad we do not suffer. While PFAS are not the sole chemical culprits in our environment, their persistence and negative health effects (cancer, endocrine disruption, among others) begs you address their presence in our water and environment now. Wisconsin's future economic viability rests on the need of employers to have healthy breadwinners. If Wisconsin families and breadwinners are to live healthy and productive lives, they must be protected from environmental agents -like PFAS - that have deleterious effects on health. Your job is to provide rules that protect all Wisconsin residents and visitors.

My home state, Michigan, advertises itself as "Pure Michigan," yet in the last two years it has acknowledged through its PFAS work that Michigan was and is not "pure." Michigan's progress could speed our need to address PFAS here.

PFAS is a late arrival on Wisconsin's water issues scene. Having adopted Wisconsin as my home in 1971, I have witnessed shutdown wells; "do not drink" warnings due to water contamination from pesticides, bacterial pathogens from animal waste, and general stormwater runoff; and now, I witness PFAS contamination. WE must reverse this 50-year decline in the quality of our waters if Wisconsin's future is to be one with healthy families, healthy workforce personnel, and healthy places to live and recreate. Legislation to address contamination from CAFO manure in eastern Wisconsin's karst topography was a good first step in addressing water issues. Approval of EmR 2045 would be a very good second step in that direction.

I BEG you to approve EmR 2045.

Louise Petering
7229 N. SA



Midwest Environmental Advocates

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Delivered via e-mail

December 18, 2020

Wisconsin Legislature
Joint Committee for Review of Administrative Rules
2 East Main St
Madison, WI 53703
jcrar@legis.wisconsin.gov

RE: EmR 2045 – DNR Firefighting Foam Rule

Dear Joint Committee for Review of Administrative Rules:

Midwest Environmental Advocates (MEA) submits these comments in opposition to the proposed partial suspension of EmR 2045. This emergency rulemaking is a modest but necessary step to prevent future contamination of per- and poly-fluoroalkyl substances (PFAS) in Wisconsin. As promulgated, EmR 2045 is precisely what the Legislature asked the Department of Natural Resources (DNR) to do when 2019 Wisconsin Act 101 was enacted. The Joint Committee for Review of Administrative Rules (JCRAR) should therefore take no action regarding EmR 2045 and allow it to remain in effect.

I. EmR 2045 is Consistent with DNR's Grant of Authority Under Act 101.

With EmR 2045, DNR fulfilled the Legislature's directive to promulgate an emergency rule implementing and administering Act 101, "including to determine appropriate containment, treatment, and storage or disposal measures for testing facilities."¹ DNR did not exceed its grant of authority under Act 101 to establish enforceable "non-detect" effluent standards. Instead, DNR has relied on its own extensive scientific expertise and recommendations from the Interstate Technology Regulatory Council to identify the best available treatment technology that can achieve the indicator parameters established in "Table 1".

The emergency rulemaking process was significantly delayed after the Natural Resources Board (NRB) received comments from JCRAR expressing concerns that

¹ Wis. Stat. § 299.48(5) ("The department shall promulgate rules to implement and administer this section, including to determine appropriate containment, treatment, and disposal or storage measures for testing facilities.")

MIDWESTADVOCATES.ORG

612 W. MAIN STREET, SUITE 302 P 608.251.5047
MADISON, WISCONSIN 53703 F 608.268.0205

the draft rule did establish enforceable effluent standards and therefore exceeded DNR's grant of authority under Act 101. After receiving those comments, the NRB voted to postpone consideration of the proposed emergency rule until DNR staff could work with interested parties to resolve concerns and report back to the NRB. DNR did just that, held an additional public hearing and written comment period, and presented the NRB with an amended rule, now EmR 2045, for consideration at its October meeting. The NRB and then Governor Evers approved EmR 2045, and it went into effect upon being published in the Administrative Register.

