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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS

2009-10
(session year)

Senate
(Assembly, Senate or Joint)

Committee on Environment...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
  (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (September 2013)

State Representative
Dan Meyer

July 28, 2010

WI Senate Committee on Environment
Senator Mark Miller, Chairman

Dear Chairman Miller and Members of the Senate Environment Committee,

Like most citizens, I worry about the quality of Wisconsin's water resources. As a Representative from a lake rich district, such quality concerns are always of interest to not only me, but everyone who enjoys the natural resources in the 34th Assembly District and the Great State of Wisconsin

Recently great concern has arisen from lake and river associations, environmental groups that unsightly green algae blooms were becoming excessive and causing adverse affects on the ecosystem harming both animals and humans. The finger of blame has been pointed at phosphorus from factories, municipal water treatment systems, agricultural systems, and storm water run-off as the source. The Wisconsin State Legislature recently acted by removing phosphorus in most lawn fertilizers April 1st and from dishwasher detergents July 1st.

Changes to NR102 and NR217 relating to phosphorus water quality standards and increased phosphorus limitations in Wisconsin surface waters increase the cost associated with water treatment to unnecessary levels while providing little benefit. My local Light and Water utility contacted me directly asking me to not support the proposed regulations as it will put undue hardship on rate payers and leave 80% of the phosphorus problem unregulated.

Cost estimates range anywhere from $700 Million to over $1 Billion each year for more than a decade to administer the new rule. The DNR also claims that some of the rules will start right away while in "some cases, compliance will be phased in over 20 years." Even with painfully high costs there has been no identified way to finance the project. A cost-sharing program that will ultimately place most of this cost on Wisconsin businesses will likely be executed. Businesses that operate their own wastewater treatment facilities will be hit the hardest.

Paper mills , food processors, dairy producers and cheese producers all will be regulated in a much more strict fashion, placing already financially stressed industries under even more financial pressure. If this rule is implemented, Wisconsin would be the only Midwestern state to have such limits. By penalizing Wisconsin businesses with increased discharge limits for phosphorus, we would intentionally be harming the businesses of Wisconsin and driving jobs away from our state.

In addition to the unnecessary cost that this rule requires, it has very little support among the people of Wisconsin. The Wisconsin Department of Natural Resources held public hearings on the proposed rule. Of the people who registered 134 registered in opposition while only 41 registered in support. All four hearings held throughout the state showed a similar trend of opposition to the rule.

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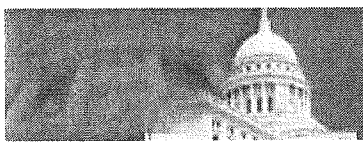
Without a realistic and reasonable financing plan let us not be hasty, implementing this law will harm businesses and Wisconsin as a whole. Maybe the prudent choice would be to slow things down and see if recent changes made by the legislature have a positive, while much less costly affect.

I appreciate the opportunity to share these concerns with you.

Sincerely,

Dan Meyer
State Representative
34th Assembly District



WISCONSIN STATE LEGISLATURE

Department of Natural Resources
Testimony Before the Senate Committee on Environment
Clearinghouse Rule 10-035
Phosphorus Water Quality Standards
July 28, 2010

Thank you Chairman Miller and members of the committee for the opportunity to appear before you to discuss revisions to Chapters NR 102 and NR 217, Wisconsin Administrative Code, that are very important to maintaining and improving water quality in our state. These rules establish water quality standards and implementation processes and options for phosphorus – the nutrient that has perhaps the most impact to the condition of our state's waters.

Wisconsin has 172 lakes, rivers and streams currently listed as impaired waters due to the unmet challenge of phosphorus, other nutrients and sedimentation. The water quality problems caused by phosphorus are a prime example of how clean water is important to Wisconsin's quality of life and our $13 billion tourism industry. These problems may be in the form of low oxygen levels in streams which threatens aquatic life, nuisance algae blooms on lakes or algal mats on Lake Michigan beaches that not only inhibit people from swimming, but also negatively impact resorts and other businesses depending on water front use. There are also the significant odor issues that these algae blooms cause all of us to endure. In the worst cases, the algal blooms may produce toxic conditions that have resulted in concerns to human health. In 2009 there were 35 reported health cases in Wisconsin due to algae blooms. Excessive phosphorus loading degrades habitat for fish spawning and depletes oxygen levels which of course negatively affects the fish population as well as the $2.75 billion fishing industry and untold damage to property values of those living on our lakes and rivers. In addition, 30% of our citizens obtain their drinking water from surface water sources. The impacts of excessive phosphorus on water quality contribute significantly to the cost of treatment to drinking water standards.

In 2001, the department, in collaboration with the United States Geological Survey, began a study on 240 streams and 42 rivers to provide information needed to establish nutrient water quality standards for rivers and streams in Wisconsin. A vast amount of lakes data collected by the department through it's citizen-based lakes monitoring network was also analyzed to establish nutrient criteria for lakes. Data and analysis from the State of Minnesota that it used to establish nutrient criteria for lakes was also reviewed. This scientific data was subjected to extensive and varied statistical analysis to derive correlations between phosphorus concentrations and the diversity and health of the biotic systems in our streams, rivers and lakes.

The result was that the department proposed standards and held an initial technical advisory committee meeting with stakeholders in February, 2008. Numerous meetings with the Technical Advisory Committee were held over the next twenty months which focused largely on implementation procedures. The department held public hearings on the proposed rule in April 2010.

However, in November 2009, a number of environmental groups formally issued a notice of intent to the US Environmental Protection Agency (EPA) that they intended to sue EPA to require them to promulgate numeric nutrient water quality standards for Wisconsin. EPA has agreed to delay their process to promulgate standards for phosphorus, pending the results of this effort before you today. If EPA does establish phosphorus standards for Wisconsin, they can be expected to be more stringent than those being proposed today and will lack the implementation flexibilities we have incorporated, significantly increasing the cost. In Florida, where EPA has begun the standards process for that state, compliance costs are estimated to exceed $50 billion.

The current effluent standards for point source discharge permits for phosphorus implemented in Wisconsin were established in the early 1990s and are technology-based. This means that the standard is based on what could be achieved using the best available technology readily available at that time. This standard is generally 1.0 mg/L, but alternate limits can be allowed. The water quality-based limits being proposed today are

derived from the scientific studies previously described and reflect what is needed to achieve water quality that supports a diverse biotic, including fish, community, and allows people to swim and recreate in the water without concern of getting sick. I have listed these standards in an attachment to my comments. Please note that they are expressed in the rule in micrograms (ug) which is $1/1000^{th}$ of a milligram (mg).

Since most of the discussion surrounding this proposal has been regarding implementation issues, I would like to focus the balance of my remarks on this topic. First I wish to acknowledge that the rule proposal in front of you directly addresses point sources of phosphorus. Nonpoint sources of phosphorus are only indirectly addressed. This is because nonpoint sources are addressed in another rule, NR 151, which is also currently before the legislature. A Hearing will be held by the Senate Agriculture Committees this morning and the Assembly Agriculture Committee held a hearing last Wednesday. The rules before you, in combination with NR 151, take a comprehensive approach that combats this problem of excess phosphorus on a watershed basis, and engages both point and non-point sources rather than one economic sector at a time. They ensure that all stakeholders are at the table helping to ensure that our waters meet the basic tenants of swimmable and drinkable in the most cost effective manner possible.

Implementation of any water quality standard for point sources starts with an effluent limitation in a water discharge permit. NR 217, the implementation rule before you, contains an equation to calculate this effluent limit. However, if the water body that receives the discharge already exceeds the standard, the calculated limit will likely be below the standard, so the minimum default limit is the standard itself. For example, in the case of a river that exceeds the standard, the limit would be set at the criterion, or 0.1 mg / L. If we just stopped there (which is where EPA would stop) then some of the concerns expressed regarding the cost of this rule would be valid. I also want to note that ½ of our waters currently meet the proposed standards, and facilities discharging to waters meeting the standards will likely see little or no change to their current effluent limits.

However, the department has included a number of policies and flexibilities designed to promote a more cost-effective approach by allowing facilities time to plan and determine the true extent of actions necessary and by recognizing the contribution from nonpoint sources, that often exceed those of the point sources, and are often less costly to address.

While EPA usually allows schedules of compliance for facilities to meet more stringent effluent limits in permits to extend only within a permit term, which is at most five years and often as little as two or three years, this proposed rule allows compliance schedules to extend seven to nine years, depending on the complexity and scope of any necessary capital improvements. This will allow facilities time to plan for the most cost-effective alternatives available and arrange the most advantageous funding.

The rule also provides that limits may be established based on a total maximum daily load (TMDL) analysis where a discharge is into a receiving water that is impaired due to excess phosphorus. A TMDL takes into account all sources of a pollutant such as phosphorus, and a point source limit will be based on the proportion of contribution and the reduction required of that contribution to meet the water quality standard. For example, the Department is currently engaged in developing a TMDL for the Upper Fox River watershed, in which is located the City of Berlin. Preliminary results show that Berlin's permit limit may only need to reduced from 1 milligram per liter to 0.8 to 0.9 milligrams per liter. Since Berlin's discharge is currently averaging less than 0.7 milligrams per liter of phosphorus in their effluent, they would not be required to make any changes to their operation or facility.

