

Wisconsin PFAS Action Plan

Public Comment Response: Summaries and Recommendations

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Notes:

- Action Items with the orange heading shown below will be introduced as discussion items for WisPAC.
- All other action items, and the recommendations made in response to comments received, are proposed for inclusion in the consent agenda for approval.

 ***This Action Item flagged for further discussion***

Theme: General

Action Item: General / Presently Not in Plan

 *This section is flagged for further discussion*

Summary:

- Associations, organizations, and individuals registered overall support for the plan. Several expressed appreciation for the plan and the transparent and engaging process.
- Emphasis on need for strong leadership and accountability, including those responsible for the PFAS contamination to the air, land and waters of the state.
- Strong interest in moving more quickly by many, while a few expressed concerns about moving too quickly or without enough industry input.
- Ongoing concern from some Wisconsin residents about site-specific exposures to PFAS-contaminated sites or contaminated drinking water wells.
- Several commenters identified the growing issue of PFAS in food and agriculture.
- Several raised concerns about the increasing need to lead with public health, including the connection with COVID and compromising immune systems/vaccine responses.
- Interest in greater context about the order of themes and items and recommendations to re-order based on sequencing or priorities. Industry also requested context when utilizing best practices and work being done by other states.
- Several commented about financial resources across and outside of individual Action Items.
- Some commenters asked for WisPAC to develop metrics relating to the action items and to ensure transparency on making progress on action items, as well as sharing implementation plans in the future.
- Others suggested that WisPAC, in particular DNR, explore innovative programs that incentivize businesses and communities to reduce or eliminate use of certain PFAS, and to proactively look for contamination to the states' air, land and waters.

Recommendations:

- **Add to Report:** Add language about WisPAC committing to creating an implementation plan that includes the development of metrics and deadlines by Spring 2021, recognizing the resources of those state agencies.
- **Add to the Report:** Add language that commits to ongoing dialogue with stakeholders concerning innovative ideas to incentivize the reduction or elimination of the use of PFAS-containing products as well as incentives to identify impacts to the air, land and waters of the state.
- **Note:** Clarify when/why different measurements are used (ppt, ppb, etc.).
- **Note:** Highlight in the report the assets and natural resources in Wisconsin that could be/are impacted by PFAS contamination.
- **Note:** Provide additional context for the advisory groups and how their recommendations were reviewed and incorporated by WisPAC.
- **Note:** Do not reorder Themes or Action Items, but provide additional information in the index regarding the order.
- **Note:** Ensure accessibility of the Action Plan and other related materials for Wisconsin populations whose primary language is not English.
- **Note:** Create an online "resource" page to compile frequently used resources.
- **Note:** Create an online response to comments document.

Theme: 1 - Standard Setting

Action Item: 1.1 – Set Science-Based Environmental Standards for PFAS

 **This Action Item flagged for further discussion**

Overall Summary:

- Only develop new standards for drinking water or surface water “when appropriate”, including if there is technology to address PFAS contaminants.
- Several commenters suggested DNR move more quickly in putting standards in place, including the use of emergency rules.
- Several commenters requested that PFAS be regulated by Wisconsin as a “class” (ie., a group) of compounds versus establishing individual standards for each PFAS compound for which we have health data for. Others advocated against regulating PFAS as a class.
- Some commenters requested that standards development be expanded to air toxics, biosolids, leachate sediment and soil -possibly making PFAS a hazardous waste or CERCLA hazardous substance.

Recommendations:

- **No change:** DNR will continue to follow ch. 160, Wis. Stats., to periodically request development of groundwater standards from DHS. The language in the action plan for development of additional surface water and drinking water standards for PFAS is simply consistent with 2019 SB 772 and AB 843 – the PFAS legislation that was supported by the Governor and the DNR, as well.
- **Add to the report:** Language that clarifies that DNR has the authority under ch. 227, Wis. Stats., to promulgate emergency rules when it can meet the criteria in state law. Such an emergency rule would be effective for 150 days, and if approved by the legislature, for up to an additional 120 days. In this case, there could be a gap between when an emergency and a permanent go into effect. DNR will evaluate the necessity of such an option on a case-by-case basis.
- **Add to the report:** Language that clarifies the issue of regulating PFAS as a class, individually or both. Proposed Language: *“Not all PFAS cause the same health effects nor do they have the same exposure levels. To ensure that the state is sufficiently protective for Cycle 10 and 11 of groundwater recommendations, DHS evaluated each PFAS sent to them by DNR on an individual basis. Currently, DHS is not recommending PFAS groundwater standards as a “class” given how each of these PFAS react in the body. However, DHS did add 4 “precursor” substances to the 20 PPT threshold for PFOA and PFOS. The state will continue to evaluate science-based information in order to determine the necessity to regulate PFAS as a class, individual compound or both. As more technical information becomes available, DHS will continue to determine when human health risk assessments should include evaluation of the mixtures of PFAS present.”*
- **Clarify in report:** Soil standards will be developed per the existing ch. NR 720 process and that biosolids and leachate collection is addressed under action item 3.3 *Develop and Apply Best Management Practices for Proper Handling of PFAS-containing Waste*. DNR will adopt and implement any federal requirements for PFAS air toxics required by US EPA.

Theme: 1 - Standard Setting

Action Item: 1.2 Develop Recommendations for Management of PFAS-containing Landfill Leachate

Overall Summary:

- Commenters offered support for investigating and controlling landfill leachate. Many also offered the need to ensure PFAS leachate is not sent to WWTP.
- Some commenters noted a preference for source reduction or narrative standards rather than using numerical standards.
- The importance of collaboration, especially between landfills and WWTPs, and comprehensive planning for safe treatment and management, was highlighted by many.
- Landfill operators should ensure that neighboring private drinking water wells are sampled where PFAS may be an issue and geology indicates a possible receptor

Recommendations:

- **Add to the report:** Landfill operators be required to test neighboring private drinking water wells as part of their responsibilities.
- **Add to the report:** DNR will evaluate and incorporate as appropriate other states' leachate best management practices, as well as relevant parts of EPA's PFAS disposal guidance. There are current laws, such as the Spill, Environmental Repair, Groundwater and Solid Waste laws, that already govern actual or potential impacts to the air, land and waters of the state, including private wells.

Theme: 2 – Sampling

Action Item: 2.1 – Expanding Site Identification Using GIS Mapping

 ***This Action Item flagged for further discussion***

Overall Summary:

- Many registered their support for mapping tools as valuable resources for those working in PFAS-related clean-up, including public access where possible.
- Some comments relayed concerns about building a prioritization model and mapping potential contamination sources. Three groups opposed this portion of the action. Still, there was a recognition by many for the need for targeted community and partner outreach and education as it relates to communicating about contaminated properties. The 2019-21 biennial budget provided funding to create such a prioritization effort.

Recommendations:

- **Add to the report:** “The interactive map available to the public will include the locations of actual PFAS sources that have impacted the air, lands or water of the state.”
- **Consider:** Include within this Action Item, Risk Communication (4.1), or both the parameters for appropriate transparency and disclosure of information.
- **No change:** DNR is simply proposing to take the priority model to the next steps that was funded in the 2019-21 budget.
- **Amend the report:** Add “hydrogeological evaluation and fate & transport” to the list of incoming data to be analyzed.

Theme: 2 – Sampling

Action Item: 2.2 – Facilitate Timely Collection of Environmental PFAS Data

Overall Summary:

- Commenters sought additional details – including anticipated timelines for the collection and reporting of data and identifying who would conduct the sampling.

Recommendations:

- **Add to the report:** Information about volunteer and NGO resources to help conduct sampling in “Additional Information”.
- **Add to the report:** Language that clarifies on DNR or other state agency web pages about PFAS collection, sampling and analysis for surface water, air, fish, deer, and other environmental media.

Theme: 2 – Sampling

Action Item: 2.3 – Standardize PFAS Sampling Methods and Support Statewide Implementation

Overall Summary:

- Both industry and the regulated community offered support for standardized sampling protocols.
- One comment recommended that the sampling protocols or sampling guidance should be established through rulemaking to ensure consistency, due to risk of cross contamination.