Through the amendments to the draft emergency rule, DNR has made it abundantly clear that Table 1 does not contain enforceable effluent standards. Exceedances of the indicator parameters set forth in Table 1 do not result in a violation of Act 101's prohibition on discharges. An exceedance instead indicates that the treatment technology may not be working to the best of its ability, triggering certain response actions that regulated entities should take to address any issues. To be sure, potential violations may be investigated and an enforcement action may ultimately be brought against a regulated entity, but only if the investigation shows a failure to implement and maintain appropriate treatment measures that resulted in discharges of fire fighting foam with intentionally added PFAS.

II. The Indicator Parameters in Table 1 and Response Actions Are Reasonable and Necessary for DNR to Implement and Administer Act 101.

DNR will be unable to effectively administer Act 101 without the ability to enforce the requirement that testing facilities implement appropriate treatment measures. The proposed partial suspensions make it extremely difficult if not effectively impossible for DNR to enforce Act 101, not only because it removes the indicator parameters and response actions, but also because it removes sampling requirements. The indicator parameters in Table 1 are based on reasonably available treatment technologies that can effectively treat fire fighting foam to those levels. Treating fire fighting foam containing intentionally added PFAS to such low levels is absolutely vital since PFAS are extremely persistent in the environment and accumulate over time. Even discharges in extremely low concentrations can still lead to exceedances of recommended groundwater standards. The idea is to never let it get that far in the first place.

Should the proposed partial suspension move forward, regulated entities will still be required to operate treatments systems to minimize the level of PFAS and must still take actions to maintain appropriate and effective foam treatment. However, just what actions should be taken to maintain appropriate and effective foam treatment and when those actions need to be taken will no longer be clear. Providing that clarity is exactly what the indicator parameters contained in Table 1 and corresponding response actions accomplish, which is why those provisions are consistent with the Legislature's charge "to determine appropriate . . . treatment . . . *measures* for testing facilities."² Removing the treatment measures DNR has determined are appropriate for testing facilities therefore frustrates the overall goal of Act 101, which is to prevent the

² Wis. Stat. § 299.48(5) (emphasis added).

unnecessary discharge of fire fighting foam containing intentionally added PFAS to the environment.

The lack of a sampling requirement will make it difficult for anyone to verify whether treatment systems are in fact operating so as to minimize the level of PFAS. The only recordkeeping requirement that would be retained is the requirement to document what actions are taken to maintain appropriate and effective foam treatment. All this does is ensure that those actions were taken, whatever they are, not whether those actions appropriately maintained the treatment system to prevent discharges of fire fighting foam containing intentionally added PFAS to the environment. Perhaps more important, the failure to require sampling sets up a situation where a regulated entity with a malfunctioning treatment system could be discharging PFAS into the environment at high levels for an extended period of time before becoming aware of the situation. That is how people get hurt.

III. JCRAR Should Retain Table I with Indicator Parameters for All 14 PFAS Listed.

The Legislature chose not to limit Act 101 to any specific PFAS and instead includes fire fighting foams with any intentionally added PFAS,³ so Table 1 should be retained with indicator parameters for all 14 PFAS currently listed. EmR 2045 will sunset after three years or when permanent rules take effect anyway, and so DNR has properly erred on the side of caution at this preliminary stage. DNR will be able to compare sampling data that regulated entities collect to determine whether or not fewer compounds could operate as indicator parameters. Without the sampling data for all PFAS identified in Table 1, the public may be deprived of this important failsafe. If the sampling data confirms that fewer action levels would be sufficient, then Table 1 can be modified in the permanent rule accordingly. Importantly, EmR 2045 also allows regulated entities to avoid part of the sampling costs for the PFAS contained in Table 1 if they can demonstrate that those compounds are not present in the fire fighting foam being treated. Regulated entities also have the flexibility to implement alternative treatment technologies that are demonstrated to be as or more effective, which could then be included in the permanent rule.