In addition to extended compliance schedules and TMDL-based limits that take into account the nonpoint contributions, the department, in conjunction with municipal, industrial and environmental stakeholders, has developed an adaptive management option to provide further flexibility in implementing these standards. The watershed adaptive management flexibility option offered in the rule proposal is designed to help address nonpoint source pollution impacts while lowering costs for point sources. A point source choosing this option can be allowed up to three permit terms (again, a permit term is 5

years) to implement a plan to work with nonpoint sources that discharge to the same receiving water. In the meantime, the department will work with the point source in a stepped approach to ensure that the point source is not compelled to over comply. The point source receives an interim limit (0.6 milligrams/liter) in the first permit term and another interim limit (0.5 milligrams/liter) in the second permit term – if necessary. This allows the facility and the department time to work with nonpoint sources to reduce their phosphorus input based on a plan proportionate to the point sources contribution. Cost benefits of this option include, preventing over compliance by point sources by delaying and possibly eliminating (if addressing nonpoint sources results in meeting water quality standards) the need for capitol improvements to the facility, further cost reductions through improvements in technology, and providing time for the facility to establish pollution trading contracts if they wish, with nonpoint sources where reductions of phosphorus on a per pound basis are significantly less. In addition, delaying the need to engage in facility upgrades may allow the facility to make any necessary capitol improvements at the same time it would be upgrading the facility anyway due to it reaching the end of its normal life cycle.

In the unusual cases where compliance with an extremely low limit will result in widespread social and economic impacts – including significant impacts on profitability – a municipal or industrial discharger has the ability to apply for a variance. The rule contains a streamlined procedure for lagoon and stabilization pond systems (found in many small communities with very limited ability to fund an expensive treatment plant upgrade), but variances remain available for any municipality or industry through existing statutory and rule provisions. Many facilities now receive alternative limits through variances well above the current technology-based limit of 1 milligram per liter. Some have limits as high as 5 milligrams per liter. This is a good example of the Department's past practice of using variance flexibility to deal with technology issues and/or adverse economic impacts while implementing environmental standards.

In conclusion, these proposed rules, NR 102 and NR 217, in conjunction with the proposed revisions to the nonpoint performance standards –NR 151, recognizes and provides a comprehensive approach to addressing the largest remaining threat to Wisconsin's water quality, excess phosphorus. With point and nonpoint sources working together, these rules provide a framework to identify and determine the scope of phosphorus discharges in the watersheds of the state and further provide tools and flexibility to address them in a cost-effective manner. The concerns over cost expressed by many are based on assuming a worst case scenario of every facility being forced to comply with the most stringent effluent limits. They do not take into account the fact that fully ½ of our waters already meet the standards, and facilities discharging into these waters will very likely not experience any change in their limits. They do not take into account the cost-reduction flexibilities afforded in the proposal of increased compliance schedules, TMDL based limits, the adaptive management option or the availability of variances. Those objecting to the proposal also do not take into account that if this proposal is not adopted, EPA will adopt phosphorus standards for the state which will be more stringent, not founded on detailed Wisconsin-based science and that will not contain the cost reduction suite of flexibilities contained in this proposal. As in Florida, the cost of an EPA imposed set of phosphorus standards could exceed even the worst case estimates for Wisconsin by a factor of 10.

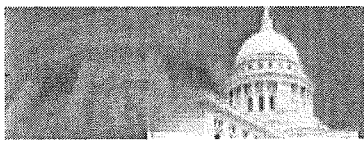
The rules before you provide a numeric measure of what is needed to achieve water quality in terms of phosphorus in state waters and provide the most cost-effective measures available to achieve them. We urge you to support their adoption and are available to answer any question you may have.

Summary Table of Proposed Phosphorus Standards for Wisconsin Waters in NR 102

Proposed Standards	Standard (ug)	Standard (mg)
	micrograms	milligrams
Flowing Waters		
Rivers (enumerated in rule)	100	0.100
Streams	75	0.075
Lakes		
Stratified 2-story fishery	15	0.015
Drainage and stratified	30	0.030
Drainage, not stratified	40	0.040
Seepage and stratified	20	0.020
Seepage, not stratified	40	0.040
Reservoirs*		
Stratified	30	0.030
Not Stratified	40	0.040
Impoundments*	Same as the entering river or stream (100 or 75)	Same as the entering river or stream (0.100 or 0.075)
Great Lakes**		
Lake Superior	5	0.005
Lake Michigan	7	0.007

* A reservoir is a waterbody with a constructed outlet structure intended to impound water and raise the depth by more than two times relative to the conditions prior to the construction of the dam and that has a mean water residence time of 14 days or more under summer mean flow conditions. An impoundment is impounded water that does not meet the depth or residence times that define a reservoir.

** The standards for the Great Lakes are those adopted by the International Joint Commission (IJC).



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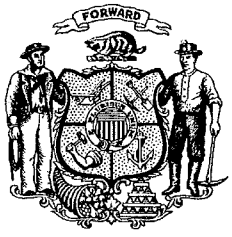

Bridging Nature with Industry

City of Park Falls

Office of the Mayor

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mayor@cityofparkfalls.com • www.cityofparkfalls.com

July 28, 2010

As mayor of the City of Park Falls and on behalf of its 2,700 residents, I appreciate this opportunity to provide comments for the record concerning the proposed changes to NR102 and NR217 relating to the establishment of phosphorus limits in Wisconsin's surface waters.

Let me begin by saying that the City of Park Falls takes its job of protecting the environment and providing safe and affordable water resources very seriously. Our staff operates our wastewater system in a manner that consistently produces high marks on the DNR's Compliance Maintenance Annual Report. Furthermore, our commitment to excellence in the field of wastewater operation is reflected in the fact that the City of Park Falls was the recipient of the Wisconsin Rural Water Association's prestigious 2010 Wastewater System of the Year Award.

While we understand the challenges the Wisconsin DNR and the US Environmental Protection Agency face in weighing the costs and benefits of regulations needed to protect both the environment and the human resources that use them, we feel strongly that the actions and levels as proposed in the revisions to N102 and NR217 will be extremely costly to many communities while at the same time providing very little appreciable reduction in phosphorus levels.

Small communities like Park Falls produce small amounts of phosphorus.

Effective overall phosphorus reduction can be best achieved by reducing limits on the largest dischargers. It is my understanding that 80% of the phosphorus problem is caused by sources other than municipal wastewater. It makes sense to address 80% of the problem before even beginning to zero in on the remaining 20%. Once reduction in these larger sources of phosphorus is achieved, you will likely find that expensive phosphorus reduction measures from small communities are not necessary.

The City of Park Falls currently treats its wastewater in an aerated lagoon. Lagoons are a popular and effective form of treatment and are common in small communities. They are simple to operate and are very energy efficient. Phosphorus removal is much more difficult in an aerated lagoon than in a mechanical plant. Proposed phosphorus regulations will force small communities to abandon simple, relatively inexpensive lagoon systems for complex and costly mechanical systems while at the same time realizing very little gain in water quality.

The current 1.0 mg/L phosphorus limit will cost Park Falls Sewer Utility ratepayers over $200,000 to add equipment and over $91,000 each year for additional chemicals and operating expenses.

We can probably live with the 1.0 mg/L limit but an additional reduction in the phosphorus limit will make it extremely difficult and extremely expensive.

Government must not forget the importance of balancing the benefit of rules and regulations with the economic cost of those rules and regulations. As state and federal governments regulate phosphorus limits they must also be partners by providing funding mechanisms to meet the new standards. Unfunded mandates will put business and industry in the State of Wisconsin at a competitive disadvantage.

Unfunded mandates in the current economic climate will be also be devastating to small communities, especially when the overall benefit to the environment would be minimal.

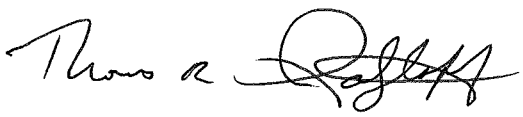
The City of Park Falls recently completed a mandated water upgrade project. This upgrade project cost the Park Falls Water Utility 4 million dollars. As a result, water rates increased by 39%. In addition, we are currently facing a 2.3 million dollar water and sewer rehabilitation project in conjunction with the 2012 reconstruction of State Highway 13 through Park Falls.

If we are forced to build a mechanical plant to treat our wastewater and meet more stringent phosphorus limits, our engineers estimates it will cost the City of Park Falls in excess of 5 million dollars. Where does it end? This is an expense the 2,700 residents in our small community simply cannot absorb.

We believe the State of Wisconsin should adopt phosphorus standards on a watershed by watershed basis. Watersheds in the Park Falls area are much less affected by phosphorus than watersheds in other regions of the state. Why should we be asked to spend millions of dollars to fix a problem that isn't a problem in the Park Falls area?

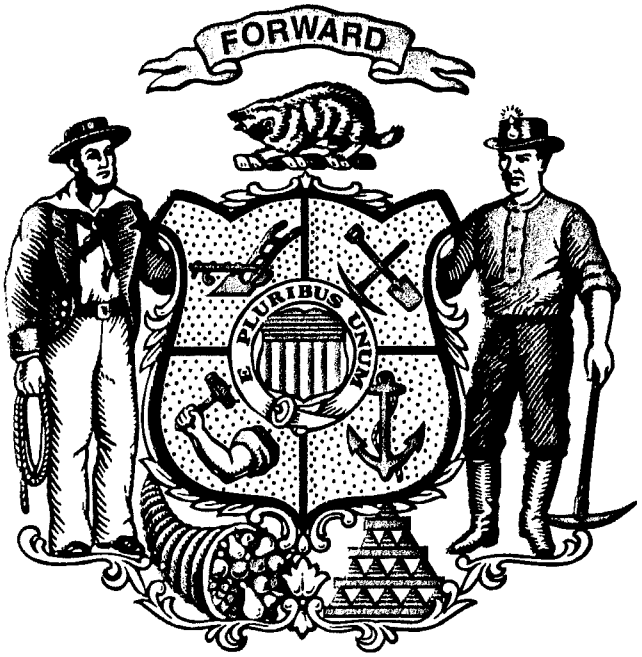
Municipal wastewater treatment systems are committed to working with everyone else in protecting our water resources, fisheries, and aquatic life. Through previous efforts, municipalities have already reduced phosphorous levels in their discharges by 80-90%.

