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Filed Via Email

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Department of Natural Resources
Attn: Adam DeWeese - DG/5
P.O. Box 7921
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**RE: Comments on Statement of Scope SS 089-19
 Revisions to Ch. NR 809 related to PFAS**

Dear Department Reviewer:

These comments are filed on behalf of the Municipal Environmental Group - Water Division (MEG - Water). MEG - Water is an association of 65 municipal water systems that provides input on legislative and regulatory issues involving water supply.

Municipal water systems — water systems owned and operated by cities, villages, sanitary districts and other governmental entities — exist in order to provide their residents with safe drinking water. There are approximately 577 municipal water systems in Wisconsin. They test the water for more than 90 regulated contaminants to ensure the protection of public health. During 2018, more than **99%** of Wisconsin's public water systems provided water that met **all** health-based maximum contaminant level (MCL) standards.

To date, all drinking water MCLs have been first established by EPA pursuant to the Safe Drinking Water Act (SDWA) standard-setting process and then adopted by the State of Wisconsin. To our knowledge, Wisconsin has never adopted a drinking water MCL without there being a comparable federal drinking water MCL in place.

We understand that concerns about the widespread presence of PFAS compounds in the environment and the potential health effects from these compounds have led the Department to initiate this rule-making to establish drinking water MCLs for PFAS compounds, even though no federal MCLs exist.

Although no federal MCLs for PFAS compounds yet exist, EPA has taken steps to gather information about the presence of PFAS compounds in drinking water. EPA included six PFAS compounds, including PFOA and PFOS, in the third cycle of the Unregulated Contaminant Monitoring Rule (UCMR) and gathered PFAS sampling data from 4,900 public water systems nationally between 2013 and 2015. In Wisconsin, 91 municipal water systems, roughly 16% of Wisconsin's municipal water systems and including **all** systems serving over 10,000 people, sampled for the six PFAS compounds between 2013 and 2015. Only three Wisconsin municipal

water systems detected one or more of the PFAS sampled. Only one Wisconsin municipal water system detected a PFAS substance (PFOS) above EPA’s health advisory level of 70 ppt, and only at one well. EPA will be gathering more information in the next round of the UCMR (UCMR5). In UCMR5, EPA intends to propose monitoring for additional PFAS compounds and require the use of newer testing methods available to detect different PFAS at lower minimum reporting levels.

The information gathered from UCMR sampling will be used by EPA to make its initial decision on whether to regulate any PFAS compounds. EPA has recently stated in a November 7 press release that it will issue its proposed regulatory determination for two PFAS compounds, PFOA and PFOS, by the end of the year. This is the next step in the MCL standard-setting process outlined in the SDWA.

MEG - Water strongly supports the SDWA standard-setting process. This process ensures that drinking water standards are based on credible science and developed after due deliberation. Under the SDWA standard-setting process, a health goal is set that considers risks to the most sensitive populations including infants, pregnant women, and the immuno-compromised. The next step sets the enforcement standard (the MCL) to be as close to the health goal as feasible, considering available treatment technologies and costs. This cost-benefit analysis is a critical component of the SDWA standard-setting process. In order to evaluate the cost of achieving a proposed standard, the relative cost, benefit, and feasibility of different pollutant removal and treatment options must be considered. In order to evaluate the benefit of a proposed standard, the human health problems associated with the presence of the contaminant in drinking water must be understood, along with the degree of harm, if any, expected from various levels of exposure to the contaminant.

Inherent in every MCL established under the SDWA is a determination that the marginal benefit of a stricter standard is outweighed by the additional cost to achieve that standard. If an MCL is set too low, the cost of achieving the standard will be greater than the additional health benefits provided.

The American Water Works Association (AWWA) recently provided the Congressional Budget Office with its estimate of the national cost to treat PFOA and PFOS at differing MCLs using different treatment processes. AWWA estimated a greater than 1,000% increase in both capital costs and annual operation and maintenance (O&M) costs between a 70 ppt MCL and a 20 ppt MCL.