IV. The Legislature Should Be Focused on Solutions, Not Undermining DNR's Expertise.

Rather than impeding DNR's ability to implement the only law passed to address PFAS contamination in Wisconsin—a law designed only to prevent future contamination—the Legislature should instead allow this rule to continue in effect as promulgated and then pass additional PFAS legislation like our neighboring states such as Michigan and Minnesota. The Wisconsin PFAS Action Council recently released its PFAS Action Plan, which provides recommendations for the comprehensive regulation of these ubiquitous and highly toxic man-made chemicals, including what further actions can be taken to address PFAS-containing fire fighting foams like a state sponsored collection and disposal program. DNR has made significant progress addressing PFAS contamination under existing state laws, but it needs the Legislature's

³ Wis. Stat. § 299.48(1)(b).

MEA to JCRAR re EmR 2045
December 18, 2020
Page 4

support. From public awareness, to drinking water testing, to financial assistance for local governments, to remediation of contaminated sites, and more, there is much to be done throughout Wisconsin to ensure that no other community in Wisconsin faces the clean water crisis affecting our neighbors in Marinette and Peshtigo. Please keep us moving in the right direction by taking no action regarding EmR 2045 and allowing it remain in effect as promulgated.

Thank you for the opportunity to submit written comments in opposition to the proposed partial suspension of EmR 2045. Please let me know if you have any questions or concerns. I can be reached via e-mail at rlee@midwestadvocates.org or by telephone at (608) 251-5047 x 8.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Lee".

Rob Lee
Staff Attorney

Cc: Representative Ballweg, Senator Nass, Representative Neylon, Senator Stroebel, Senator Craig, Senator Larson, Senator Wirch, Representative Quinn, Representative Hebl, Representative Subeck

Grosz, Scott

From: Zachary Yiannias <21yiannz@elmbrookstudents.org>
Sent: Thursday, December 17, 2020 2:31 PM
To: Joint Committee - Review of Administrative Rules
Subject: EmR 2045

Hi -

I'm writing to you today to ask that you approve EmR 2045, which regulates PFAS in fire fighting foam.

There are no current regulations on PFAS chemicals; however, they are carcinogenic, disrupt early development, and interfere with human endocrine systems. If EmR 2045 Is not approved, the legislative committee proves that they have no regard for our planet and it's ecosystems, and the welling being and safety of our Wisconsin communities.

This is not a localized issue. Throughout Wisconsin, there are 30 PFAS contamination sites under investigation and four public drinking water suppliers with high levels of PFAS chemicals detected. A water supply in Marinette contained 95 times more PFAS chemicals than the EPA's recommended limit. This is truly an urgent catastrophe. The fact that it hasn't already been addressed is incomprehensible.

Human life must take precedence over corporate interests.

Please approve this rule,

Zach Yiannias

--

Zachary Yiannias

Grosz, Scott

From: Joanne Brown <bensmomjo54@icloud.com>
Sent: Thursday, December 17, 2020 2:35 PM
To: Joint Committee - Review of Administrative Rules
Subject: EmR 2045

Sen. Nass and Rep. Ballweg,
Member of the Joint Committee for Review of Administrative Rules,

I support Emergency Rule 2045 as written by the Department of Natural Resources. PFAS chemicals threaten the groundwater in Dane County and have harmed drinking water in Marinette County. As Marinette County knows, the costs to clean up PFAS chemicals is substantial, far more than the cost of preventing them from entering the environment in the first place.

Please, reject the arguments of Wisconsin Manufacturers and Commerce. Accept science. Wisconsin communities cannot afford to clean up messes that can be prevented.

There should be NO CHANGES to the proposed Emergency Rule.

Thank you,

Joanne Brown
1932 West Lawn Ave
Madison, WI. 53711

Sent from my iPad

Grosz, Scott

From: Sheila Mitchell <sheilamitchell84@gmail.com>
Sent: Thursday, December 17, 2020 2:35 PM
To: Joint Committee - Review of Administrative Rules
Subject: 2019 Wisconsin Act 101 and DNR EmR 2045

Greetings,

I am sending a brief **note of support** regarding the **DNR PFAS Emergency Rule EmR 2045**, which is apparently being addressed tomorrow by the Joint Committee for Review of Administrative Rules.