The State of Wisconsin must now require the same commitment and cooperation from others so that real environmental improvement can be realized in the most cost effective manner possible.



Thomas E. Ratzlaff, Mayor

City of Park Falls


FORWARD
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MADISON METROPOLITAN SEWERAGE DISTRICT

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Jon W. Schellpfeffer
Chief Engineer & Director

Protecting Public Health and the Environment

Testimony before the Senate Committee on Environment

July 28, 2010

Good morning.

I am Jon Schellpfeffer, Chief Engineer and Director of the Madison Metropolitan Sewerage District. I am here in support of the proposed rules. I believe the Department of Natural Resources has done all it could to address the concerns of the stakeholders in crafting them. However, I am concerned about how the proposed rules will be implemented to effectively improve water quality in the state.

The rules before you today, NR 102 and NR 217, address point source discharges, such as those from municipal treatment plants. These sources account for about one-fifth of the phosphorus loads discharged to streams and lakes in Wisconsin. To effectively deal with the remaining phosphorus, the companion rule, NR 151, will also need to be adopted, and funds will need to be appropriated to implement that rule since the non-point phosphorus control measures mandated by that rule require a 70 percent cost-share before they are required to be implemented. NR 217 includes an adaptive management approach that contemplates phosphorus trading as one option that would address non-point phosphorus sources. However, trading will only have a modest impact on reducing non-point phosphorus loads.

If non-point sources are not effectively addressed, municipalities could be required to expend significant dollars to address their share of the phosphorus discharges, but there will be no meaningful improvement in water quality.

So, while I am pleased with the flexibility built into the proposed NR 217, I am still very concerned with how it and NR 151 will be implemented to truly improve water quality and realize tangible benefits from the dollars invested.

Thank you. I am happy to answer any questions.

Jon W. Schellpfeffer
Chief Engineer and Director

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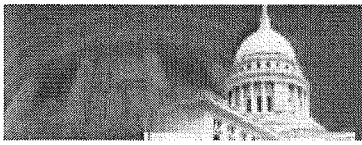

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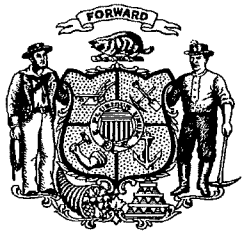

City of Park Falls

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July 28, 2010

As Chairman of the Public Services Committee for the City of Park Falls and on behalf of its 2,700 residents, I appreciate this opportunity to provide comments for the record concerning the proposed changes to NR102 and NR217 relating to the establishment of phosphorus limits in Wisconsin's surface waters.

Let me begin by saying that the City of Park Falls takes its job of protecting the environment and providing safe and affordable water resources very seriously. Our staff operates our wastewater system in a manner that consistently produces high marks on the DNR's Compliance Maintenance Annual Report. Furthermore, our commitment to excellence in the field of wastewater operation is reflected in the fact that the City of Park Falls was the recipient of the Wisconsin Rural Water Association's prestigious 2010 Wastewater System of the Year Award.

While we understand the challenges the Wisconsin DNR and the US Environmental Protection Agency face in weighing the costs and benefits of regulations needed to protect both the environment and the human resources that use them, we feel strongly that the actions and levels as proposed in the revisions to N102 and NR217 will be extremely costly to many communities while at the same time providing very little appreciable reduction in phosphorus levels.

Small communities like Park Falls produce small amounts of phosphorus.

Effective overall phosphorus reduction can be best achieved by reducing limits on the largest dischargers. It is my understanding that 80% of the phosphorus problem is caused by sources other than municipal wastewater. It makes sense to address 80% of the problem before even beginning to zero in on the remaining 20%. Once reduction in these larger sources of phosphorus is achieved, you will likely find that expensive phosphorus reduction measures from small communities are not necessary.

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Government must not forget the importance of balancing the benefit of rules and regulations with the economic cost of those rules and regulations. As state and federal governments regulate phosphorus limits they must also be partners by providing funding mechanisms to meet the new standards. Unfunded mandates will put business and industry in the State of Wisconsin at a competitive disadvantage.

Unfunded mandates in the current economic climate will be also be devastating to small communities, especially when the overall benefit to the environment would be minimal.

The City of Park Falls recently completed a mandated water upgrade project. This upgrade project cost the Park Falls Water Utility 4 million dollars. As a result, water rates increased by 39%. In addition, we are currently facing a 2.3 million dollar water and sewer rehabilitation project in conjunction with the 2012 reconstruction of State Highway 13 through Park Falls.

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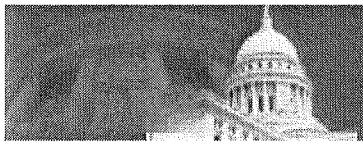
We believe the State of Wisconsin should adopt phosphorus standards on a watershed by watershed basis. Watersheds in the Park Falls area are much less affected by phosphorus than watersheds in other regions of the state. Why should we be asked to spend millions of dollars to fix a problem that isn't a problem in the Park Falls area?

Municipal wastewater treatment systems are committed to working with everyone else in protecting our water resources, fisheries, and aquatic life. Through previous efforts, municipalities have already reduced phosphorous levels in their discharges by 80-90%.

The State of Wisconsin must now require the same commitment and cooperation from others so that real environmental improvement can be realized in the most cost effective manner possible.

Lauri Schrader

Lauri Schrader, Chairperson
Public Services Committee



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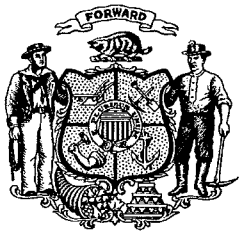

cleanwisconsin

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Telephone: 608.251.7020 Fax: 608.251.1655
Website: www.cleanwisconsin.org
(Formerly Wisconsin's Environmental Decade)

Testimony of Amber Meyer Smith, Program Director, Clean Wisconsin
Clearinghouse Rule 10-035
Revisions to NR 102 and 217 related to phosphorus water quality standards criteria and WPDES permit provisions for phosphorus
Senate Environment Committee
July 28, 2010

Clean Wisconsin has thousands of members across Wisconsin focused on clean air, clean energy and clean water issues. We were originally founded as Wisconsin's Environmental Decade and celebrated our 40th anniversary in April.

Thank you for the opportunity to comment on this proposed rule. Our Water Program Director was a member of the stakeholder committee that had input into the drafting of the rule, and Clean Wisconsin supports the package before you and the revisions to NR 151 that are being considered by the Senate and Assembly Agriculture Committees. The two rules, when combined, address the two major sources of phosphorus and are a step forward in addressing polluted runoff into our waterways.

Right now, Wisconsin's waterways are in trouble. Nearly half of our waterways are so polluted due to runoff that they are federally listed as impaired. Polluted runoff contains dirt and nutrients like phosphorus. Combined, phosphorus and sediment degrade water quality and impair ecosystems. Perhaps worst of all, they cause algae in many cases; one pound of phosphorus can cause 500 pounds of algae to grow.

Algae, especially blue-green algae, is becoming a serious water quality issue across the state. Blue-green algae is harmful to aquatic ecosystems, and is harmful to human and animal health. Once algae blooms, it dies and rots. During that process, it uses oxygen in the water, and creates a dead zone where fish and other aquatic life can't live. As this occurs more frequently, it changes the nature of the ecosystem. Blue-green algae is toxic for human, pets and wildlife. There have been reports of dog deaths due to swimming through blue-green algae blooms in recent years, and people have been getting sick from coming in contact with it or breathing in fumes from it.

Problems with blue-green algae aren't limited to environmental and human health; these problems are affecting our tourism and fishing economies throughout the state. Tourism takes a hit from polluted runoff in terms of lost beach days, lost boating revenue, and lost fishing and related revenue, and more. Last year in Madison alone there were 10 beaches closed for a total of 90 days – all by July 17th – because of potentially dangerous algae blooms.

You will hear today about the costs of acting on phosphorus rules. The fact is there is also a high cost to inaction. Fishing in Wisconsin creates over 30,000 jobs in the state and $2.75 billion in economic benefits annually.

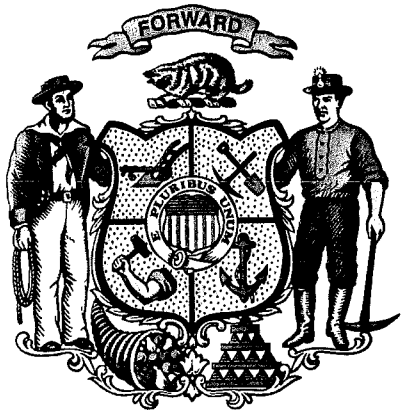
Polluted waterways also have a negative impact on property values. Many Wisconsin residents pay a premium to live on or near waterways, and several studies have shown the direct link between increased water clarity and increased lakefront property values.