National Capital Cost to Install Treatment

Treatment Objective	Capital Costs (\$ millions)		
	Granular Activated Carbon	Ion Exchange	Reverse Osmosis
< 70 ng/L	\$2,100 - \$4,400	\$1,900 - \$4,100	\$5,700 - \$12,000
< 40 ng/L	\$5,600 - \$12,000	\$5,400 - \$12,000	\$15,000 - \$33,000
< 20 ng/L	\$23,000- \$50,000	\$22,000 - \$48,000	\$63,000 - \$140,000
Treatment Technique	\$140,000 - \$290,000	\$130,000 - \$280,000	\$370,000 - \$800,000

National Annual Operating and Maintenance Cost for Installed Treatment

Treatment Objective	Annual Recurring Costs (\$ millions)		
	Granular Activated Carbon	Ion Exchange	Reverse Osmosis
≤ 70 ng/L	\$44 - \$90	\$210 - \$460	\$190 - \$410
≤ 40 ng/L	\$110 - \$240	\$540 - \$1,200	\$480 - \$1,000
≤ 20 ng/L	\$460 - \$980	\$2,200 - \$4,800	\$2,000 - \$4,200
Treatment Technique	\$2,700 - \$5,800	\$13,000 - \$28,000	\$12,000 - \$25,000

Source: <https://www.awwa.org/Portals/0/AWWA/ETS/Resources/AWWAInformationforCBOforPFASTreatmentCosts.pdf?ver=2019-10-23-113359-787>

Another example of the exponential increase in short-term and long-term costs associated with lower PFAS MCLs is provided by the State of New Hampshire. The New Hampshire Department of Environmental Services (NHDES) proposed initial standards for four PFAS substances and then promulgated lower standards for those substances. The final standards lowered the MCLs to between 20% and 48% of the initial standards. But the estimated capital costs for public water systems to meet these lowered standards increased between 2,700% and 3,500%, while the estimated annual O&M costs increased roughly 6,000%.

	Initial Standards	Final Standards
PFOA	38 ppt	12 ppt
PFOS	70 ppt	15 ppt
PFHxS	85 ppt	18 ppt
PFNA	23 ppt	11 ppt
Initial Treatment Costs	\$1,851,354 - \$ 5,171,022	\$ 65,046,987 - \$ 142,822,884
Annual O&M Costs	\$ 114,912 - \$ 223,439	\$ 6,914,552 - \$13,444,963

Sources: <https://www4.des.state.nh.us/nh-pfas-investigation/?p=918>; <https://www4.des.state.nh.us/nh-pfas-investigation/?p=1044>; <https://www4.des.state.nh.us/nh-pfas-investigation/wp-content/uploads/Summary-of-Comments-Responses-with-Attachments.pdf>

Wisconsin's public water systems already face costs of \$8.5 billion over the next 15 years to meet existing drinking water priorities, like the elimination of lead service lines, according to Wisconsin's 2018 Annual Drinking Water Report. New PFAS drinking water standards could substantially increase that cost. The Statement of Scope estimates that the cost of adding PFAS treatment at one large municipal public water system could be at least \$25 million.

It is clear that the numerical level set by the Department will significantly impact the public dollars that must be spent to achieve the standard. Consequently, it is vital that the public health protections achieved from new standards justify the costs of meeting the numerical standards set.

MEG - Water's strong preference would be for the Department to wait on this rule-making until the end of the year, which is when EPA indicated it will announce whether it will proceed with standard setting for PFOA and PFOS. We support having consistent drinking water standards

throughout the United States. Consistent national standards also have appeared to be important to the State of Wisconsin. To our knowledge Wisconsin has always adopted drinking water MCLs based on comparable federal standards.

If the Department determines to proceed with the rule-making, we ask that the Department amend the Scope Statement to make clear that the Department will follow the SDWA standard-setting process and perform the necessary cost-benefit analysis for proposed MCLs. This means the Department will not just find that health benefits exist from reduced PFAS exposure generally. It means the Department will analyze whether the health benefits provided by a stricter MCL are justified by the costs to achieve the proposed MCL and whether those benefits could still be attained with a less strict MCL that has lower costs.

Wisconsin's municipal water systems face many challenges that require significant public investment. The State of Wisconsin needs to ensure that this investment is directed to the greatest need and will provide the greatest benefit. It is critical in this rule-making process that PFAS contamination be given the same scrutiny and analysis that all contaminants of concern receive, and that PFAS be prioritized relative to its actual risk.

Thank you for this opportunity to provide the Department with additional input. If you have any questions, please do not hesitate to contact us.

MUNICIPAL ENVIRONMENTAL GROUP
-- WATER DIVISION

/s/ Lawrie J. Kobza

Lawrie J. Kobza
Legal Counsel

cc: MEG - Water Members
(via email)