Because I live in the Ashland area, I know firsthand how long it takes to clean up contaminated water ie. it took 25 years of work to get the "EPA Superfund Status " to clean up carcinogens in our Chequamegon Bay. And the PFAS situation is no different than the carcinogenic toxins that were sitting in our bay.

We need to quit treating our waterways as toilets and prevent any contaminants from entering in the first place. The time for ignorance about the chemicals we produce is long overdue. And the contamination does not stay in one spot...it travels!!!

Please be pro-active and protect our water from PFAS contaminants that can cause cancer and developmental effects in our children, and harm our fish and other natural resources. All areas of the state are inter-connected, and deserve to have clean, safe water.

THANK YOU for taking the time to address this.

Sincerely,

Sheila Mitchell MD

Ashland, Wisconsin



WISCONSIN CIVIL JUSTICE COUNCIL, INC.
Promoting Fairness and Equity in Wisconsin's Civil Justice System



TO: Joint Committee for Review of Administrative Rules

FROM: Wisconsin Manufacturers & Commerce
 Wisconsin Paper Council
 Wisconsin Airport Management Association
 Wisconsin Civil Justice Council
 Wisconsin Water Alliance
 Midwest Food Products Association
 American Chemistry Council

DATE: December 17, 2020

RE: Emergency Rule WA-06-20(E) – Relating to Firefighting Foam Regulation

Summary

The above referenced organizations appreciate the opportunity to comment on Emergency Rule WA-06-20(E) (Emergency Rule). A number of the organizations listed above supported the passage and enactment of 2019 WI Act 101, which established the firefighting foam provisions that are the subject of this rulemaking. Act 101 requires the Wisconsin Department of Natural Resources (DNR) to promulgate “**appropriate** containment, treatment and disposal or storage measures” for class B fire fighting foam that contains intentionally added PFAS and is used for testing.

Comments regarding this Emergency Rule were previously submitted to the Natural Resources Board (NRB), as well as the DNR. These comments raised numerous legal and policy problems with the proposed Emergency Rule. Unfortunately, while DNR made some cosmetic changes to these rules, it ignored the substantive concerns. Consequently, as explained in more detail below, we request the following portions of these rules be suspended:

- The references to chapter NR 706 in NR 159.05, and the note contained in that section;
- The definition of “foam contaminated materials” contained in NR 159.03(15) and other references to foam contaminated materials contained in the rule; and
- Table 1, and related provisions pertaining to PFAS Treatment Indicator Parameters.

Background

These rules allow for foam and “foam contaminated materials” to be managed in three ways. First, these materials can be disposed in a solid waste facility if it is combined with cementitious materials. Given the requirement to solidify these materials with cement, it would likely be extremely expensive to landfill any significant volume of materials. Second, the material may be incinerated. To the best of our knowledge, there is one solid waste incinerator in Wisconsin, and DNR has provided no information regarding the feasibility of this option.

If a treatment other than incineration is used, NR 159.081(b) specifies detailed and extensive technology requirements that must be followed, unless DNR approves an alternative technology, which must provide at least equivalent results as the technology specified in the rules. Treatment requirements include two levels of “preliminary treatment,” which focus on filtration. Following filtration, the rule requires treatment by three granular activated carbon (GAC) absorption units. The final level of required treatment is the use of at least one anion-exchange resin polishing unit, to remove “trace PFAS compounds.” Thus, the rule mandates a very high level of technology.

In addition, these rules contain provisions regarding the reporting of the use and discharge of foam.

Expansion of Rules to Apply to “Foam Contaminated Materials” Exceeds the Authority Provided in Act 101

Act 101 specifically applies to “Class B fire fighting foam.” These proposed rules, however, expand the requirements to apply to “foam contaminated materials,” which include “any material that is generated as a result of the foam storage, containment, or treatment, including treated media, equipment used to clean up fire fighting foams, booms, filters, infrastructure or other debris.” These materials are therefore subject to the disposal/treatment requirements of the rule.

This expansion goes way beyond the authority that was specifically set forth in statute. Consequently, the definition of “foam contaminated material” and other references to the phase should be suspended. These changes will result in the rules applying to “Class B fire fighting foam,” as set forth in the plain language of Act 101.

