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To: Kate Strom-Hiorns, DNR  
From: Brian Grefe, President, WAMA  
Date: Thursday, July 16, 2020  
Subject: Draft Emergency Rule WA-06-20E

Thank you for allowing us the opportunity to provide comment on the draft emergency rule relating to firefighting foam that contains PFAS which must be promulgated no later than September 1, 2020.

Per the draft Purpose NR 159.01, the intent of establishing the appropriate containment, treatment, disposal and storage standards is only for testing purposes. The current draft language for containment, treatment, disposal and storage does not properly specify that it is only related to foam dispensed during the testing process. Instead, it appears like the intent is to establish requirements for containment, treatment, disposal and storage of all foam, including that stored in trucks and the original manufacturers containers.

In addition to the overall concern about the Purpose of the draft rule mentioned above, we are also specifically concerned with the language on page 14, (7) and (8) regarding secondary containment. We were initially surprised to see secondary containment mentioned in the draft DNR poster since it had not been mentioned in Act 101 or the scope statement. Airports have foam in tanks on trucks that are specifically made for the purpose of emergency firefighting. To require these tanks to have a secondary containment system would be incredibly expensive and a significant financial burden for airports and the municipalities that oversee them. Furthermore, we are not aware of any instances at Wisconsin airports where a truck tank with firefighting foam containing PFAS has leaked. Our request is that the language in both (7) and (8) on page 14 be removed, unless the overall language is updated to reflect that the containment, treatment, disposal and storage requirements are only related to PFAS containing foam released during the testing process. If the language is updated to reflect these requirements only for foam dispensed during the testing process as indicated in the scope statement, we believe NR159.07 Containment on page 14 would not be an issue for those airports who have acquired testing systems that release no foam since there's nothing that needs to be contained.

Finally, the first sentence of (5) on page 15 should be updated to reflect "that uses or discharges of foam for other than testing or emergency purposes under exemptions listed in s. NR 159.04 (2)". Once again, it's important to reflect here that containment is only related to foam derived from testing as it will be impossible to design a containment system for foam dispensed during an emergency response.

Again, thank you for allowing the opportunity to comment, and our Executive Director, Lisa Maroney will contact you next week to continue the dialogue and follow up with questions or concerns.

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