

Clearinghouse Rule 19-053

PETITION OF THE STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES REPEALING AN UNAUTHORIZED RULE

The Wisconsin Department of Natural Resources proposes the following permanent rule to **repeal** NR 216.42 (4), (4) (Note), (5), (9), and (9) (Note), relating to: applicability, construction sites.

EXR - 12

Analysis Prepared by the Department of Natural Resources

1. Statutes Interpreted:

- Section 283.33 (1) (am), Stats., as affected by 2013 Wis. Act 20
- Sections 30.2022 (1g), 30.2022 (1m), and 30.2022 (1p), Stats., and s. 283.33 (4m), Stats., as affected by 2015 Wis. Act 307.

2. Statutory Authority:

- Section 227.26 (4) (b), Stats.
- Section 227.29 (1) (a), Stats.
- Sections 283.33 (1) (am) and 283.33 (4m), Stats.

3. Explanation of Agency Authority:

Under s. 227.26 (4) (b), Stats., an agency that promulgated or that otherwise administers a rule that the agency determines is an unauthorized rule shall petition the joint committee for review of administrative rules for authorization to repeal that rule.

The Department of Natural Resources proposes repealing specific sections of ch. NR 216, Wis. Adm. Code, *Storm Water Discharge Permits*, because they conflict with current state law and are now unauthorized. Pursuant to s. 227.26 (4) (b) 1., Stats., the department has determined that the repeal of these specific sections in ch. NR 216 as described herein is appropriate since they meet the criteria for unauthorized rules.

4. Related Statutes or Rules:

- Sections 101.1206 (1) and 101.653 (8), Stats., as affected by 2013 Wisconsin Act 20.
- Section 227.14 (2) (a) 1., 2., and 7, Stats.
- Section 283.35, Stats.

5. Plain Language Analysis:

Under the statutes interpreted and statutory authority described above, the proposed rule will repeal ch. NR 216.42(4), (4) (Note), (5), (9), and (9) (Note), Wis. Adm. Code, as unauthorized rules.

Sections 1 and 3 repeal s. NR 216.42 (4) and (9) because commercial buildings and one- and two-family dwellings are no longer exempt from regulation by the department pursuant to s. 283.33 (1) (am), Stats., as affected under 2013 Wisconsin Act 20.

Section 2 repeals s. NR 216.42 (5) because under 2015 Wis. Act 307, the exemption from obtaining a Department of Natural Resources construction site storm water permit for a transportation activity was removed from s. 30.2022, Stats., and a permit required under 283.33 (4m), Stats.

6. Agency Contact Person:

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TEXT OF RULE

SECTION 1. NR 216.42 (4) and (4) (Note) are repealed.

SECTION 2. NR 216.42 (5) is repealed.

SECTION 3. NR 216.42 (9) and (9) (Note) are repealed.

SECTION 4. EFFECTIVE DATE. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

END OF TEXT