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March 30, 2023

Senator Stephen Nass  
Wisconsin State Capitol, Room 10 South  
Post Office Box 7882  
Madison, WI 53707-7882

Representative Adam Neylon  
Wisconsin State Capitol, Room 204 North  
Post Office Box 8953  
Madison, WI 53707-8952

Dear Senator Nass and Representative Neylon:

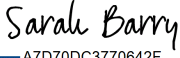
Re: Wis. Stat. § 227.29 Report on Agency Rules

In accordance with the requirements of Wis. Stat. § 227.29(1), adopted by the legislature in 2017 Act 108, the Department of Natural Resources submits the attached report. The report lists those rule provisions identified by the agency that fall within the categories listed in Wis. Stat. § 227.29(1)(a)-(e) and the actions the agency has taken or plans to take to address each rule or rule provision.

If you have questions or would like additional information, please contact DNR General Counsel Cheryl Heilman at [Cheryl.Heilman@wisconsin.gov](mailto:Cheryl.Heilman@wisconsin.gov) or (608) 266-0235.

Sincerely,

DocuSigned by:

  
A7D70DC3770642F...  
For Adam N. Payne  
Secretary



## **WIS. STAT. § 227.29 REPORT ON RULES**

March 30, 2023

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## Rules Addressed Since 2021 Report

Administrative Code	Related to	Category	Rationale	Agency actions
NR 8.52 (2) (b) 2.	Wildlife Violator Compact, Administrative Revocation by the Department	Obsolete	Contains outdated language.	Rulemaking completed – CR 19-146.
NR 130	Nonferrous Metallic Mineral Exploration	Superseded by	Superseded by 2017 Wis. Act 134.	Rulemaking completed - CR 20-043.
NR 131	Nonferrous Metallic Mineral Prospecting	Superseded by	Superseded by 2017 Wis. Act 134 and 1997 Wis. Act 169.	Rulemaking completed - CR 20-043.
NR 132	Nonferrous Metallic Mineral Mining	Superseded by	Superseded by 2017 Wis. Act 134.	Rulemaking completed - CR 20-043.
NR 182	Nonferrous Metallic Mineral Mining Wastes	Superseded by	Superseded by 2017 Wis. Act 134.	Rulemaking completed - CR 20-043.
NR 216.022	Other Environmental Programs, MS4s	In Conflict with	In conflict with Wis. Stat. §§ 283.33 (4m) and 30.2022 (1p).	Rulemaking completed - CR 21-027.
NR 216.07 (6) (a)	Pollution Prevention, MS4s	In Conflict with	Contains a reference to the unauthorized NR 151.13 (2) (b) 2.	Rulemaking completed - CR 21-027.
NR 216.21 (2) (b) 1.	Tier 2 Industrial Facilities	In Conflict with	In conflict with NR 216.27 (3) (e) 5. and federal law.	Rulemaking completed - CR 21-027.
NR 216.21 (4)	Other Environmental Programs, Industrial	In Conflict with	The department may not defer WPDES permitting to another department program under either state statute or federal law.	Rulemaking completed - CR 21-027.
NR 216.415	Authorized Local Program	In Conflict with	In conflict with federal law. The department may not delegate WPDES storm water construction site permitting to a local unit of government under either state statute or federal law.	Rulemaking completed - CR 21-027.
NR 216.42 (1)	Applicability, Construction Sites	In Conflict with	In conflict with federal law.	Rulemaking completed - CR 21-027.
NR 216.42 (6)	Other Environmental Programs	In Conflict with	The department may not defer WPDES permitting to another department program under either state statute or federal law.	Rulemaking completed - CR 21-027.
NR 216.42 (10)	Applicability, Construction Sites	Obsolete	Contains an exemption that sunset on March 10, 2005.	Rulemaking completed - CR 21-027.
NR 216.44 (3)	Notice of Intent Deadline, Construction Sites	In Conflict with	Per the same reasoning for NR 216.415 above, the department may not delegate WPDES storm water construction site permitting to a local unit of government under either state statute or federal law.	Rulemaking completed - CR 21-027.
NR 216.455 (2)	Proof of Permit Coverage, Construction Sites	In Conflict with	Per the same reasoning for NR 216.415 above, the department may not delegate WPDES storm water construction site permitting to a local unit of government under either state statute or federal law.	Rulemaking completed - CR 21-027.

