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Joint Committee on Finance

Paper #461

PFAS Operations and Positions (Natural Resources -- Waste, Remediation, and Air)

[LFB 2021-23 Budget Summary: Page 434, #1; Page 611, #19]

CURRENT LAW

The statutes direct the Department of Natural Resources (DNR) to serve as the central unit of state government to protect, maintain, and improve the quality and management of the waters of the state, ground and surface, public and private. DNR also has general authority for implementation of the state's direct-response hazardous substances cleanup programs, and for establishment and administration of cleanup standards for contaminated media, such as groundwater, soil, surface water, sediments, other materials, and indoor air. DNR also manages fish and wildlife populations to ensure their general preservation and conservation, and in the case of game animals, their abundance and suitability for consumption.

DISCUSSION POINTS

1. In recent years, per- and polyfluoroalkyl substances (PFAS) have been found throughout Wisconsin in soils, surface water, and groundwater. PFAS are a class of synthetic chemicals commonly found in nonstick surfaces, cookware, paint, and firefighting foam. The National Institutes of Health report that there are at least 4,700 unique types of PFAS. They are temperature, water, and oil resistant. Research and studies indicate that PFAS are toxic to humans, as they do not easily degrade and tend to accumulate in humans and the environment. In parts of the state, PFAS have dispersed through the environment from such sources as: (a) discharges of firefighting foams in municipal and military firefighting uses; and (b) industrial waste discharged to municipal sewerage systems, and then applied to land as septage (bio-solids).

2. Since 2013, more than 30 contaminated sites with PFAS groundwater, drinking water, surface water, sediment, or soil contamination have been reported to DNR at locations around the

state as a result of various private and governmental uses of the chemicals. DNR indicates that the number of PFAS-contaminated sites are unknown. Currently, the DNR remediation and redevelopment program's online database lists 78 sites associated with PFAS contamination in more than 30 municipalities, including such sites as manufacturers of PFAS-containing products, airports, military installations, landfills, and sites with no known responsible party or sources.

3. In 2019, the Governor issued Executive Order No. 40 to address the public health risks of environmental contamination by PFAS in the state and instructed DNR to establish and lead a council to consider state and local responses to the proliferation of PFAS uses and the presence of PFAS in the environment. In December, 2020, the Wisconsin PFAS Action Council (WisPAC) published the PFAS Action Plan, including numerous recommendations to address PFAS contamination in the state.

4. The PFAS Action Plan recommended multiple actions for DNR and other state agencies to address PFAS contamination, including: (a) establishing PFAS standards for air and water, as well as standards and practices for disposal and cleanup; (b) identifying potential PFAS sites and publishing confirmed sources in an interactive public web application; (c) standardizing PFAS sampling methods; (d) testing all public water systems for PFAS; and (e) increasing research of PFAS baseline concentrations in various media, as well as means of PFAS transport through media or biological systems.

5. To date, DNR has engaged in several PFAS responses, including: (a) promulgating rules, in conjunction with recommendations from the Department of Health Services (DHS), for groundwater, drinking water, and surface waters; (b) surveying fire departments about use of PFAS-containing firefighting foams; and (c) sampling water, air, and wildlife tissue for the presence of PFAS. Other agencies that have been involved in state PFAS responses include the UW System, State Lab of Hygiene, Military Affairs, Safety and Professional Services, and Transportation.

6. Assembly Bill 68/Senate Bill 111 would provide funding of \$731,300 SEG in 2021-22 and \$936,700 SEG in 2022-23 with 11.0 positions to implement portions of the Wisconsin PFAS Action Plan released in December, 2020. Additionally, the bill would provide \$600,000 environmental management SEG each year in the DNR continuing appropriation for state responses to hazardous substance spills and discharges. The bill would also provide \$80,000 environmental management SEG each year in ongoing operations funding for testing of PFAS contamination in water supplies, including: (a) \$55,000 for waterway testing and sampling; and (b) \$25,000 each year for PFAS testing at wastewater treatment facilities

7. Table 1 summarizes positions under AB 68/SB 111. All positions shown would be funded from the environmental management account of the environmental fund, except those for wildlife management, which would be supported by the fish and wildlife account of the conservation fund.

TABLE 1

PFAS Action Plan Positions and Funding

<u>DNR Program / Positions</u>	<u>2021-22</u>	<u>2022-23</u>	<u>Positions</u>
Drinking and Groundwater			
Water Supply Specialists	\$197,100	\$253,100	3.00
Water Quality			
Wastewater Specialists	121,100	158,400	2.00
Air Management			
Air Management Engineer / Air Management Specialist*	171,000	208,400	2.00
Remediation and Redevelopment			
Hydrogeologist Program Coordinator / Hydrogeologist	121,100	158,400	2.00
Waste and Materials Management			
Hydrogeologist	60,500	79,200	1.00
Wildlife Management			
Toxicologist	<u>60,500</u>	<u>79,200</u>	<u>1.00</u>
Total	\$731,300	\$936,700	11.00

* The air management specialist would be a four-year project position.