The Reporting Provisions Contained in these Rules are Inconsistent with the Act 101 Reporting Requirements

Act 101 created specific provisions relating to reporting discharges of fire fighting foam. Wis Stat. § 299.48 (3m) requires a person who uses or discharges foam that is used as part of an emergency fire fighting or fire prevention operation to notify DNR of the discharge. In addition, a person who uses foam for testing must notify DNR of any discharge of foam to the environment.

While Wis. Stat. § 299.48 imposes specific requirements for reporting, DNR's rule (NR 159.05) requires notification according to Wisconsin's rules relating to hazardous substances, under what is commonly referred to as Wisconsin's Spills Law. Moreover, a note in this section indicates a person responsible for discharges of PFAS to the environment is required to comply with all DNR rules relating to the investigation and remediation of discharges of hazardous substances. Pursuant to Wis. Stat. § 292.11(3), a person who possesses or controls a hazardous substance, or who causes a hazardous discharge, is required to restore the environment to the extent practicable and minimize the harmful effects of the discharge.

The provisions for reporting contained in Wis. Stat. § 299.48 are separate and distinct from the reporting requirements contained in Wisconsin's Spills Law (Wis. Stat. 292.11(2)) and the two must not be conflated. Determinations that a material is a hazardous substance have significant consequences, including creating cleanup liability for a broad category of persons, such as those who have a hazardous substance that has been discharged on their property. Consequently, the references in NR 159.05 relating to NR 706 and the note discussing the Spills Law should be suspended.

Effluent Standards/PFAS Treatment Indicator Parameters (Table 1) are Not Authorized by Act 101 and are Unnecessary

DNR renamed what was previously referenced in the proposed rules as "effluent standards," to "treatment indicator parameters." Regardless of the name change, the 14 parameters are standards that must be met. If a "parameter" is exceeded, one or more of the following actions must be taken **"until the indicator parameter action level is achieved again:"** hold the treated water until there is confirmation that the parameter level is attained; replace the GAC from the lead carbon vessel and move the vessel to the lag position; or modify the design or operation to prevent discharges of foam with the goal of compliance with the indicator parameters.

DNR does not have authority to promulgate these numeric standards. Nothing in Act 101 authorizes DNR to establish numeric standards. In fact, the Legislature rejected establishing numeric standards for PFOS and PFOA, at a level significantly less stringent than those contained in the rule, when considering Act 101. Rather, Act 101 instructs the DNR to establish "appropriate" treatment standards. As explained below these numeric standards are extremely low. If the Legislature wanted DNR to promulgate the "near zero" standards, it would have directed DNR to do so in Act 101.

The numeric standards contained in this rule are **"parts per trillion."** For 12 of the 14 PFAS compounds, the effluent standards were set at the highest method of **detection limit** used by laboratories certified by the Department to conduct PFAS analysis. The two other effluent standards were derived from effluent results achieved at one site: the Husky Refinery fire response. This is disconcerting, given the amount of effort and research that normally goes into developing environmental standards. Thus, unlike many other environmental standards, these standards are not based on any scientific analysis to determine what standards are needed to protect human health or the environment.

In fact, the Wisconsin Department of Health Services (DHS) recently determined **there was not sufficient evidence to recommend a groundwater standard for seven of these compounds. For the other seven compounds, DHS's recommendations were higher than what is contained in this rule. For one compound (PFBS), for example, the standard in the rule is 1.8 parts per trillion. DHS's**

recommendation was 450,000 parts per trillion. In addition, the standards in these rules for PFOA and PFOS are more stringent than the drinking water standard proposed by DNR.

Establishing standards that are virtually zero provides no room for any minor deviations in effluent discharge levels. Furthermore, the Department has indicated that achieving these “parts per trillion” standards require frequent “fine tuning,” and would likely need operational adjustments to try and achieve these standards. Consequently, the ability to track consistent compliance with these limits is questionable.

Furthermore, the numeric standards are simply not needed. The rules specifically mandate the technology that is required. DNR can simply require documentation demonstrating the technology is being implemented as set forth in the rules.

