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Department of Natural Resources  
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Via Email – [Adam.DeWeese@wisconsin.gov](mailto:Adam.DeWeese@wisconsin.gov) and [DNRAAdministrativeRulesComments@wisconsin.gov](mailto:DNRAAdministrativeRulesComments@wisconsin.gov)

RE: Comments on DG-24-19 Revisions to ch. NR 809 Related to the Promulgation of Drinking Water MCLs for PFOA and PFOS

Mr. DeWeese:

The League of Wisconsin Municipalities, a nonprofit and nonpartisan association of 594 cities and villages, welcomes the opportunity to submit the following comments on the proposed revision of ch. NR 809 related to the promulgation of new drinking water maximum contaminant levels for PFOA and PFOS.

It needs to be emphasized at the outset of our comments that the fundamental and most important goal of municipal water systems throughout the state is the provision of safe reliable drinking water to their customers. There are approximately 514 municipal water utilities in Wisconsin. Each of these systems tests its water to ensure the protection of public health. In the 2020 Annual Drinking Water Report, DNR noted that more than 98% of Wisconsin's public water systems provided water that met all health-based maximum contaminant level standards.

Timing:

The League supports the establishment of federal drinking water standards for PFAS but does not support the Department's creation of state standards at this time. EPA is moving forward to regulate PFAS in drinking water. On March 3, 2021, EPA published its final regulatory determination to regulate PFOA and PFOS under the Safe Drinking Water Act (SDWA). On October 18, 2021, EPA announced its PFAS Strategic Roadmap, which included issuing a proposed rule establishing federal maximum contaminant levels (MCLs) for PFOA and PFOS by fall 2022 with a final rule issued by fall 2023. The League recommends the Department wait for EPA to promulgate federal drinking water MCLs before proceeding to adopt state standards.

To date, all drinking water MCLs have been first established by EPA pursuant to the Safe Drinking Water Act (SDWA) process and then adopted by the State of Wisconsin. It is our understanding that Wisconsin has never adopted a drinking water MCL without a federal counterpart adopted prior to state action.

Unknown Costs Associated with the Recommended Standards:

Based on the final EIA, the League would contest that the department has insufficiently examined the overall economic impact of the PFOA and PFOS maximum contaminant levels. This does a disservice to

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the state and our member utilities that Wisconsin residents rely upon to provide them with safe drinking water. An accurate economic impact of PFAS regulation is necessary to understand the level of economic assistance and/or ratepayer support that will be required for communities and water utilities to respond and continue to provide the public the safe drinking water we all expect.

The environmental impact assessment developed for the rule revision utilizes the third Unregulated Contaminant Monitoring Rule (UCMR 3), tested between January 2013 and December 2015, when making predictions on percentage of systems that will have a result greater than the proposed standard of 20 ppt. However, on March 11, 2021, EPA published the fifth Unregulated Contaminant Monitoring Rule (UCMR 5), which requires sample collections for 30 chemical contaminants between 2023 and 2025. Since the time of the testing associated with UCMR 3, the Safe Drinking Water Act was amended to require data not only from large systems serving over 10,000 people and a random sample of small systems to now include all small systems serving 3,300 to 10,000 and a random sample of systems serving less than 3,300. Therefore, with an increased number of systems that will soon test with more advanced testing methodologies, the number of exceedances for PFOA and PFOS (and other PFAS compounds) and the costs that are necessary to remediate those systems will certainly increase. The information from UCMR 5 has yet to be collected, but nevertheless, the department is moving forward with statewide regulatory standards despite an incomplete picture of the overall statewide problem and the costs associated.

The League believes the department needs to follow EPA's lead and wait for the federal process to unfold. The department is currently working with water utilities to monitor and test for PFAS. Our municipal water utilities have provided and will continue to provide safe drinking water for our communities and to our residents. We can wait for the federal safe drinking water process to be completed and for federal maximum contaminant levels (MCLs) to be promulgated.

The department should continue working with communities. It should be prepared to analyze the results of the UCMR 5 testing when it is available. It should support and evaluate additional research and development of effective treatment and disposal options. It should better evaluate the capital costs (regardless of Safe Drinking Water loans) to construct or install treatment methods, including secondary capital costs associated with treatment related to additional piping, connection systems, pumping facilities, and disposal costs. But the department should not promulgate state PFAS drinking water standards at this time.

In addition, to the comments outlined above, the League fully endorses the comments submitted by Lawrie Kobza on behalf of the Municipal Environmental Group Water Division on December 7, 2021.

Thank you for the opportunity to provide comments on NR 809 related to the promulgation of drinking water MCLs for PFOA and PFOS. The League continues to be supportive of federal safe drinking water standards and regulating these emerging compounds in a scientifically sound and technically and economically feasible manner.

Kind Regards,

*Toni R Herkert*

Toni Herkert, Government Affairs Director, Wisconsin League of Municipalities