LEAGUE OF WISCONSIN MUNICIPALITIES

131 W. Wilson St., Suite 505
Madison, Wisconsin 53703
phone (608) 267-2380; (800) 991-5502
fax: (608) 267-0645
league@lwm-info.org; www.lwm-info.org

July 30, 2021

Department of Natural Resources
Attn: Adam DeWeese– DG/5
101 S. Webster Street
Madison, WI 53703

Via Email – Adam.DeWeese@wisconsin.gov and DNRAdministrativeRulesComments@wisconsin.gov

RE: Comments on the Economic Impact Analysis for DG-24-19 Revisions to ch. NR 809 Related to the Promulgation of Drinking Water MCLs for PFOA and PFOS

Mr. DeWeese:

Please accept the submission of these comments on behalf of the League of Wisconsin Municipalities. The League, a nonprofit and nonpartisan association of 594 cities and villages, welcomes the opportunity to submit comments related to the Economic Impact Analysis on the revision to ch. NR 809 related to the promulgation of new drinking water maximum contaminant levels for PFOA and PFOS. We are submitting these comments on behalf of the municipally owned and operated water systems in the state.

Of primary importance, the League and our municipal water systems throughout the state strongly support providing safe reliable drinking water to our communities. There are approximately 611 municipal water systems in Wisconsin owned by cities, villages, towns, or sanitary districts including care and correctional facilities that are owned by counties or municipalities. They test the water for all regulated contaminants to ensure the protection of public health. In the 2020 Annual Drinking Water Report, DNR noted that more than 98% of Wisconsin's public water systems provided water that met all health-based maximum contaminant level (MCL) standards.

It is important to note that to date, all drinking water MCLs have been first established by EPA pursuant to the Safe Drinking Water Act (SDWA) process and then adopted by the State of Wisconsin. It is our understanding that Wisconsin has never adopted a drinking water MCL without a federal counterpart adopted prior to state action.

That being said, as the purveyors of safe and reliable drinking water, we understand the concerns associated with the presence of PFAS compounds in the environment and the potential health effects that are associated with these man-made chemicals. However, the League of Wisconsin Municipalities would like to highlight some significant issues with the department's proposed environmental impact analysis.

Lack of State Specific Information:

The department's EIA states that "Wisconsin has not conducted a comprehensive study of potential PFAS levels in public wells. Without such data, for the purpose of this Economic Impact Analysis, the

department at this time cannot predict the number of public water systems with MCL exceedances. The department used data from Michigan's 2017 – 2019 study of over 1,700 public water systems as a proxy for PFOS/PFOA data that are not yet available in Wisconsin." We would assert that the earlier laboratory testing techniques which generated this data were not sensitive enough to detect contamination amounts as low as 20 ppt. Therefore, the impacts associated with the previous Michigan sample may be skewed. In addition, as we understand the status, the department is still in the process of obtaining approval for sampling and testing protocols for conducting public water system testing of PFOA and PFOS in the state. EPA is also still in the process of completing research and studies on the best available treatment technologies for PFAS removal from drinking water (see appendix A). Therefore, the number of systems impacted in Wisconsin and the methods in which public water systems would be treated are both very tenuous at best at this time.

Costs Associated with the Environmental Impact Analysis:

The very nature of an economic impact analysis is to fully assess the economic impact of implementation and compliance of the proposed administrative rule revision. The analysis for ch. NR 809 is woefully inadequate listing that the department's preliminary assessment estimates the initial monitoring cost for all systems to be $1.025 million with an unknown cost for additional monitoring and an indeterminate impact for treatment. We believe that ratepayers have the right to fully understand the economic impacts that they will bear with approved MCLs for PFOA and PFOS. Even if Safe Drinking Water loans are potentially available for capital costs, that funding mechanism is still a loan and must be repaid with interest, therefore impacting ratepayers and communities.

In Wisconsin, the city of Eau Claire conducted voluntary PFAS testing at DNR request. None of those tests at the entry point exceeded DNR recommended enforcement standards proposed through this rulemaking process, yet out of an abundance of caution, it has removed from service and shut off four wells due to a single-entry point exceedance of the Department of Health Services hazard index, an unpromulgated, non-regulatory guidance parameter that is typically used with Superfund sites. This hazard index exceedance prompted further testing of each well on the City's system and by-weekly tests thereafter even though a subsequent entry point test showed PFAS levels well under the recommended enforcement standards and also well under the hazard index non-regulatory guidance parameter.

The city continues to be proactive and cooperatively pursuing treatment and mitigation options with DNR for those specific wells most affected and to avoid impacts to other wells now supplying the City safe drinking water. Those options are all novel to the city and DNR. Treatment or diversion methods are not able to remove PFAS from the environment, just from the drinking water, leaving unresolved what to do with the contaminate following removal and without resolution for how to remediate the environment. And treatment, diversion, and disposal options, as they exist, are all very expensive.

The four Eau Claire city wells voluntarily shut down combine to pump approximately 6,000 gpm. In Woodbury, MN a temporary water treatment plant was constructed to remove PFAS after Woodbury's groundwater supply was found to contain elevated levels of PFAS. After hydraulic modeling and a mitigation feasibility study was completed, Woodbury's temporary treatment plant was built with the capacity to treat 3,800 gpm at a cost $8.7 million. Eau Claire's output from just it's four wells with detects for PFAS is almost double that volume and in total its wastewater treatment plant pumps 10-14 million gallons per day, undoubtably requiring a much larger facility at presumably multiple orders of magnitude to treat for PFAS. In addition, that cost accounts only for the actual capital expenditure and not

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the additional annual operating, maintenance, and more frequent sampling, hydro-geologic analysis, diversion options, or any disposal costs. Currently, the city is sampling every two weeks to monitor levels. Also, keep in mind that treatment technologies or requirements could be modified as EPA is still conducting and finalizing research.

