



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

May 18, 2023

Joint Committee on Finance

Paper #604

PFAS-Containing Firefighting Foam Disposal (Natural Resources -- Waste, Remediation, and Air)

[LFB 2023-25 Budget Summary: Page 455, #5]

CURRENT LAW

2019 Wisconsin Act 101 prohibits the use of PFAS-containing firefighting foams in Wisconsin, except in certain emergency responses or in contained testing events. In 2020, surveys conducted in the state determined that municipal and other fire departments in Wisconsin have PFAS-containing firefighting foams in need of disposal. 2021 Wisconsin Act 58, the biennial budget act, authorized \$1,000,000 from the environmental management account of the segregated (SEG) environmental fund for PFAS-contaminated firefighting foam collections from these sources. In October, 2022, DNR entered into a contract with North Shore Environmental Construction for the collection and disposal of an estimated 25,000 gallons of PFAS-containing foam.

DISCUSSION POINTS

1. Assembly Bill 43/Senate Bill 70 would provide \$1,000,000 in one-time funding in 2023-24 for the second phase of disposal and cleanup of PFAS-containing firefighting foam. The Administration indicates that phase two would involve DNR establishing an up-to-date registry of PFAS-containing firefighting foam inventory. Additionally, the bill would direct a portion of the funds to support local fire departments in purchasing non-PFAS-containing foams. DNR reports that part of the \$1 million would be used to hire a limited-term employee (LTE) to coordinate and administer the program, including oversight of vendor contracts, and updating of the registry of fire departments using foams and their needs for firefighting foam without intentionally-added PFAS.

2. As of April, 2023, nearly 29,000 gallons have been collected from approximately 200 fire departments, using the \$1 million provided under 2021 Act 58. Through May 12, 2023, DNR has expended \$323,400 on the contract with North Shore Environmental Construction, and \$676,600 is

encumbered, pending completion of the contracted work. The contract provides payment of \$11 per gallon of firefighting foam collected and sent for disposal, plus certain travel costs. The contract term would conclude June 30, 2023, although the contract allows optional one-year extensions through June 30, 2025. DNR estimates that future costs may be higher.

3. The amount of firefighting foam still needing collection and disposal is unclear. In 2020, surveys estimated that the total amount of PFAS-containing firefighting foam held by all 825 fire departments in the state is between 63,200 gallons and 96,300 gallons. Of those amounts, approximately 23,700 to 44,700 gallons was considered expired and in need of disposal, and these foams were thought to be at just over half of fire departments in the state. DNR reports that, since the initial foam waste survey in 2020, an additional 100 fire departments have notified DNR or the Department of Agriculture, Trade and Consumer Protection, with whom DNR is cooperating on firefighting foam collection, of foam waste available for collection. The inclusion of an LTE under the provision is intended to provide for additional information gathering from fire departments to determine the exact volume and cost of need.

4. DNR also notes that federal action may lead to airports discontinuing use of firefighting foams that may require collection and disposal. The Federal Aviation Administration (FAA) Reauthorization Act of 2018 directs the FAA to stop requiring the use of PFAS-containing foams, and the National Defense Authorization Act of 2020 also requires the Department of Defense (DOD) to phase out AFFF by October, 2024, with an immediate prohibition of using it for military training exercises. Congress in late 2022 directed FAA to begin planning transitions to replacement foams, and on May 8, 2023, FAA released guidance for airport operators based on DOD specifications for non-PFAS foams. It is anticipated that FAA-approved non-PFAS foams will replace currently used substances. DNR expects that many fire departments and airports would utilize the funding under this AB 43/SB 70 provision to procure PFAS-free foams. DNR expects at a minimum that the remaining amount of the initial \$1 million provided under 2021 Act 58 will be expended once the FAA makes this decision.

5. Considering that PFAS are dangerous to human health and that disposing of foams containing them would prevent further dispersal, the Committee could approve the \$1 million [Alternative 1]. Alternatively, because an exact need and cost has not yet been identified, the Committee could approve a lower amount. Providing \$323,400 [Alternative 2] would restore the available balance in the PFAS foam collection appropriation to \$1,000,000 beginning July 1, 2023; DNR would be authorized to expend those amounts until exhausted.

6. 2021 Act 58 allocated initial foam collection funding to the Committee's supplemental SEG appropriation, and funding was approved for release on February 1, 2022. The Committee could consider allocating the amounts under Alternatives 1 or 2 to the supplemental appropriation for release upon DNR's request [Alternative 3].

7. The Committee could also consider amending the PFAS firefighting foam appropriation to authorize funding for assistance to fire departments in replacing PFAS-containing foam with non-PFAS foam [Alternative 4]. The Committee could also take no action [Alternative 5]. Additional amounts could be requested under s. 13.10 of the statutes should additional collections and disposal funding be needed.

ALTERNATIVES

1. Provide \$1,000,000 in one-time funding in 2023-24 for the second phase of disposal and cleanup of PFAS-containing firefighting foam.

ALT 1	Change to Base
SEG	\$1,000,000

2. Provide \$323,400 in one-time funding in 2023-24.

ALT 2	Change to Base
SEG	\$646,800

3. Provide funding under Alternatives 1 or 2 in the Committee's supplemental appropriation.

4. Amend the appropriation under s. 20.370 (4)(ps) of the statutes to authorize DNR to expend available funds on assistance to local fire departments for replacing PFAS-containing firefighting foams with foams that do not contain such substances. (This alternative could be moved in addition to, or separate from, any of Alternatives 1 through 3.)

5. Take no action.

Prepared by: Moriah Rapp