

Report to
Legislative Council Rules Clearinghouse
NR 140 , Wis. Adm. Code
Natural Resources Board Order No. DG-04-22

Wisconsin Statutory Authority

Sections 160.07, 160.15, 160.19, 281.15, 281.19(1), and 299.11, Wis. Stats.

Federal Authority

Not applicable. The US EPA does not promulgate groundwater quality standards for substances detected in or having a reasonable probability of entering groundwater.

Comparison of Adjacent States

Minnesota, Michigan, Illinois, and Iowa use groundwater protection values/levels/standards in their regulation of practices and activities that might impact the quality of groundwater. Minnesota, Michigan, and Illinois have not established individual state groundwater protection standards for total coliform or *E. coli* bacteria but, because bacteria are present everywhere in the environment, including groundwater, these states all recommend regular testing of private drinking water supply wells for total coliform bacteria (which includes *E. coli* bacteria). Iowa uses established federal standards (such as federal drinking water MCLs) as its state groundwater protection standards. In accordance with Iowa Environmental Protection Regulations 567 IAC Chapter 133, Iowa uses established federal drinking water MCLs as "Action Levels" in its regulation of practices and activities that may adversely impact groundwater quality. Federal drinking water MCLs have been established for *E. coli* bacteria.

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

Chapter 160, Wis. Stats., is Wisconsin's Groundwater Standards Protection law. This chapter requires the department to develop numerical groundwater quality standards, consisting of enforcement standards and preventive action limits. Chapter NR 140, Wis. Adm. Code, establishes groundwater standards.

Proposed amendments to ch. NR 140, Wis. Adm. Code, add new groundwater quality standards for *Escherichia coli* (*E. coli*) bacteria. *E. coli* bacteria is a type of coliform bacteria used as an indicator of fecal contamination in groundwater. Groundwater quality standards currently exist in ch. NR 140 for total coliform bacteria. The department is proposing to revise the status of total coliform bacteria in ch. NR 140 to make it an indicator parameter.

Minor revisions, to clarify rule language and update rule reference information, are also proposed to ch. NR 140, Wis. Adm. Code. These revisions include:

- Revising order of Antimony and Anthracene in s. NR 140.10, Table 1 to correct their alphabetical order in the table.
- Removing, in s. NR 140.20, Table 3, the indicator parameter for ammonia nitrogen. Health standards were established for ammonia (as N), in s. NR 140.10, Table 1, as part of the "Cycle 9" revisions to ch. NR 140.
- Making needed additions and revisions to ch. NR 140 Appendix I to Table 1 substance names, Chemical Abstracts Service (CAS) registry numbers, and common synonyms.

Agency Procedures for Promulgation

The department will hold a hearing online on October 21, 2022, at 1:00pm. The hearing will be followed by

a request for Natural Resources Board adoption, expected in December 2022, followed by a request for the governor's approval and legislative review.

Description of any Forms (attach copies if available)

None.

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