

## Wisconsin DNR's Remediation and Redevelopment Program Has Authority to Regulate Emerging Contaminants – including, PFAS Compounds

Chemicals that have seen industrial use for decades are now beginning to be better understood by scientists and others concerned with their potential impacts to human health and the environment. Per- and polyfluoroalkyl compounds (PFASs) are a class of emerging contaminants known to impact environmental media, such as groundwater, soil, sediment and surface water.

Additional information about PFASs can be found on the EPA's [web page](#), the ITRC's collection of [fact sheets](#) and through the Agency for Toxic Substances and Disease Registry ([ATSDR](#)).

When discharged to the environment, PFAS compounds meet the definitions of hazardous substance and/or environmental pollution under Wis. Stat. § 292.01. Discharges of PFASs to the environment are subject to regulation under Wis. Stat. § 292 and the requirements for immediate notification, investigation, and remediation in Wis. Admin. Code chs. NR 700 through 754.

In Wisconsin law, the definitions of “environmental pollution” and “discharge” of a “hazardous substance” are not the same as the definition of a hazardous substance in the federal Superfund law and in some other states’ laws. In Wisconsin:

- *“Environmental pollution” means the contaminating or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life. See Wis. Stats. 292.01(4)*
- *“Discharge” means, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping. See Wis. Stats. § 292.01(3)*
- *292.01(5) “Hazardous substance” means any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the department. See Wis. Stats. 292.01(5)*

In Wisconsin, persons responsible for the discharge of PFASs to the air, land or waters of the state will need to immediately notify the state, conduct a site investigation, determine the appropriate clean-up standards for the PFAS compounds in each media impacted (e.g., soil, groundwater, surface water and sediment), and conduct the necessary response actions.

**SOIL:** The RR Program has a [spreadsheet](#) with soil residual contaminant levels (RCLs) that were calculated using U.S. EPA’s Regional Screening Level (RSL) web calculator following the procedures in Wis. Admin. Code § NR 720.12, for determining soil direct-contact RCLs protective of human health. The non-industrial direct contact RCL for both PFOA and PFOS is 1.26 mg/kg. The industrial direct contact RCL for both PFOA and PFOS is 16.4 mg/kg. There is no pre-determined, groundwater protective soil RCL for these compounds.

**OTHER MEDIA:** The DNR has authority to require that the responsible party develop a site-specific clean-up standard for all contaminated environmental media in accordance with Wis. Admin. Code § NR 722.09, if no numeric clean-up standard otherwise exists. This includes discharges and environmental pollution impacting the air, lands and waters of the state.

With respect to groundwater, federal Maximum Contaminant Levels (MCLs) and Wis. Admin. Code ch. NR 140 groundwater quality standards have not been established for PFAS compounds. However, the EPA currently has a cumulative [Health Advisory Level](#) (HAL) of 70 parts per trillion (ppt) for two of the most prevalent PFASs detected in drinking water.