



## Legislative Fiscal Bureau

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February 1, 2022

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Natural Resources: Section 13.10 Request for Funds from the Committee's Supplemental Appropriation for the Disposal of PFAS-Containing Firefighting Foams -- Agenda Item XII

### REQUEST

Transfer \$1,000,000 in 2021-22 from the Joint Committee on Finance's segregated revenue (SEG) supplemental appropriation [s. 20.865 (4)(u)] to the Department of Natural Resources PFAS-containing firefighting foam collection and disposal continuing appropriation [s. 20.370 (4)(ps)] for collection and disposal of PFAS-containing firefighting foam.

### BACKGROUND

Per- and polyfluoroalkyl substances (PFAS) are substances used in various consumer products and other governmental and commercial applications, but which are thought to have negative human health and environmental effects. One use of PFAS is in firefighting foams, also called aqueous film-forming foams (AFFFs). AFFFs are used to suppress and extinguish high-hazard flammable liquid fires, which are typically referred to as Class B fires. AFFFs are effective at containing fires associated with flammable liquids such as petroleum products or aviation fuel. Many Wisconsin fire departments, and all commercial service airports, currently have and sometimes use PFAS-containing foams for emergencies. There are approximately 830 fire departments and at least eight aircraft rescue and firefighting units at commercial service airports.

2019 Wisconsin Act 101 created a prohibition on the use of firefighting foam that contains PFAS. Exempt activities under Act 101 include emergency firefighting operations, or test procedures in facilities with proper treatment, containment, and disposal measures. DNR is currently promulgating rules that establish storage, treatment, and disposal requirements for PFAS-containing firefighting foams. An emergency rule is effective until February 2023, or until a permanent rule takes effect, and a draft permanent rule was approved by the Natural Resources Board on January 26, 2022. The rule as adopted by the board will be reviewed by the Governor's Office, and if

approved, will advance to the legislature for review. DNR has also provided outreach and training on proper storage, containment, and disposal of PFAS-containing foams for fire departments and entities that test foams. Further, DNR is developing best management practices to guide management and use of PFAS-containing foam.

In 2020, the Wisconsin PFAS Action Council recommended a collection and disposal program for PFAS-containing firefighting foam. Subsequently, 2021 Wisconsin Act 58, the 2021-23 biennial budget act, created a new continuing appropriation for the collection and disposal of PFAS-containing firefighting foam [s. 20.370 (4)(ps)]. Act 58 provided \$1,000,000 from the environmental management account of the segregated (SEG) environmental fund in the Joint Committee on Finance's supplemental appropriation in 2021-22 for DNR to request for this purpose. DNR submitted the request on November 1, 2021. Senate Bill 156 and its companion Assembly Bill 140 would also provide funding for the collection and disposal of firefighting foam and specify additional provisions for administration of a collection program.

## **ANALYSIS**

It is not certain under the request how much firefighting foam would be collected from the volumes currently held by fire departments. DNR, in conjunction with the UW-Madison Survey Center, surveyed 825 fire departments across Wisconsin in 2020 to determine the level of use of PFAS-containing firefighting foam in Wisconsin. Based on survey responses and additional follow-up questioning of respondents, and the distribution of the volume of foams reported as being held by those fire departments, DNR estimates that the total amount of PFAS-containing firefighting foam held by all fire departments in the state is between 63,200 gallons and 96,300 gallons. Of those amounts, DNR estimates that approximately 23,700 to 44,700 gallons are expired and in need of disposal, and these foams are located at just over half of fire departments in the state.

The estimated cost per gallon of a firefighting foam collection and disposal program is not certain. DNR notes that other states have experienced costs of approximately \$15 to \$30 per gallon. However, the Department notes that costs of hazardous waste or chemical disposal have generally increased recently, and occasionally by significant margins. Testimony on AB 140/SB 156 from the Wisconsin Fire Chiefs Association estimates a cost of disposal of up to \$50 per gallon for PFAS-containing firefighting foam. Based on a potential 23,700 to 44,700 gallons of expired foam in need of disposal, the total cost to dispose of all foam in the state at \$50 per gallon could be from \$1,185,000 to \$2,235,000. Disposing of approximately 96,300 gallons of foam could incur costs of approximately \$4.8 million.

DNR indicates that the collection and disposal efforts will: (a) focus on smaller, rural, or volunteer fire departments that may not have significant budgetary or other capacity to collect and dispose of PFAS-containing foams independently; (b) prioritize foams manufactured prior to 2003 due to these foams likely having been manufactured with PFOA and PFOS, which are two fluorinated compounds considered to be most toxic; and (c) utilize the results of the 2020 fire department survey, and information the Department and PFAS Action Council will continue to collect from firefighting organizations and any parties that may be primarily responsible for collection, to determine the structure of collection programs. Further, DNR reports that some firefighting organizations have suggested a collection model by which larger fire departments might

incur some cost-share obligations. DNR has not committed to such a means of administering the collection program.

The following table shows DNR's intended allocations for the \$1 million requested under s. 13.10. The Department reports that it would hire a limited-term employee (LTE) to coordinate and administer the program, which includes overseeing the contract with an outside vendor to physically collect, transport, and dispose of the foam. However, DNR reports that existing positions and funding also could be utilized to cover the costs of LTE salary, fringe, supplies, and travel, such that the full \$1,000,000 in the request could be utilized solely for collection and disposal. DNR reports that it has not yet chosen a vendor and will not begin a bidding process until funds are released.

### **Funding for Disposal of PFAS-Containing Firefighting Foams**

<u>Category</u>	<u>Amount</u>
LTE Salary	\$38,000
LTE Fringe Benefits	8,500
Supplies and Travel	7,000
Contract for Collection, Disposal, and Technical Assistance	<u>946,500</u>
Total	\$1,000,000

Given that the Committee approved the \$1 million in funds for PFAS-containing firefighting foam disposal in the Wisconsin Act 58 biennial budget act, the Committee could approve DNR's request and release the funds [Alternative 1]. Accounting for the \$1,000,000 SEG that would be transferred from the Committee's supplemental appropriation, the environmental management account is expected to have a closing available balance of \$40.3 million on June 30, 2023. Alternatively, the Committee could approve the request but specify that the funds may only be used for contract costs associated with the collection and disposal portions of the program [Alternative 2]. The Committee could also deny the request [Alternative 3].

### **ALTERNATIVES**

1. Transfer \$1,000,000 in 2021-22 from the Committee's supplemental SEG appropriation [s. 20.865(4)(u)] to the Department of Natural Resources environmental fund SEG appropriation [s. 20.370 (4)(ps)] for collecting and disposing of PFAS-containing firefighting foam.

2. Transfer \$1,000,000 in 2021-22 from the Committee's supplemental SEG appropriation [s. 20.865(4)(u)] to the Department of Natural Resources environmental fund SEG appropriation [s. 20.370 (4)(ps)]. Further, specify that the funding may only be used for contract costs associated with the collection and disposal portions of the program.

3. Deny the request.

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