



State of Wisconsin
2019 - 2020 LEGISLATURE

1P2
LRB-5179/P1
MCP:amn

In 1/6

Out Today

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA-
Pwf-

Repen-

1 **AN ACT to renumber** 281.58 (7) (b) 1.; **to amend** 281.58 (8e) (a), 281.58 (12) (a)
2 1. (intro.), 281.61 (6), 281.75 (5) (f), 281.75 (6) (a) and 281.75 (11) (b) 2.; and **to**
3 **create** 227.01 (13) (yv), 281.18, 281.58 (7) (b) 1g. and 281.75 (1) (b) 1m. of the
4 statutes; **relating to:** PFAS management zones, extending the time limit for
5 emergency rule procedures, providing an exemption from emergency rule
6 procedures, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Insert Analysis

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

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

7 **SECTION 1.** 227.01 (13) (yv) of the statutes is created to read:
8 227.01 (13) (yv) Determines the boundaries of a PFAS management zone under
9 s. 281.18 (3).

1 **SECTION 2.** 281.18 of the statutes is created to read:

2 **281.18 PFAS management zones. (1) DEFINITIONS.** In this section:

3 (a) “Discernable path of contamination” means the path that PFAS
4 contamination takes from its source, such as down a river or with the flow of the
5 groundwater table.

6 (b) “Drinking water” means surface water or groundwater used as a source of
7 public or private drinking water, as determined by the department.

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

9 (d) “PFBS” means perfluorobutane sulfonic acid.

10 (e) “PFHpA” means perfluoroheptanoic acid.

11 (f) “PFHxS” means perfluorohexane sulfonic acid.

12 (g) “PFNA” means perfluorononanoic acid.

13 (h) “PFOA” means perfluorooctanoic acid.

14 (i) “PFOS” means perfluorooctanesulfonic acid.

15 (j) “Positive test” means a test of a drinking water sample that shows levels of
16 PFOA and PFOS in excess of 70 parts per trillion.

17 **(2) PURPOSE.** The purpose of this section is to define geographical areas in this
18 state that are characterized by elevated levels of PFOA and PFOS in surface water
19 or groundwater that is used as a source for public or private drinking water. The
20 purpose of PFAS management zones is to provide guidelines that target areas of the
21 state most affected by PFAS contamination to, in the short-term, protect public
22 health and welfare and, in the long-term, research the best methods and most
23 economically and technically feasible outcomes for implementing statewide
24 standards, for performing cleanup measures, including sediment remediation, and
25 for properly disposing of contaminants at contaminated sites. The department shall

1 use the information gathered from these zones to inform future actions, including
2 rule making and other administrative actions. The PFAS management zones shall
3 also be used to identify the path of contamination to inform future actions.

4 (3) ESTABLISHING PFAS MANAGEMENT ZONES. A PFAS management zone shall
5 be established using the following method:

6 (a) The area within a one-mile radius of a positive test is the maximum
7 boundary of the initial PFAS management zone.

8 (b) The area within one mile of the boundary of an initial PFAS management
9 zone is the testing region. The department may conduct testing and research
10 relating to PFOA, PFOS, PFHxS, PFNA, PFBS, and PFHpA within a testing region.

11 (c) If 5 positive tests are found in a testing region, the maximum boundary of
12 an initial PFAS management zone expands to include the testing region. The area
13 within one mile of the boundary of this initial PFAS management zone becomes a
14 new testing region.

15 (d) The department may continue to expand the maximum boundary of an
16 initial PFAS management zone until it can no longer find 5 positive tests in a testing
17 region.

18 (e) If the department finds a discernable path of contamination, the
19 department shall remove from the initial PFAS management zone any areas that are
20 not in the path of contamination and that either do not contain positive tests or that
21 contain minimal evidence of contamination.

22 (f) The department shall consider removing from the initial PFAS management
23 zone other areas based on the following factors:

1 1. Hydrogeological considerations, including soil characteristics, depth to
2 groundwater, groundwater gradients, and flow direction, based on positive test
3 locations.

4 2. The geographic extent of the PFAS contamination and mobility of the
5 contaminants, based on positive test locations.

6 3. Likely sources of PFAS contamination.

7 4. Reliability of sampling data and frequency of PFAS detections in samples.

8 5. Present and anticipated uses of surface or groundwater.

9 6. Legal land description boundaries, including political and property
10 boundaries.

11 7. Public roads or other physical boundaries.

12 8. Any other factors the department determines are relevant.

13 (g) The department shall hold a public meeting not more than 30 days before
14 establishing a final PFAS management zone. At the meeting, the department shall
15 provide information about the PFAS contaminants within the proposed PFAS
16 management zone, any known sources of the contaminants, any known effects on
17 drinking water, and any anticipated steps the department plans to take to address
18 the contamination.

19 (h) The department shall establish a final PFAS management zone within 30
20 days after holding the public meeting under par. (g), based on the factors outlined in
21 this subsection.

22 (i) For administrative purposes, PFAS management zones that overlap may be
23 considered to be a single, merged PFAS management zone.

24 **(4) MAXIMUM CONTAMINANT LEVELS.** The department shall establish, by rule, a
25 maximum contaminant level for PFOA and PFOS that applies to public water

1 systems that draw water from groundwater or surface water within a PFAS
2 management zone. The department shall demonstrate the need for any proposed
3 maximum contaminant level for the protection of public health and welfare. In
4 developing a maximum contaminant level under this subsection, the department
5 shall consider the economic and technical feasibility of compliance with any proposed
6 level and shall consult with potentially affected public water system operators.

7 (5) BIOSOLIDS SPREADING. The department shall promulgate rules requiring the
8 testing of any biosolids from a publicly owned treatment works that are spread in a
9 PFAS management zone, regardless of where the publicly owned treatment works
10 is located. Rules promulgated under this subsection shall require testing data to be
11 submitted to the department. Rules promulgated under this subsection may not
12 create a standard for PFAS contained in biosolids that are spread in a PFAS
13 management zone.

→ Ins 5-13
14 (6) TESTING; USE OF RESULTS. The department shall conduct testing for PFOA,
15 PFOS, PFHxS, PFHpA, PFNA, and PFBS in sediment, including lake and river bed
16 sediment; groundwater; surface water; drinking water; biosolids; and fish and
17 wildlife tissue, as applicable. The department may conduct testing in other media
18 if the department determines that doing so is a priority. Data collected through
19 testing shall be used to advise permanent rule making that seeks to regulate PFAS.

20 (7) COLLECTION AND TESTING. The collection of samples for PFAS testing
21 conducted under this section shall follow commonly accepted PFAS collection
22 protocols and shall be completed by the department or a 3rd party contracted by the
23 department. Any testing conducted under this section shall be completed by the
24 state laboratory of hygiene or a laboratory accredited for PFAS testing by the
25 department.

