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Clearinghouse Rule 19-056

**STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

**PROPOSED ORDER OF THE DEPARTMENT OF AGRICULTURE, TRADE AND
CONSUMER PROTECTION REPEALING A RULE**

The Wisconsin department of agriculture, trade and consumer protection (“the department”) is petitioning the joint committee for review of administrative rules to repeal a rule the department has determined to be an unauthorized rule using the processes under s. 227.26 (4), Stats.

PROPOSED ORDER

- 3 An order of the department of agriculture, trade and consumer protection *to repeal* ATCP 3.02
4 (1) (g), *relating to* program administration; general.
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**Analysis Prepared by the Department of
Agriculture, Trade and Consumer Protection**

Statutes Interpreted

Statutes interpreted: Section 1.11, Stats., and ss. 92.105, .106, Stats. (2007).

Statutory Authority

Statutory authority: Section 227.26 (4), Stats..

Explanation of Agency Authority

Pursuant to s. 227.26 (4), Stats., the department may petition for repeal of an unauthorized rule. An unauthorized rule is one that “an agency lacks the authority to promulgate due to the repeal or amendment of the law that previously authorized its promulgation.” ATCP ch. 3 establishes general program administration standards. 2009 Wisconsin Act 28 repealed s. 92.105. and .106, Stats., which required the department to review county soil and water conservation standards.

Related Statutes and Rules

Not applicable.

Brief Summary of Proposed Rule

The proposed rule repeals ATCP 3.02 (1) (g), relating to general program administration. This rule was promulgated in 1986. The section that is the subject of this Petition establishes the type of environmental analysis the department must complete when reviewing county soil and water conservation standards. 2009 Wisconsin Act 28 repealed the statutory directive to the department to review these standards as part of the repeal and recreation of the farmland preservation program. See ss. 92.105, .106 (2007). Therefore, the department has determined that ATCP 3.02 (1) (g) is unauthorized due to the passage of 2009 Wisconsin Act 28 and seeks its repeal pursuant to s. 227.26 (4), Stats.

Department Contact

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TEXT OF RULE

- 1 **SECTION 1.** ATCP 3.02 (1) (g) is repealed.
- 2 **SECTION 2.** EFFECTIVE DATE. The rules repealed in this order shall take effect on the first
- 3 day of the month following publication in the Wisconsin Administrative Register, pursuant to s.
- 4 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated this _____ day of April, 2019

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: Bradley M. Pfaff, Secretary