

# Update on Recent PFAS Regulatory and Legislative Activities

League of Wisconsin Municipalities

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Regulation of PFAS compounds is quickly moving forward in Wisconsin at both the legislative and administrative rule levels. In response, the League has helped create a Public Sector PFAS Coalition consisting of groups representing municipal water and wastewater utilities. The group's goals are to advocate collaboratively for science-based PFAS standards, educate the public about PFAS, and communicate our concerns to DNR, the Legislature, and the Governor's office about the potential high cost to municipal utilities of complying with the proposed PFAS ground water standards.

One of the groups participating in the Public Sector PFAS Coalition is Municipal Environmental Group (MEG) – Wastewater, which represents 100 large municipal wastewater utilities. MEG – Wastewater prepared the information and advice provided below. The League endorses MEG-Wastewater's recommendations.

***State Agency Regulatory Developments.*** On June 21, 2019, the Department of Health Services (DHS) recommended to DNR that the ground water quality standard for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) be set at 20 ng/l which is 20 parts per trillion (ppt). DHS also recommended a combined *preventative action limit* (PAL) of 2 ppt. The 20 ppt standard is significantly lower than the health advisory of 70 ppt established by the U.S. Environmental Protection Agency (EPA), and the PAL of 2 ppt establishes a near-zero discharge standard for groundwater despite the fact that these compounds already exist in groundwater. These are recommendations for standards that will need to go through the rule making process, which will take some time. Nevertheless, DNR is referring to these standards in the interim.

It is also important to emphasize that the standards recommended by DHS are groundwater standards; they are not surface water or biosolids standards. If the groundwater standards are applied to surface water and biosolids they could have challenging implications for municipal wastewater treatment plants. With respect to biosolids, for example, the imposition of a limit of or approaching 2 ppt would likely foreclose the ability of many plants, if not all, to land apply their biosolids. DNR is moving forward with studies to develop standards for surface water, but development of this standard is a ways off.

## ***Recent Correspondence from DNR to Municipal Wastewater Treatment Facilities***

***DNR's Request.*** On July 22, DNR began sending correspondence to about 125 municipal wastewater treatment facilities with industrial pretreatment programs and/or industries expected to be sources of PFAS discharge *requesting* that these facilities sample and analyze influent and effluent for PFAS. If facilities conducting such sampling and analysis obtain results showing

PFAS at or above 20 ppt in the influent or effluent, DNR recommends they conduct a review of industrial users to identify potential sources of PFAS. DNR is also recommending source reduction efforts after PFAS sources have been identified. It is important to note that DNR is, at this point, requesting *voluntary* sampling and analysis.

***Recommended Media Response.*** If you are asked for comment by the press or customers in the short term, we recommend the following response: **“We are in the process of evaluating the Department of Natural Resources’ request. We have not made a commitment as to sampling at our facility at this time. We will continue to work with the Department on a long term response to this issue.”**

***Recommended Long Term Response 1.*** If you have a *known source of concentrated PFAS* from manufacturing, or a spill from materials or products such as firefighting foam, efforts should be taken to prevent those sources from entering the sanitary sewer or groundwater. This will likely include working with DNR to establish a plan for source reduction measures.

***Recommended Long Term Response 2.*** We recommend that municipal wastewater treatment facilities *without a known source of PFAS contamination do not conduct sampling and analysis for PFAS compounds at this time.* Among the reasons for this recommendation are the following:

- As the letter from DNR recognizes, there are no EPA-approved methods for PFAS sampling and analysis of wastewater. Without standardized, approved methods, sampling results will not provide certainty or clarity as to the actual amount of PFAS in a wastewater treatment facility. One role of municipal wastewater facilities in the water reclamation process is to provide reliable, science-based information to DNR and its customers. Sampling and analysis without standardized and approved methods does not advance this role.
- There is no standard for surface water or land application. Obtaining a test result that has no standard to measure against is not meaningful information. The 20 ppt standard recommended by DHS is a groundwater standard that is not transferrable to surface water or land application standards. Analyzing wastewater influent and effluent against a groundwater standard will result in misleading information.
- Municipal wastewater treatment facilities are not original sources of PFAS, do not add PFAS to waste streams during the treatment process, and do not have the capability to remove PFAS during the treatment process. For those communities without a known source of PFAS, the PFAS in wastewater is likely to be coming from an array of domestic and industrial dischargers that may have a limited ability to reduce the amount of PFAS in their wastewater discharges.

We recognize that every community will have unique circumstances it must evaluate when making this decision, and we would be happy to discuss those circumstances or any questions further at any time in this process.

***State Legislative Developments.*** There are also currently a number of bills legislators have introduced relating to PFAS:

- [SB 109/AB 85](#). Imposes a 90-day timeframe for establishing groundwater quality standards for PFOA and PFOS. Because DHS already released standards for these compounds on June 21, this bill is unlikely to proceed.
- [SB 302/AB 321](#) Requires DNR to establish and enforce standards for a wide range of PFAS. This would include standards for drinking water, surface water, solid waste, soil and sediment, among other things. No hearing has yet been scheduled on this bill, which was introduced by Senator Miller (D-Madison) and Rep. Taylor (D-Madison). No Republican legislators are listed as co-sponsors.
- [SB 310/AB 323](#). Rep. Nygren (R-Marinette) and Sen. Cowles (R-Green Bay) introduced this bill, which prohibits the use of firefighting foams in training that contain intentionally added PFAS.

***Federal Legislation.*** At the federal level, amendments have been added to the National Defense Authorization Act that would require EPA to issue national regulations for PFOS and PFOA and establish a number of requirements regarding drinking water. A version of this bill recently passed in the House.