1 ^{e (7)}
2 (8) INTERNET SITE. The department shall include all of the following
3 information relating to PFAS management zones on its Internet site:

4 (a) The geographic boundaries of each PFAS management zone in effect.

5 (b) Information on how the PFAS management zone was established, including
6 information on any expansions or reductions of the initial zone and the department's
7 rationale for these decisions.

8 (c) Results from PFAS testing in each PFAS management zone in effect.

9 (d) Directions for private well owners who wish to test their own water,
10 including protocols and laboratories for this testing.

11 (e) Health risks associated with the overconsumption of PFAS and measures
12 the public may take to reduce the health risks of PFAS exposure. The department
13 shall consult with the department of health services in developing this information.

14 (f) Any other information that the department determines to be relevant.

15 ^{e (8)}
16 (9) NOTIFICATION. The department shall notify any local, county, or tribal
17 governments within an established PFAS management zone when the zone is
18 established and shall again notify the local, county, or tribal governments when the
19 department's Internet site is updated with information relating to the zone.

20 ^{e (9)}
21 (10) REPORT. Not later than one year after the effective date of this subsection
22 ... [LRB inserts date], and every year thereafter, the department shall submit a
23 report to the joint committee on rules and regulations and to the chief clerk of each
24 house of the legislature for distribution to the appropriate standing committees
under s. 13.172 (3) having jurisdiction over matters relating to natural resources.
The report shall provide a summary of results from testing in PFAS management
zones, plans for addressing PFAS contamination in PFAS management zones, the

1 technical and economic feasibility of compliance with existing or potential PFAS
2 standards, and any other information deemed relevant by the department.

3 ^{el (10)} (11) DISSOLUTION. A PFAS management zone established under sub. (3) shall
4 dissolve one year after ^{the department promulgates any} permanent rules establishing maximum contaminant levels
5 for ^{a any PFAS} the zone is promulgated or one year after any emergency rules establishing
6 maximum contaminant levels for ^{PFDA and PFOS for} the zone expire, whichever occurs sooner. ^{statewide}
^{Under sub. (4)}

7 SECTION 3. 281.58 (7) (b) 1. of the statutes is renumbered 281.58 (7) (b) 1r.

8 SECTION 4. 281.58 (7) (b) 1g. of the statutes is created to read:

9 281.58 (7) (b) 1g. Projects in or near a PFAS management zone established
10 under s. 281.18 (3) that the department determines are necessary to address
11 contamination by perfluoroalkyl or polyfluoroalkyl substances.

12 SECTION 5. 281.58 (8e) (a) of the statutes is amended to read:

13 281.58 (8e) (a) The type of project and the order in which it is listed under sub.
14 (7) (b) 1. 1g. to 6., to the extent allowable under federal law.

15 SECTION 6. 281.58 (12) (a) 1. (intro.) of the statutes is amended to read:

16 281.58 (12) (a) 1. (intro.) Except as modified under par. (f) and except as
17 restricted by sub. (8) (b), (c), (f) or (h), the interest rate for projects specified in sub.
18 (7) (b) 1. 1g. to 5. is one of the following:

19 SECTION 7. 281.61 (6) of the statutes is amended to read:

20 281.61 (6) PRIORITY LIST. The department shall establish a priority list that
21 ranks each safe drinking water loan program project. The department shall
22 promulgate rules for determining project rankings that, to the extent possible, give
23 priority to projects that address the most serious risks to human health, that are
24 necessary to ensure compliance with the Safe Drinking Water Act, 42 USC 300f to
25 300j-26, and that assist applicants that are most in need on a per household basis,

1 according to affordability criteria specified in the rules. For the purpose of ranking
2 projects under this subsection, the department shall treat a project to upgrade a
3 public water system to provide continuous disinfection of the water that it distributes
4 as if the public water system were a surface water system that federal law requires
5 to provide continuous disinfection. In establishing a priority list under this
6 subsection, the department shall, to the extent possible, give priority to projects that
7 address contamination by perfluoroalkyl or polyfluoroalkyl substances in PFAS
8 management zones established under s. 281.18 (3).

9 **SECTION 8.** 281.75 (1) (b) 1m. of the statutes is created to read:

10 281.75 (1) (b) 1m. In a PFAS management zone established under s. 281.18 (3),
11 produces water containing PFOA or PFOS in excess of the primary maximum
12 contaminant level established by the department under s. 281.18 (4).

13 **SECTION 9.** 281.75 (5) (f) of the statutes is amended to read:

14 281.75 (5) (f) The In allocating money for the payment of claims under this
15 section, the department shall prioritize completed claims based on the type of
16 contamination defined under sub. (1) (b) 1m. For all other claims, the department
17 shall allocate money for the payment of claims according to the order in which
18 completed claims are received. The department may conditionally approve a
19 completed claim even if the appropriation under s. 20.370 (6) (cr) is insufficient to pay
20 the claim. The department shall allocate money for the payment of a claim which
21 is conditionally approved as soon as funds become available.

22 **SECTION 10.** 281.75 (6) (a) of the statutes is amended to read:

23 281.75 (6) (a) Contamination of a private water supply, as defined under sub.
24 (1) (b) 1., 1m., or 2., is required to be established by analysis of at least 2 samples of

1 water, taken at least 2 weeks apart, in a manner which assures the validity of the
2 test results. The samples shall be tested by a laboratory certified under s. 299.11.

3 **SECTION 11.** 281.75 (11) (b) 2. of the statutes is amended to read:

4 281.75 (11) (b) 2. An award may be issued for water treatment only if the
5 contamination cannot be remedied by reconstruction or replacement of the private
6 water supply, or connection to another water supply is not feasible. This subdivision
7 does not apply to contamination defined under sub. (1) (b) 1m.

8 **SECTION 12. Nonstatutory provisions.**

9 (1) EMERGENCY RULES; MAXIMUM CONTAMINANT LEVELS AND BIOSOLIDS TESTING. No
10 later than 9 months after the effective date of this subsection, the department of
11 natural resources shall, using the procedure under s. 227.24, promulgate emergency
12 rules to establish a maximum contaminant level for PFOA and PFOS under s. 281.18
13 (4) and to require testing of biosolids under s. 281.18 (5). Notwithstanding s. 227.24
14 (1) (a) and (3), the department is not required to provide evidence that promulgating
15 a rule under this subsection as an emergency rule is necessary for the preservation
16 of the public peace, health, safety, or welfare and is not required to provide a finding
17 of emergency for a rule promulgated under this subsection. Notwithstanding s.
18 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain in
19 effect for 3 years or the date on which permanent rules take effect, whichever is
20 sooner. Notwithstanding s. 227.24 (1) (e) 1d. and 1g., for emergency rules
21 promulgated under this subsection, the department is not required to prepare a
22 statement of scope of the rules or to submit the proposed rules in final draft form to
23 the governor for approval.

