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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**2019 Assembly Bill 843**

**Assembly Amendment 1**

### 2019 ASSEMBLY BILL 843

2019 Assembly Bill 843, and a related appropriations bill, 2019 Assembly Bill 842, provide programs, resources, and certain regulatory authority in response to environmental contamination and health effects caused by per- and polyfluoroalkyl substances (PFAS) in Wisconsin. Together with the related appropriations bill, 2019 Assembly Bill 843 does all of the following:

- Creates a municipal grant program, through which the Department of Natural Resources (DNR) must provide grants to municipalities for conducting certain eligible activities relating to PFAS contamination, including investigating potential pollution, treating, or disposing of PFAS-containing fire fighting foam containers, conducting sampling within a three-mile radius of a PFAS contamination site, providing a temporary emergency water supply, or remediating PFAS contamination. Under the bill, a municipality is eligible for a grant if: (1) it is not a “responsible party” and the party responsible for the contamination is unknown, cannot be found, or is unable to pay for the activities funded under the grant; or (2) the PFAS contamination resulted from certain fire fighting foam testing or training activities or landspreading of biosolids pursuant to a Wisconsin pollutant discharge elimination system (WDPES) permit before the effective date of the bill.
- With the exemption of certain municipalities, fire departments, and water and wastewater utilities, authorizes DNR to require a person who possesses or controls or causes the discharge of PFAS to provide proof of financial responsibility for conducting certain emergency response and remedial actions, if DNR determines doing so is necessary to protect human health or the environment.
- Requires DNR to promulgate recommendations for health-based groundwater standards within six months after receiving recommendations for such standards from the Department of Health Services (DHS) under the state groundwater law.
- Requires DNR to promulgate surface water quality and drinking water standards for a PFAS contaminant if DNR receives a recommendation for such a contaminant from DHS under the groundwater law.
- After the U.S. Environmental Protection Agency (EPA) publishes air stack testing methods for one or more PFAS, requires DNR to promulgate air emissions standards for any known PFAS to provide adequate protection for public health and welfare, taking into account energy, economic, and environmental impacts and other costs, and requires DNR to require air permittees to report emissions of all known PFAS.
- Directs the University of Wisconsin (UW) Board of Regents to provide a grant to a UW campus to conduct research into technologies for destroying PFAS.
- Requires DHS to create and administer a blood testing pilot program by September 1, 2020, to provide free blood testing to residents near contamination in the City of Marinette, Town or City of Peshtigo, and the Town of Porterfield.

- Requires DNR to set criteria for certifying laboratories to test for PFAS, and to certify laboratories that meet these criteria. These criteria must be based on protocols established by the EPA and the federal Department of Defense. Before these criteria are set, the bill allows DNR to require testing for PFAS to be done according to nationally recognized standards.
- Clarifies state agency access to certain information.
- Creates a PFAS action fund.
- Requires DHS to conduct a cancer cluster study in the Marinette/Peshtigo area.
- Increases the number of authorized full-time equivalent positions at DNR and DHS for certain purposes.
- Appropriates certain additional funds for sampling, testing, and investigation.

## **ASSEMBLY AMENDMENT 1**

Assembly Amendment 1 modifies the bill in four areas. Briefly, Assembly Amendment 1 does all of the following:

- Narrows the scope of the provisions of the bill relating to air emissions to apply those provisions only to PFAS for which DNR has received a recommended groundwater enforcement standard from DHS under the state groundwater protection law or for which EPA has identified an inhalation effect.
- Modifies the municipal grant program created under the bill to: (1) remove the definition of and references to “responsible parties”; (2) expand eligibility to municipalities that conduct eligible activities in response to certain testing or training of fire fighting foams, landspreading of biosolids, and any other municipal operations, if the testing, training, landspreading, or operations were done in accordance with state and federal law and applicable permits, whether before or after the bill takes effect; (3) expand eligibility to municipalities that respond to PFAS contamination that impacted or is impacting a municipal or private water supply, if the person that caused the discharge or pollution is unknown or unwilling to take the necessary response actions; and (4) make certain clarifications regarding eligible activities, including specifying the types of remediation and the area in which a municipality may conduct sampling under the program.
- Modifies the provision authorizing DNR to require proof of financial responsibility to: (1) narrow the scope of the provision to apply only to sites for which DNR has directed a responsible party to take action under the spill law and for which DNR estimates that remediation costs, environmental repair, and long-term care costs would exceed \$1 million; (2) add sewerage districts to the list of exempted municipal entities; (3) specifically exempt owners of agricultural sites at which biosolids received from a municipality are spread on land, if the landspreading is done in accordance with a WPDES permit, while the site remains under agricultural use; and (4) rather than authorizing DNR to require proof of financial responsibility if DNR determines doing so is “necessary to protect human health or the environment,” authorizes DNR to do so if it determines that doing so is “in the financial best interests of the state.”
- Clarifies that the requirement to promulgate emergency rules establishing groundwater standards applies to PFAS for which DHS issued its recommendation before the bill takes effect, in addition to PFAS for which DHS may issue a recommendation in the future.

## **BILL HISTORY**

Representative Nygren offered Assembly Amendment 1 on February 11, 2020. On February 18, 2020, the Assembly Committee on Environment voted to recommend adoption of the amendment on a vote of Ayes, 12; Noes, 0, and passage of the bill, as amended, on a vote of Ayes, 11; Noes, 1.

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