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VIA EMAIL

Kristi Minahan
Wisconsin Department of Natural Resources
P.O. Box 7921
Madison, WI 53707

RE: Municipal Environmental Group – Wastewater Division Comments on Proposed Revisions to Bacteria Standards, Board Order WY-17-15

Dear Ms. Minahan:

We are submitting these comments to the Wisconsin Department of Natural Resources (DNR) on behalf of the Municipal Environmental Group–Wastewater Division (MEG) with respect to the proposed revisions to bacteria standards, Board Order WY-17-15. MEG is an organization of approximately 100 municipalities statewide who own and operate wastewater treatment plants. We greatly appreciate the opportunity to submit comments on the proposed rule revisions.

I. Economic Impacts

The proposed rule revisions will impose a change in monitoring requirements and limitations from fecal coliform to *E. coli* for municipal wastewater treatment facilities across the state. We believe that the proposed geometric mean and STV *E. coli* limits are more stringent than the existing fecal coliform limits and, as a result, may have a substantial economic impact on treatment facilities. As MEG explained in comments submitted on the Economic Impact Analysis for the proposed rule revisions, a number of facilities have projected increased costs that could be as high as \$64,000 per year to account for electric expenses for higher intensity UV treatment, additional chemical dosages, life cycle costs, and/or, in some cases, expansion or replacement of existing disinfection facilities.

II. Revisions to Expression of Limits

MEG appreciates the modifications DNR has made to the proposed rule revisions with respect

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to the expression of *E. coli* limitations in permits. In particular, MEG supports DNR's revision of short-term limits from a calculated weekly geometric mean limit to a statistical threshold value (STV). MEG agrees that the STV approach is more straightforward, follows EPA's recommended approach, and is protective of both components of water quality criteria. However, the rolling 90-day period for calculation of the STV requires further clarification. It is unclear when this rolling 90-day will begin and end, how it will be implemented in conjunction with the monthly geometric mean limit, and which limitation will be controlling. MEG requests that DNR provide further clarification.

MEG also requests clarification on the note in NR 210.06(2) providing that "To calculate the geometric mean, a value of 1 should be used for any result of 0." This appears to be a deviation from standard protocol, which warrants further explanation.

III. Analytical Methods

A number of MEG members have conducted comparative analyses between two methods for detection of *E. coli* analysis: membrane filtration and the enzymatic substrate method. These members have found that these two methods produce different *E. coli* results, in some cases substantially. It is therefore vital that DNR allow each facility to employ whichever method for *E. coli* analysis is appropriate for that facility. To that end, MEG appreciates the incorporation of both of these methods into the proposed rule revisions. To the extent that there are other methods approved for the detection of *E. coli*, MEG requests that those methods also be referenced in this rule package.

IV. Recreation Season

The proposed rule package includes language revising NR 102.04(6)(a) to provide that *E. coli* criteria apply "during the recreation season," rather than "from May 1 to September 30." This revision is outside of the authorization in the Scope Statement for this rule package, which was signed by then Governor Walker on October 27, 2015. Furthermore, this proposed revision could potentially lengthen the disinfection season for treatment facilities and result in substantial economic impacts that DNR did not consider in its economic impact analysis. To the extent DNR seeks to make such a revision and establish a policy of lengthening the disinfection season, it must do so through the appropriate rulemaking channels.

Best Regards,

Stafford Rosenbaum LLP



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