



Assembly Committee on Environment

Clearinghouse Rule 19-014

NR 102, NR 104, NR 219 and other related permit program regulations
January 16, 2020

Good morning Chairman Kitchens and members of the Committee. My name is Marcia Willhite, and I am a section chief in the Water Quality Bureau with the Wisconsin Department of Natural Resources. Thank you for the opportunity to testify on Clearinghouse Rule 19-014, which revises state water quality standards for bacteria and associated water quality permit requirements.

Under the federal Clean Water Act, as well as Wisconsin statutes and administrative rules, Wisconsin DNR has the responsibility to identify how rivers, lakes, and streams in the state are used and to establish water quality standards that protect those uses. An example of a use is recreation. We want to be sure that the public can safely swim, wade, paddleboard, kayak and boat in and on the waterbody of their choice. To protect this recreational use, there are Wisconsin water quality standards for things like fecal bacteria, to protect the public from the risk of gastrointestinal illness, and for phosphorus, to protect the clarity of lakes so people will want to swim in them.

Since 1972, Wisconsin has used fecal coliform as the basis for our bacteria water quality standard. However, the science since that time indicates that the presence of a particular bacteria called *E. coli* in surface water is most strongly linked to incidence of gastrointestinal illness in swimmers. The proposed rule before you today revises Wisconsin's water quality standard for bacteria from fecal coliform to *E. coli* to better protect the recreating public.

EPA has been recommending that states use *E. coli* as their criterion since 1986. EPA took action in 2004 under the Beaches Environmental Assessment and Coastal Health (BEACH) Act to establish a federal *E. coli* standard that applies to the Great Lakes. This did not replace the existing fecal coliform standard, but instead made the federally-promulgated *E. coli* standard apply in addition to the fecal coliform standard for Great Lake waters. As a result, permits for sewage treatment plants have fecal coliform limits, but dischargers to the Great Lakes must also monitor their wastewater to ensure that the EPA's criterion for *E. coli* is not exceeded in the surface waters. This proposed new rule will establish a consistent bacterial indicator for all Wisconsin waters, and permittees will only have to monitor for *E. coli*.

States with coastal waters such as the Great Lakes are required by the BEACH Act to adopt an *E. coli* water quality standard in order to continue to receive federal grants for beach monitoring and notification. These funds are crucial for supporting Wisconsin's beaches as the department distributes them to local communities to monitor their beaches, notify community members in a timely manner

when issues arise, and collect information necessary to restore problem beaches. Adopting this rule will allow Wisconsin to continue to receive this federal funding.

This rule also revises wastewater discharge permit requirements to be consistent with the new water quality standard. Sewage treatment plants are currently required to disinfect their discharge into recreational waters during the recreation season, generally May through September. In this rule, effluent limitations are changed from fecal coliform to *E. coli* and are based on the water quality criteria (water-quality based effluent limits). Limits will be expressed in two ways, both of which must be met, to reflect the two types of surface water criteria: a monthly geometric mean and a value not to be exceeded more than 10 times in a calendar month. The way that these limits are expressed was informed by comments received from permittees during the public comment period, after which DNR revised the final rule to make these new requirements as easy as possible to implement.

As part of the rulemaking process, DNR evaluated the economic impact to the regulated community of implementing new bacteria requirements. This rule is expected to have a moderate economic impact estimated at an annual cost of approximately \$2.1 million. The costs incurred will be due to increased disinfection needed for some sewage treatment facilities to comply with *E. coli* permit limits, and changes in analytical methods associated with monitoring each type of bacteria. Of the 354 total sewage treatment plants that disinfect, over half (208) are expected to already meet permit limits based on *E. coli* with no additional treatment. The department estimates that 41% (146) will need to increase treatment, with a total annual cost of increased treatment for all facilities combined estimated at \$2,100,000. The department anticipates the total annual cost of sample analysis for facilities that monitor to be \$53,000. Cost savings for 20 facilities that will be able to reduce monitoring are estimated at \$22,000. Taken together, the net annual cost of compliance is anticipated to be approximately \$2,131,000.

In summary, DNR is revising its existing water quality standard for bacteria to reflect the latest science and to be consistent with EPA's recommendations so that Wisconsin can continue to receive federal funds for beach protection. Most importantly, this revised standard will better protect recreation for citizens using rivers, lakes, and streams throughout Wisconsin.

On behalf of the Bureau of Water Quality, I would like to thank you for your time today. I would be happy to answer any questions you may have.