

August 18, 2021

VIA EMAIL  
[DNR105PFASRule@wisconsin.gov](mailto:DNR105PFASRule@wisconsin.gov)

Department of Natural Resources  
Attn: Jason Knutson – WY/3  
P.O. Box 7921  
Madison, WI 53707

**RE: Comments of the Municipal Environmental Group – Wastewater Division  
Economic Impact Analysis for Board Order WY-23-19**

Dear Mr. Knutson:

We are submitting these comments on behalf of the Municipal Environmental Group–Wastewater Division (MEG Wastewater). MEG Wastewater is an organization of over 100 municipalities statewide who own and operate wastewater treatment plants. We represent facilities ranging in size from small sanitary districts to larger utilities. As you know, MEG has been an active participant in the various department forums on PFAS over the past several years. MEG appreciates this opportunity to comment on the Economic Impact Analysis (“EIA”) for the revisions to chs. NR 102, 105, 106, and 219, which include establishing narrative criteria for PFOA and PFOS.

MEG is very encouraged by and supports the framework the department utilized in this draft rule package. MEG has advocated for non-numeric standards and a pollutant minimization/source reduction approach to the regulation of PFOS and PFOA because PFOA and PFOS cannot be cost effectively removed through conventional wastewater treatment processes. The department’s establishment of narrative criteria and an associated numeric thresholds is an approach that should result in actual PFAS reductions and avoid the costly and time consuming process of obtaining variances from water quality standard. This approach addresses PFOS and PFOA pollution in a scientifically sound, expedient, and cost effective manner.

With respect to the department’s determination of the costs associated with this rule, MEG provides the following comments for the department’s consideration.

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**Madison Office**

222 West Washington Avenue 608.256.0226  
P.O. Box 1784 888.655.4752  
Madison, Wisconsin Fax 608.259.2600  
53701-1784 www.staffordlaw.com

**Milwaukee Office**

1200 North Mayfair Road 414.982.2850  
Suite 430 888.655.4752  
Milwaukee, Wisconsin Fax 414.982.2889  
53226-3282 www.staffordlaw.com

First, it is unclear how these narrative standards and thresholds will apply to construction projects that involve pit trench dewatering. If the threshold becomes a de facto standard similar to the Michigan standards now used by the department with respect to such dewatering efforts, there are several additional sources of potential costs. Municipal wastewater treatment plants that accept contaminated groundwater from construction sites will likely face increased costs for reviewing analytical information associated with discharge requests. In addition, those requesting to discharge contaminated groundwater into WWTPs will likely face additional costs to provide analytical information and potentially pretreat wastewater in order to ensure the numeric thresholds can be attained. Finally, municipalities, including sewer utilities, undertake many construction activities that require pit trench dewatering. If municipalities are required to treat groundwater before discharging to surface waters based on the numeric thresholds, those costs could be significant. This needs to be clarified and if applicable these costs should be properly accounted for in the EIA.

Second, it is not entirely clear how the department chose the threshold numbers proposed in the rule. They are more stringent than the Michigan standards that seem to have widespread use, and have been used by the department. Although the thresholds picked appear to be above the level of most POTW discharges, if the threshold numbers were higher (like the Michigan standards) the costs could be reduced further.

Third, the justification for the department's use of mercury as a PFOA and PFOS surrogate in the reasonable potential calculation is also unclear. If the manner in which reasonable potential is calculated results in more permittees being required to implement pollutant minimization plans, that changes the economic impact of the rule and should be justified and accounted for.

Fourth, the procedures for calculating reasonable potential in the draft rule are unclear. In particular, it is unclear how many samples a POTW will be required to take over the course of two years to assess reasonable potential. The EIA estimates costs for initial sampling at \$6,069 per POTW. However, these costs could be significantly higher depending on the number of samples a POTW is required to take. We would appreciate clarification on this topic so that the full costs could be appropriately considered.

Finally, MEG questions the department's estimate of implementing a pollutant minimization program ("PMP") at \$6,000 per year. While costs of approximately \$6,000-\$10,000 per year may be a reasonable estimate for maintenance of an established PMP for moderately sized WWTPs, we anticipate significantly higher costs associated with the initial implementation of a PMP. Due to the potential ubiquity of PFAS compounds in discharges entering WWTPs, permittees required to implement a PMP will need to undertake extensive source identification. This could require surveying industrial users to understand potential current PFAS use, but it will also likely require investigation of historic uses of PFAS. For both current and historic uses of PFAS, source identification will require extensive sampling efforts. Further, the draft rule calls for monitoring plans for sampling of all probable sources of PFAS. With the high costs of

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PFAS sampling and analytics, we anticipate these sampling efforts to be significantly more expensive than the anticipated \$6,000 per year. It is important that DNR consider all of these costs associated with a PMP in evaluating the economic impact of this rule package.

Thank you for consideration of these comments. MEG greatly appreciates the opportunity to participate in this process and welcomes further communication with the Department.

Sincerely,

STAFFORD ROSENBAUM LLP

A handwritten signature in black ink, appearing to read "Vanessa D. Wishart". The signature is written in a cursive, flowing style.

Vanessa D. Wishart

Paul G. Kent

VDW:mai