

September 20, 2024

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Department of Natural Resources
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VIA EMAIL: Nathaniel.Willis@wisconsin.gov

RE: Comments of the Municipal Environmental Group – Wastewater Division
PFOS and PFOA Minimization Plan Expectations Guidance
EGAD Number: 3400-2024-XX

Mr. Willis:

We are submitting these comments on behalf of the Municipal Environmental Group–Wastewater Division (MEG Wastewater). MEG Wastewater is an organization of over 100 municipalities statewide who own and operate wastewater treatment plants. We represent facilities ranging in size from small sanitary districts to larger utilities. MEG Wastewater appreciates the opportunity to comment on the draft PFOS and PFOA Minimization Plan Expectations Guidance (the “Guidance”).

MEG Wastewater supports the source-reduction approach the department takes in the Guidance. MEG offers the following comments to aid the department in ensuring the Guidance provides useful and actionable tools to wastewater utilities to implement source reduction activities where minimization plans are required.

A. Flexibility for wastewater utilities to develop PMPs that work for them.

MEG Wastewater appreciates that the Guidance generally provides a reasonable roadmap for wastewater utilities to understand the department’s expectations for PFOS and PFOA minimization plans. It is important to note, however, that different wastewater utilities will have different needs and opportunities with respect to pollutant minimization. The department should ensure that the Guidance provides sufficient flexibility for wastewater utilities to create and implement minimization plans that are best suited to their individual needs.

B. Appropriate role for wastewater utilities in disposal or product substitution.

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There are a number of instances throughout the Guidance where the language used suggests wastewater utilities have a responsibility to direct industrial and other users regarding use of products that may contain PFAS compounds and/or disposal practices for these compounds. For example, in the last paragraph on page 7 of the Guidance, it provides that:

POTWs are also directed to include activities which educate the public, commercial sewer users, or other professionals about ways to reduce the usage of PFAS-containing products, disposal of PFAS-containing products, and other mitigation efforts.

MEG Wastewater appreciates that this language parallels the regulatory requirements in Wis. Admin. Code § NR 106.99. However, wastewater utilities are not experts in either product substitution practices or disposal of PFAS-containing compounds. It is not the appropriate role of a wastewater utility, even one engaged in source reduction efforts, to advise users on what products they may or may not want to use in their operations or how to dispose of PFAS-containing products. MEG Wastewater requests that references in the Guidance to reducing the usage of PFAS-containing products and disposal of PFAS-containing products be revised to clarify that wastewater utilities themselves are not responsible for developing this information to provide to users. Rather, wastewater utilities may meet this requirement by providing the public and users with information developed by EPA, the department, or other regulatory authorities regarding PFAS-containing products and disposal options.

C. Industrial user sampling plans.

We appreciate that the regulatory requirement to conduct source identification for wastewater utilities required to implement PFOS and PFOA minimization plans likely includes engaging in sampling activities of users. Sampling for PFOS and PFOA, however, is a costly endeavor and particularly burdensome on smaller communities and industrial users. The Guidance provides that where “fingerprinting” has failed to identify sources of PFOS and PFOA, wastewater utilities should undertake sampling efforts of all industrial users to the sanitary system or require that all industrial users submit samples to the wastewater utility. To address the potentially significant cost burden of the proposed sampling efforts, MEG Wastewater requests that this language be revised to provide that all wastewater utilities may begin sampling efforts with a subset of users belonging to the sectors mentioned in Appendix D to the Guidance.

D. Development of Local Limits as a Source Reduction Measure.

On page 7 of the Guidance, the department references local limits as an option for municipalities for source reduction actions. While local limits may be an option for some utilities, establishment of local limits is not the only tool available to municipalities as far as possible source reduction actions. MEG Wastewater requests that the Guidance be clarified to state that local limits are one of many options a wastewater utility and/or municipality may consider implementing as source reduction actions.

Moreover, local limits in general take a significant resource investment to develop. With respect to PFOS and PFOA in particular, MEG Wastewater notes that it could be challenging for many utilities

to develop local limits because there is still much uncertainty surrounding fate and transport of PFOS and PFOA and their precursors in the wastewater treatment process. Without a clear understanding of how discharges containing PFOS and PFOA and their precursors may transform in the wastewater treatment process, utilities will be hard pressed to develop specific local limits for dischargers to the wastewater treatment plant. To that end, MEG Wastewater requests that the department clarify that local limits are legally permitted to be established as best management practices rather than just numeric effluent limitations. This clarification will provide better guidance to municipalities evaluating the potential for establishment of local limits.

E. Additional comments.

In addition to the comments above, we have the following concerns regarding language in the proposed Guidance:

- Some pretreatment authority MEG members have expressed concern regarding the reporting of all SIU data in the minimization plan annual report. For other PMPs, such as for mercury, that data is typically reported in the Pretreatment Semi-Annual reports. There is a preference to align the reporting requirements in the Guidance with the requirements followed for other PMPs.
- On page 13 of the Guidance, “Opportunities for Material or Product Substitution” should be clarified to apply only to industrial user minimization plans and not wastewater utility minimization plans.
- Because the Guidance does not create mandatory requirements, the language stating that POTWs are “directed to” or “should” take certain action should be revised to “encouraged to” unless the reference is specifically to a statutory or regulatory requirement.

Thank you for your consideration of these comments. MEG greatly appreciates the opportunity to participate in this process and welcomes further communication with the department on this topic.

Sincerely,

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