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December 7, 2015,

*VIA EMAIL  
AND U.S. MAIL*

Ms. Amanda L. Minks  
Water Resources Management Specialist  
Wisconsin Department of Natural Resources  
P.O. Box 7921  
Madison WI 53707-7921

RE: Comments on Board Order WT-11-12

Dear Ms. Minks:

Thank you for the opportunity to submit comments on the proposed rule relating to revisions to Ch. Nr 106, 205, and 212 (Board Order No. WT-11-12). We are writing on behalf of the Municipal Environmental Group – Wastewater Division (MEG), which is an association of over 100 municipalities throughout the state of Wisconsin who own and operate wastewater treatment facilities.

It is our understanding that a number of the proposed revisions are directly in response to the letter from EPA dated July 18, 2011, which identified 75 issues that the DNR needs to address with respect to its WPDES program. We understand that a number of the issues that these revisions address are therefore based upon federal regulations and that the DNR has limited flexibility to deviate from the requirements as they are interpreted by EPA.

However, we have concerns with respect to the process the proposed rule revisions put in place if a facility has a WET test failure. As we understand it, any WET test failure would result in the imposition of a WET limit in a facility's permit. For facilities with WET limits, a single WET limit violation would constitute a permit violation and could trigger the requirement to implement a Toxicity Reduction Evaluation (TRE).

Triggering a TRE based on one test failure does not provide facilities with a rationally-based procedure to appropriately address WET test failures or limit violations. A single WET test failure does not illustrate a persistent violation that necessitates a WET limit. Further, a facility that has a single limit violation lacks the necessary information regarding the scope or cause of the failure to know how to effectively design and implement a TRE.

This process could also result in significant expense for a facility. As DNR noted in its EIA, cost estimates for TRE implementation range from at least \$5,000-\$10,000 for acute and \$15,000-\$20,000 for chronic. This level of expense should only be imposed where a TRE is a necessary and appropriate remedy for WET limit violations.

We have particular concerns with respect to WET violations that could occur at a POTW as the result of accepting hauled waste. POTWs do not have the ability to test every tanker before accepting hauled waste. A one-time WET limit violation could occur due to the acceptance of waste from a particular tanker, but this violation would not represent a persistent violation that necessitates the implementation of a TRE. POTWs are likely to be less inclined to accept hauled waste if one violation of a WET limit would require development of a TRE.

DNR should revise its proposed rules or develop guidance to implement a more flexible process in which a facility can retest its effluent to allow for rational review and study of the potential cause of a WET test failure or limit violation. A TRE is not appropriate remedy absent evidence of a persistent violation.

Very truly yours,

Paul G. Kent  
Vanessa D. Wishart

PGK/VDW:mai  
cc: MEG Steering Committee