The passage of this water quality standard and implementing language are critical to addressing the most important pollution problem in Wisconsin's waterways. There are dire problems with phosphorus in our waters, and the algae-blooms that result from phosphorus pollution. We certainly agree that agriculture is a big part of the phosphorus runoff that occurs across the state, but point sources like wastewater treatment plants and other industrial point sources also contribute. Each day, point sources discharge 4,900 pounds of phosphorus into our waterways. Because a pound of phosphorus can create 500 pounds of algae, point sources are making our waterways vulnerable to up to 2.45 million pounds of algae per day!

This rule is cost-effective and flexible, allowing cooperation between point and non point sources because of the work that was put into creating the adaptive management option. Clean Wisconsin worked with many of the people you see in the room here today, including municipalities and the DNR to ensure this rule was protective of water quality standards, yet practical. We are proud of this work, and feel that the adaptive management option will allow permittees flexibility in addressing phosphorus effectively and cost-efficiently, while being true to the requirements of the Clean Water Act.

This option is being conveniently ignored by the opponents to this rule, but it is really the crux of the discussion. Over two years of discussions led to this new adaptive management option. While we may not agree with everything in this rule, adaptive management will be a new way to use the Clean Water Act to address our most important water quality problem, and we hope this sets an example for the country. Clean Wisconsin is optimistic that this will, in appropriate watersheds, lead to waterways meeting water quality standards in the most cost-effective way.

Recognizing the rule is a compromise between a variety of stakeholders, we support it and are optimistic that while it could be stronger in several areas, it will prove beneficial to our state's waterways, ecosystems, economy and all people who enjoy water. The package represents a significant step forward in getting phosphorus out of our waterways, and when combined with the changes to NR 151 can mean real results for water quality. We ask you to support this rule package.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Village of Port Edwards

Joseph M. Terry P.E.
Village Engineer / Administrator

Municipal Building
Port Edwards, Wisconsin 54469
Phone: 715-887-3511
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July 28, 2010

TO: Julie Lassa, Wisconsin DNR
FROM: Joe Terry, Village of Port Edwards
RE: Proposed changes to NR 217

On behalf of the Village of Port Edwards and the residents served by the Port Edwards Wastewater Utility, I am very concerned that the proposed changes to NR 217 will result in unaffordable wastewater rates for ratepayers while doing very little or nothing to actually improve the algal bloom problems.

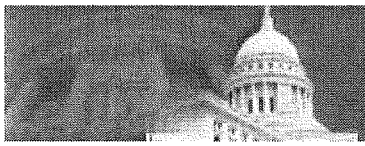
The Port Edwards Wastewater Treatment Plant removes about 80% of its influent phosphorus and has done so since the mid 90's in compliance with standards developed then. We were told when that legislation was pending the limits on phosphorus would result in dramatic reductions in algal blooms; however, there has been no data shown that indicates these efforts, costs, and additional pollution resulting from making chemicals, delivering chemicals, and disposing of the additional sludge have resulted in any reductions in algal bloom, or have resulted in any environmental benefits whatsoever.

This proposed rule once again places the focus on point sources with claimed 10% to 20% contributions rather than the larger sources of the problem. Phosphorus reductions at point sources are already significant and further reductions may be appropriate after more practical methods of non-point pollution have been addressed, implemented, and proven. The costs to further reduce point source phosphorus is estimated to be about $270/pound whereas concentrating on the more significant non-point sources using common practices can result in costs of about $25/pound. I'm concerned that focusing on the smallest and most expensive part of the problem will offer insignificant environmental benefits. What our rate payers and residents of Wisconsin need is value based environmental protection that guarantees results.

The cost of this proposed legislation puts basic sanitation availability at risk. This is no exaggeration: Right this moment as I am making this presentation, 14% of our rate payers in Port Edwards are being sent disconnect notices for non-payment of their wastewater bills. These are good people and according to the State of Wisconsin in a community with above average household incomes. People are struggling with the fees that currently exist, and simply cannot afford costly legislation – especially when the results are not guaranteed.

This proposed legislation, if approved will cost our community of 1,900 people approximately $2 million to comply with the limits referred to in the rule. Should we qualify for a low interest clean water fund loan, the capital costs alone will result in a 48% increase in their wastewater bills. The good people of Wisconsin cannot afford the price tag associated with this proposed rule and are looking to you, their representatives to protect both the environment using reasonable methods and the economic viability of the very most basic sanitation services.

When considering this bill, please give careful thought to all the impacts before making a decision.



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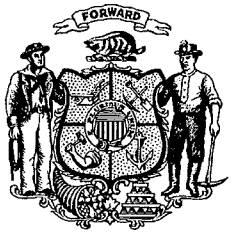


Wednesday, July 28, 2010

Wisconsin Great Lakes Coalition
"A Voice for Lake Michigan""

P.O. box 700168
Oostburg, WI 53070
info@w-glc.org

I'd like to thank the Committee for this hearing, and for allowing me to share my group's concerns. We welcome the opportunity to work with the legislature to resolve the environmental issues we all face.

The Wisconsin Great Lakes Coalition is an organization comprised of shoreline property owners on the Wisconsin shores of Lake Michigan. There are about 30,000 of us. We want to see the Lake restored, both environmentally and economically. We support recent efforts on the part of state government and the DNR to improve water quality, rid us of aquatic invasive species, take action to keep Asian carp out of the lake, and more. We also support NR217, which we consider to be a good step in dealing with non-point pollution. We're glad to see the support of the state legislature, too.

But as you might have guessed, we have a concern. It's not what the level of phosphorus should be, it's not whether we give water to Waukesha, it isn't even the lack of adequate funding to support the many projects facing us. Our concern is the DNR's ability to manage all these programs effectively.

There are two reasons for our concern. First, the DNR's workload is about to increase significantly. In addition to NR217, which we're discussing today, we have the Great Lakes Compact, for which regulations must be written before it can be fully implemented. We also have Great Lakes Restoration, funding for which was recently approved. Over 190 projects are being developed for GLRI by Wisconsin organizations, and we're only in year 1 of the project. Coming is a re-make of the Great Lakes Clean Water Agreement, a new emphasis on the Legacy Act, the water level study being done by the IJC and the Corps of Engineers, and others. And this doesn't include issues like the Asian carp, groundwater problems, cladophora, NR115 and NR151 and the normal day-to-day activities of the department.

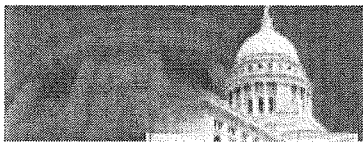
In the last several years DNR staffing has gone from an authorized total of 3,300 people to today's actual level of about 2,300. This reduction has come from attrition and lay-offs. We're not asking to hire another 1,000 staff but we are concerned that given the number and magnitude of the tasks facing the DNR over the next ten years, serious re-engineering of the jobs within the department must be done and that a professional manager well experienced in the functions of an effective DNR is hired.

Our second concern relates to the DNR organization itself. Anyone who has studied Management has learned that it has five basic functions: Plan, Organize, Staff, Implement, and Follow-up. But we don't see these principles being followed by the DNR. Priorities seem to be missing, plans and objectives are not being developed, and staff is trying to do the same work they did before plus all the new projects, with almost 1/3 less people.

I'll frankly admit that I am an outsider and cannot see what the DNR might be doing within their organization to improve things. Our fears may be groundless. But many years of travelling the globe working for the Kohler Company and doing projects of all types on five continents has taught me to judge by results. The results we see coming from the DNR, or their lack, tell me that it is not prepared to adequately deal with the tasks ahead of it.

Thank you very much for giving us shoreline property owners the chance to present to you our concerns. We welcome the opportunity to help in any way we can.

Jim Te Selle
President
Wisconsin Great Lakes Coalition



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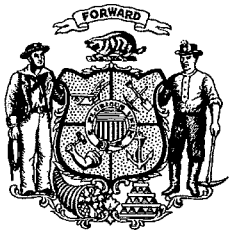

City of Park Falls

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July 28, 2010

As Chairman of the Board of Public Works for the City of Park Falls and on behalf of its 2,700 residents, I appreciate this opportunity to provide comments for the record concerning the proposed changes to NR102 and NR217 relating to the establishment of phosphorus limits in Wisconsin's surface waters.

Let me begin by saying that the City of Park Falls takes its job of protecting the environment and providing safe and affordable water resources very seriously. Our staff operates our wastewater system in a manner that consistently produces high marks on the DNR's Compliance Maintenance Annual Report. Furthermore, our commitment to excellence in the field of wastewater operation is reflected in the fact that the City of Park Falls was the recipient of the Wisconsin Rural Water Association's prestigious 2010 Wastewater System of the Year Award.

While we understand the challenges the Wisconsin DNR and the US Environmental Protection Agency face in weighing the costs and benefits of regulations needed to protect both the environment and the human resources that use them, we feel strongly that the actions and levels as proposed in the revisions to N102 and NR217 will be extremely costly to many communities while at the same time providing very little appreciable reduction in phosphorus levels.

Small communities like Park Falls produce small amounts of phosphorus.

Effective overall phosphorus reduction can be best achieved by reducing limits on the largest dischargers. It is my understanding that 80% of the phosphorus problem is caused by sources other than municipal wastewater. It makes sense to address 80% of the problem before even beginning to zero in on the remaining 20%. Once reduction in these larger sources of phosphorus is achieved, you will likely find that expensive phosphorus reduction measures from small communities are not necessary.