Recommendations:

- **No change:** Where DNR sampling protocols are required to be followed by regulated entities, those will be part of the rulemaking. For example, where DNR’s rules on conducting a site investigation - s. NR 716.13(12) - requires responsible parties to follow “EPA’s SW- 846: Test Methods for Evaluating Solid Waste” those will be incorporated into the applicable administrative rules. Where those sampling protocols provide guidance or advice with respect to how the agency is likely to evaluate the samples collected and analyzed, then those will be incorporated into guidance documents.

Theme: 2 - Sampling

Action Item: 2.4 - Test Public Water Systems for PFAS

Overall Summary:

- Overwhelming support for the action, with several suggesting it be made stronger or highlighted as a top priority.

Recommendations:

- **Note:** Many of the items identified may be addressed in an implementation plan.

Theme: 3 – Pollution Prevention

Action Item: 3.1 Partnering with Firefighting Associations & Municipal Airports on PFAS

Overall Summary from Comments:

- General support expressed for the collaborative partnerships central to this Action Item (WI Airport Managers Association, PFAS Regulatory Commission, Midwest Environmental Advocates).
- Several commenters provided suggestions for more specific actions that relate to this topic area, or expressed a desire for more detail within the action item itself.
- Other comments relate to site-specific PFAS concerns that fall under other Action Items.

Recommendations:

- **No change:** Since the intent of this action item is to create a forum for ongoing, more detailed work and collaboration around PFAS and firefighting, no substantial edits are recommended to the current version.
- **Note:** While the action item already refers to several of the suggested actions brought up in some of the comments (e.g., non-PFAS PPE, exploring funding sources for replacement, etc.), these comments will remain available for future reference.

Theme: 3 – Pollution Prevention

Action Item: 3.2 Amend Firefighting Foam Law, Wis. Stat. § 299.48

 ***This Action Item flagged for further discussion***

Overall Summary from Comments:

- Received detailed comments from a variety of stakeholders – including regulated entities, environmental groups, and community members.
- Industry and safety-focused comments expressed concern or a desire for clarification or confirmation of the implications of the new and proposed amended legislation on the availability and use of firefighting foam in emergency situations, particularly from the perspective of airports.
- Environmental groups, along with expressing general support for the Action Item, indicate that an accelerated timeline is preferred for the legal changes proposed in the Action Item, as well as a general transition to safe alternatives both within the context of the sectors covered in this Action Item.

Recommendations:

- **No change:** As written, the Action Item recommends state law be amended to include an expansion of the prohibition on the use of PFAS-containing firefighting foam to be consistent with those prohibitions in federal law – specifically, those timeframes set by Congress for the Federal Aviation Administration and Department of Defense to find suitable alternatives to PFAS foam. The state of Washington has a similar, prospective date banning the use of PFAS foam once the FAA and DOD have non-PFAS alternatives and those federal agencies make the switch over to non-fluorinated foams.
- **Clarify in report:** revisit how Action Item 3.2 is described – the type(s) of action section will be updated to include “legislative.”
- **Note:** As noted in Action Item 4.3 on Partnerships, use those forums to discuss changes to state law regarding firefighting foam.

Theme: 3 – Pollution Prevention

Action Item: 3.3 Develop and Apply Best Management Practices (BMPs) for Proper Handling of PFAS-containing Waste

Overall Summary from Comments:

- Commenters expressed particular appreciation for the level of collaboration and opportunity for input from partners that is described in the Action Item, as well as the focus on providing support for those handling PFAS-containing waste.
- Comments from environmental-focused groups expressed a desire to create (or arrive at sooner) more binding measures for handling PFAS-containing waste than the voluntary BMPs being proposed. These groups also request that actions be taken in the meantime to mitigate the risk of ongoing exposures while BMPs are developed and put into use (monitoring, safe containment/storage).
- Several comments describe and request very specific edits or additions to the Action Item. These suggestions are at a level of detail that does not match with the vision of the Action Item as a blueprint or are addressed elsewhere in the plan.
- Several comments focused specifically on management/disposal of AFFF cross over into Action Item 3.2

Recommendations:

- **No change:** Given where the states and US EPA are on understanding PFAS, and how it impacts the environment and public health, no changes to the action item is recommended. The state will continue to monitor what other states and federal agencies are doing and may adjust this recommendation in the future based on new information.
- **Note:** Many of the items identified may be addressed in an implementation plan.