8. The 3.0 water supply specialists would sample for and address emerging contaminant risks to drinking water, primarily related to emerging contaminants such as PFAS compounds. The 2.0 wastewater specialists would develop and implement water quality standards for PFAS compounds, assist communities and businesses in identifying and eliminating PFAS in wastewater, and develop procedures for water quality monitoring. The 2.0 air management positions would establish air toxics and best control technology standards and develop an ambient air deposition monitoring network. The 3.0 hydrogeologist positions would focus on statewide investigations and cleanup work and conduct site-specific sampling for PFAS. The 1.0 wildlife toxicologist position would conduct wildlife sampling, coordinate with other states on research and data, and coordinate with the DHS on health advisories for consumption of PFAS-contaminated wildlife.

9. DNR reports that at least 20 staff persons in the Environmental Management Division are currently involved in PFAS activities as part of, or in addition to, their original position responsibilities. The Department reports that, to date, PFAS-related work has largely been incorporated into existing staff workload, including meeting ongoing demands for technical assistance, engagement, and coordination with local governments to support communities impacted by PFAS contamination.

10. Table 2 shows PFAS-related all-funds expenditures for the 2019-20 and 2020-21 fiscal years, with data for 2020-21 through May 6. Most expenditures have come in the DNR remediation and redevelopment program, which has general authority for cleanup of contamination. Of the funding shown, \$2.1 million to date is from environmental management SEG. Figures shown include \$1.0 million in 2019-20 and \$1.2 million to date in 2020-21 attributable to salary and fringe benefits of staff working on PFAS issues.

TABLE 2**DNR PFAS-Related Expenditures**

<u>DNR Program Area</u>	<u>2019-20</u>	<u>2020-21*</u>	<u>Total</u>
Remediation and Redevelopment	\$881,000	\$1,001,700	\$1,882,700
Water Quality	244,900	196,100	441,000
Air Management	81,500	154,700	236,200
Waste and Materials Management	86,200	99,000	185,200
Drinking and Groundwater	41,800	45,500	87,300
Environmental Analysis	60,400	19,200	79,600
Fish and Wildlife Management	21,800	50,800	72,600
Enforcement and Other Programs	<u>19,300</u>	<u>57,200</u>	<u>76,500</u>
Total	\$1,436,900	\$1,624,200	\$3,061,100

* Preliminary as of May 6, 2021.

11. DNR indicates that the responsibilities for additional work under the PFAS Action Plan could not be incorporated into existing positions' workload and responsibilities within the Department. DNR contends that ongoing demands for technical assistance, engagement, and coordination with local governments requires these 11.00 additional positions. It could be argued that because DNR-recorded expenditures for staffing costs in each of the last two fiscal years exceed the amounts under AB 68/SB 111, the agency has realized workload and incurred costs that justify the amounts.

12. DNR also contends that positions are needed in the range of subprograms to address the various ways in which PFAS may affect the environment and wildlife. The Department does not consider any area's proposed staffing to be a priority over another, which the Department argues reflects the multiple types of responses needed to address PFAS contamination.

13. Considering the recommendations outlined by the PFAS Action Plan and DNR's current demonstrated PFAS workload and expenditures, the Committee could approve the positions and funding for DNR PFAS response. Alternatives in 1 through 6 provide the Committee options to approve some or all DNR positions as shown in Table 1. If the Committee wishes to evaluate the positions and funding before approving ongoing resources, it could also approve the funding on a one-time basis and specify that any positions are project positions on a four-year [Alternative 9a] or two-year basis [Alternative 9b].

14. AB 68/SB 111 would appropriate \$600,000 environmental management SEG in DNR's state-funded spills appropriation for: (a) additional funding for sampling private drinking water wells; (b) state investigations of PFAS groundwater contamination when the responsible party is unknown; and (c) potential support of water treatment systems for residences with PFAS-affected water supplies, in the event that a long-term resolution of the water contamination is not immediately likely. The spills response appropriation is used, among other purposes, for: (a) DNR-led cleanups of contaminated sites where the responsible party is unknown or cannot or will not clean up the site; (b) the state share at certain Superfund site cleanups; (c) the state match to federal funding to address

leaking underground storage tanks; (d) emergency spill response and cleanups; (e) response and cleanup of abandoned containers of hazardous substances where the responsible party cannot be identified; and (f) provision of temporary emergency water supplies.