The City of Park Falls currently treats its wastewater in an aerated lagoon. Lagoons are a popular and effective form of treatment and are common in small communities. They are simple to operate and are very energy efficient. Phosphorus removal is much more difficult in an aerated lagoon than in a mechanical plant. Proposed phosphorus regulations will force small communities to abandon simple, relatively inexpensive lagoon systems for complex and costly mechanical systems while at the same time realizing very little gain in water quality.

The current 1.0 mg/L phosphorus limit will cost Park Falls Sewer Utility ratepayers over $200,000 to add equipment and over $91,000 each year for additional chemicals and operating expenses.

We can probably live with the 1.0 mg/L limit but an additional reduction in the phosphorus limit will make it extremely difficult and extremely expensive.

Government must not forget the importance of balancing the benefit of rules and regulations with the economic cost of those rules and regulations. As state and federal governments regulate phosphorus limits they must also be partners by providing funding mechanisms to meet the new standards. Unfunded mandates will put business and industry in the State of Wisconsin at a competitive disadvantage.

Unfunded mandates in the current economic climate will be also be devastating to small communities, especially when the overall benefit to the environment would be minimal.

The City of Park Falls recently completed a mandated water upgrade project.. This upgrade project cost the Park Falls Water Utility 4 million dollars. As a result, water rates increased by 39%. In addition, we are currently facing a 2.3 million dollar water and sewer rehabilitation project in conjunction with the 2012 reconstruction of State Highway 13 through Park Falls.

If we are forced to build a mechanical plant to treat our wastewater and meet more stringent phosphorus limits, our engineer estimates it will cost the City of Park Falls in excess of 5 million dollars. Where does it end? This is an expense the 2,700 residents in our small community simply cannot absorb.

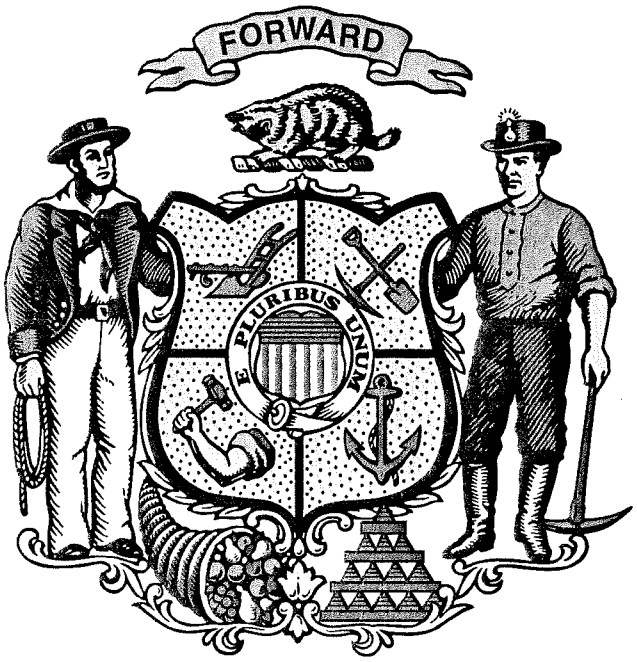
We believe the State of Wisconsin should adopt phosphorus standards on a watershed by watershed basis. Watersheds in the Park Falls area are much less affected by phosphorus than watersheds in other regions of the state. Why should we be asked to spend millions of dollars to fix a problem that isn't a problem in the Park Falls area?

Municipal wastewater treatment systems are committed to working with everyone else in protecting our water resources, fisheries, and aquatic life. Through previous efforts, municipalities have already reduced phosphorous levels in their discharges by 80-90%.

The State of Wisconsin must now require the same commitment and cooperation from others so that real environmental improvement can be realized in the most cost effective manner possible.

Anthony Thier

Anthony Thier, Chairman
Board of Public Works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Cooperative Network

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July 28, 2010

To: Members, Senate Committee on Environment
From: David Ward, Director of Government Relations & Dairy
John Manske, Director of Government Relations
Re: Opposition to Clearinghouse Rule 10-035 (NR 102/217)

Cooperative Network is the statewide trade association representing Wisconsin's Cooperative Community. Our Dairy Legislative and Regulatory Committee membership includes our dairy cooperative members and many of them process the 25 billion pounds of milk produced by Wisconsin's 13,000 dairy producers. The cooperative community supports effort to improve Wisconsin's water quality and have been participants in the process of minimizing phosphorus discharges from dairy plants for many years. We are concerned with the financial impact with changes to NR 102/217 to cooperative processors that manufacture over 60% of the cheese made in Wisconsin. As 90% of Wisconsin's milk is made into cheese and 90% of it is exported for sale beyond our state's borders, we operate in the competitive national and to a lesser degree, international dairy products marketplace. Additional costs for compliance to these proposed rules will place added financial stress on companies that compete with their products in this marketplace and remain successful. Unlike municipal wastewater plants, industry can not simply pass those costs on to the consumer/user. Wisconsin is the first state to create the phosphorus water quality standards for rivers, lakes and streams carries with it the financial burden of compliance for businesses and municipal facilities discharging wastewater. We have estimated costs from cooperative owned dairy plants, and these costs are similar to costs reported by municipalities. An example is a large milk plant expects capitol costs to be $4.5 million dollars with additional annual operating costs in excess of $100,000. Both municipalities and industry are concerned with added costs to meet proposed phosphorus limits that are not cost effective for the amount of phosphorus removed.

We base our concern in part on a study prepared by the Probst Group, LLC, titled "Potential Impact of Proposed Phosphorus Regulations on the Dairy Industry of Wisconsin," noting following possible impacts:

- "Based upon information gathered from the WDNR WPDES permit database, discussions with WDNR staff and our working knowledge of Dairy facilities in the state of WI, we estimate that there are approximately 120 – 130 Dairy Industry facilities holding WPDES permits for various discharges. Estimates by the WDNR indicate that only up to 35 Industrial facilities may be impacted by the proposed rule changes (combined Paper and Food Processing Industry). Based upon our knowledge of the numerous Dairy sites in the state, we anticipate that 25-30 additional facilities with direct discharges will be impacted. It is important to understand that there are many Dairy Industry facilities which discharge to Publicly Owned Treatment Works (POTWs), with or without pretreatment. Each of these facilities discharging to POTWs is likely to be asked, as high phosphorus dischargers, to bear substantial portions of the burden to

upgrade the municipal systems to meet proposed limits or to install/upgrade on-site pretreatment systems. It is likely that the number of total Dairy facilities impacted by the proposed rules will be easily double the number of direct dischargers. This scenario played out many times in the state after the 1992 phosphorus rules were enacted."

Based upon the discussion by members of our committee earlier this year, we believe the Probst study estimate of impacted dairy plants may be low, due to direct or indirect impacts of the proposed rule.

- Even by DNR's estimate, costs to upgrade municipal treatment plants could be as high as $1.13 billion and as high as $460 million for the private sector. It is likely that actual compliance costs will be much higher than DNR estimates. Some estimates of actual compliance costs range as high as $4.0 billion. For individual facilities in the Dairy Industry, the capital costs of installing the necessary treatment equipment would range from $1.4 million for a relatively small discharger, to over $4.3 million for a large discharger. This is in addition to annual operating costs, which could be as high as $90,000/yr. These additional costs could mean the difference between continued operation or closure of some dairy facilities in Wisconsin. Given the high compliance costs and modest potential reductions, it is almost beyond dispute that additional point source reductions are the least cost-effective alternative.

The proposed rule change represents a significant shift from current phosphorus limit protocol. The net effect of the proposed changes will be variable; some effluent phosphorus limits may remain at current levels while others could be 10 -- 60 times more stringent. (Source Probst Group study)

It is unlikely that the point source requirements in proposed NR 102/217 will achieve the intended results.

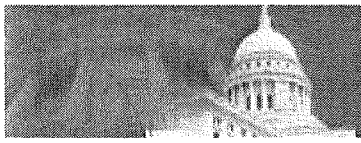
- DNR states that the proposed rules are needed to address "nuisance algae conditions" and the resulting low dissolved oxygen levels in many state water bodies. DNR also noted that 172 water bodies are on the state's impaired water body list (the "§303(d) list") due to high phosphorus levels. (*Report to Legislative Council Rules Clearinghouse*, p.1)

- Of the water bodies DNR has identified as being impaired due to phosphorus in its §303(d) list, none of the water bodies are listed due solely to point source discharges.

- Since 1992, point sources have been subject to technology based phosphorus limitations and have already achieved significant reductions in phosphorus discharges.

Our cooperative owned dairy plants are not small businesses, but rather are counted among the medium and larger dairy processing facilities in the state. They play a key role in adding value to the milk produced at their member-owners' farms across the state. The past two years have placed extreme financial pressure on milk prices and member owner equity has deteriorated. Adding additional costs without proven cost benefit for phosphorus reduction at this time is not prudent policy.

Thank you for your consideration of our position.



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WISCONSIN CHEESE MAKERS ASSOCIATION

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July 28. 2010

Testimony of the Wisconsin Cheese Makers Association
to the
Wisconsin State Senate
Committee on Environment

Re: Clearinghouse Rule 10-035

The Board of Directors and membership of the Wisconsin Cheese Makers Association would like legislators to know we oppose clearinghouse rule 10-035 (changes to NR 102 and 217) as approved by the Natural Resources Board on June 23.

Why are we Opposed?