24 (2) PFAS ADVISORY COMMITTEE. The department of natural resources shall
25 establish an advisory committee under s. 227.13 to advise the department in the

1 promulgation of permanent rules that establish any groundwater, surface water, or
2 drinking water standards for PFAS including any rule promulgated pursuant to
3 statements of scope approved prior to the effective date of this act. The committee
4 shall include members of groups likely to be affected by the promulgation of such
5 standards, including local governments or local government associations;
6 representatives of municipal water utilities; and representatives of businesses that
7 may be affected. The committee shall assist the department in developing
8 economically and technically attainable statewide standards for PFAS that protect
9 human health.

10 (END)

1

INSERT ANALYSIS

This bill creates a process for establishing management zones for perfluoroalkyl and polyfluoroalkyl substances (PFAS) and creates special requirements within those zones. This bill also requires the Department of Natural Resources to establish an advisory committee to assist in all PFAS-related actions.

changes existing grant and loan programs to prioritize projects in PFAS management zones and

Establishing PFAS management zones

Under the bill, if a test of drinking water shows levels of perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) in excess of 70 parts per trillion (a positive test), the outer boundaries of an initial PFAS management zone is set at a one-mile radius around the location of the positive test. The area that is one mile outside of this initial boundary is designated as the testing region, within which DNR may conduct testing and research relating to PFOA and PFOS, as well as perfluorobutane sulfonic acid (PFBS), perfluoroheptanoic acid (PFHpA), perfluorohexane sulfonic acid (PFHxS), and perfluorononanoic acid (PFNA).

If five positive tests for PFOA and PFOS are found in a testing region, the maximum boundary of an initial PFAS management zone expands to include the testing region and the area that is one mile outside of this new boundary becomes a new testing region. DNR may continue to expand the maximum boundary of an initial PFAS management zone until it can no longer find 5 positive tests for PFOA and PFOS in a testing region.

The bill requires DNR, when testing for PFAS, to conduct testing from sediment, groundwater, surface water, drinking water, biosolids, and, if applicable, fish and wildlife tissue. DNR must use any testing data to advise in any PFAS-related permanent rules.

The bill requires any sampling to be conducted by DNR or by a third party with whom DNR contracts. Any testing must be conducted by the State Laboratory of Hygiene or a laboratory accredited for PFAS testing by DNR.

If DNR finds a discernable path of contamination, DNR must remove from the initial PFAS management zone any areas that are not in the path of contamination and that either do not contain positive tests or that contain minimal evidence of contamination. DNR must also consider removing areas from the initial PFAS management zone based on several listed factors, including hydrogeological considerations, likely sources of contamination, and physical boundaries such as public roadways.

DNR must hold a public meeting within 30 days before finalizing a PFAS management zone to provide information about contaminants and their possible sources and effects. The bill exempts DNR's creation of a PFAS management zone from the rulemaking process.

Under the bill, a designation as a PFAS management zone expires one year after DNR promulgates any permanent rules establishing statewide maximum contaminant levels for any PFAS, or one year after any emergency rules establishing

maximum contaminant levels for PFOA and PFOS ^{within} for the zone expire, whichever occurs sooner.

Requirements within PFAS management zones

The bill requires DNR to establish, by emergency rule, maximum contaminant levels for PFOA and PFOS that apply to public water systems that draw water from groundwater or surface water within a PFAS management zone. DNR must consider the economic and technical feasibility of complying with the proposed maximum contaminant levels and must consult with potentially affected public water system operators.

In addition, the bill requires DNR to establish emergency rules requiring the testing of any biosolids from a publicly owned treatment works that are spread in a PFAS management zone, regardless of where the publicly owned treatment works is located. The bill provides that such rules may not create a standard for PFAS contained in biosolids that are spread in a PFAS management zone.

Notification and reporting

The bill requires DNR to post specific information on its Internet site relating to established PFAS management zones. The bill also requires DNR to notify any local, county, or tribal governments within an established PFAS management ^{zone} ~~sonce~~ about the zone's establishment.

*

In addition, under the bill, DNR must report to the legislature on the results of PFAS testing in PFAS management zones, plans for addressing PFAS contamination, and the technical and economic feasibility of complying with PFAS standards.

Grant and loan priorities

The bill changes the existing well compensation grant program, the safe drinking water loan program, and the clean water fund program to give priority to projects addressing PFAS contamination in PFAS management zones.

PFAS advisory committee

Finally, the bill requires DNR to establish an advisory committee to advise DNR on the promulgation of permanent rules relating to PFAS. The committee must include members of groups likely to be affected by such rules.

1

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INSERT 5-13

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(4) EMERGENCY RULES FOR MAXIMUM CONTAMINANT LEVELS AND BIOSOLIDS

4

SPREADING. (a) No later than 9 months after the effective date of this subsection ... ^{paragraph}

5

[LRB inserts date], the department of natural resources shall, using the procedure

6

under s. 227.24, promulgate emergency rules to establish the following:

1 1. A maximum contaminant level for PFOA and PFOS that applies to public
2 water systems that draw water from groundwater or surface water within a PFAS
3 management zone. In developing a maximum contaminant level under this
4 subdivision, the department shall consider the economic and technical feasibility of
5 compliance with any proposed level and shall consult with potentially affected public
6 water system operators.

7 2. Requirements for testing biosolids from a publicly owned treatment works
8 that are spread in a PFAS management zone, regardless of where the publicly owned
9 treatment works is located. Rules promulgated under this subdivision may not
10 create a standard for PFAS contained in biosolids that are spread in a PFAS
11 management zone.

12 (b) Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to
13 provide evidence that promulgating a rule under this subsection as an emergency
14 rule is necessary for the preservation of the public peace, health, safety, or welfare
15 and is not required to provide a finding of emergency for a rule promulgated under
16 this subsection. Notwithstanding s. 227.24 (1) (c) and (2), emergency rules
17 promulgated under this subsection remain in effect for 3 years ^{after the effective date of this paragraph ... [LRB inserts} or the date on which ^{date]}
18 permanent rules take effect, whichever is sooner. Notwithstanding s. 227.24 (1) (e)
19 1d. and 1g., for emergency rules promulgated under this subsection, the department
20 is not required to prepare a statement of scope of the rules or to submit the proposed
21 rules in final draft form to the governor for approval.

Pfotenhauer, Mary

From: Herkert, Toni
Sent: Thursday, January 09, 2020 12:16 PM
To: Pfotenhauer, Mary
Cc: Miller, Evan
Subject: RE: P3 Request on LRB 5179

Mary,

Sorry we were slammed yesterday and didn't get a chance to respond to you about the PAL. Since we are essentially allowing DNR to create a "temporary" MCL only within a PFAS Management Zone and only until permanent rules have been implemented by DNR (or 3 years if permanent rules are not created), I think the best course of action here would be to exempt DNR from the requirement to develop a PAL with the MCL for PFAS in the Management Zones. We do not want to impact the permanent rulemaking at all so a PAL would still be required with the permanent rule MCL.