The City of Rhinelander also has two wells that were voluntarily shut down due to PFAS variant detects in 2019. Those two wells provided twenty-five percent of the city's water supply. The city is now analyzing treatment options and have received estimates as high at $3.5 million which again only accounts for the initial capital costs and not for additional necessary financial components including annual operations, maintenance, more frequent sampling, testing, and analysis, potential hydro-geologic analysis, diversion options, or any disposal costs. As research and technology around treatment is evolving, the city has issued a call-out to academic, professional engineers and consultants to utilize Rhinelander's situation as a test-case. This proactive work is occurring all the while state and federal standards are being contemplated. Since 2019, the city has been testing its wells monthly at a significant cost, however, currently, the city is sampling its other five wells quarterly still at a significant cost to ratepayers annually. The city continues to be proactive and cooperatively pursuing treatment and mitigation options with DNR for those specific wells most affected and to avoid impacts to other wells now supplying the City safe drinking water.

To illustrate this point further, the State of New Hampshire originally proposed a PFOA MCL of 38 ppt and a PFOS MCL of 70 ppt (much higher than Wisconsin's recommended MCLs) and prepared an economic impact analysis for those standards. After public comment, the standards were lowered to 12 ppt for PFOA and 15 ppt for PFOS (now similar to what is being proposed in Wisconsin). An updated EIA was then prepared. If we conservatively estimate the costs for compliance in New Hampshire, the annual debt service for two years for the initial capital costs is approximately $7.5 million and the annual operations and maintenance costs are $13.8 million combined with an annual sampling cost of approximately $350,000. Because this economic analysis is from a smaller state with fewer systems overall, we assert that Wisconsin's economic impact from compliance with the recommended MCLs must be more reasonably estimated in excess of the state of New Hampshire's two-year costs of $21.7 million.

The department has insufficiently examined the overall economic impact of the PFOA and PFOS maximum contaminant levels. This does a disservice to the state and our member communities that Wisconsin residents rely upon to provide them with safe drinking water. An accurate economic impact of PFAS regulation is necessary to inform state economic assistance that will be needed to allow local communities and water utilities to respond and continue to provide the public safe drinking water we all expect. The League respectfully requests that the department review the complete and encompassing costs associated with these new regulations including research and development of effective treatment and disposal options, capital costs (regardless of Safe Drinking Water loans) to construct or install treatment methods, secondary capital costs associated with treatment including additional piping, connection systems and pumping facilities and disposal costs, interest accrued on debt, annual operations and maintenance, increased sampling, testing and analysis requirements.

In addition, the League fully endorses the entirety of the comments submitted by Lawrie Kobza on behalf of the Municipal Environmental Group – Water Division (MEG--Water) on July 28, 2021. We urge you to consider the recommendations submitted by MEG – Water.

Thank you for the opportunity to provide comments on the Environmental Impact Analysis for NR 809, we look forward to reviewing the modified EIA that takes into consideration the public comments and to continuing the dialogue with the department on this important issue. The League continues to be supportive of safe drinking water standards and regulating these emerging compounds in a scientifically sound and technically and economically feasible manner.

Kind Regards,

Toni R Herkert
Toni Herkert, Government Affairs Director
Wisconsin League of Municipalities

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Appendix A

US Environmental Protection Agency - Status of EPA Research and Development on PFAS
https://www.epa.gov/chemical-research/status-epa-research-and-development-pfas#methods

Drinking Water Treatment Options - EPA researchers are evaluating different drinking water treatment technologies that can remove certain PFAS from drinking water systems.

Title	Description	Status/Timeline	More Information
Pilot-scale Water Treatment for PFAS	Manuscripts on the efficacy of drinking water treatment methods at the pilot scale.	Expected 2022.	No further information at this time.
Drinking Water Ion Exchange Treatment Performance Models	Drinking water treatability manuscripts and corresponding models for ion exchange (IX).	Expected 2022.	No further information at this time, but learn more about Ion Exchange treatment at EPA's Drinking Water Treatability Database.
Drinking Water Point of Use and Point of Entry Devices	Studies on the efficacy of off-the-shelf, commercially available household water treatment systems. Studies will evaluate granular activated carbon (GAC), reverse osmosis (RO), and ion exchange (IX) treatment systems.	Studies for GAC and RO systems are complete. The IX study is underway, and EPA expects to complete the study in 2021.	GAC and RO study available here. EPA also published a plain-language article about this work in EPA's Science Matters. Learn more about GAC, RO, and IX treatment methods in this Science Matters article.
Drinking Water Treatability Database	Evaluation of technologies for removal of PFAS from drinking water. Will include performance and cost data, as well as models and tools to help communities determine optimal treatment choices.	Ongoing.	As of July 2020, EPA has updated the Database with information on treatment information for 26 PFAS chemicals. Access the Drinking Water Treatability Database here.
Reactivation of PFAS-Laden Granular Activated Carbon (GAC)	Development of proper operating parameters for reactivation of GAC after removal of PFAS from water. In collaboration with the U.S. Department of Defense.	Expected 2021.	No further information at this time.
Incineration of Spent Granular Activation Carbon (GAC) and Ion Exchange (IX)	Studying the incineration of spent GAC and IX adsorption materials that have been used in water treatment applications for PFAS removal. In collaboration	Expected 2021.	No further information at this time.

Title	Description	Status/Timeline	More Information
	with the U.S. Department of Defense.		