Thank you for the Committee’s consideration of these comments.



TO: Members, Joint Committee for Review of Administrative Rules
FROM: Scott Manley, Executive Vice President of Government Relations
DATE: December 18, 2020
RE: DNR Emergency Rule 2045 – Firefighting Foam Containing PFAS

Wisconsin Manufacturers & Commerce (WMC) appreciates the opportunity to inform you of several legal concerns with respect to Emergency Rule 2045 (the emergency rule), and we respectfully request that you vote to suspend three provisions in the rule that exceed the statutory authority granted under 2019 Act 101 (Act 101).

WMC is the state's largest general business trade association, with roughly 3,800 member companies located throughout all corners of Wisconsin. We represent small, medium, and large businesses in every sector of the economy, including manufacturing, financial services, energy, retail, agriculture, insurance, and healthcare. Since our founding in 1911, WMC has been dedicated to making Wisconsin the most competitive state in the nation to do business. An important part of fulfilling that mission is advocating against efforts by regulatory agencies to exceed the legal authority conferred upon them by the Legislature.

It is regrettable that we must come before you today to request action to suspend portions of the emergency rule, and we do not make this request lightly. However, what began as a very simple and bipartisan bill to address firefighting foam containing PFAS has morphed into an emergency rule that significantly exceeds the statutory authority and regulatory requirements of Act 101. The three issues we raise below have been identified to the DNR in meetings, written comments, and testimony before the Natural Resources Board. Unfortunately, the DNR did not make changes in these areas.

1. Suspend the Definition of "Foam Contaminated Materials"

Act 101 is a simple law that regulates the use and testing of firefighting foam containing PFAS. The law applies to "Class B Firefighting Foam," which is a term defined in statute. Importantly the treatment, storage, containment, and disposal regulations in Act 101 apply to foam, and *only* foam. The emergency rule unlawfully expands the scope of Act 101's regulation to include "foam contaminated materials," which is essentially anything that foam comes into contact with. The emergency rule inappropriately rewrites the regulatory scope of the statute to expand it beyond what the Legislature approved. It should therefore be removed for lack of statutory authority.

2. Expansion of Reporting to the Wisconsin Spills Law

Act 101 requires any person to notify the DNR if firefighting foam containing PFAS is used for emergency fire suppression or testing purposes. This provision requires nothing more (and nothing less) than a simple notification. The emergency rule unlawfully expands this notification requirement to invoke the Wisconsin Spills Law. The Spills Law (Chapter 292 of the statutes, and the NR 700-series of the Administrative Code) requires notification of the release of a hazardous substance. It also requires the development of plan to remediate contaminated soil or groundwater, and ultimately a cleanup effort to restore the environment to the extent practicable. Spills Law cleanups are often very expensive, and involve the hiring of environmental engineers, consultants and attorneys to develop and execute the cleanup plan.

If the Legislature believed that using firefighting foam containing PFAS was a substantial hazard to the environment that warranted reporting and regulation under the Spills Law, it could have very easily cross-referenced Chapter 292 requirements when enacting Act 101. It did not do so. It is therefore unlawful for the DNR to attempt to rewrite the scope of Act 101's simple reporting requirement by invoking the Spills Law. The Legislature has not declared any PFAS compounds to be a "hazardous substance," nor has the DNR promulgated any rules designating any of the more than 5,000 PFAS compounds as a "hazardous substance." Consequently, the DNR lacks the requisite legal authority to regulate any PFAS substances under the Spills Law.

Finally, it is worth noting that the DNR's efforts to regulate firefighting foam containing PFAS under the Spills Law will create significant financial burdens and legal uncertainty for property owners. For example, if a fire department uses foam to suppress a fire at a residential or commercial property, who would be responsible for the costly cleanup and remediation required under s. 292.11(3) of the statutes? The fire department (e.g. taxpayers)? The property owner? Both? The emergency rule raises more questions than it answers. DNR staff told the Natural Resources Board that fire departments would not be responsible, despite fairly clear language in the Spills Law attributing at least some liability for discharging the foam.