In brief, several dairy plants may face multi-million dollar system upgrades to remove trace amounts of phosphorus from their wash water effluent.
Also, dozens of dairy plants that send their wash water to municipal wastewater treatment systems may face increased fees due to these rule revisions.
Dairy plants that achieve today's technology-based limit of 1 mg/L phosphorus are already removing more than 95 percent of phosphorus in their wash water.
These new rules could require expensive new equipment, and increased energy and labor costs, to achieve a few more percentage points of removal.
DNR is proposing substantial costs to industry for very little gain to the environment.

Some Background

The Wisconsin dairy processing industry has reduced phosphorus levels in effluent waste streams since numeric limits were initiated in 1992. Conversion to cleaning solutions with zero or trace amounts of phosphorus have been adopted uniformly across industry. Changing cleaning products no longer represents a solution to reducing phosphorus.

Phosphorus in dairy plant effluent is the result of natural phosphorus present in cow's milk.

Some background (Continued)

To consistently meet new, lower phosphorus limits, new filtration technology (known as tertiary or 'third step' treatment) would be required at several Wisconsin dairy processing plants. Furthermore, total phosphorus will need to be reduced to less than 2.0 mg/L prior to introduction to this tertiary 'polishing' step.

Costs for tertiary treatment systems range from $1.1 million to $1.48 million for smaller volume dischargers in the dairy industry (150,000 gallons of effluent per day), to construction and equipments costs of $2.4 million to $4.3 million to install tertiary treatment systems at large dairy plants. These systems offer minimal or no return on investment, adding to the difficulty in attaining financing.

Today, only one Wisconsin dairy processing facility uses a complete effluent treatment system including new tertiary treatment technologies. WCMA is concerned that, in addition to cost, these systems are unknown and unproven with the unique profile of dairy effluent. Good science, thoughtful engineering modifications and industry education and training should prevail over haste if the dairy industry must adopt these new technologies for the long haul.

A report prepared for the dairy industry by The Probst Group, a respected wastewater engineering firm, states: "Based upon our knowledge of the numerous dairy sites in the state, we anticipate that 25-30 facilities with direct discharges will be impacted" by the new phosphorus regulations.

In addition, a great number of dairy plants indirectly discharge effluent waste to surface waters via sending their effluent to municipal treatments systems. In their report, The Probst Group states: "Each of these facilities discharging to POTWs is likely to be asked, as high phosphorus dischargers, to bear substantial portions of the burden to upgrade the municipal systems to meet proposed limits or to install/upgrade on-site pretreatment systems." The Probst Group estimates that 50-60 Wisconsin dairy plants discharge effluent waste to municipal treatment systems.

This spring DNR staff was diligent in meetings with industry and pointed out "soft landing" options for dischargers facing these new regulations. These soft landings consist mainly of options to delay the onset of new, lower phosphorus limits, including "schedules of compliance" and the "adaptive management" options. Procedures to gain variances from regulation also exist in state law and regulation.

But WCMA is concerned that this final rule has made schedules of compliance and adaptive management impractical for small- and medium-sized private companies and cooperatives. These options include onerous monitoring and reporting requirements at a cost of time and labor that small and mid-sized businesses cannot afford.

What are we asking from the Legislature?

Relief for small and mid-sized businesses facing this daunting regulation. Specifically:

1. Simplify NR217.17

This all-new section in the regulation creates schedule s of compliance – a lengthening of the time frame to comply – to allow a business to modify its treatment system. This is a helpful concept, but in the final rule, section NR 217.17 (3) was beefed up and became more difficult and costly for industry. For example, annual interim requirements and written reporting is added. Action plans requiring preliminary and final designs for new technology, construction dates, and interim phosphorus limits are added. And DNR added the fact that any new discharger will not be allowed to use any schedule of compliance at all.

This section should be reviewed and redrafted to recognize the limited resources (staff and capital) at small and mid-sized businesses. **New language in NR 217.17 (3) added to the final draft rule should be removed.**

2. Simplify NR217.18

This section details the 'adaptive management' option for complying with phosphorus regulations. This section was rewritten in the final draft rule to effectively seal out small and mid-sized businesses.

One major change in the final draft rule: the burden of proving that nonpoint sources are contributing the majority of phosphorus in a watershed is moved from the DNR to the permittee. A small business, in practice, would face funding a major watershed study.

Another major change: small businesses would have to identify and contract with partners, e.g. farmers, to create an overall reduction in phosphorus in a watershed. The regulation wisely includes "a demonstration that the permittee has the ability to fund and implement the plan" because such a plan would be prohibitively expensive for small business.

Another major change: new paragraphs in this section detail water monitoring plans and tests, "reporting procedures and deadlines for all monitoring, assessment and data gathering requirements in the plan," and annual written reporting to DNR. Costs in staff time and testing are prohibitive.

This entire "adaptive management" option for dischargers became expensive in the final draft rule, and useless to small and mid-sized businesses. **Each change noted above must be removed.**

3. Offer real variances for small business.

Small and mid-sized dischargers in Wisconsin are already removing 95 percent of the phosphorus in their wash water effluent. Requiring these small businesses to add multi-million dollar filtration equipment to remove a fraction more is simply overkill.

The legislature could explicitly add a simple, economic-based variance in this regulation to allow small and mid-sized businesses to opt out of new regulations based on cost to comply.

Likewise, the legislature could include in the regulation a cut-off level for small dischargers. Dischargers below this level of phosphorus output would be exempted from the regulation. Today, DNR recognizes that minor dischargers do not have 'reasonable potential to cause or contribute to an exceedance of water quality standards' (to quote the regulation in NR 217.15 (1) (a)). **The legislature could require DNR to add an explicit cut-off level (expressed in pounds of phosphorus) to the new regulation to ease the regulatory burden on small businesses.**

In Conclusion

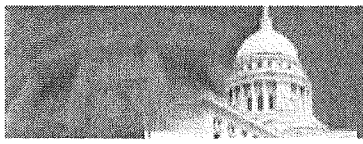
WCMA wishes to acknowledge the open dialogue that DNR staff pursued during the drafting and editing of these rules. However, time was short. The process from hearing draft rule to final approved rule was an astonishing three months.

Our industry's main complaint with this process has been a lack of time to study the rules, and to learn and calculate their impact on each plant site. It is difficult or impossible to know if any given dairy plant will face major or minor construction or equipment costs, or major or minor new fees from municipal treatment plants.

Given more time, DNR could have tested outcomes from the proposed rules at plant locations to learn real-world impacts on real Wisconsin employers. The need for haste seems artificial and irresponsible.

The dairy industry in Wisconsin employees nearly 200,000 people and generates $26 billion in economic activity for the state. Any rule that will increase the cost of doing business relative to other dairy production states deserves careful scrutiny.

Thank you for considering these comments and requests.



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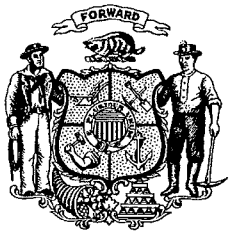

Wisconsin Land and Water Conservation Association, Inc.

Wisconsin Association of Land Conservation Employees

Position Statement

July 2010

County Staffing Grants through the SWRM Program

Background

As part of a major state program redesign in 1997, county Land and Water Resource Management Plans were added to Chapter 92 State Statutes as a new method of addressing nonpoint pollution and other land conservation efforts in Wisconsin. In 1999, the statutes were further modified to describe what each county was required to include in their LWRM plans, including how they will "ensure compliance" with state promulgated nonpoint pollution performance standards and prohibitions. At the same time, $6 million in staffing grant funds were transferred from the DNR Priority Watershed Program to the DATCP Soil and Water Resource Management (SWRM) program to create a single state grant to counties to support a base level of staffing to implement LWRM plans. For direction on how future SWRM grants would be administered to counties, the legislature added the following language to section 92.16(6)(b) Wis. Statutes:

> *"...the department [DATCP] shall attempt to provide funding under this section for an average of 3 staff persons per county with full funding for the first staff person, 70% funding for the 2nd staff person, and 50% funding for any additional staff persons and to provide an average of $100,000 per county for cost-sharing grants."*

This new statutory language moved the state away from the previous "boom or bust" funding through the Priority Watershed program to a more stable "base level" of staff funding to all counties to implement their LWRM plans, with the potential to apply for additional "targeted" grants. Eight new state administrative rules were promulgated by DNR and DATCP in 2002 to carry out the new program, including ATCP 50 for SWRM grants, NR 151 for the nonpoint pollution performance standards and NR 153 for Targeted Runoff Management grants.

Program Funding Trends

During promulgation of the 2002 rule package, DATCP prepared a fiscal estimate for implementing the new nonpoint performance standards and prohibitions though county LWRM plans. At that time, DATCP estimated the need for an *annual increase of $2 - 4 million*, or a 20 - 40% increase in county staffing grants over the next 10 years. However, as illustrated in Figures 1 and 2 (attached), the opposite has occurred.

Figure 1 shows state grant amounts to counties for conservation staff before and after the above noted fund transfer from DNR to the DATCP, including subsequent state budget cuts. Figure 1 shows that there was a net loss in staffing grants of about $4 million from 1997 to 2004, while total staffing grant amounts remained relatively stagnant since 2004. This figure also illustrates the funding gap in supporting existing county land conservation staff, a stated "high priority" under s. ATCP 50.30 (Grant Priorities).