Let us know if you have additional questions before sending the P3.

Thanks again for all your help!
Toni

Toni R. Herkert Policy Advisor/Clerk - Natural Resources and Energy | Office of State Senator Robert Cowles
(608) 266-0484 | 118 South, State Capitol | <http://legis.wisconsin.gov/senate/02/cowles>



From: Pfotenhauer, Mary <Mary.Pfotenhauer@legis.wisconsin.gov>
Sent: Wednesday, January 08, 2020 12:43 PM
To: Herkert, Toni <Toni.Herkert@legis.wisconsin.gov>
Cc: Miller, Evan <Evan.Miller@legis.wisconsin.gov>
Subject: RE: P3 Request on LRB 5179

Hi Toni:

In response to your question about page 6 line 20 relating to MCLs and PALs:

I think the MCL for PFAS could be considered an enforcement standard under ch. 160. Section 160.15 requires DNR to "establish by rule a preventive action limit for each substance for which an enforcement standard is established." Please let me know if/how you would like to address this in the draft (e.g. creating a different PAL, exempting DNR from the requirement to establish a PAL for PFAS, or prohibiting DNR from establishing a PAL).

All the other changes you requested are ready to go.

Thanks,

Mary Pfotenhauer
Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037

Madison, WI 53701-2037
(608) 504-5854
mary.pfotenhauer@legis.wisconsin.gov

From: Herkert, Toni <Toni.Herkert@legis.wisconsin.gov>
Sent: Tuesday, January 07, 2020 9:09 AM
To: Pfotenhauer, Mary <Mary.Pfotenhauer@legis.wisconsin.gov>
Cc: Miller, Evan <Evan.Miller@legis.wisconsin.gov>
Subject: RE: P3 Request on LRB 5179

Hi Mary,

One more thing we forgot to add to the list below that I'm hoping we can see in a P3.

- Page 8, Lines 18 to 19: Change this notification to a three-time notification so the first will be with the first initial positive test found by the DNR under (3) (a), when the Zone is established formally after the public meeting under (3) (h), and when the website is established under (7).

Thanks!

Toni

Toni R. Herkert Policy Advisor/Clerk - Natural Resources and Energy | Office of State Senator Robert Cowles
(608) 266-0484 | 118 South, State Capitol | <http://legis.wisconsin.gov/senate/02/cowles>



From: Herkert, Toni
Sent: Monday, January 06, 2020 6:23 PM
To: Pfotenhauer, Mary <Mary.Pfotenhauer@legis.wisconsin.gov>
Cc: Miller, Evan <Evan.Miller@legis.wisconsin.gov>
Subject: P3 Request on LRB 5179

Hi Mary,

Thank you so much for all of your quick turn-arounds with the PFAS Management Zone drafts! We were just about to send drafting instructions on the P1 for a P2 when we received your P2 with some of our edits already made! Additionally, an initial look at the fiscal draft (5180/P2) looked good so far, but we want to take a better look at this draft tomorrow.

For a P3 of LRB 5179, we have a number of edits, but most of which are pretty minor overall. We're happy with the draft as it currently is, and we're closer than we thought we'd be by this point, so thank you again!

Drafting Instructions for a P3 of LRB 5179

- Page 4, Line 16: Can we explicitly add 'soil' to this list to read: "... measures, including soil and sediment remediation, and...".

- Page 4, Line 17: Can we make it more clear that the properly disposing of contaminants won't just take place at the site of the original contamination by removing the last three words of this sentence to read: "... for properly disposing of contaminants-~~at contaminated sites.~~"
- Page 5, Line 6: Can we replace the word "initial" with 'expanded' given that the new Zone is not really the initial Zone given its growth?
- Page 5, Line 9: We like the language overall in the establishment of the Zones, but we do have a couple of suggestions. First, can we, for the purposes of continuing to expand the Zone, add language to read: "... PFAS management zone in one-mile increments until it can no longer...".
- Page 5, Line 12: On this line, can we add a word so it would read: "... department shall consider removeing from...".
- Page 5, Line 15: Can we add a new step in-between (e) and (f) to read something like: "If the department finds a discernable path of contamination, the department shall follow the path of contamination in one-mile increments in the direction of the path of contamination to expand the zone and one extra mile beyond the extent of the zone for the testing region until it can no longer find 5 positive tests in a testing region."
- Page 6, Line 5: The language on the public meeting is good, but we'd like to make it more clear that the DNR shall determine the full extent of the zone before the meeting to read something like: "... hold a public meeting after determining the extent of the draft / proposed (we like the term draft, but are open to the term proposed as well) management zone and not more than 30 days...".
- Page 6, Line 20: Can we please add language to make it clear that, if a municipal water utility is withdrawing water from inside of a PFAS management zone, they would be required to test their water and report results to the DNR similar to biosolids in (5).
- Page 6, Line 20: More of a question than a potential change, but we're hoping you can confirm for us that, as drafted, only an MCL would be established, and not a preventative action limit (PAL) for the MCL. Any help you can provide us to answer this question would be highly appreciated.
- Page 6, Line 23: We're also looking to make it clear that, with economic and technical feasibility, the DNR is still focused on public health. Perhaps we can add language that reads: "... shall consider, along with the protection of public health and welfare, the economic and technical feasibility...".
- Page 7, Line 3: To match other references and our intent, can we change this to read: "Emergency Rules promulgated under this subdivision may not...".
- Page 7, Line 5: At the end of the sentence, can we instead make this read: "... management zone, but results collected may be used to inform future actions."
- Page 7, Line 18: Similar to above and the previous draft, after we've reviewed the definitions of sediment and soil, we're looking to change this line to read: "... and PFBS in soil and sediment, including...".
- Page 8, Line 4: Can we make it clear that the DNR shall establish a website, along with including that information, to read something like: "The department shall, for each PFAS Management Zone, establish an Internet site. The department shall include all of the following information...".
- Page 9, Line 1: Along with the information currently listed in what the Zone report shall include, can we include the information listed above in (8) (a) and (b) to include the basic characteristics of each of the boundaries of the management zones and how the DNR either expanded or reduced the Zones along with their rationale for those decisions.

Best,

Toni

Toni R. Herkert Policy Advisor/Clerk - Natural Resources and Energy | Office of State Senator Robert Cowles
(608) 266-0484 | 118 South, State Capitol | <http://legis.wisconsin.gov/senate/02/cowles>



Pfotenhauer, Mary

From: Herkert, Toni
Sent: Tuesday, January 07, 2020 9:09 AM
To: Pfotenhauer, Mary
Cc: Miller, Evan
Subject: RE: P3 Request on LRB 5179

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Mary,

One more thing we forgot to add to the list below that I'm hoping we can see in a P3.

