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Clearinghouse Rule 19-055

**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 48.60,
4 *relating to* drainage districts.

**Analysis Prepared by the Department of
Agriculture, Trade and Consumer Protection**

Statutes Interpreted

Statutes interpreted: Section 88.15, Stats., and s. 20.115 (7) (d), Stats. (2005).

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.” Sections 20.115 (7) (d) and 88.15, Stats. (2005) appropriated funds and directed the department to make grants to county drainage boards to aid compliance. Section 88.15, Stats. (2005), directed the department to promulgate rules for the administration of the grant program, which are found in ATCP 48.60. 2007 Wisconsin Act 20 repealed ss. 20.115 (7) (d) and 88.15, Stats.

Related Statutes and Rules

This rule is related to the remainder of ch. 88, Stats., and ATCP ch. 48.

Brief Summary of Proposed Rule

The proposed rule repeals ATCP 48.60, relating to drainage districts. This section of the rule was promulgated in 2002. The section that is the subject of this Petition, ATCP 48.60, establishes department procedures for grants to county drainage districts. The authority of the department to administer a grant program to county drainage districts and to promulgate a rule on such administration, as well as funds appropriated to the program, was repealed by 2007 Wisconsin Act 20. Therefore, the department has determined that ATCP 48.60 is unauthorized due to the passage of 2007 Wisconsin Act 20 and seeks its repeal pursuant to s. 227.26 (4), Stats.

Department Contact

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TEXT OF RULE

- 1 **SECTION 1.** ATCP 48.60 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.
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(END OF TEXT OF RULE)

Dated this _____ day of April, 2019

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: Bradley M. Pfaff, Secretary