Figure 2 shows the net "buying power" of the state grants in full time equivalent (FTE) staff positions at the county level, based on actual salaries and benefits. Figure 2 illustrates the net loss in county FTE staff funding due to state budget cuts and inflation. It should be noted that state imposed levy caps on counties limit a county's ability to make up for the lost buying power, and make it very difficult for local conservation programs to compete with other core county government services, such as highways, human services, law enforcement, courts and jails. To date, this has resulted in a net loss of 40 county conservation staff positions (10%) since the program redesign began in 1997. Together, Figures 1 and 2 illustrate an unsustainable staff funding strategy for county land conservation employees, and therefore the implementation of state land conservation and clean water programs.

Looking Ahead

County land conservation staff have proven to be a cost-effective delivery system for state land conservation and nonpoint pollution abatement programs, and will continue to serve in that role. However, to meet state program goals, additional state funding for county land conservation staff is clearly needed to reverse the current downward trend in local staffing. The SWRM program is currently about $3 million short of meeting the statutory goal of an *"...average of three staff persons per county..."*. (Note: All SWRM grants are based on 2-year old staffing costs, so the 2010 allocation plan only shows a $2 million shortfall.) To address this issue, WALCE and WLWCA suggest that the state redirect existing SWRM program SEG funds to county staffing grants. We also suggest that the state reconsider current cost-sharing mandates defined in ATCP 50, particularly for nutrient management.

DATCP has occasionally proposed revisiting the above noted state law regarding the funding of local conservation staff, or creating a new staff funding "formula" that may result in each county being allocated a percentage of available funds. WALCE and WLWCA are strongly opposed to such proposals because they would hide the true impacts of reduced state grants on local staff, invite unnecessary program conflict, and divert attention away from the real issue – state funding shortfalls. (Note: This issue is well documented in a 2004 WALCE position statement on this topic.) We believe the current statutory funding formula has proven to be a fair way to meet base level conservation staff funding needs in all counties, and shows the annual impacts of state funding shortfalls. However, to significantly improve landowner compliance with state agricultural nonpoint pollution performance standards, additional incentives, cost-sharing and long-term targeted staffing grants are needed over and above the base level SWRM grants. We suggest that these be provided through the DNR's Targeted Runoff Management (TRM) grant program, and that a new segregated funding source is needed. One potential funding source that has been suggested is the elimination of the current sales tax exemption for bottled water.

Summary of WALCE/WLWCA Position

- Additional SWRM program funding is needed to sustain a base level of conservation staff in each county. We suggest this come from redirected SEG cost-sharing funds.
- Additional incentives, cost-sharing and targeted staff funding over and above the SWRM program are needed to improve landowner compliance with state agricultural nonpoint pollution performance standards. We suggest these grants should be administered through the DNR's TRM grant program, and that an additional segregated funding source is needed to implement.

JIM OTT

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Revised Testimony on CR 10-035

Good Morning Mr. Chairman and committee members. Thank you for allowing me to testify this morning, and thank you for holding a hearing on CR 10-035. I believe that anytime a new administrative rule is proposed that will have a far reaching effect on businesses, municipalities and individuals in our state that it is the duty of the overseeing committee to hold a public hearing. I have requested that the Assembly Natural Resources Committee, of which I am a member, hold a similar hearing on this rule. It's been two weeks since my request, but so far I have not received a response.

I realize that the Department of Natural Resources held a number of hearings around the state, but it is equally important that the Legislature exercise its oversight when a state agency exercises its rulemaking authority as granted by the Legislature.

We can all agree that keeping as much phosphorus as possible out of Wisconsin's rivers and lakes is an important goal. That's why I have consistently advocated that the Milwaukee Metropolitan Sewage District at least begin the process of separating the combined sewer system that underlies 27 square miles of Milwaukee and Shorewood. In the last session of the Legislature bills were passed that greatly reduce phosphorus content in dishwashing detergent and lawn fertilizers.

So the question is not whether additional efforts should be made to remove phosphorus, but at what speed and at what cost. According to DNR estimates changes made to NR 217 in 1992 have already resulted in an 80-90% reduction in phosphorus emissions from publically owned treatment works.

CR 10-035 would require an additional 90% reduction for discharges into rivers and a 96% reduction for discharges into lakes. A study prepared by Strand Associates in 2008 estimated the aggregate cost of this rule would be somewhere between $2.9 and $4.9 billion. The Wisconsin Rural Water Association used DNR estimates to conclude that the cost could be as much as $1.8 to $6.9 million per treatment plant, and as much as $8.6 to $26 million once land acquisition and other costs are included.

This is a high cost when we consider that CR 10-035 will only apply to point sources, which account for about 20% of all phosphorus releases. It is also questionable to spend this much money for such a small reduction when MMSD released 600 million gallons of

blended sewage into Lake Michigan two weeks ago, and 2 billion gallons in last week's rain event. Such releases will not be covered by this rule.

I urge the committee to consider returning CR 10-035 to the Department for revisions that would be more cost effective, and to urge the Department to address the issue of overflows related to the MMSD combined sewer system, which will continue to be one of the largest sources of phosphorus and other organic material releases into Lake Michigan.

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JOHN MUIR CHAPTER

John Muir Chapter Statement on Proposed NR 217 Rules

Thank you for the opportunity to present comments to this committee on behalf of the John Muir Chapter of the Sierra Club. We recommend the adoption of the NR 217 rules, believing that they, in conjunction with the NR 151 rules, will be important steps in reducing nutrient pollution in Wisconsin's lakes and streams.

While eutrophication caused by excessive nutrients in water is a problem nationwide, indeed worldwide, the condition of its waters is of particular concern to Wisconsin's economy and quality of life. Nutrient-caused growth of weeds and algae lower property values, discourage visitors who want to fish, swim and boat, endanger some aquatic species and increases the cost of treating drinking water.

Wisconsin's nutrient pollution does not simply remain in Wisconsin. Some of it is carried into the Great Lakes and some flows down the Mississippi River where it contributes to the Gulf of Mexico's hypoxic "dead zone" where the water is unable to support much aquatic life. Over ten years ago, the United States Environmental Protection Agency proposed that states adopt numeric nitrogen and phosphorus standards. Not nearly enough progress has been made, and the EPA proposes to step in and impose standards on states that do not act for themselves. They have already done so in Florida. The Wisconsin DNR, working with stakeholders in local governments and industries, has proposed standards that will make Wisconsin a leader in improving water quality. Municipalities, manufacturers, farmers and other citizens will be working together to preserve Wisconsin's celebrated waterways. All will reap the many benefits of clear water and clean beaches.

This effort will not be without cost, and some have raised objections on that account. As the rules are written, they include the flexibility that will allow all affected entities to comply without excessive burden. All will be given plenty of time and no one will be expected to carry a disproportionate part of the effort. Funding sources are available for many of the required changes and upgrades.

For a good many years I lived in Peoria, Illinois, which drew its drinking water from the Illinois River, a stream heavily polluted by nutrients from many sources. Some summers, despite the city's best efforts, the drinking water tasted like dirt. Now I live near the shores of Lake Winnebago and my drinking water comes from there. Lately the smell of rotting algae and weeds has been very unpleasant many days, worse than I remember from past years. I'm sure it has been a challenge to maintain the quality of our drinking water and those living and recreating on the lake have found their experience degraded. Wisconsin can and will do better than this.

Will Stahl Conservation Chair, John Muir Chapter

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John Muir Chapter

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Sierra Club John Muir Chapter
Recommends adoption of NR 217 Point Source Rules

The Sierra Club – John Muir Chapter recommends adoption of NR 217 relating to phosphorus water quality standards criteria. This rule has the potential to effectively address phosphorus discharges from industry and municipal wastewater treatment plants. NR 217 complements NR 151, aimed at reducing agricultural and stormwater runoff.

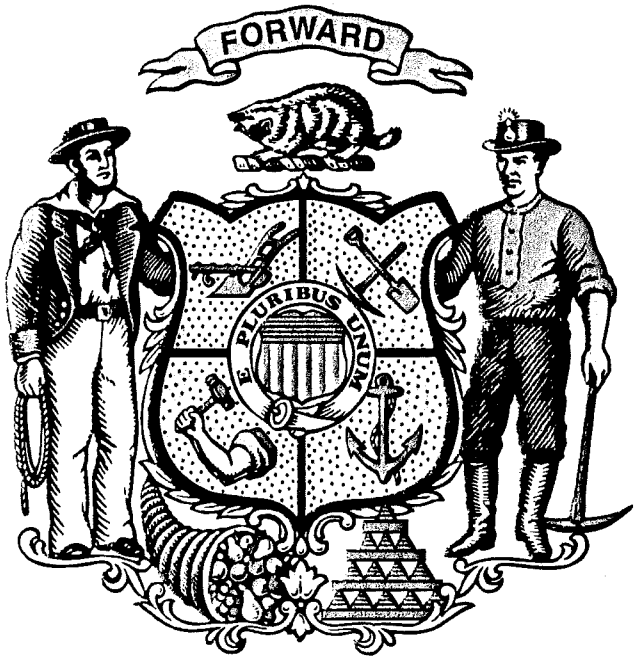
Addressing both point and nonpoint runoff will make Wisconsin a nationwide leader in addressing nutrient pollution. As of 2010, 1,215 of Wisconsin's water bodies were listed as impaired under section 303 (d) of the Clean Water Act, many due to nutrient pollution. Adopting strong nutrient standards is long overdue. Restricting the amount of nutrients entering Wisconsin's waterways will reduce algae blooms on our lakes, explosions of *Cladophora* along Lake Michigan beaches, and low levels of dissolved oxygen in streams that endanger aquatic species.

