

State of Wisconsin



2019 Senate Bill 310

Date of enactment: **February 5, 2020**
Date of publication*: **February 6, 2020**

2019 WISCONSIN ACT 101

AN ACT to create 299.48 of the statutes; **relating to:** regulating fire fighting foam that contains certain contaminants and granting rule-making authority.

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

SECTION 1. 299.48 of the statutes is created to read:

299.48 Fire fighting foam containing PFAS. (1)

DEFINITIONS. In this section:

(a) "Class B fire fighting foam" means a foam designed for use on a flammable liquid fire, and may include a dual action Class A and B foam.

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

(c) "Testing" includes testing of a fire fighting foam to evaluate its effectiveness and testing of a fire fighting foam delivery system or equipment.

(d) "Training" means providing first-hand field experience to a person who may use a fire fighting foam as part of an emergency fire fighting or fire prevention operation.

(2) **PROHIBITION.** Except as provided under sub. (3), no person may use or otherwise discharge, including for training purposes, a class B fire fighting foam that contains intentionally added PFAS.

(3) **EXEMPTIONS.** The prohibition under sub. (2) does not apply to any of the following:

(a) The use or discharge of a class B fire fighting foam that contains intentionally added PFAS as part of an emergency fire fighting or fire prevention operation.

(b) The use of class B fire fighting foam that contains intentionally added PFAS for testing purposes, including calibration testing, conformance testing, or fixed system testing, if the testing facility has implemented appropriate containment, treatment, and disposal or storage measures to prevent discharges of the foam to the environment. Appropriate containment, treatment, and disposal or storage measures may not include flushing, draining, or otherwise discharging the foam into a storm or sanitary sewer.

(3m) **NOTIFICATION; SAFETY DATA SHEETS.** (a) A person who uses or discharges a fire fighting foam under the exemption in sub. (3) (a) shall notify the department of the use or discharge immediately or as soon as practicable without hindering fire fighting or fire prevention operations. A person who possesses a fire fighting foam that may be used under the exemption in sub. (3) (a) shall request and retain any safety data sheets relating to the fire fighting foam and shall make them available to the department for examination after providing the notice under this paragraph.

(b) A person who uses a fire fighting foam under the exemption in sub. (3) (b) shall notify the department immediately of any discharge of the foam to the environment.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(4) CONSTRUCTION. Nothing in this section shall be construed as prohibiting the manufacture, sale, or distribution of a class B fire fighting foam that contains intentionally added PFAS.

(5) RULES. 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 under sub. (3) (b).

SECTION 2. Nonstatutory provisions.

(1) The department of natural resources shall use the procedure under s. 227.24 to promulgate rules under s. 299.48 (5) no later than the first day of the 7th month beginning after the effective date of this subsection. Notwithstanding s. 227.24 (1) (c) and (2), emergency rules

promulgated under this subsection remain in effect until 3 years after the effective date of this subsection or the date on which permanent rules take effect, whichever is sooner. Notwithstanding s. 227.24 (1) (a) and (3), the department of natural resources is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

SECTION 3. Effective dates. This act takes effect on the first day of the 7th month beginning after publication, except as follows:

(1) SECTION 2 (1) of this act takes effect on the day after publication.