15. DNR reports that it has encumbered \$1.46 million to PFAS-related expenses from the state-funded spills appropriation. These amounts include costs for temporary emergency water, including \$254,000 for residents in the Town of Campbell (La Crosse County) and \$25,000 for the Town of Peshtigo (Marinette County). All of the appropriation's \$2.15 million unencumbered balance is being held for emergency spills, emergency water, unexpected overruns on statutorily required actions, and other emergency actions. DNR indicates that these commitments preclude it from funding any additional non-emergency responses from the appropriation. Additional funding in the state-funded spills appropriation would give DNR funding for additional PFAS-related responses. The Committee could approve \$600,000 SEG in additional funding each year [Alternative 7a].

16. The \$55,000 for water testing [Alternative 7b] would target 44 rivers and watersheds covering approximately 80% of Wisconsin's land area. The \$25,000 for wastewater treatment facility testing [Alternative 7c] would focus on facilities and sites where permits are expiring or where PFAS is highly suspected and applicants are unwilling to sample for PFAS. Each sampling would cost an estimated \$400. The funding would be provided in DNR's environmental management SEG general operations appropriation under water quality.

17. Funding for the state-funded spills appropriation or the water testing could be provided on a one-time basis in the 2021-23 biennium [Alternative 7d]. This may be appropriate if the Committee were to approve any positions on a project basis and wished to further evaluate the effect of additional funding and positions in future biennia.

18. In addition to the 11.0 positions described in the table above, AB 68/SB 111 would provide UW's State Laboratory of Hygiene 1.0 emerging contaminant faculty position, with \$105,300 GPR in 2021-22, and \$140,300 in 2022-23. The position would serve as an academic focal point for various state activities. Additionally, the position would assist statewide efforts for training, education, and other outreach to support reducing PFAS exposure and other emerging contaminant exposures, as well as associated adverse environmental and public health impacts. Given the identified need in the PFAS Action Plan for further research on PFAS, the Committee could approve the faculty position [Alternative 8]. The Committee could also take no action [Alternative 10].

ALTERNATIVES

The Committee may select any of the following to implement portions of the Wisconsin PFAS Action Plan:

1. *Drinking and Groundwater.* Provide funding of \$197,100 SEG in 2021-22 and \$253,100 SEG in 2022-23 with 3.0 water supply specialist positions.

ALT 1	Change to Base	
	Funding	Positions
SEG	\$450,200	3.00

2. *Water Quality.* Provide funding of \$121,100 SEG in 2021-22 and \$158,400 SEG in 2022-23 with 2.0 wastewater specialist positions.

ALT 2	Change to Base	
	Funding	Positions
SEG	\$279,500	2.00

3. *Air Management.* Provide funding of \$171,000 SEG in 2021-22 and \$208,400 SEG in 2022-23 with 1.0 air management engineer and 1.0 air management specialist four-year project position.

ALT 3	Change to Base	
	Funding	Positions
SEG	\$379,400	2.00

4. *Remediation and Redevelopment.* Provide funding of \$121,100 SEG in 2021-22 and \$158,400 SEG in 2022-23 with 1.0 hydrogeologist position and 1.0 hydrogeologist program coordinator position.

ALT 4	Change to Base	
	Funding	Positions
SEG	\$279,500	2.00

5. *Waste and Materials Management.* Provide funding of \$60,500 SEG in 2021-22 and \$79,200 SEG in 2022-23 with 1.0 hydrogeologist position.

ALT 5	Change to Base	
	Funding	Positions
SEG	\$139,700	1.00

6. *Wildlife Management.* Provide funding of \$60,500 SEG in 2021-22 and \$79,200 SEG in 2022-23 with 1.0 wildlife management toxicologist position.

ALT 6	Change to Base	
	Funding	Positions
SEG	\$139,700	1.00

7. *PFAS Remediation and Testing Activities*. Provide any of the following:

a. \$600,000 environmental management SEG each year in the DNR continuing appropriation for state responses to hazardous substance spills and discharges.

ALT 7a	Change to Base
SEG	\$1,200,000

b. \$55,000 environmental management SEG annually for waterway testing and sampling;
or

ALT 7b	Change to Base
SEG	\$110,000

c. \$25,000 environmental management SEG each year for PFAS testing at wastewater treatment facilities.

ALT 7c	Change to Base
SEG	\$50,000

d. In addition to any of Alternatives 7a, 7b, or 7c, specify that funding would be one-time.

8. *UW-Madison*. Provide funding of \$105,300 GPR in 2021-22 and \$140,300 GPR in 2022-23 with 1.0 PFAS emerging contaminant faculty position.

ALT 8	Change to Base	
	Funding	Positions
GPR	\$245,600	1.00

9. In addition to any of the Alternatives 1 through 6, specify that the funding would be one-time, and the position(s) would be one of the following:

a. Four-year project positions that expire June 30, 2025; or

- b. Two-year project positions that expire June 30, 2023.
- 10. Take no action.

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