



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBa0935/1
ZDW:cdc

**ASSEMBLY AMENDMENT 2,
TO ASSEMBLY BILL 323**

January 21, 2020 - Offered by Representatives C. TAYLOR, HEBL, SARGENT, SHANKLAND, BILLINGS, KOLSTE, CONSIDINE, SUBECK, VINING, EMERSON, BROSTOFF, CABRERA, VRUWINK, STUCK, BOWEN, RIEMER, GOYKE, CROWLEY and NEUBAUER.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 1: delete the material beginning with “regulating” and ending
3 with “authority.” on line 2 and substitute “setting standards for certain
4 contaminants, regulating fire fighting foam that contains certain contaminants,
5 providing information relating to off-site disposal of certain waste, extending the
6 time limit for emergency rule procedures, providing an exemption from emergency
7 rule procedures, granting rule-making authority, and making an appropriation.”.

8 **2.** Page 1, line 3: before that line insert:

9 “**SECTION 1a.** 20.005 (3) (schedule) of the statutes: at the appropriate place,
10 insert the following amounts for the purposes indicated:

2019-20 2020-21

11 **20.370 Natural resources, department of**

12 (4) ENVIRONMENTAL MANAGEMENT

				2019-20	2020-21
1	(aa)	PFAS — modeling	GPR C	150,000	-0-
2	(ab)	PFAS — emergency responder			
3		survey	GPR C	50,000	-0-
4	(ad)	PFAS — general operations	GPR B	574,700	574,700
5	(ae)	PFAS — landfills	GPR B	87,500	87,500
6	(ak)	PFAS — investigation and			
7		assistance	GPR C	120,000	-0-

8 **SECTION 1b.** 20.370 (4) (aa) of the statutes is created to read:

9 20.370 (4) (aa) *PFAS — modeling.* From the general fund, as a continuing
10 appropriation, the amounts in the schedule to create a model to assist in identifying
11 and prioritizing sites with likely contamination by perfluoroalkyl or polyfluoroalkyl
12 substances or environmental pollution caused by such substances.

13 **SECTION 1c.** 20.370 (4) (ab) of the statutes is created to read:

14 20.370 (4) (ab) *PFAS — emergency responder survey.* From the general fund,
15 as a continuing appropriation, the amounts in the schedule to conduct a survey of
16 local and state emergency responders and the use of fire fighting foam containing
17 perfluoroalkyl or polyfluoroalkyl substances.

18 **SECTION 1d.** 20.370 (4) (ad) of the statutes is created to read:

19 20.370 (4) (ad) *PFAS — general operations.* Biennially, from the general fund,
20 the amounts in the schedule for the administration and enforcement of activities
21 relating to perfluoroalkyl or polyfluoroalkyl substances.

22 **SECTION 1e.** 20.370 (4) (ae) of the statutes is created to read:

1 20.370 (4) (ae) *PFAS — landfills*. Biennially, from the general fund, the
2 amounts in the schedule for sampling and testing leachate and groundwater from
3 landfills for perfluoroalkyl and polyfluoroalkyl substances.

4 **SECTION 1f.** 20.370 (4) (ak) of the statutes is created to read:

5 20.370 (4) (ak) *PFAS — investigation and assistance*. From the general fund,
6 as a continuing appropriation, the amounts in the schedule for investigating
7 emerging contaminants that are perfluoroalkyl or polyfluoroalkyl substances and
8 providing temporary potable water or treatment systems when no responsible party
9 for a contamination is available.

10 **SECTION 1g.** 160.07 (4) (f) of the statutes is created to read:

11 160.07 (4) (f) In recommending an enforcement standard for a perfluoroalkyl
12 or polyfluoroalkyl substance, the department of health services may recommend
13 individual standards for each substance, a standard for these substances as a class,
14 or standards for groups of these substances.

15 **SECTION 1h.** 160.07 (7) of the statutes is created to read:

16 160.07 (7) If the department of health services recommends an enforcement
17 standard for a perfluoroalkyl or polyfluoroalkyl substance or a group or class of such
18 substances under this section, the department shall apply the standard as an interim
19 enforcement standard for that substance, including through sampling, monitoring,
20 and testing, and any other actions required by rules promulgated by the department,
21 unless emergency or permanent rules that establish an enforcement standard for
22 that substance are in effect.

23 **SECTION 1i.** 160.15 (4) of the statutes is created to read:

24 160.15 (4) Notwithstanding sub. (1), if an interim enforcement standard for a
25 perfluoroalkyl or polyfluoroalkyl substance is applied under s. 160.07 (7), the

1 department shall apply an interim preventive action limit for that substance of 20
2 percent of the concentration established as the interim enforcement standard,
3 unless emergency or permanent rules that establish a preventive action limit for that
4 substance are in effect.