What's going on in our state mirrors challenges we face nationwide, with over 14,000 water bodies listed as impaired due to nutrient pollution. Over 10 years ago, EPA recommended that states adopt numeric nutrient water quality standards for nitrogen and phosphorus for water resources. Unfortunately, not enough progress has been made since then, as detailed in a recent report entitled, "*An urgent call to action: report of the state-EPA innovations task group*". They describe the situation in 2008, in which unaddressed nutrient pollution caused the hypoxic zone in the Gulf of Mexico to become the second largest dead zone in the world. MSU researchers now fear that this zone will be worsened and expanded by the recent oil disaster.

Undoubtedly, there will be costs to adopting these rules. Still, failing to address this problem could cost $1.2 billion per year in lost fishing revenues caused by lake closures, and $2.8 billion per year in declining lakefront property values (Dodds et al. 2009*). Moreover, flexibility in the rule allows communities to apply for variances, develop compliance schedules, and implement cost sharing options to fund efforts to reduce agricultural pollution in their watersheds if this will provide greater reductions than investing in costly wastewater treatment upgrades.

Please contact us with any questions or concerns you have about these rules:
Shahla M. Werner, Director, Sierra Club-John Muir Chapter: 608-256-0565
James Kerler, Leader, Sierra Club Water Protection Team Leader: 920-648-8005
Laura O'Flanagan, Sierra Club Volunteer Lobbyist: 608-630-5069

* Dodds, W.K., W.W. Bouska, J.L. Eitzmann, T.J. Pilger, K.L. Pitts, A.J. Riley, J.T. Schloesser, and D.J. Thornbrugh. 2009. Eutrophication of U.S. freshwaters: analysis of potential economic damages. Environmental Science and Technology 43(1):12–19.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Wisconsin Wildlife Federation

Testimony Before the Senate Agriculture Committee on CR-10-035---Runoff Performance Standards and Prohibitions

Chair Miller, members of the Senate Environment Committee, thank you for the opportunity to present brief comments today on behalf of the Wisconsin Wildlife Federation and the 168 hunting, fishing, trapping and forestry-related organizations that belong to the Federation. Our many members who hunt, fish and trap are strong supporters of efforts to increase the water quality in the many lakes and streams in this state that do not meet water quality standards as a result of excessive nutrients. The result of excessive weed and algae growth in Wisconsin lakes and streams has a wide range of damaging impacts to hunting, fishing and trapping in Wisconsin waters. These include significant degradation to fisheries habitat, the danger of blue-green algae to the health of our hunting dogs, to actual loss of the ability to navigate in certain waters at times of the year.

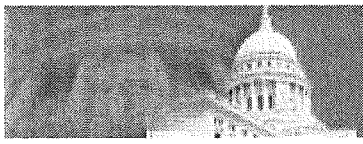
It was because of the strong interest of our members in improving water quality in Wisconsin lakes and streams that the Wildlife Federation was one of the seven groups that, on November 23, 2009 notified the US EPA of the intent to sue over US EPAs failure to promulgate phosphorus and nitrogen criteria for Wisconsin.

The Federation does strongly support the proposed changes to NR 102 and 217 which incorporate phosphorus water quality standards criteria for lakes and streams into the states overall water quality standards and incorporating into the WPDES program water quality based effluent standards and limitations for phosphorus. These criteria effectively deal with the point source contribution of phosphorus into our lakes and streams.

We applaud the efforts of the Department staff who have worked long and hard to make the improvements to the requirements of NR 102 and 217. They have done a fine job in advancing the reduction of phosphorus in our waters. It was difficult to bring all of the different groups of interest together to come up with a set of rules that virtually all can live with. It took many years and great skill to do this.

Thank you again for the opportunity to testify here today on behalf of the Wildlife Federation.

Submitted by:
George Meyer
Executive Director
Wisconsin Wildlife Federation
June 28, 2010



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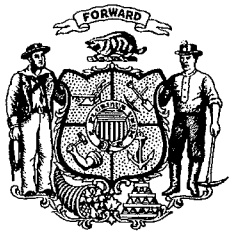


Dear Senator Holperin and Rep Meyer:

Eagle River Light & Water is asking you to **not support** the new Phosphorus regulations proposed by the DNR for the reasons stated below and that it would put a hardship on the rate payers of the City of Eagle River to make these mandated changes to our treatment plant. I hope that you can see that this proposed rule would leave 80% of the problem unregulated.

Thank You for your time with this issue.

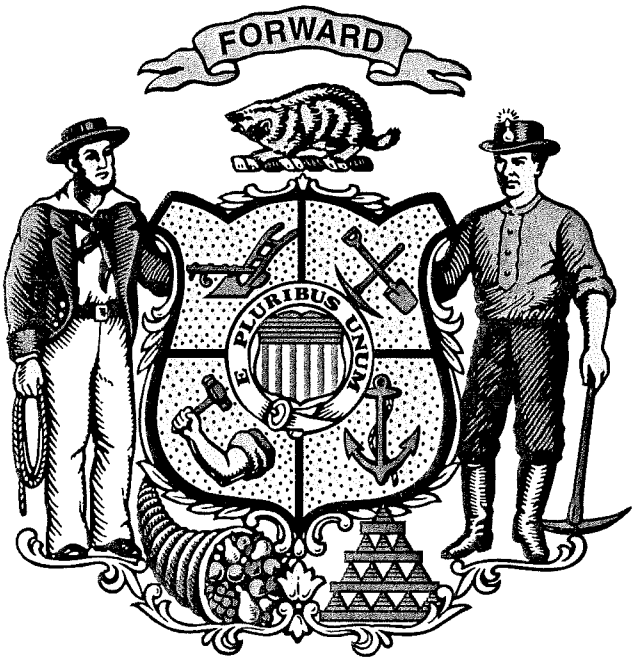
Patrick Weber, Manager
Eagle River Light & Water Utility
715-479-7441
715-617-2846

Facts:
According to the DNR's own estimates, to comply with the proposed regulations 163 Wastewater Treatment Plants in Wisconsin would have to install new filtration systems at a cost of between $1.8 million and $6.9 million per system. These costs could climb to between $8.6 million and $26 million per system, once land acquisition and other costs are included.

Municipal WWTPs have already spent millions of dollars to remove up to 90% of their phosphorus discharges – and it would cost an additional $200 per pound to remove phosphorus to the levels proposed.

Although 163 communities would initially be affected, virtually every municipal WWTP would eventually be forced to comply with the new standards.

These rules do **not** address agricultural runoff, failing septic systems or other sources that account for up to 80% of the phosphorus pollution in Wisconsin waters.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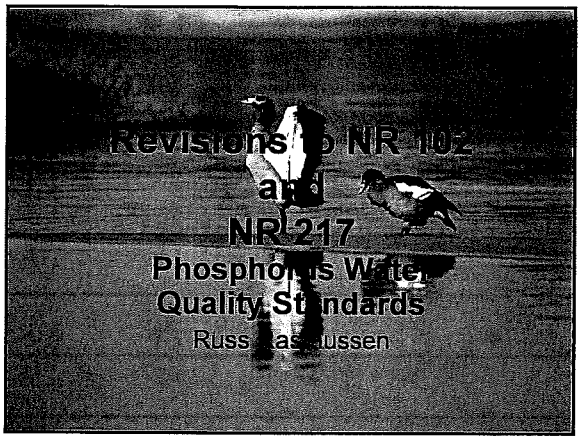
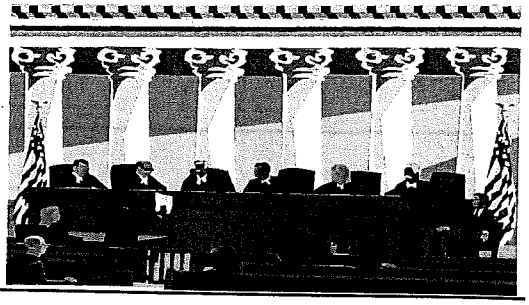


NR 217

EPA Potential Lawsuit



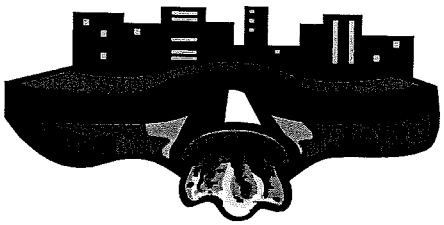
NR 102

- Rivers – 100 ug/L

- Streams – 75 ug/l

NR 217

Water Quality Based Effluent Limits
(WQBELS)



NR 102

- Lakes –

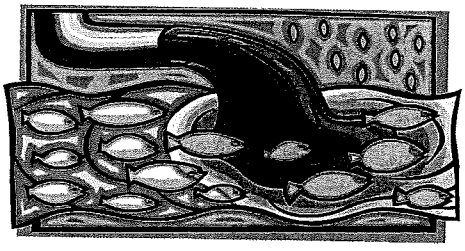
– 15 ug/L

To

– 40 ug/L

NR 217

Flexibility
TMDLs



NR 217

Flexibility
Compliance Schedules

NR 217

Flexibility
Adaptive Management

NR 217

Flexibility
Variances

Phosphorus Controls

- Nonpoint Sources – NR 151
- Point Sources – NR 102, NR 217
- Urban Storm Water – NR 216
- CAFOs – NR 243
- Bans
  - Lawn F
  - Dishw ont