If the owner of the so-called "contaminated" property is responsible for the cleanup, he or she will face a significant financial burden that is almost certainly *not* covered by property or liability insurance. WMC surveyed property and casualty insurance providers to inquire about coverage of cleanups under these circumstances. The response was consistently that a typical homeowners, farmers, or commercial business insurance policy would not cover the cost of cleanup under the Spills Law. Even in the rare occasions where some level of coverage exists in the policy, the monetary coverage limits would be so low that they would not come close to covering the total cleanup cost.

In addition to unlawfully expanding the scope of Act 101 reporting requirements, the emergency rule creates arbitrary and capricious financial and regulatory burdens for property owners. The emergency rule's references to Spills Law reporting should therefore be suspended.

3. Suspend the Numeric PFAS Standards in Table 1

The Legislature directed the DNR to define "appropriate treatment" requirements by rule that apply to facilities that test firefighting foam containing PFAS. The DNR placed these incredibly stringent treatment requirements in s. NR 159.08(1)(b)a.-f. These treatment requirements are extensive, and represent the most aggressive treatment requirements for firefighting foam containing PFAS in the United States. Despite the fact that we believe these requirements go beyond what the Legislature directed in terms of "appropriate treatment" under Act 101, we are not asking you to alter these treatment requirements.

Unfortunately, the emergency rule goes beyond prescribing the treatment requirements themselves by establishing numeric standards for fourteen different PFAS compounds. These fourteen numeric standards are listed in Table 1 of the rule. Although the DNR misleadingly characterizes these standards as being "unenforceable," it is important to understand that any testing facility that cannot meet these ridiculously-stringent standards must essentially shutdown their testing operations until they can be met.

The numeric standards in Table 1 are unlawful because the DNR lacks the requisite explicit authority to promulgate them. In fact, the Legislature specifically rejected numeric limits for PFAS compounds when debating 2019 Senate Bill 310, the legislation giving rise to Act 101. For example, an amendment was introduced in the Senate that would have required the DNR to set numeric limits for PFAS compounds at 20 parts per trillion (ppt). The Senate voted to reject that amendment. Similarly, an amendment was introduced in the Assembly during debate on Senate Bill 310 that also would have required the DNR to set standards for PFAS compounds at 20 ppt, and that amendment was voted to be non-germane to the bill.

It defies logic, and any reasonable standard of statutory interpretation, to conclude that when the legislature rejected numeric PFAS standards in the Senate, and found them to be non-germane in the Assembly, it somehow granted the DNR explicit authority to create numeric standards for fourteen PFAS substances that are referenced nowhere in Act 101.

It is worth noting that the DNR's numeric standards in Table 1 stand contrary to science, and the recommendations of Wisconsin public health experts. The Department of Health Services (DHS) has reviewed all fourteen PFAS substances in Table 1 for the purpose of recommending standards to protect public health from a lifetime exposure to these compounds, including a wide margin of safety. The DHS could not find a scientific basis to even recommend health-based standards for *half* of the PFAS compounds in Table 1. For the other seven compounds, the DHS recommendations are far less stringent than the DNR standards, often by orders of magnitude. The profound differences between the DNR standards in the emergency rule, and the standards DHS believes are actually necessary to protect public health, are summarized in the table below.

Substance	DNR Foam Rule Table 1 (ng/L)	DHS Recommendation (ng/L)
4:2 FTS	2.1	No science to support a recommended standard
6:2 FTS	2.4	No science to support a recommended standard
8:2 FTS	2.3	No science to support a recommended standard
PFBA	960	10,000
PFBS	1.8	450,000
PFPeA	197	No science to support a recommended standard
PFPeS	2.4	No science to support a recommended standard
PFHxA	2.4	150,000
PHFxS	1.7	40
PFHpA	3.2	No science to support a recommended standard
PFHpS	2.0	No science to support a recommended standard
PFOA	2.1	20
PFOS	1.3	20
FOSA	4.9	20

Because the DNR lacks the explicit statutory authority to promulgate the PFAS standards in Table 1, and because the standards themselves are arbitrary and capricious as demonstrated by the DHS recommendations, Table 1 and all references to it should be suspended.

