

MEMORANDUM

TO: Senator Wimberger and Representative Mursau

CC: Representative Goeben, Chair of the Assembly Committee on Environment, and Senator Jacque, Chair of the Senate Committee on Natural Resources, Veteran and Miliary Affairs

FROM: Jordan Lamb, on behalf of GFL
Greg Hubbard, on behalf of Waste Management
Jason Johns, on behalf of NWRA Wisconsin Chapter

DATE: January 27, 2026

RE: Landfill Operators' Concerns with ASA 1 to AB 131, PFAS Programs and Requirements

Senator Wimberger and Representative Musau, thank you for your work on amending Assembly Bill 131 to address the liability concerns raised by Wisconsin landfill owners and recyclers. We appreciate that ASA 1 to AB 131 includes a direct, landfill-specific exemption for “municipal waste landfills.” Under Wisconsin law, “municipal waste landfill” includes our landfills, privately owned facilities, because it is defined under Wis. Stat. § 289.01 (22) as “a solid waste disposal facility that is not one of the following: (a) A solid waste disposal facility designed exclusively for the disposal of waste generated by a pulp mill, paper mill, foundry, prospecting or mining operation, electric or process steam generating facility or demolition activity. (b) A hazardous waste disposal facility.” This definition is critical to ensuring that landfills are protected from PFAS liability as passive receivers of materials. However, the current draft language continues to raise significant concerns for Wisconsin landfills and waste recyclers for the following reasons.

Concerns with the Landfill Exemption

ASA 1 to AB 131 provides that “A municipal waste landfill ... that disposed of PFAS-contaminated leachate at a publicly owned treatment works” qualifies for an exemption from Wisconsin spills law liability if:

1. It disposed of PFAS-contaminated leachate at a publicly owned treatment works (POTW);
2. It installs and operates PFAS leachate pretreatment by 12/31/2028 (or demonstrates technology unavailability or meaningful progress);
3. The PFAS contamination did not originate from a discharge at the landfill; and
4. It provides property access for DNR activities.

The landfill is exempt from key spills law obligations for PFAS only if all these conditions are met.

However, Wisconsin landfills will be unable to satisfy the proposed four statutory qualifications for the PFAS spills law exemption due to prohibitive cost and limited technological feasibility. First, PFAS pretreatment technologies for leachate are still nascent, capital-intensive, and

unproven at the scale required for municipal waste landfills, making compliance with installation and operation requirements unrealistic in the near term. Current infrastructure does not allow landfills to store the necessary volumes of leachate in tanks for testing at this frequency or scale. In addition, the proposed system would require DNR to test and permit each landfill prior to December 31, 2028. We do not believe that DNR has the financial or staffing capacity to administer a permitting program of this magnitude within the specified timeframe.

Second, treatment vendors and disposal pathways remain scarce, resulting in long lead times, limited availability, and pricing that far exceeds municipal capacity and available taxpayer funding.

Third, it is not technically possible for landfills to verify that PFAS contamination “did not originate from a discharge at the landfill,” because PFAS-laden waste streams are ubiquitous in consumer and industrial products and landfills do not control upstream waste composition.

Finally, conditioning the exemption on multi-party coordination and DNR access imposes additional administrative and logistical barriers without addressing the root issue that landfills are passive receivers, not sources, of PFAS. For these reasons, the exemption criteria are unattainable. They create an unfunded mandate. Rather, the more rational policy outcome is to categorically exempt landfills from spills law liability for PFAS.

Concerns with Limitation of Protection to Only Landfills and Waste Haulers

In addition to the landfill exemption described above, ASA 1 to AB 131 provides that “A licensed collection or transport service that disposes of municipal solid waste into a solid waste disposal facility licensed under ch. 289...” is exempt. This language similarly protects our haulers who deliver PFAS-containing waste to our landfills.

Collectively, ASA 1 to AB 131 attempts to provide liability protection for both our landfills and our waste haulers. However, the legislation does **not** extend comparable liability protection to (1) our **solid waste transfer facilities**, (2) **Materials Recovery Facilities (MRFs)**, or **compost facilities**, despite the fact that these facilities are integral components of Wisconsin’s waste management and recycling infrastructure and handle PFAS-bearing wastes in the same passive, non-discharging manner as landfills.

A “Solid Waste Transfer Facility” is a licensed site where waste is unloaded from small collection vehicles, consolidated, and reloaded into larger vehicles or rail cars for transport to a final landfill or disposal site. They serve as intermediate, strategic locations to aggregate waste from local communities to minimize transportation costs and environmental impact.

A “Materials Recovery Facility” or “MRF” is a DNR regulated facility where source-separated recyclable materials (not mixed with general solid waste) are processed for reuse or recycling by conversion into a consumer product or a raw material for industrial/commercial use. These facilities sort, bale, and prepare materials like glass, plastic, metal, and paper for market.

A “compost facility” is defined as a solid waste processing facility regulated under § NR 502.12 Wis. Adm. Code that manages the aerobic, microbial decomposition of organic materials

Importantly, ASA 1 to AB 131 creates a conditional PFAS spills-law liability shield for municipal waste landfills and waste haulers that recognizes their passive role in receiving PFAS-containing materials; prevents cleanup cost-shifting onto local governments or ratepayers; encourages PFAS leachate pretreatment by 2028; and preserves DNR’s authority to remediate PFAS where necessary. These same public policy objectives - recognizing passive actors, preventing unintended municipal cost-shifts, and maintaining DNR authority, are equally applicable to compost facilities, MRFs, and solid waste transfer facilities.

Conclusion

Accordingly, we respectfully request that ASA 1 to AB 131 be amended to remove the conditions that are required before landfills can qualify for the liability exemption. We further request that the legislation be amended to also extend the same exemption granted to landfills and waste haulers to: (1) Materials Recovery Facilities (MRFs) (*see* Wis. Stat. § 287.01(1) and Wis. Admin. Code § NR 544.03), and (2) Solid waste transfer facilities (*see* Wis. Admin. Code § NR 502.07) and (3) compost facilities (*see* Wis. Admin. Code § NR 502.12).

These amendments would ensure protections for Wisconsin landfill operations and provide consistent treatment across the waste management system, while also advancing the legislation’s stated policy goals without diminishing critical environmental protections or agency regulatory oversight.