



Municipal Environmental Group Wastewater Division

Regulatory Update

All The News That Fits

November 2009

MEMBER NEWS

- **STEERING COMMITTEE MEETING.** The next Steering Committee meeting will be held January 13, 2010, in Stevens Point, at the Holiday Inn. A meeting notice and agenda along with the January Informational Bulletin will be posted on the website. All members are welcome and encouraged to attend. Attendees receive 2 CEU credits and a free lunch, plus the opportunity to discuss current matters of interest to the wastewater community.

LEGISLATIVE ACTIVITY

- **APPOINTMENT OF DNR SECRETARY.** Bill AB 138 was introduced in the Legislature early this year to return the responsibility of the appointment of the Secretary of the DNR to the Natural Resources Board. On September 22, 2009, it passed the Assembly and is now pending in the Senate. We have not taken a position on this bill but will continue to monitor its progress.

- **PHOSPHORUS BILL.** Bill AB 281 was introduced in the Legislature at the end of May to reduce the allowed amount of phosphorus in certain cleaning products, namely domestic dishwashing detergent. The bill was adopted by the Senate without change on October 27, 2009 and is now awaiting the Governor's signature. Although the bill's effect is probably limited, we have testified in support of it front of both the Assembly and the Senate.

- **MERCURY BILL.** Assembly Bill 299 (AB 299) was introduced on June 2, 2009, as a means of limiting the sale and use of mercury-containing products. We testified in support of this bill. The bill was amended and passed by the Assembly Committee on Natural Resources on September 16, and was referred to the Committee on Rules, where it was tabled. No further action has been taken.

- **MUNICIPAL UTILITY COLLECTION RESTRICTION BILL.** Assembly Bill 404 (AB-404) was introduced on August 31 to eliminate the ability of municipal utilities to place unpaid utility fees from rental units on the property tax bill of the owner of the property. A fiscal estimate was received on September 11, stating that the costs were indeterminate, but noting, "[u]ltimately, unpaid bills would be written off as unrecoverable and increase the utility's cost of operation." We are registered against the bill. This bill has come up the last several sessions and has been defeated.

REGULATORY DEVELOPMENTS

- **THERMAL STANDARDS.** On September 21, 2009, we submitted written comments on the proposed changes to the municipal portions of this rule to the DNR. Our comments were the only ones received on the proposed changes. The DNR is currently reviewing our proposed language with the EPA and their internal legal counsel.

- **PHOSPHORUS WATER QUALITY STANDARDS.** The final advisory committee meeting was held on September 23, 2009. The rule in its present form would have a substantial impact on POTWs statewide – well in excess of a billion dollars because the current standards would require many POTWs to add filtration treatment technology or its equivalent to meet effluent standards for phosphorus in the 0.1 mg/l range. As a result, we have continued to work with the DNR and other stakeholders to come up with an approach that would lower phosphorus discharges, but not to levels requiring advanced treatment technology.

On October 20, 2009, we joined Madison MET and Green Bay MET to present a PowerPoint to Todd Ambs at the DNR, urging that a more commonsense approach be taken. The presentation highlighted that Wisconsin is already a leader in phosphorus regulation due to NR 217. It showed the small percentage of phosphorus discharged by POTWs compared to other sources, and the limited impact the proposed rule would have on water quality. It also shows the potential cost to Madison for implementing NR 217 versus the cost of implementing the proposed phosphorus rule, reported as dollars per pound of phosphorus removed (\$0.76 vs. \$170) as well as the collective impact of the rule.

The focus on the presentation was on an alternative conceptual strategy, which proposed establishment of an interim limit at some level below 1.0 mg/l to limit the requirement of advanced technology to instances where there is identified impairment. It also encourages a watershed based approach. We hope to get the DNR's reaction in the coming weeks. We have shared the approach with other stakeholders including environmental interests, other point source discharges and the agricultural community.

Meanwhile we are continuing to work to refine the cost estimate for the rule, based on the number of facilities affected and studies based on unit and site-specific costs. We will continue to monitor the perspectives of other groups on this important rule. While we are trying to resolve this rule with the DNR, we would request that you continue to hold off on political contacts until we have a better sense of the substance and timing of the rule package.

- **TRADING ISSUES.** As part of our efforts on both phosphorus and TMDLs, we have continued to look at options for trading. We have had a couple of meetings on the trading concept with representatives of some of the key agricultural groups, who seemed receptive.

TMDLS FOR THE ROCK RIVER. DNR has recently informed us that EPA's consultants have evaluated the impact of actual versus permitted values for point sources; however, during this process, several anomalies showed up

in the allocation data. Given the potential ramifications of the allocations, the DNR requested that all of these anomalies be evaluated before moving forward. As a result, the draft allocation report has not been completed and will not be available until later in November.

- **TMDL FOR THE FOX RIVER.** The Fox River TMDL process also moves forward. MEG is working with Green Bay MET to monitor the developments of the TMDL. Formal public hearings are expected later this year, with complete TMDLs expected in February 2010.

- **NONPOINT AND STORMWATER.** The NR 151 rule went to the Natural Resources Board on October 21, 2009, for hearing authorization but was delayed for reasons unrelated to the changes we had advocated. We anticipate hearings will be authorized by the next board meeting so hearings can still be held in early in 2010.

- **MERCURY GREEN TIER CHARTER.** The second group of the Mercury Green Tier Charter had until the end of September to submit their Pollutant Minimization Plans (PMPs). Most have been received, and members should now be working on implementation of the PMP. The next group meeting is set for January 12, 2010, to discuss how the PMP is progressing and to address any questions on writing the annual progress report, which is due February 15, 2010.

The initial group of the Mercury Green Tier Charter will also have a report due on February 15, 2010, their second annual progress report. These reports will be similar to the first annual progress report, but hopefully will show a further increase in the number of dental amalgam separators installed, and in turn, a continued decrease in mercury effluent concentrations.

The Green Tier Charter also allows for a third group, which will be getting underway in 2010. If you have concerns about mercury levels and your PMP, e-mail Julie for more information on this group.

- **OTHER PENDING RULES.** There is nothing new to report on SSO, bacteria standards, or biosolids. We will let you know as soon as there are updates on these issues.

For more information on any of these topics, please call Paul Kent or Julie Baldwin at Anderson & Kent at (608)246-8500 or e-mail:

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