

September 23, 2025

VIA EMAIL ONLY

Department of Natural Resources
Attn: Briana Harter DG/5
PO Box 7921
Madison, WI 53707-7921

DNRDGnr809lccomments@wisconsin.gov

**RE: Comments on Board Order DG-04-24
Lead and Copper Revisions**

Dear Ms. Harter:

These comments are filed on behalf of the Municipal Environmental Group - Water Division (MEG - Water). MEG - Water is an association of 79 municipal water systems that reviews and comments on legislation and administrative rules that impact municipal water systems.

The proposed rule updates NR 809 to incorporate the requirements of the federal Lead and Copper Rule Revisions (LCRR) and Lead and Copper Rule Improvements (LCRI), adopted pursuant to the Safe Drinking Water Act (SDWA).

Part of the LCRI, which is incorporated in the proposed DNR rule, is the requirement that water utilities replace all public and private lead service lines by 2037. This provision, among others, has been challenged in court by the American Water Works Association. *American Water Works Association v. United States Environmental Protection Agency, et al.*, USCA Case #24-1376.

According to reports, EPA announced in August 2025 that it will defend the LCRI against AWWA's lawsuit, while also "developing new tools and information to support practical implementation flexibilities and provide regulatory clarity." There have been indications that EPA is looking at Sections 1415 and 1416 of the SDWA (42 U.S.C. §§ 300g-4 and 300g-5) as authority for providing this flexibility.

If EPA provides mandatory lead service line replacement flexibility to utilities which it directly regulates under the SDWA, those same flexibilities should be available in Wisconsin. Currently, authority for this type of flexibility appears to exist in NR 809.90. This existing regulation permits a public water supplier to apply to the Department for up to a 3-year extension to comply with a nonmicrobial contaminant MCL or treatment technique requirement.

However, in a separate rule-making (Board Order DG-02-24), the Department proposes to rescind a public water system's ability under NR 809.90 to apply for a compliance deadline extension. If that occurred, Wisconsin systems would be denied the ability to request a compliance extension allowed by EPA and available to systems in other states.

MEG - Water's members are committed to protecting public health through the provision of safe drinking water, including by controlling lead in their systems through physical and chemical means. Wisconsin water utilities are recognized as national leaders in identifying and removing lead from their systems and MEG - Water continues to advocate for and support efforts for systems to become lead free. However, these efforts do come at a significant cost to municipalities, public water utilities, their customers, and property owners.

If EPA develops new tools and information to support practical implementation flexibility for mandatory lead service line replacement, those tools and flexibilities should be available in Wisconsin. Wisconsin should not preclude its water systems from relying upon tools EPA makes available to other systems throughout the country.

Thank you for your consideration of these comments. Please do not hesitate to contact me if you have any questions about them.

Sincerely,

MUNICIPAL ENVIRONMENTAL GROUP - WATER DIVISION

A handwritten signature in black ink, appearing to read "Jared Walker Smith". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jared Walker Smith
Legal Counsel

cc: MEG - Water Members (*via email only*)