



To: Senate Committee on Natural Resources, Veteran and Military Affairs Members
Assembly Committee on Environment Members

From: League of Wisconsin Municipalities
Municipal Environmental Group – Water Division
Wisconsin Rural Water Association

Date: March 19, 2026

Re: DNR Administration Rule CR 25-069 and Deletion of Safe Drinking Water Act Compliance Flexibility

Department of Natural Resources (DNR) Administrative Rule CR 25-069, which the DNR describes as addressing technical issues to bring Wisconsin rules in compliance with federal Safe Drinking Water Rules (SDWA), is currently before your committee.

The groups listed above, all of whom represent Wisconsin local governments and public water utilities who are committed to ensuring the provision of safe drinking water to their communities, support the rule with one exception. Our groups oppose the deletion of section NR 809.90 dealing with conditional extensions for SDWA compliance from current rules. Our organizations want to ensure that Wisconsin water utilities have the same flexibility available to utilities in other states to ask for conditional extensions to help achieve compliance with increasingly stringent SDWA requirements at a time when compliance costs are also increasing.

Throughout the rulemaking process, our groups made our opposition and concerns with this change clear. We provided both written and oral testimony before the Natural Resources Board requesting the draft rule not be amended to remove this compliance flexibility. The Natural Resources Board, nevertheless, adopted the rule as proposed by DNR, but did so only after DNR staff publicly committed to addressing our concerns in future rulemaking.

We are submitting these comments to the Committees to clarify our concerns and to encourage and request the Committees advocate for the DNR to follow through on this commitment. We are not, however, seeking rule changes at this time as the DNR must first receive approval from the EPA to issue variances before we may act.

Background

The DNR recently promulgated a new lead and copper rule (CR 25-063) and a new PFAS rule (CR 25-068) that are both pending review by legislative committees. Both rules would retain primary enforcement responsibility under the federal SDWA. CR 25-063 was adopted in response to the federal lead and copper rule promulgated in 2024 under the Biden administration. This rule requires the identification and removal of all lead pipes by December 31, 2037, among other interim steps. CR 25-068, also adopted in response to a federal rule promulgation, will establish exceedingly low national limits for six PFAS in drinking water.

Under the Trump administration, the U.S. Environmental Protection Agency (EPA) has stated its intent to use a provision of the SDWA to help the public water systems that EPA directly

regulates achieve compliance with these new stringent federal lead and copper and PFAS rules. This provision allows the EPA to grant these systems variances and exemptions to SDWA requirements under certain conditions. The variances may include extending the time that a public water system has to come into compliance with new limits or remove lead pipes. The EPA also seeks to rescind the adopted standards for four PFAS under the PFAS rule.

As a primacy state, Wisconsin water systems are regulated by the DNR and the DNR rules adopted in accordance with federal regulations. If the federal rules change, Wisconsin water utilities will still be subject to more stringent standards and timelines established by Wisconsin's PFAS and lead and copper rules. Unlike water systems directly regulated by the EPA, Wisconsin water utilities will be without the ability to ask their regulatory body, the DNR, for conditional extensions (i.e., variances) to help them come into compliance.

This does not have to be the outcome. A primacy state, like Wisconsin, can request that the EPA grant the state the authority to issue public water systems variances and exemptions to state rules adopting federal SDWA requirements. In 2011, Wisconsin applied to the EPA to be granted this authority through Wisconsin administrative code section NR 809.90. In 2015, the EPA informed the DNR that its application must be corrected before EPA could recommend that DNR be granted this authority. In 2017, the DNR committed to revising its application to seek that authority but has not submitted a revised application in the intervening nine years.

Consequently, it was disappointing that CR 25-069 deleted section NR 809.90, allowing the DNR to grant conditional waivers from state standards. While this section was not wholly consistent with the variance language in the SDWA, it was a potential tool for compliance with more stringent state standards and a placeholder for seeking EPA authority to grant variances and exemptions under the SDWA.

We are encouraged that at the Natural Resources Board meeting recommending adoption of CR 25-069, the Board and Department committed to pursuing primacy authority from the EPA to issue variances and exemptions. Such an action would grant the DNR the tools to provide crucial flexibility to any Wisconsin water systems who may struggle to achieve compliance with the timeframes in CR 25-063 (Lead & Copper) and CR 25-068 (PFAS). It will also provide certainty that this flexibility exists to help Wisconsin water systems achieve compliance with any Wisconsin rule which may exceed federal SDWA requirements.

Such authority does not require the DNR to issue variances or exemptions. But it does give Wisconsin public water systems the opportunity to request a variance or exemption and make its case on why such a request should be granted. Wisconsin should have the same SDWA tool that is available to other systems, including systems directly regulated by EPA.

We ask that the Committees advocate for the DNR to obtain, and to monitor DNR's efforts to obtain, primacy from the EPA to grant variances and exemptions to Wisconsin's rules.

Thank you for the opportunity to provide the Senate Committee on Natural Resources, Veteran and Military Affairs and the Assembly Committee on Environment with this information. If you have any questions, please do not hesitate to contact any one of us.

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