Conclusion

We appreciate your thoughtful consideration of our request to suspend these three items in the emergency rule. Doing so is necessary to align the rule with the plain language and legal authority conferred by Act 101. Importantly, the Legislature may rest assured that what will remain of the emergency rule will be the most significant treatment, disposal, and containment requirements for firefighting foam containing PFAS in the United States. Thank you for the opportunity to share these concerns with you, and I would be happy to answer any questions you may have with regard to WMC's position on the rule.



TO: Joint Committee for Review of Administrative Rules

**FROM: Jason Culotta
President
Midwest Food Products Association**

DATE: December 18, 2020

RE: Opposition to Table 1 in Emergency Rule EmR2045

Thank you for allowing the Midwest Food Products Association (MWFPA) the opportunity to testify in opposition to the inclusion of Table 1 in Emergency Rule EmR2045.

MWFPA is the trade association representing food processors and their supporting industries throughout Illinois, Minnesota, and Wisconsin. Wisconsin is among the leading states for the growing and processing of vegetables – ranking second in the nation in vegetable production, behind only California.

Development of an Emergency Rule was provided under 2019 Wisconsin Act 101 – legislation to govern the use of firefighting foam – and then promulgated by the Department of Natural Resources (DNR) before final approval by the Governor.

Substances Regulated Under Table 1

Table 1 of EmR2045 creates new enforcement standards for 14 different perfluoroalkyl and polyfluoroalkyl substances (PFAS). When considering the legislation that ultimately was signed into law as Act 101, both the state Assembly and Senate rejected amendments to establish numeric standards. The statute signed into law by Governor Evers does not provide for such a table, yet DNR included this table late in the rulemaking process after the draft rule was introduced to the Natural Resources Board (NRB).

Seven of the 14 compounds listed in Table 1 were determined by the state Department of Health Services (DHS) to have no need of setting a regulatory standard in the Cycle 11 Groundwater Standards Proposals released last month.

Role of PFAS in Food Packaging

Among the substances DHS has deemed to not require a new standard are 6:2 FTSA and 8:2 FTSA, which have been used in food packaging and are subject to review and approval by the U.S. Food and Drug Administration (FDA). It is inappropriate for DNR to set stringent standards for compounds like 6:2 FTSA and 8:2 FTSA in Table 1 when DHS ascertains there is not a need.

Multiple PFAS compounds have been approved for use in food packaging by FDA for direct contact with food.

PFAS Compounds Differ

The Department's narrative, reflected in this week's "PFAS Action Report" issued by Governor Evers' Administration, continues to advance the "all PFAS are bad" theme. There certainly have been issues identified with firefighting foam and there may likely be additional substances that merit closer scrutiny. But to ignore the scientific record of each compound having a unique chemistry and thus different potential public health impacts as well as DHS' Cycle 11 review of proposed groundwater standards is most unfortunate.

We urge the Legislature and agencies to recognize that all 5,000+ PFAS compounds are not identical, but that differences in chemical composition require differences in how health-based standards should be applied in a regulatory setting.

Engagement with DNR Staff

During its deliberations on the Emergency Rule, the NRB did direct agency staff to consult with industry representatives, including MWFPA, prior to presenting a final rule. While our group and others were consulted on the language of the draft Emergency Rule, this input was manifested in the Department's revised rule by the inclusion of one footnote which is not legally binding.

No adjustment to Table 1 was made despite our request to do so and the NRB then approved the Emergency Rule.

Governor Evers' PFAS Action Plan calls for collaborating with a broad range of parties, including those in industry, to mitigate those PFAS compounds that do generate public health concerns and to improve the overall environment. We are interested in working with the Department and other policymakers in actual partnership on sustainable solutions that properly protect human health and allow for our industry to fulfill its mission of feeding the nation.

Conclusion

We urge the Committee to suspend Table 1 in EmR2045, which is contrary to Act 101.