- ✓ Page 8, Lines 18 to 19: Change this notification to a three-time notification so the first will be with the first initial positive test found by the DNR under (3) (a), when the Zone is established formally after the public meeting under (3) (h), and when the website is established under (7).

Thanks!

Toni

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(608) 266-0484 | 118 South, State Capitol | <http://legis.wisconsin.gov/senate/02/cowles>



From: Herkert, Toni
Sent: Monday, January 06, 2020 6:23 PM
To: Pfotenhauer, Mary <Mary.Pfotenhauer@legis.wisconsin.gov>
Cc: Miller, Evan <Evan.Miller@legis.wisconsin.gov>
Subject: P3 Request on LRB 5179

Hi Mary,

Thank you so much for all of your quick turn-arounds with the PFAS Management Zone drafts! We were just about to send drafting instructions on the P1 for a P2 when we received your P2 with some of our edits already made! Additionally, an initial look at the fiscal draft (5180/P2) looked good so far, but we want to take a better look at this draft tomorrow.

For a P3 of LRB 5179, we have a number of edits, but most of which are pretty minor overall. We're happy with the draft as it currently is, and we're closer than we thought we'd be by this point, so thank you again!

Drafting Instructions for a P3 of LRB 5179

- ✓ Page 4, Line 16: Can we explicitly add 'soil' to this list to read: "... measures, including soil and sediment remediation, and..."
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of each of the boundaries of the management zones and how the DNR either expanded or reduced the Zones along with their rationale for those decisions.

Best,

Toni

Toni R. Herkert Policy Advisor/Clerk - Natural Resources and Energy | Office of State Senator Robert Cowles
(608) 266-0484 | 118 South, State Capitol | <http://legis.wisconsin.gov/senate/02/cowles>



Pfotenhauer, Mary

From: Herkert, Toni
Sent: Thursday, January 09, 2020 1:27 PM
To: Pfotenhauer, Mary
Cc: Miller, Evan
Subject: FW: P3 Request on LRB 5179

Hi Mary,

Thanks for the great questions!

With regards to the change on page 9, line 7 below, can we keep the MCL language? If we have to change it we will, but we would like to keep the language we currently have in the draft.

Also, it's our understanding that, when a permanent MCL is in place, PFAS will automatically qualify for the well compensation grant program without specific statutory authority (due to the state standard). If this is wrong, we'd like to specify that violations of any permanent rule MCL for PFAS will qualify for the well comp program, but otherwise, I believe just the emergency rules need to be specified for inside of the zones as it's currently drafted.

Thank you!

Toni

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(608) 266-0484 | 118 South, State Capitol | <http://legis.wisconsin.gov/senate/02/cowles>



From: Pfotenhauer, Mary <Mary.Pfotenhauer@legis.wisconsin.gov>
Sent: Thursday, January 09, 2020 12:31 PM
To: Herkert, Toni <Toni.Herkert@legis.wisconsin.gov>
Cc: Miller, Evan <Evan.Miller@legis.wisconsin.gov>
Subject: RE: P3 Request on LRB 5179

One more question: should the expansion of the well compensation program cover only violations of the emergency rule MCLs in management zones (as it's currently drafted), or also violations of any permanent rule MCLs?

Mary Pfotenhauer
Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037

Madison, WI 53701-2037
(608) 504-5854
mary.pfotenhauer@legis.wisconsin.gov

From: Pfotenhauer, Mary
Sent: Thursday, January 09, 2020 12:28 PM
To: Herkert, Toni <Toni.Herkert@legis.wisconsin.gov>
Cc: Miller, Evan <Evan.Miller@legis.wisconsin.gov>
Subject: RE: P3 Request on LRB 5179

Sounds good, I'll make that change. With that in mind, would it be okay to change "statewide maximum contaminant levels for any PFAS" on page 9 line 7 to "statewide maximum contaminant levels or enforcement standards for any PFAS"? We usually refer to "enforcement standards" instead of "maximum contaminant levels" in the statutes (maximum contaminant levels usually refer to federal numbers).

Mary Pfotenhauer
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(608) 504-5854
mary.pfotenhauer@legis.wisconsin.gov

From: Herkert, Toni <Toni.Herkert@legis.wisconsin.gov>
Sent: Thursday, January 09, 2020 12:16 PM
To: Pfotenhauer, Mary <Mary.Pfotenhauer@legis.wisconsin.gov>
Cc: Miller, Evan <Evan.Miller@legis.wisconsin.gov>
Subject: RE: P3 Request on LRB 5179

Mary,

Sorry we were slammed yesterday and didn't get a chance to respond to you about the PAL. Since we are essentially allowing DNR to create a "temporary" MCL only within a PFAS Management Zone and only until permanent rules have been implemented by DNR (or 3 years if permanent rules are not created), I think the best course of action here would be to exempt DNR from the requirement to develop a PAL with the MCL for PFAS in the Management Zones. We do not want to impact the permanent rulemaking at all so a PAL would still be required with the permanent rule MCL.

Let us know if you have additional questions before sending the P3.

Thanks again for all your help!
Toni

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(608) 266-0484 | 118 South, State Capitol | <http://legis.wisconsin.gov/senate/02/cowles>



From: Pfothenauer, Mary <Mary.Pfothenauer@legis.wisconsin.gov>
Sent: Wednesday, January 08, 2020 12:43 PM
To: Herkert, Toni <Toni.Herkert@legis.wisconsin.gov>
Cc: Miller, Evan <Evan.Miller@legis.wisconsin.gov>
Subject: RE: P3 Request on LRB 5179

Hi Toni:

In response to your question about page 6 line 20 relating to MCLs and PALs:

I think the MCL for PFAS could be considered an enforcement standard under ch. 160. Section 160.15 requires DNR to “establish by rule a preventive action limit for each substance for which an enforcement standard is established.” Please let me know if/how you would like to address this in the draft (e.g. creating a different PAL, exempting DNR from the requirement to establish a PAL for PFAS, or prohibiting DNR from establishing a PAL).

All the other changes you requested are ready to go.

Thanks,

Mary Pfothenauer
Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 504-5854
mary.pfothenauer@legis.wisconsin.gov

From: Herkert, Toni <Toni.Herkert@legis.wisconsin.gov>
Sent: Tuesday, January 07, 2020 9:09 AM
To: Pfothenauer, Mary <Mary.Pfothenauer@legis.wisconsin.gov>
Cc: Miller, Evan <Evan.Miller@legis.wisconsin.gov>
Subject: RE: P3 Request on LRB 5179

Hi Mary,

One more thing we forgot to add to the list below that I’m hoping we can see in a P3.

