

October 3, 2025

VIA EMAIL ONLY

Department of Natural Resources
Attn: Constantine Tsoris
P O Box 7921
Madison, WI 53707-7921

Constantine.Tsoris@wisconsin.gov

**RE: Comments on Board Order DG-01-24
PFAS Revisions**

Dear Mr. Tsoris:

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.

In these proposed rules, the Department seeks to incorporate the U.S. Environmental Protection Agency's (EPA) current PFAS rules into state law despite the fact that EPA has made it clear it will be working to change the rule in the near future.

In a September 11, 2025 motion, EPA moved the United States Court of Appeals for the D.C. Circuit to vacate the current rule's MCLs for PFHxS, PFNA, and HFPO-DA and the Hazard Index (HI) MCL for the mixture of PFHxS, PFNA, HFPO-DA, and PFBS on the basis that EPA failed to follow the Safe Drinking Water Act (SDWA) in adopting these MCLs. Briefing is expected to be completed by the end of this year.

Coinciding with its motion in court, in its Unified Agenda released on September 4, 2025, EPA stated that it intends to propose to withdraw its regulatory determinations to regulate PFHxS, PFNA, and HFPO-DA, and the mixture of the three with PFBS, and rescind other aspects of the federal PFAS rule related to these four PFAS. EPA says it intends to finalize this withdrawal in February 2026.

In its Unified Agenda, EPA also indicated its intent to propose a rule by October to revise its existing PFAS rule to allow water systems an additional two years -- until 2031 -- to comply with the standards for PFOA and PFOS. EPA says it will issue a final rule on the extended timeline by April 2026.

MEG - Water asks the Department to slow down the Department's rule-making in order to give time to see whether and how the federal PFAS regulation is changed. The Department should not be in a rush to finalize this rule-making while the federal rule is in flux.

The Department has time to pause for at least six (6) months to see what happens with the federal rule. The Statement of Scope for this rule revision was approved by the Governor on August 8, 2024 and published in the Administrative Register on August 12, 2024. Wisconsin Stat. § 227.135(5) provides that the Department has 30 months after the date on which the statement of scope is published to complete rule-making. This would mean the Department doesn't have to complete its rule-making until February 12, 2027 – 18 months from now and well after the EPA's stated timeframe to rescind and modify its PFAS rules.

The Department should also consider the fact that if the federal rule changes, as EPA indicates it will, this may have an impact on the economic impact analysis prepared by the Department. The Department's analysis is based on the assumption that the state rule will pose minimal additional costs because PFAS compliance costs come from the federal rule. However, if the Department is implementing standards that are not included in the federal rule, this would not be the case. There would be an additional economic impact from the state rule that has not been evaluated.

Wisconsin communities are sensitive to the state adopting regulations that exceed what is required by the federal government and other states and then being unable to later modify those stricter regulations due to anti-backsliding concerns. Wisconsin communities continue to struggle with the high cost of complying with phosphorus regulations that are among the strictest in the nation and were adopted during a time of similar uncertainty with federal requirements.

A delay in this rule-making will not change the fact that Wisconsin water systems will be continuing to sample their water for PFOA and PFOS and will be taking steps to address elevated levels. As Attachment B2 to the economic impact analysis shows, Wisconsin communities are moving forward to treat PFOA and PFOS in their drinking water to meet the MCLs included in the federal rule. A rush to adopt the Department's proposed rules is not necessary to make sure that happens.

In conclusion, MEG - Water requests that the Department slow down this rule-making in order to give time for EPA to establish the anticipated federal changes.

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



Lawrie J. Kobza
Legal Counsel

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