5 **SECTION 1j.** 281.17 (8) (c) of the statutes is created to read:

6 281.17 (8) (c) If the department of health services recommends an enforcement
7 standard for a perfluoroalkyl or polyfluoroalkyl substance or a group or class of such
8 substances under s. 160.07, the department shall apply the standard as an interim
9 maximum contaminant level for public water systems, water suppliers, and
10 laboratories certified to analyze drinking water, in accordance with rules
11 promulgated by the department, unless emergency or permanent rules that
12 establish maximum contaminant levels for that substance are in effect.

13 **SECTION 1k.** 285.27 (2) (bm) of the statutes is created to read:

14 285.27 (2) (bm) *Standard for PFAS.* The department shall determine whether
15 an emission standard for any known perfluoroalkyl or polyfluoroalkyl substance or
16 a group or class of such substances is needed to provide adequate protection for public
17 health or welfare under par. (b). If the department finds that the standard is needed
18 to provide adequate protection for public health or welfare, the department shall
19 promulgate an emission standard for that substance.

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

21 292.31 (1) (d) *Access to information.* (intro.) Upon the request of any officer,
22 employee, or authorized representative of the department, any person who
23 generated, transported, treated, stored, or disposed of solid or hazardous waste
24 ~~which that~~ may have been disposed of at a site or facility under investigation by the
25 department and any person who generated solid or hazardous waste at a site or

1 facility under investigation by the department that was transported to, treated at,
2 stored at, or disposed of at another site, facility, or location shall provide the officer,
3 employee, or authorized representative access to any records or documents in that
4 person's custody, possession, or control which relate to:

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

6 292.31 (1) (d) 1m. The type and quantity of waste generated at the site or
7 facility that was transported to, treated at, stored at, or disposed of at another site,
8 facility, or location, and the dates and locations of these activities.

9 **SECTION 1n.** 292.74 of the statutes is created to read:

10 **292.74 Financial responsibility for PFAS.** The department may, if it
11 determines doing so is necessary to protect human health or the environment,
12 require a person who possesses or controls a perfluoroalkyl or polyfluoroalkyl
13 substance to provide proof of financial responsibility for conducting emergency
14 response actions, remedial actions, environmental repair, and long-term care to
15 address contamination by a potential discharge of perfluoroalkyl or polyfluoroalkyl
16 substances or environmental pollution that may be caused by a discharge of such
17 substances. The department shall establish, by rule, the procedure for determining
18 whether requiring a proof of financial responsibility is necessary to protect human
19 health or the environment, and may establish requirements for types of financial
20 responsibility, methods for calculating amounts of financial responsibility, access
21 and default, bankruptcy notifications, and any other requirements the department
22 determines is necessary under this section. The proof of financial responsibility
23 required under this section shall be in addition to any other proof of financial
24 responsibility or financial assurance required under this chapter.

25 **SECTION 1o.** 299.15 (2m) of the statutes is created to read:

1 299.15 **(2m)** The department shall consider all known perfluoroalkyl or
2 polyfluoroalkyl substances to be air contaminants for purposes of sub. (2) (a) 2. The
3 reporting level for these substances is zero pounds per year.”.

4 **3.** Page 3, line 1: before “The department” insert “RULES FOR FIRE FIGHTING
5 FOAM.”.

6 **4.** Page 3, line 3: after that line insert:

7 “(2m) EMERGENCY RULES FOR PFAS IN DRINKING WATER, GROUNDWATER, SURFACE
8 WATER, SOLID WASTE, BEDS OF NAVIGABLE WATERS, AND CONTAMINATED SOIL AND SEDIMENT.

9 (a) The department of natural resources shall promulgate emergency rules
10 under s. 227.24 establishing acceptable levels and standards, performance
11 standards, monitoring requirements, and required response actions for any
12 perfluoroalkyl or polyfluoroalkyl substance or group or class of such substances,
13 which the department determines may be harmful to human health or the
14 environment, in drinking water under s. 281.17 (8); groundwater under ss. 160.07
15 (5) and 160.15; surface water from point sources under ss. 283.11 (4) and 283.21 and
16 from nonpoint sources under s. 281.16; air under s. 285.27 (2) (bm), if the standards
17 are needed to provide adequate protection for public health or welfare; solid waste
18 and solid waste facilities under chs. 289 and 291; beds of navigable waters under s.
19 30.20; and soil and sediment under chs. 289 and 292.

