

**Amendment to the Memorandum of Understanding
between the
Department of Health Services
and the
Department of Natural Resources**

July 30, 2009

Section C, Groundwater Standards, of the interagency Memorandum of Understanding (MOU), dated 12/5/1989, is amended to read:

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C. Wisconsin Groundwater Quality Standards

1. The purpose of this provision is to set forth the procedures and responsibilities of the Department of Natural Resources (DNR) and the Department of Health Services (DHS) in establishing enforcement standards for groundwater in accordance with ch. 160, Wis. Stats.
2. Identification of Groundwater Contaminants
 - a. DNR will prepare and maintain a list of substances, based on lists submitted by state regulatory agencies¹, which are related to facilities, activities and practices within the regulatory authority of the agencies, and which are detected in, or have a reasonable probability of entering, the groundwater resources of the state.
 - b. In accordance with s. 160.05(2), Wis. Stats., any person may petition a regulatory agency to add a substance or delete a substance from the list submitted to the Department.

When DNR is petitioned, DHS will:

- 1) Provide, to the best of its ability in a limited time frame, the public health or welfare implications of the substance or substances named in the petition.

¹ State Regulatory Agencies include: Department of Natural Resources (DNR), Department of Agriculture, Trade and Consumer Protection (DATCP), Department of Commerce (COMM), Department of Transportation (DOT), and Department of Health Services (DHS)

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and provide written comments, within 60 days, for those substances it believes are inappropriately categorized, ranked or designated.

- 2) DNR will utilize comments from DHS in determining the proper category, rank and public health or public welfare designation for a substance.

3. Numerical Standards Development

- a. DNR will periodically request that DHS review substances on the list of substances and, if sufficient toxicologic information is available, develop recommendations for new NR 140 groundwater quality enforcement standards for substances of public health concern.
- b. DNR will also periodically request that DHS review existing NR 140 groundwater quality standards for substances of public health concern to see if new toxicologic information is available that would justify revision of existing standards.
 - 1) If the United States Environmental Protection Agency (USEPA) promulgates a Federal Number (drinking water maximum contaminant level, suggested no-adverse-response level or cancer risk level) which is different from the enforcement standard for that substance in ch. NR 140, Wis. Adm. Code, DHS will develop a recommendation for DNR, within 90 days, as to whether the Federal Number should be adopted as the new enforcement standard for that substance.
- c. The staff of DHS and DNR shall meet annually to coordinate development of numerical groundwater standards and to resolve any problems or issues which may arise.

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Annual meeting

4. Establishment of Enforcement Standards for Substances of Public Health Concern

- a. In establishing numerical enforcement standards for substances of public health concern, DHS will:
 - 1) Notify DNR of the expected timetable for submitting a recommendation for an enforcement standard to DNR within 45 days of receiving the request for enforcement standard recommendations. DHS will notify DNR if the timetable changes.
 - 2) Provide a recommended health-related enforcement standard for each substance of public health concern submitted to it by DNR in the order of rankings as required by s. 160.07(3), Wis. Stats. The procedure and

7. Rulemaking

- a. DNR will propose rules establishing the DHS recommendation as the enforcement standard for each substance within 90 days of receipt of the official DHS recommendation pursuant to s. 160.07(5), Wis. Stats.
- b. The development of rules for enforcement standards will be an ongoing process. DHS will recommend enforcement standards for additional substances no more frequently than once every 12 months unless circumstances warrant revising rules more frequently or proposing emergency rules.
- c. DNR will propose rules establishing a recommended public welfare standard as the enforcement standard for a substance in accordance with s. 160.09, Wis. Stats.
- d. Public Information Document

*ongoing process
12 months*

Section 160.11, Wis. Stats., requires that DNR, with assistance from DHS, prepare a public information document describing the information and methodology used and conclusions reached in establishing the proposed enforcement standards.

1) To accomplish this DHS will:

Prepare a preliminary draft of its Scientific Support Document including its proposed recommendations. The draft Scientific Support Document shall describe the information and methodology used, and the conclusions reached, in establishing each proposed enforcement standard. This draft Scientific Support Document shall be provided to DNR for inclusion in the public information document prepared for public hearings in accordance with s. 160.11, Stats.

Revise the draft of the Scientific Support Document after public hearing, if appropriate, and transmit the revised document to DNR.

2) DNR will:

Review the draft of the Scientific Support Document prepared by DHS and submit comments to DHS. Any unresolved technical concerns shall be raised to the Division Administrators.

Prepare a public information document that includes the draft DHS Scientific Support Document, plus similar information for any proposed

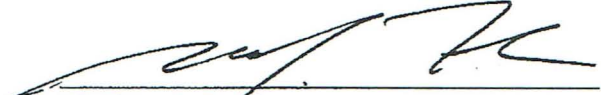
- b. DHS will provide, to the best of its ability in a limited time frame, advice on the public health implications of the chemical concentration present. DHS will, if sufficient data is available, propose an interim health advisory limit for DNR to use in making recommendations to well owners and/or water users on continued use of the water supply. Until an enforcement standard or a maximum contaminant level has been established for the substance, any DHS or DNR health advisory shall be considered an interim limit. Other health advisory limits may be identified as interim if an existing enforcement standard or an existing or proposed MCL is undergoing state or federal review.
- c. To the extent practical, the agencies shall assure consistency between health advisory limits and enforcement standards, recognizing that there may be temporary inconsistencies between interim health advisory limits and enforcement standards.
- d. When the USEPA Office of Drinking Water proposes or issues a drinking water health advisory to the states for a substance, both DNR (Bureau of Drinking Water & Groundwater) and DHS will review the new health advisory and each may respond to USEPA, if appropriate, after allowing the other agency to review the draft comments.

*Interim
HAL*

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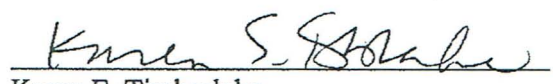
Date 8-25-09

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES


Matthew J. Frank
Secretary

Date 12/2/09

STATE OF WISCONSIN
DEPARTMENT OF HEALTH SERVICES


Karen E. Timberlake
Secretary