- Page 8, Lines 18 to 19: Change this notification to a three-time notification so the first will be with the first initial positive test found by the DNR under (3) (a), when the Zone is established formally after the public meeting under (3) (h), and when the website is established under (7).

Thanks!

Toni

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Sent: Monday, January 06, 2020 6:23 PM
To: Pfothenauer, Mary <Mary.Pfothenauer@legis.wisconsin.gov>

Cc: Miller, Evan <Evan.Miller@legis.wisconsin.gov>

Subject: P3 Request on LRB 5179

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State of Wisconsin
2019 - 2020 LEGISLATURE

193
LRB-5179/P2
MCP:amn

In 1/8

Out 1/9 if possible, or 1/10

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Insert

1 **AN ACT to renumber** 281.58 (7) (b) 1.; **to amend** 281.58 (8e) (a), 281.58 (12) (a)
2 1. (intro.), 281.61 (6), 281.75 (5) (f), 281.75 (6) (a) and 281.75 (11) (b) 2.; and **to**
3 **create** 227.01 (13) (yv), 281.18, 281.58 (7) (b) 1g. and 281.75 (1) (b) 1m. of the
4 statutes; **relating to:** PFAS management zones, extending the time limit for
5 emergency rule procedures, providing an exemption from emergency rule
6 procedures, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill creates a process for establishing management zones for perfluoroalkyl and polyfluoroalkyl substances (PFAS) and creates special requirements within those zones. This bill also changes existing grant and loan programs to prioritize projects in PFAS management zones, and requires the Department of Natural Resources to establish an advisory committee to assist in all PFAS-related actions.

Establishing PFAS management zones

Under the bill, if a test of drinking water shows levels of perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) in excess of 70 parts per trillion (a positive test), the outer boundaries of an initial PFAS management zone is set at a one-mile radius around the location of the positive test. The area that is one mile outside of this initial boundary is designated as the testing region, within which DNR may conduct testing and research relating to PFOA and PFOS, as well as

and testing region with
one-mile increments

perfluorobutane sulfonic acid (PFBS), perfluoroheptanoic acid (PFHpA), perfluorohexane sulfonic acid (PFHxS), and perfluorononanoic acid (PFNA).

If five positive tests for PFOA and PFOS are found in a testing region, the maximum boundary of an initial PFAS management zone expands to include the testing region and the area that is one mile outside of this new boundary becomes a new testing region. DNR may continue to expand the maximum boundary of an initial PFAS management zone until it can no longer find five positive tests for PFOA and PFOS in a testing region.

proposed

The bill requires DNR, when testing for PFAS, to conduct testing from sediment, groundwater, surface water, drinking water, biosolids, and, if applicable, fish and wildlife tissue. DNR must use any testing data to advise in any PFAS-related permanent rules. The bill also requires any sampling to be conducted by DNR or by a third party with whom DNR contracts. Any testing must be conducted by the State Laboratory of Hygiene or a laboratory accredited for PFAS testing by DNR.

soil and

move

If DNR finds a discernable path of contamination, DNR must remove from the initial PFAS management zone any areas that are not in the path of contamination and that either do not contain positive tests or that contain minimal evidence of contamination. DNR must also consider removing areas from the initial PFAS management zone based on several listed factors, including hydrogeological considerations, likely sources of contamination, and physical boundaries such as public roadways.

also
Consider removing

proposed

Ins A

proposed

DNR must hold a public meeting within 30 days before finalizing a PFAS management zone to provide information about contaminants and their possible sources and effects. The bill exempts DNR's creation of a PFAS management zone from the rule-making process.

Ins B

Under the bill, a designation of a PFAS management zone expires one year after DNR promulgates any permanent rules establishing statewide maximum contaminant levels for any PFAS, or one year after any emergency rules establishing maximum contaminant levels for PFOA and PFOS within the zone expire, whichever occurs sooner.

Requirements within PFAS management zones

The bill requires DNR to establish, by emergency rule, maximum contaminant levels for PFOA and PFOS that apply to public water systems that draw water from groundwater or surface water within a PFAS management zone. DNR must consider the economic and technical feasibility of complying with the proposed maximum contaminant levels and must consult with potentially affected public water system operators.

Ins C

In addition, the bill requires DNR to establish emergency rules requiring the testing of any biosolids from a publicly owned treatment works that are spread in a PFAS management zone, regardless of where the publicly owned treatment works is located. The bill provides that such rules may not create a standard for PFAS contained in biosolids that are spread in a PFAS management zone.

Ins D

Notification and reporting

The bill requires DNR to post specific information on its Internet site relating to established PFAS management zones. The bill also requires DNR to notify any local, county, or tribal governments within an established PFAS management zone about the zone's establishment.

In addition, under the bill, DNR must report to the legislature on the results of PFAS testing in PFAS management zones, plans for addressing PFAS contamination, and the technical and economic feasibility of complying with PFAS standards.

Grant and loan priorities

The bill changes the existing well compensation grant program, the safe drinking water loan program, and the clean water fund program to give priority to projects addressing PFAS contamination in PFAS management zones.

PFAS advisory committee

Finally, the bill requires DNR to establish an advisory committee to advise DNR on the promulgation of permanent rules relating to PFAS. The committee must include members of groups likely to be affected by such rules.

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

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

- 1 **SECTION 1.** 227.01 (13) (yv) of the statutes is created to read:
- 2 227.01 (13) (yv) Determines the boundaries of a PFAS management zone under
- 3 s. 281.18 (3).
- 4 **SECTION 2.** 281.18 of the statutes is created to read:
- 5 **281.18 PFAS management zones. (1) DEFINITIONS.** In this section:
- 6 (a) "Discernable path of contamination" means the path that PFAS
- 7 contamination takes from its source, such as down a river or with the flow of the
- 8 groundwater table.
- 9 (b) "Drinking water" means surface water or groundwater used as a source of
- 10 public or private drinking water, as determined by the department.
- 11 (c) "PFAS" means a perfluoroalkyl substance or polyfluoroalkyl substance.

- 1 (d) "PFBS" means perfluorobutane sulfonic acid.
- 2 (e) "PFHpA" means perfluoroheptanoic acid.
- 3 (f) "PFHxS" means perfluorohexane sulfonic acid.
- 4 (g) "PFNA" means perfluorononanoic acid.
- 5 (h) "PFOA" means perfluorooctanoic acid.
- 6 (i) "PFOS" means perfluorooctanesulfonic acid.
- 7 (j) "Positive test" means a test of a drinking water sample that shows levels of
- 8 PFOA and PFOS in excess of 70 parts per trillion.