Theme: 3 – Pollution Prevention

Action Item: 3.4 Identify PFAS Sources and Reduce Discharges to Wastewater Facilities

Overall Summary from Comments:

- Most comments indicate broad support (or at least a neutral perspective) of the overall approach, particularly for using WPDES permitting as way to address PFAS discharges to the environment.
- Most comments offer questions or specific proposals/suggestions that relate to the three broadly defined actions prioritized within the Action Item.
- Several comments from environmental groups expressed a desire for more concrete and immediate requirements, including permit conditions; to reduce PFAS levels in discharges from facilities; to move beyond a voluntary testing approach; and identification of industrial sources of PFAS-containing influent.
- Several comments include calls for funding, increased broad environmental sampling and monitoring.

Recommendations:

- No modifications needed.
- **Note:** Many of the items identified may be addressed in an implementation plan.

Theme: 4 – Outreach

Action Item: 4.1 Develop Risk Communication Infrastructure

Overall Summary:

- Overall strong support across many sectors and voices for this action item.
- Emphasized necessary partnerships between and alignment with other national messengers (e.g., EPA/ECOS), and ongoing collaboration with municipalities and WPDES permit holders.
- Recognized value in statewide/inter-agency coordination of messaging and resources.
- Encouraged active over passive communication, including things like on-site signs and brochures in addition to web content.
- Suggested more risk communication, especially around understanding risk and exposure, and regarding specific sources and sites.

Recommendations:

- **Add to report:** include language in the Action section to address the following:
 - Partner with environmental entities on the federal level (EPA/ECOS/ITRC) toward developing consistent risk communication.
 - Consult with municipalities, permit holders, community members, etc. in developing information, including about assessing risk and exposure and long-term impact, for the website, template tools like signs and brochures for contaminated sites and waterbodies.

Theme: 4 – Outreach

Action Item: 4.2 Facilitate Environmental Justice and Health Equity in Wisconsin Communities

Overall Summary:

- Extremely supportive overall.
- Emphasize a “no-harm” approach to addressing PFAS contamination in low-income and minority communities, and other communities disproportionately impacted by PFAS. Implement research into disparate risks faced by minority and low-income communities and prioritize remediation.
- Recognize increased risk of exposure in tribal communities and those dependent upon sustenance fishing due to contaminated fish.
- Empower advisory group with decision-making authority. Develop parameters for advisory group, including representation, criteria for membership, and accountability. Include metrics for tracking outreach performance. Make sure meetings are widely accessible.
- Asked to create additional action items or metrics that are more specific to how environmental justice will be carried out.

Recommendations:

- **Clarify in report:** Minor edits where needed to clarify details of Action Item implementation.
- **Add to report:** Modify the Background to specifically acknowledge, call out and address the fish consumption pathway of exposure to which tribal and other subsistence fishing communities are especially vulnerable.

Theme: 4 – Outreach

Action Item: 4.3 Develop and Promote New Partnerships to Increase Understanding of PFAS

Overall Summary:

- Supportive of unified communication strategies and public engagement.
- Interested in specific partners (e.g., WWTPs) being identified, additional collaborations with consumer groups, and ongoing opportunities for public engagement (like a Summit).

Recommendations:

- **Note:** DNR will evaluate the need to reach out to other interested and impacted stakeholders.

Theme: 4 – Outreach

Action Item: 4.4 Develop Exposure Reduction Recommendations for Public Sector Employees

Overall Summary:

- Commenters offered a few suggestions emphasizing military responsibility and supporting the firefighting community as they transition to safer alternatives.

Recommendations:

- **Modify:** Add to the “A priority is ...” paragraph to explicitly address and prioritize the need to “identify alternatives to PFAS-containing personal protective equipment for firefighters and, if no alternatives are available, to identify and support ongoing efforts to develop that equipment.”