20 (b) The department of natural resources shall promulgate emergency rules
21 under s. 227.24 to add any perfluoroalkyl or polyfluoroalkyl substance or group or
22 class of such substances that the department determines may be harmful to human
23 health or the environment to the list of toxic pollutants under s. 283.21 (1) (a) for
24 purposes of setting toxic effluent standards or prohibitions under s. 283.11 (4); to add

1 to the list of hazardous constituents under s. 291.05 (4) any perfluoroalkyl or
2 polyfluoroalkyl substance or group or class of such substances for which the
3 department determines that the listing is necessary to protect public health, safety,
4 or welfare; and to administer and enforce ch. 292 in relation to remedial actions
5 involving perfluoroalkyl or polyfluoroalkyl substances or a group or class of such
6 substances.

7 (c) Notwithstanding any finding required under par. (NO TAG) or (NO TAG),
8 emergency rules promulgated under pars. (NO TAG) and (NO TAG) shall include, at
9 a minimum, perfluorooctane sulfonic acid, perfluorooctanoic acid, perfluorohexane
10 sulfonic acid, perfluorononanoic acid, perfluorobutane sulfonic acid, and
11 perfluoroheptanoic acid and shall include provisions for enforcing these standards,
12 including requiring sampling, monitoring, testing, and response actions.

13 (d) Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated
14 under pars. (NO TAG) and (NO TAG) remain in effect until July 1, 2022, or the date
15 on which permanent rules take effect, whichever is sooner. Notwithstanding s.
16 227.24 (1) (a) and (3), the department of natural resources is not required to provide
17 evidence that promulgating a rule under this subsection as an emergency rule is
18 necessary for the preservation of public peace, health, safety, or welfare and is not
19 required to provide a finding of emergency for a rule promulgated under this
20 subsection.

21 (3m) WATER QUALITY STANDARDS FOR PFAS. The department of natural resources
22 shall promulgate, under s. 281.15, water quality standards for perfluorooctane
23 sulfonic acid, perfluorooctanoic acid, perfluorohexane sulfonic acid,
24 perfluorononanoic acid, perfluorobutane sulfonic acid, and perfluoroheptanoic acid
25 and any other perfluoroalkyl or polyfluoroalkyl substance or group or class of such

1 substances that the department determines may be harmful to human health and
2 necessary to protect a water's designated use.

3 (4m) LIST OF GROUNDWATER CONTAMINANTS. The department of natural resources
4 shall add to the list of groundwater contaminants under s. 160.05 any perfluoroalkyl
5 and polyfluoroalkyl substance or group or class of such substances that is shown to
6 involve public health concerns and that has a reasonable probability of entering the
7 groundwater and shall categorize and rank those substances according to the
8 provisions of s. 160.05.

9 (5m) TESTING LABORATORIES; EMERGENCY RULES.

10 (a) The department of natural resources shall promulgate emergency rules
11 under s. 227.24 establishing criteria for certifying laboratories to test for any
12 perfluoroalkyl or polyfluoroalkyl substances, including the standards and methods
13 for such testing, and shall certify laboratories that meet these criteria.
14 Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this
15 subsection remain in effect until July 1, 2022, or the date on which permanent rules
16 take effect, whichever is sooner. Notwithstanding s. 227.24 (1) (a) and (3), the
17 department of natural resources is not required to provide evidence that
18 promulgating a rule under this subsection as an emergency rule is necessary for the
19 preservation of public peace, health, safety, or welfare and is not required to provide
20 a finding of emergency for a rule promulgated under this subsection.

21 (b) Before emergency rules are promulgated under par. (NO TAG), the
22 department of natural resources may require testing for a perfluoroalkyl or
23 polyfluoroalkyl substance to be done according to any nationally recognized
24 procedures.

1 (6m) POSITION AUTHORIZATIONS; NATURAL RESOURCES. The authorized FTE
2 positions for the department of natural resources are increased by 7.5 GPR positions
3 on the effective date of this subsection, to be funded from the appropriation under
4 s. 20.370 (4) (ad), for the purpose of administering the provisions of this act.

5 **SECTION 3m. Fiscal change.**

6 (1) POSITION AUTHORIZATIONS; HEALTH SERVICES. In the schedule under s. 20.005
7 (3) for the appropriation to the department of health services under s. 20.435 (1) (a),
8 the dollar amount for fiscal years 2019-20 and 2020-21 is increased by \$248,600 in
9 each fiscal year to increase the authorized FTE positions for the department by 4.0
10 GPR research scientist positions for the purpose of recommending enforcement
11 standards for perfluoroalkyl and polyfluoroalkyl substances under s. 160.07.

12 **SECTION 4m. Effective dates.** This act takes effect on the day after
13 publication, except as follows:

14 (1) The treatment of ss. 281.17 (8) (c) and 299.48 takes effect on the first day
15 of the 7th month beginning after publication.”.

16 **5.** Page 3, line 4: delete lines 4 to 6.

17 (END)