9 (2) PURPOSE. The purpose of this section is to define geographical areas in this

10 state that are characterized by elevated levels of PFOA and PFOS in surface water

11 or groundwater that is used as a source for public or private drinking water. The

12 purpose of PFAS management zones is to provide guidelines that target areas of the

13 state most affected by PFAS contamination to, in the short-term, protect public

14 health and welfare and, in the long-term, research the best methods and most

15 economically and technically feasible outcomes for implementing statewide

16 standards, for performing cleanup measures, including ^{Soil and} sediment remediation, and

17 for properly disposing of contaminants at contaminated sites. The department shall

18 use the information gathered from these zones to inform future actions, including

19 rule making and other administrative actions. The PFAS management zones shall

20 also be used to identify the path of contamination to inform future actions.

21 (3) ESTABLISHING PFAS MANAGEMENT ZONES. A PFAS management zone shall

22 be established using the following method:

- 23 (a) The area within a one-mile radius of a positive test is the maximum
- 24 boundary of the initial PFAS management zone.

1 (b) The area within one mile of the boundary of an initial PFAS management
2 zone is the testing region. The department may conduct testing and research
3 relating to PFOA, PFOS, PFHxS, PFNA, PFBS, and PFHpA within a testing region.

4 (c) If 5 positive tests are found in a testing region, the maximum boundary of
5 an initial PFAS management zone expands to include the testing region. The area
6 within one mile of the boundary of this ^{expanded} initial PFAS management zone becomes a
7 new testing region.

8 (d) The department may continue to expand the maximum boundary of an
9 initial PFAS management zone ^{in 1-mile increments} until it can no longer find 5 positive tests in a testing
10 region. ^{and testing region}

11 ^{Insert 5-10} (e) If the department finds a discernable path of contamination, the
12 department shall ^{consider removing} remove from the initial PFAS management zone any areas that are
13 not in the path of contamination and that either do not contain positive tests or that
14 contain minimal evidence of contamination.

15 (f) The department shall ^{consider} consider removing from the ^{proposed} initial PFAS management
16 zone other areas based on the following factors:

17 1. Hydrogeological considerations, including soil characteristics, depth to
18 groundwater, groundwater gradients, and flow direction, based on positive test
19 locations.

20 2. The geographic extent of the PFAS contamination and mobility of the
21 contaminants, based on positive test locations.

22 3. Likely sources of PFAS contamination.

23 4. Reliability of sampling data and frequency of PFAS detections in samples.

24 5. Present and anticipated uses of surface or groundwater.

1 6. Legal land description boundaries, including political and property
2 boundaries.

3 7. Public roads or other physical boundaries.

4 8. Any other factors the department determines are relevant.

5 (g) The department shall hold a public meeting ^{Ins 6-5} not more than 30 days before
6 establishing a final PFAS management zone. At the meeting, the department shall
7 provide information about the PFAS contaminants within the proposed PFAS
8 management zone, any known sources of the contaminants, any known effects on
9 drinking water, and any anticipated steps the department plans to take to address
10 the contamination.

11 (h) The department shall establish a final PFAS management zone within 30
12 days after holding the public meeting under par. (g), based on the factors outlined in
13 this subsection.

14 (i) For administrative purposes, PFAS management zones that overlap may be
15 considered to be a single, merged PFAS management zone.

16 (4) EMERGENCY RULES FOR MAXIMUM CONTAMINANT LEVELS AND BIOSOLIDS
17 SPREADING. (a) No later than 9 months after the effective date of this paragraph ...
18 [LRB inserts date], the department shall, using the procedure under s. 227.24,
19 promulgate emergency rules to establish the following:

20 1. A maximum contaminant level for PFOA and PFOS that applies to public
21 water systems that draw water from groundwater or surface water within a PFAS
22 management zone. In developing a maximum contaminant level under this
23 subdivision, the department shall consider the economic and technical feasibility of
24 compliance with any proposed level and shall consult with potentially affected public
25 water system operators.

^{Ins 6-25}
, along with the protection of public health and welfare,

1 2. Requirements for testing biosolids from a publicly owned treatment works
2 that are spread in a PFAS management zone, regardless of where the publicly owned
3 treatment works is located. ^{Emergency} Rules promulgated under this subdivision may not
4 create a standard for PFAS contained in biosolids that are spread in a PFAS
5 management zone. Ins 7-5

6 (b) Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to
7 provide evidence that promulgating a rule under this subsection as an emergency
8 rule is necessary for the preservation of the public peace, health, safety, or welfare
9 and is not required to provide a finding of emergency for a rule promulgated under
10 this subsection. Notwithstanding s. 227.24 (1) (c) and (2), emergency rules
11 promulgated under this subsection remain in effect for 3 years after the effective date
12 of this paragraph [LRB inserts date], or the date on which permanent rules take
13 effect, whichever is sooner. Notwithstanding s. 227.24 (1) (e) 1d. and 1g., for
14 emergency rules promulgated under this subsection, the department is not required
15 to prepare a statement of scope of the rules or to submit the proposed rules in final
16 draft form to the governor for approval.

17 (5) TESTING; USE OF RESULTS. The department shall conduct testing for PFOA,
18 PFOS, PFHxS, PFHpA, PFNA, and PFBS in ^{soil and} sediment, including lake and river bed
19 sediment; groundwater; surface water; drinking water; biosolids; and fish and
20 wildlife tissue, as applicable. The department may conduct testing in other media
21 if the department determines that doing so is a priority. Data collected through
22 testing shall be used to advise permanent rule making that seeks to regulate PFAS.

23 (6) COLLECTION AND TESTING. The collection of samples for PFAS testing
24 conducted under this section shall follow commonly accepted PFAS collection
25 protocols and shall be completed by the department or a 3rd party contracted by the

1 department. Any testing conducted under this section shall be completed by the
2 state laboratory of hygiene or a laboratory accredited for PFAS testing by the
3 department.

Ins 8-5

4 (7) INTERNET SITE. The department shall include all of the following
5 information relating to PFAS management zones on its Internet site:

6 (a) The geographic boundaries of each PFAS management zone in effect.

7 (b) Information on how the PFAS management zone was established, including
8 information on any expansions or reductions of the initial zone and the department's
9 rationale for these decisions.

10 (c) Results from PFAS testing in each PFAS management zone in effect.

11 (d) Directions for private well owners who wish to test their own water,
12 including protocols and laboratories for this testing.

13 (e) Health risks associated with the overconsumption of PFAS and measures
14 the public may take to reduce the health risks of PFAS exposure. The department
15 shall consult with the department of health services in developing this information.

16 (f) Any other information that the department determines to be relevant.

17 (8) NOTIFICATION. The department shall notify any local, county, or tribal
18 governments within an ^{initial or} established PFAS management zone when the zone is
19 established and shall again notify the local, county, or tribal governments when the
20 department's Internet site is updated with information relating to the zone.