Theme: 4 – Outreach

Action Item: 4.5 Enhance Collaboration Between Wisconsin and Federal Agencies on PFAS Relating to Military Installations

Overall Summary:

- Encouraged greater accountability for funding from DOD and greater initiative in negotiations with DOD and federal government.
- Reinforced the importance of working towards preventing exposure and contamination.

Recommendations:

- **Add to report:** more context about the capacity for DOD funding testing or clean-up – either in Background, Anticipated Resource Needs, or Additional Information.

Theme: 5 – Research

Action Item: 5.1 Collaborate on and Implement Research

 ***This Action Item flagged for further discussion***

Overall Summary from Comments:

- Broad, strong support for this Action Item, including several calls for the “Research” theme and this Action Item to be listed first to reflect its priority.
- Encourage a broad collaborative approach to pull in necessary expertise across research topics; WWTP noted as a gap in expertise.
- Citizen monitoring groups suggested as a collaborator, including the Milwaukee Riverkeepers volunteering to help in this.
- Research gaps or priorities were identified by various commenters:
 - Toxicology/Human health
 - Compounds present at DOD sites
 - BMPs for entire “life cycle”
 - Methods for managing PFAS as a class
 - PFAS dynamics in the aquatic food webs and species of Wisconsin’s inland waters and the Great Lakes

Recommendations:

- **Clarify in report:** add to the “Collaboration” item in the Action section to affirm that a broad, collaborative approach will be taken when forming the proposed interagency research workgroup, which should be expanded to offer citizen/volunteer group engagement. National partnerships listed should also include the Water Research Foundation (WRF) and the Water Environment Federation (WEF).
- **Add to report:** Acknowledge in the Background or introduction section that human health and toxicology are being addressed in Action Items 2.1, 5.2, 7.1, and 8.1.
- **Add to the report:** Language that clarifies the issue of regulating PFAS as a class, individually or both. Proposed Language: *“Not all PFAS cause the same health effects nor do they have the same exposure levels. To ensure that the state is sufficiently protective for Cycle 10 and 11 of groundwater recommendations, DHS evaluated each PFAS sent to them by DNR on an individual basis. Currently, DHS is not recommending PFAS groundwater standards as a “class” given how each of these PFAS react in the body. However, DHS did add 4 “precursor” substances to the 20 PPT threshold for PFOA and PFOS. The state will continue to evaluate science-based information in order to determine the necessity to regulate PFAS as a class, individual compound or both. As more technical information becomes available, DHS will continue to determine when human health risk assessments should include evaluation of the mixtures of PFAS present.”*

Theme: 5 – Research

Action Item: 5.2 Monitor Background Levels of PFAS in the Environment

Overall Summary:

- National Wildlife Federation and GLIFWC note a potential gap or at least insufficient emphasis within the Action Item and overall Action Plan when it comes to PFAS monitoring in wildlife.
- One commenter also identified a watershed management approach to monitoring for all media in alignment with similar attempts to understand the prevalence of PCBs and arsenic.

Recommendations:

- **Add to report:** Within Additional Information, include a section on Wildlife similar to the information included for other media on monitoring strategies and methods.

Theme: 5 – Research

Action Item: 5.3 Collect Data on Drinking Water Treatment and Costs

Overall Summary:

- Comments express broad support for collecting and disseminating cost information to remove and reduce PFAS from the public water supply.
- Includes suggestions for how to scope the cost assessment.
- Emphasis placed on adequately factoring cost implications into any regulatory actions taken on PFAS.

Recommendations:

- No modifications needed.

Theme: 6 – Stewardship

Action Item: 6.1 Develop and Support Product Stewardship Mechanisms to Reduce PFAS use

Overall Summary:

- Several comments in support of reduced use, with some suggesting stricter or expedited action to institute a global ban or immediate phase out.
- Some concern from industry about broad nature of action item and conflict with state versus federal approach to regulating use.
- Emphasis on addressing PFAS from the source rather than putting burden on waste management facilities. Also recognition of need to work with manufacturers and industry who may unintentionally use PFAS.

