

New PFAS Legislation in Wisconsin

Apr 15 2026

Posted By: Logan M. Glasenapp & David P. Ruetz & Michael P. Carlton

Practice Area: Environmental Law and Litigation

Governor Tony Evers signed into law two laws that are intended to address significant concerns regarding Wisconsin's regulation of so-called forever chemicals, per- and polyfluoroalkyl substances (PFAS). These laws, 2025 Wisconsin Act 200 and 201, set a new course and grant new authority to the Department of Natural Resources (DNR) to investigate and remediate, as well as to issue grants to public and private parties dealing with PFAS contamination. The laws also create narrow liability exemptions for passive receivers of PFAS, such as municipalities, farmers, water utilities, airports, and fire departments.

These laws have immediate and significant effects on a wide range of businesses, municipalities, and landowners and it is vitally important that parties understand their potential liability and the new exemptions under which they may qualify for relief.

Highlights

- Specific landowners, municipalities, and other passive receivers of PFAS may qualify for liability exemptions from Wisconsin's Spills Law.
- The DNR has broader authority to investigate and remediate PFAS contamination.
- \$125 million in grant funding is now available for investigation and remediation activities.
- The state and federal government are still keenly focused on PFAS enforcement, now with a larger regulatory burden and spotlight on direct users and dischargers of PFAS.

Liability Exemptions

Under Wisconsin's Spills Law, any person who causes or possesses/controls a discharge of a hazardous substance is strictly liable for investigation and cleanup. Consider the farmer who applied biosolids or wastewater residuals to their fields as a cost-effective and facially environmentally-conscious fertilizer. Now we know those biosolids and wastewater residuals may have contained PFAS, meaning the farmer caused the discharge of a hazardous substance, PFAS, and would be strictly liable under the Spills Law.

Now, 2025 Wisconsin Act 200 has amended the Spills Law to specifically exempt:

1. A person that spread biosolids or wastewater residuals contaminated by PFAS in compliance with any applicable license or permit.
2. A person that owns land upon which biosolids or wastewater residuals contaminated by PFAS were spread in compliance with any applicable license or permit.
3. A fire department, public-use airport, or municipality that responded to an emergency that required the use of PFAS or that conducted training for such an emergency that required the use of PFAS or that conducted training for such an emergency in compliance with applicable federal regulations.
4. A solid waste disposal facility that accepted PFAS.
5. A person that owns, leases, manages, or contracts for property on which the PFAS contamination did not originate, unless the person also owns, leases, manages, or contracts for the property on which the PFAS discharge originated.

While parties may be exempt from liability, they still may need to allow access for investigation and remediation. The new exemptions are a good thing, but “new” tends to be synonymous with “confusing” when it comes to the Spills Law. Further, it’s important to remember that the exemptions do not suddenly make PFAS-contaminated land marketable. Now’s the time to identify whether any of these exemptions apply to you and take advantage of available funds.

New Financial Avenues

The laws create two new grant programs designed to fund PFAS investigations and remediations. The Municipal PFAS Grant Program will be available for municipalities, nonmunicipal entities regulated as public or community water systems, and privately-owned landfills. This program will also make funding available to municipalities and privately-owned landfills to dispose of certain PFAS-containing wastes. Finally, it will make funding available to cover capital costs associated with facility upgrades or new infrastructure.

The second grant program, the Innocent Landowner Grant Program, makes funds available for authorized activities (investigation, remediation, etc.) undertaken by “eligible persons”. Those parties eligible for a liability exemption under Act 200 are also eligible for grants under the Innocent Landowner Grant Program, meaning eligible landowners would be able to clean up their property with DNR’s help without the fear of a protracted and expensive enforcement process.

Finally, municipalities and water utilities are now permitted to use revenues from their water or sewerage services to fund up to half of the cost of pretreatment or other PFAS source reduction measures for interconnected customers. Where appropriate, municipalities and water utilities can now use revenue to help water users at the tap while addressing necessary larger infrastructure upgrades.

DNR’s Role: New and Old

The new laws allow the DNR to begin response and remedial actions at any PFAS-contaminated site even if a responsible party has not been identified or where the responsible party is itself eligible for a new liability exemption or grant program. This expansion of authority should allow the DNR to cut through its own red tape and more swiftly address the statewide issue of PFAS contamination.

The law also requires the DNR, in coordination with the Board of Regents of the University of Wisconsin System, to embark on a new course of study designed to better understand the impacts of PFAS, including cost-benefit analysis of options for disposing of biosolids, the cost, feasibility, and effectiveness of different destruction and disposal methods of PFAS, and different methods for remediating PFAS.

Status of PFAS Groundwater Standards

While the DNR has the legal authority to enforce the investigation and remediation of PFAS contamination in Wisconsin, groundwater quality standards for PFAS still have not been formally adopted by the DNR. To date, the DNR has proposed groundwater quality standards that would be added to Wisconsin Administrative Code Section NR 140 for six of the most commonly occurring PFAS compounds including, perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluorononanoic acid (PFNA), perfluorobutane sulfonic acid (PFBS) and hexafluoropropylene oxide dimer acid (HFPO-DA, commonly known as GenX Chemicals). The proposed standards, once adopted, would establish numeric groundwater quality standards to minimize the concentration of these PFAS compounds in Wisconsin's groundwater. The concentrations proposed for the PFAS groundwater quality standards are based on the Wisconsin Department of Health Services (DHS)'s January 2025 recommendations. DHS' recommendations were based on federal EPA drinking water standards issued in April of 2024, which rely on newly available science and protection of public health. Currently, the DNR is in the process of preparing an "Economic Impact Analysis" that will provide the Wisconsin Legislature with information about the anticipated costs of adoption of the proposed NR 140 groundwater quality standards for these six compounds. The DNR will be seeking public comment on the economic impact of these proposed rule revisions in the near future. It is anticipated that once the public comment period is concluded, it may still be several months before the PFAS groundwater standards are formally adopted into NR 140.

How We Can Help

Now is the time to evaluate potential exposure to PFAS liabilities. Municipalities must know the scope of PFAS contamination before they can properly apply for new funding opened up by these laws. Businesses need to know what responsibilities they have now and are likely to have in the future as the state and federal governments continue fine-tuning the PFAS regulatory scheme.

These new liability exemptions and funding sources are opportunities for municipalities and businesses alike to remediate PFAS contamination across the state. Now is the time to evaluate the impact of these new laws on your specific situation by coordinating with consultants, environmental health experts, legal counsel, and other experts.

von Briesen & Roper Legal Update is a periodic publication of von Briesen & Roper, s.c. It is intended for general information purposes for the community and highlights recent changes and developments in the legal area. This publication does not constitute legal advice, and the reader should consult legal counsel to determine how this information applies to any specific situation.