



TO: Senate Committee on Natural Resources

FROM: Jason Culotta
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RE: Opposition to Senate Bill 772 and Senate Bill 773

The Midwest Food Products Association (MWFEPA) appreciates the opportunity to testify in opposition to Senate Bill 772 and Senate Bill 773, which would create new enforcement standards for perfluoroalkyl and polyfluoroalkyl substances, known as PFAS.

MWFEPA is the trade association representing food processors and their allied industries throughout Illinois, Minnesota, and Wisconsin. As Governor Evers noted in his State of the State address, Wisconsin is among the leading states for the growing and processing of vegetables. The state ranks second in the nation in vegetable production, only behind California. Most of our food processors and their contract growers, along with others in the agricultural industry, would be directly and negatively impacted by adoption of this legislation.

Water is an essential ingredient for the agriculture and food industries. Food manufacturers use water in many products but also utilize it to clean, peel, heat, and steam raw products. Purchasing, pumping, and treating water represents a major cost to food manufacturers. While we support efforts to manage and ensure access to clean, healthy water – including groundwater, we recognize the need to proceed deliberately to ensure new regulations are effective in addressing problems where they exist.

Below are several of the concerns our members have expressed with this legislation.

Land Spreading Liability

Land application of biosolids received from municipal wastewater operations may be used on fields at least one year prior to growing vegetables. Adoption of this legislation complicates the use of biosolids containing PFAS compounds generated by municipal wastewater by potentially creating legal exposure to the growers as well as the processors who use crops harvested from fields where biosolids containing these substances have been previously spread.

The liability potentially created under this legislation for vegetable growers will invent a new issue of how to dispose of this municipal wastewater byproduct.

Regulating Without Proving Health Impacts

Another concern of MWFPFA members is Senate Bill 772's provisions to regulate PFAS compounds about which little is known of the potential health impacts. Two of the compounds used in firefighting foam, PFOA and PFOS, have been most widely studied and are certainly candidates for regulating, as science-based standards can be discussed regarding these substances.

Adopting standards for substances beyond PFOA and PFOS becomes problematic if health studies on the human health impacts of these substances cannot be found or do not exist. We understand that other First World groups like Health Canada may have conducted some research in this area that could provide guidance for Wisconsin to emulate.

Broad Emergency Rule Authority

Under the current Chapter 160 process, the Department of Health Services (DHS) has begun developing proposed enforcement standards for substances identified by the Department of Natural Resources (DNR) as potential public health concerns impacting groundwater. These standards are developed in cycles, which we are presently in the tenth round of and plans for the eleventh are well under way.

A number of PFAS substances have been identified by DNR to include in Cycle 11 groundwater process. We have shared the Cycle 11 proposed list of substances with industry scientists and are searching for how those substances may be or had been used in food manufacturing.

Presumably, granting emergency rule authority to DNR under this legislation will result in all or many of these Cycle 11 substances – about which little on the human health effects may be publicly available or known – being regulated under emergency rule and perhaps outside of the established Chapter 160 process.

Proposed Air Emission Standards

It is unclear how the proposal in Senate Bill 772 to create 4,000-plus air emission standards for the full family of PFAS compounds – long-chain and shorter-chain – will function or impact food manufacturing. This is an enormous undertaking that we do not believe has been undertaken anywhere.

“Responsible Party” and Financial Responsibility Liability

Vegetables canned or frozen at Wisconsin processors could contain PFAS concentrations above those very low standards proposed by DNR (likely similar to the ultra-low 20 ppt proposed for PFOA and PFOS in Cycle 10) – even without the intent of the processor. The plant water supply used in the processing process or vegetables harvested from fields which may have been previously sprayed with biosolids or other sources that contain PFAS concentrations in excess of the state standard will create a very high threshold that food manufacturers will need to comply with.

The financial responsibility language of Senate Bill 772 also potentially creates a new financial hurdle for businesses like food processors that may have to post bonds or line of credit with DNR to operate.

Given the low-margin nature of the vegetable processing industry, this new liability for growers and processors may lead to unexpected reductions in the industry's capacity. This would be tragic if there were no actual human health improvements gained by adopting such far-reaching legislation.

MWFPFA opposes this legislation in its current form. Nevertheless, we are interested in working with the authors and other lawmakers on a sustainable solution that properly protects human health and allows vegetable production to continue to thrive.