Recommendations:

- **Add to the report:** Additional Information more about the European ban on PFAS – including the [Stockholm Convention](#) and [EU strategy for PFAS](#), and what global bans and phase-outs could mean for US/Wisconsin exports.
- **No change to the report:** Many states, despite federal voluntary initiatives, have emphasized the stewardship of PFAS products.
- **No change to the report:** Report will continue to emphasize pollution prevention.

Theme: 6 – Stewardship

Action Item: 6.2 Minimize the state’s purchase of PFAS-containing products

Overall Summary:

- General support for Wisconsin to modify the purchase of PFAS-containing products. Some identified the importance of doing so through a risk-based approach and prohibiting the purchase of non-essential PFAS, while others highlighted the need to identify alternative products, even if PFAS-containing products are deemed essential.
- Industry requested delineation of unsafe PFAS/PFAS of concern from other PFAS.

Recommendations:

- No modifications needed.

Theme: 7 – Future Investments

Action Item: 7.1 – Provide Support to Wisconsin Veterans to Address PFAS-Related Health Risks

Overall Summary:

- One comment was received reinforcing the actions laid out in this action item, specifically to provide blood testing, medical services, and disability benefits to the members of the armed services and public sector who were exposed to PFAS.

Recommendations:

- No modifications needed.

Theme: 7 – Future Investments

Action Item: 7.2 Launch a Collection and Disposal Program for PFAS-Containing Firefighting Foam

 ***This Action Item flagged for further discussion***

Overall Summary:

- Several stakeholders provided comments reinforcing the need for a collection and disposal program.
- Some comments provided insight into the readiness of the firefighting community, including that there are currently no regulations requiring fire departments to use PFAS-containing firefighting foam.
- Commenters also called for the use of general-purpose revenue funds to support this program.

Recommendations:

- **Add to the report:** The action item could be modified to clarify or expand the collection and disposal program to include municipal airports; this could be contemplated as Phase 2 of the program, once the fire department collection and foam replacement activities are completed.

Theme: 7 – Future Investments

Action Item: 7.3 – Provide Financial Tools for Local Governments

 ***This Action Item flagged for further discussion***

Overall Summary:

- There was collective support for and acknowledgement of the necessity of funding. Beyond support, comments explored the tactical elements of such funding – restrictions or parameters for funding, flexibility, communication and outreach about the program, coordination of information and testing, etc.
- Some comments recommended legislation be more expansive than prior efforts, and lead with public health. Other comments supported the use of funds to support mitigation and innovation in communities, and in specifying the source of funding for any action.

Recommendations:

- **Clarify in report:** acknowledge that in Action Items 4.3, 5.1 and 7.2 additional stakeholder engagement should occur to refine funding proposals.
- **No change:** maintain the proposed administration of the funding within the DNR. Those who are working directly with the impacted businesses, airports, fire departments, communities and other entities on regulatory, technical, educational and compliance issues are best equipped to provide funding on issues they have first-hand knowledge of and relationships with impacted entities.

Theme: 8 – Identifying and Addressing Historic Discharges

Action Item: 8.1 Improve Efficiency in Development of Long-Term Water Supply Solutions

Overall Summary:

- No comments received.

Recommendations:

- No modifications needed.

Theme: 8 – Identifying and Addressing Historic Discharges

Action Item: 8.2 Develop New Tools to Address PFAS Contaminated Sites

 ***This Action Item flagged for further discussion***

Overall Summary:

- This action item incorporates many of the bill draft provisions proposed in 2019 SB 772 and AB 843, legislation introduced in 2020 by Senator Hansen and Representative Nygren, providing additional tools for the DNR and impacted communities. Tools included ability to ask for financial assurance to cover PFAS cleanup costs; clarity on using natural resources damage claims to pursue settlements over PFAS; and ability for DNR to deposit settlement funds into an appropriation for future use.
- Industry representatives registered their opposition to each of the three proposed actions.

Recommendations:

- **No changes:** Recommendations are consistent with 2019 SB 772 and AB 843 – these PFAS bills were supported by the Governor and the DNR, as well.