Ins 8-18

21 (9) REPORT. Not later than one year after the effective date of this subsection
22 ... [LRB inserts date], and every year thereafter, the department shall submit a
23 report to the joint committee on rules and regulations and to the chief clerk of each
24 house of the legislature for distribution to the appropriate standing committees
25 under s. 13.172 (3) having jurisdiction over matters relating to natural resources.

1 The report shall provide a summary of results from testing in PFAS management
2 zones, plans for addressing PFAS contamination in PFAS management zones, the
3 technical and economic feasibility of compliance with existing or potential PFAS
4 standards, and any other information deemed relevant by the department.

5 (10) DISSOLUTION. A PFAS management zone established under sub. (3) shall
6 dissolve one year after the department promulgates any permanent rules
7 establishing statewide maximum contaminant levels for any PFAS or one year after
8 any emergency rules establishing maximum contaminant levels for PFOA and PFOS
9 for the zone under sub. (4) expire, whichever occurs sooner.

10 SECTION 3. 281.58 (7) (b) 1. of the statutes is renumbered 281.58 (7) (b) 1r.

11 SECTION 4. 281.58 (7) (b) 1g. of the statutes is created to read:

12 281.58 (7) (b) 1g. Projects in or near a PFAS management zone established
13 under s. 281.18 (3) that the department determines are necessary to address
14 contamination by perfluoroalkyl or polyfluoroalkyl substances.

15 SECTION 5. 281.58 (8e) (a) of the statutes is amended to read:

16 281.58 (8e) (a) The type of project and the order in which it is listed under sub.
17 (7) (b) 1. 1g. to 6., to the extent allowable under federal law.

18 SECTION 6. 281.58 (12) (a) 1. (intro.) of the statutes is amended to read:

19 281.58 (12) (a) 1. (intro.) Except as modified under par. (f) and except as
20 restricted by sub. (8) (b), (c), (f) or (h), the interest rate for projects specified in sub.
21 (7) (b) 1. 1g. to 5. is one of the following:

22 SECTION 7. 281.61 (6) of the statutes is amended to read:

23 281.61 (6) PRIORITY LIST. The department shall establish a priority list that
24 ranks each safe drinking water loan program project. The department shall
25 promulgate rules for determining project rankings that, to the extent possible, give

1 priority to projects that address the most serious risks to human health, that are
 2 necessary to ensure compliance with the Safe Drinking Water Act, 42 USC 300f to
 3 300j-26, and that assist applicants that are most in need on a per household basis,
 4 according to affordability criteria specified in the rules. For the purpose of ranking
 5 projects under this subsection, the department shall treat a project to upgrade a
 6 public water system to provide continuous disinfection of the water that it distributes
 7 as if the public water system were a surface water system that federal law requires
 8 to provide continuous disinfection. In establishing a priority list under this
 9 subsection, the department shall, to the extent possible, give priority to projects that
 10 address contamination by perfluoroalkyl or polyfluoroalkyl substances in PFAS
 11 management zones established under s. 281.18 (3).

12 **SECTION 8.** 281.75 (1) (b) 1m. of the statutes is created to read:

13 281.75 (1) (b) 1m. In a PFAS management zone established under s. 281.18 (3),
 14 produces water containing PFOA or PFOS in excess of ^{any} the primary maximum
 15 contaminant level established by the department under s. 281.18 (4).

16 **SECTION 9.** 281.75 (5) (f) of the statutes is amended to read:

17 281.75 (5) (f) The In allocating money for the payment of claims under this
 18 section, the department shall prioritize completed claims based on the type of
 19 contamination defined under sub. (1) (b) 1m. For all other claims, the department
 20 shall allocate money for the payment of claims according to the order in which
 21 completed claims are received. The department may conditionally approve a
 22 completed claim even if the appropriation under s. 20.370 (6) (cr) is insufficient to pay
 23 the claim. The department shall allocate money for the payment of a claim which
 24 is conditionally approved as soon as funds become available.

25 **SECTION 10.** 281.75 (6) (a) of the statutes is amended to read:

1 (e) If the department finds a discernable path of contamination, the
 2 department shall continue to extend the boundary of the initial PFAS management
 3 zone and testing region in 1-mile increments in the direction of the path of
 4 contamination until it can no longer find 5 positive tests in the testing region.

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6 INSERT 6-5

7 after determining the boundaries of the proposed PFAS management zone. The
8 public meeting shall be held

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10 INSERT 6-22

11 and requirements for such water systems to test their water for PFOA, PFOS,
12 PFHxS, PFHpA, PFNA, and PFBS and to submit the results to the department

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14 INSERT 7-5

15 , although testing results may be used to inform future actions

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17 INSERT 8-5

18 establish an Internet site for each PFAS management zone. The department
19 shall include the following information on each Internet site:

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21 INSERT 8-18

22 upon each of the following occurrences:

23 (a) The department finds the first initial positive test under sub. (3) (a).

24 (b) The department establishes the zone under sub. (3) (h).

25 (c) The department establishes an Internet site for the zone under sub. (7).

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INSERT 9-1

include the geographic boundaries of each PFAS management zone in effect;
information on how the PFAS management zones were established, including
information on any expansions or reductions of the initial zone and the department's
rationale for these decisions;

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Notwithstanding s. 160.15 (1), the department is not required to establish a preventive action limit for any PFAS for which a maximum contaminant level is established under this subdivision.

Pfotenhauer, Mary

From: Herkert, Toni
Sent: Tuesday, January 14, 2020 11:31 AM
To: Pfotenhauer, Mary
Cc: Miller, Evan
Subject: Drafting Instructions for a P4 of LRB 5179

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Mary,

Thank you so much for all of the great work on the Management Zones concept so far! The other draft, LRB 5180/P2 looks great for now, and we just have a couple of requests for some small tweaks on LRB 5179/P3 that we're hoping you can help us with.

Drafting Instructions for a P4 of LRB 5179

- ✓ Page 6, Line 22: To the front of the line, just for the purposes of clarification that the Department may choose to not establish a Zone or go back to the drawing board if necessary, can the line read: "After a public hearing, if the department determines that a management zone will be established, the department shall...".
- ✓ Page 7, Line 9: We're looking to split this line ever so slightly to make sure that it's clear that the DNR may not establish MCLs for the other four PFAS compounds listed. We believe this would be clearer by splitting the sentence into two to read: "...management zone, ~~and requirements~~ Requirements shall also be established for such water systems to test their water for...".
- ✓ Page 9, Lines 8 to 9: Instead of in-consultation with DHS, can we make this information solely provided with the DHS to read: "...health risks of PFAS exposure, ~~The department shall consult with provided by~~ the department of health services, ~~in developing this information.~~"
- ✓ Page 9, Line 18: To ensure that the reports only need to be submitted for as long as the Zones would exist, can we change this line to read: "...and every year thereafter for five years after the effective date of this subsection, the department shall submit...".

Thanks in advance for these changes, and please let us know if you have any questions!

Toni

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