



TO: Members, Senate Committee on Natural Resources, Veteran and Military Affairs

FROM: Adam Jordahl, Director of Environmental & Energy Policy

DATE: October 7, 2025

SUBJECT: Testimony on 2025 Senate Bill 128

Chair Jacque and Members of the Committee:

Wisconsin Manufacturers & Commerce (WMC) appreciates the opportunity to provide testimony on 2025 Senate Bill 128, which establishes various policies and programs to address PFAS contamination in Wisconsin. Today, WMC is testifying for information only, as this bill includes a variety of provisions, some of which WMC supports, some of which WMC would like to see altered, and some of which WMC takes no position on.

WMC is the largest general business association in Wisconsin, representing approximately 3,800 member companies of all sizes, and from every sector of the economy. Since 1911, WMC's mission has been to make Wisconsin the most competitive state in the nation to do business. This mission includes ensuring that environmental standards are fair and predictable, no more stringent than necessary to protect the environment, and do not unduly burden Wisconsin businesses.

WMC appreciates the efforts of the authors, Senator Wimberger and Representatives Mursau and Swearingen, to assemble comprehensive, compromise legislation that addresses PFAS in the environment while balancing the concerns of many different stakeholders.

What are PFAS and Why This Bill is Important

Per- and polyfluoroalkyl substances, commonly known as "PFAS" or "fluorinated compounds," are a class of thousands of chemistries whose only common, defining feature is the presence of at least one carbon-fluorine bond in the molecule of a compound. PFAS are used in many important applications: food packaging, cosmetics, coatings, lubricants, solvents, refrigerants, propellants, fire suppressants, electronics, medical devices, pharmaceuticals, advanced medical treatments, and more. Every day, we depend on products, devices, machinery, and medical treatments made with fluorinated compounds, and most of these chemistries have been approved as safe for humans to use in their specific applications.

This is because PFAS tend to share certain physical properties that are desirable for those applications: they typically have strong, nonreactive chemical bonds; they tend to be resistant to water, oil, fire, and staining; and they are usually resilient against temperature changes and physical damage. In chemistry and engineering, these are usually good things.

However, a select handful of “legacy” PFAS compounds have been discovered in the environment, primarily the compounds PFOA and PFOS. There are studies associating these legacy compounds with some negative health risks, which is why they are no longer produced in the United States.

Accordingly, the most important feature of SB 128 is that it makes various new and existing funding sources available to test for, filter and treat, and otherwise remediate PFAS contamination at hotspot locations like airports and landfills. Specifically, the bill:

- Creates programs to implement the PFAS Trust Fund that was established in the 2023-2025 state budget. This funding will help communities and homeowners to treat water and land affected by PFAS through the newly created municipal and innocent landowner grant programs.
- Expands the availability of funding for PFAS treatment under existing programs for both municipalities (the Clean Water Fund and Safe Drinking Water Loan Programs) and private well owners (the well compensation grant program).
- Provides for PFAS testing at water systems and landfills, pilot projects and studies to test PFAS treatment and disposal methods, assistance to testing laboratories to increase the state’s sampling capacity, and continued collection of firefighting foam containing PFAS.

These programs will complement the significant increase that was provided in the 2025-2027 state budget in state bonding available to municipalities under the clean water fund and the safe drinking water loan program.

Innocent Landowners and “Spills Law” Liability

WMC supports provisions in SB 128 to protect and provide grants to “passive receivers” of PFAS or, as the bill has it, “innocent landowners.”

It’s important to keep in mind that PFAS contamination in the environment is largely due to two practices that were common and legal: one, the use and testing of fluorinated firefighting foam, particularly at airports; and two, most commonly, the land application of waste byproducts as a soil amendment. These byproducts usually come from the wastewater treatment process or landfill leachate, mostly from municipal as well as some industrial sources. The byproducts, known as “biosolids,” are specially treated before being land applied.

WMC would like to see additional support for innocent landowners under this legislation, many of whom are farmers and businesses that agreed to the land application of biosolids, which has been done across the state, legally under permits issued by the Department of Natural Resources (DNR). Land application is an important method for wastewater and solid waste facilities to dispose of those treated byproducts.

However, WMC also acknowledges that this issue affects many different stakeholders, especially those in known PFAS hotspots, such as the local governments that own wastewater treatment facilities and landfills, the residents who are served by public water systems, and private well owners.

More broadly, the protections under this bill for “innocent landowners” should not be unique to PFAS—they should be extended to innocent landowners of any hazardous substance that was

discharged on their property through no fault of their own. Indeed, the PFAS issue points to a broader concern that WMC has long had with the Wisconsin “Spills Law,” which subjects properties to strict liability for contamination, regardless of whether the current owner or controller of a property actually caused the contamination. We have seen many homeowners and businesses unfairly impacted by this requirement, unable to sell or develop their property without incurring expensive cleanup costs.

This strict liability makes Wisconsin an outlier compared to environmental regulations in most other states or even those adopted by the federal government. Under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the government attempts to identify the parties that are actually responsible for environmental contamination and otherwise provides for cleanup in cases where no responsible party can be identified.

By comparison, keep in mind that the protection from Spills Law liability under this bill as currently drafted is only available to property owners that agree to allow DNR to access their property and remediate it.

Abusive Lawsuits Against Manufacturers

Finally, WMC believes that legislative changes are needed to address the abusive lawsuits that we have seen against the manufacturers of legacy PFAS compounds. At the time those products were manufactured, they were perfectly legal, and their risks were not discovered or fully understood until decades after they were invented and widely used in commerce. In fact, those same manufacturers agreed to stop producing PFOA, PFOS, and the most closely related compounds *voluntarily*, in cooperation with the U.S. Environmental Protection Agency (EPA), after the agency raised concerns to those companies.

Consider another legacy environmental contamination issue, that of old underground fuel storage tanks that deteriorated and leaked petroleum into the environment on some properties, such as former gas station sites. To address this problem, Wisconsin set up a fund dedicated to remediating those sites, funded by a tiny fraction of gas tax revenue. What Wisconsin *didn't* do in response to this problem was start suing the companies that manufactured gasoline and diesel fuel.

But that's what some political leaders in our state and across the country have decided to do with PFAS. Right now, the State of Wisconsin is suing companies that manufactured legacy PFAS compounds. Among those compounds, PFOS was the key ingredient in firefighting foam products that were used for decades to extinguish dangerous liquid fuel fires. This product saved lives, and it was *mandated* by the Federal Aviation Administration for airports to maintain a supply of fluorinated firefighting foam and to regularly test that foam.

Now, the state seeks to establish a false narrative that PFAS manufacturers are somehow responsible for where every bit of their product ended up, long after it was sold to customers. This is fundamentally unfair, anti-business, and a terrible precedent to set in public policy and the civil legal system. Truly comprehensive PFAS legislation would address this issue by providing immunity to manufacturers of legacy PFAS from the liability associated with how an end-user used their product. To be clear, we are not suggesting that any manufacturer that actually discharged PFAS to the environment should be immune from liability. We simply believe that fundamental fairness dictates

that a manufacturer should not be held liable for how someone used their product after it was purchased.

As the committee continues to deliberate on this legislation and other measures to address PFAS in Wisconsin, WMC respectfully requests that legislators consider the information contained in this testimony and the policy changes suggested therein. Thank you for your consideration of this testimony, and I am available to answer any questions.