## Rule Provisions in Progress

Administrative Code	Related to	Category	Rationale	Agency actions
NR 1.05 (2)	Identification of Areas of Special Natural Resource Interest	In Conflict with	In conflict with Wis. Stat. § 30.12 (1g) (m).	Agency plans to address this in future rulemaking effort.
NR 1.05 (3) (b), (c)	Identification of Areas of Special Natural Resource Interest	In Conflict with	In conflict with Wis. Stat. § 30.01 (1am), (b) and (bm).	Agency plans to address this in future rulemaking effort.
NR 1.05 (4)	Identification of Areas of Special Natural Resource Interest	In Conflict with	Contains reference to Wis. Stat. § 30.01 (1am) (c) which was repealed by 2015 Wis. Act 387.	Agency plans to address this in future rulemaking effort.
NR 1.212 (1) (a)	Private Forestry Priorities for Assistance	In Conflict with	In conflict with NR 1.212 (3) (c) 2.	No action has been taken and none is planned. This is a low priority issue, but the department may address in a future rulemaking effort.
NR 1.212 (1) (c)	Private Forestry Priorities for Assistance	Obsolete	NR 1.212 (1) (c) references review of forest tax law “petitions.” This is compatible with NR 46 references to Forest Crop Law (FCL) and Woodland Tax Law (WTL) but neither the FCL nor the WTL programs are accepting new petitions and the Managed Forest Law (MFL) section of NR 46.16 references “application.”	No action has been taken and none is planned. This is a low priority issue, but the department may address in a future rulemaking effort.
NR 1.22	Establishment of Coniferous Plantations	Obsolete	Contains provision that does not match current goals of the DNR.	No action has been taken and none is planned. This is a low priority issue, but the department may address in a future rulemaking effort.
NR 1.24 (2)	Management of State and County Forests	Superseded by	Superseded by 2005 Wis. Act 48.	No action has been taken and none is planned. This is a low priority issue, but the department may address in a future rulemaking effort.
NR 1.30 (1)	Classification of State Parks	Obsolete	Contains reference to a classification system that is no longer used.	Rulemaking in progress – SS 074-21.
NR 1.30 (1) (c)	Roadside State Parks	In Conflict with	In conflict with Wis. Stat. § 27.01 (5).	Rulemaking in progress – SS 074-21.
NR 1.98 (5)	Solicitation of Public or Private Source Funds	In Conflict with	In conflict with Wis. Stat. § 19.45 (3).	Agency plans to address this in future rulemaking effort.
NR 2.20 (1)	Review of a Final Decision by an Administrative Law Judge in the Division of Hearings and Appeals	In Conflict with	Wis. Stat. § 227.46 (8) provides that the Department may seek judicial review where it disagrees with a decision of an administrative law judge that is the final decision in a matter. Similarly, parties opposing the department have a right to judicial review. NR 2.20 adds an intermediary step where any aggrieved party may seek modification by the Secretary of a final decision. This is inconsistent with statute.	Agency plans to address this in future rulemaking effort.

Administrative Code	Related to	Category	Rationale	Agency actions
NR 5.125 (6) (c)	Noise Exemption for Motorboats Engaged in Trapping	Obsolete	Contains exemptions that sunset on March 31, 2009.	Agency plans to address this in future rulemaking effort.
NR 10.01 (2) (f) 3.	Turkey Season Dates	In Conflict With	2017 Wis. Act 63 created a uniform closing date for certain hunting and trapping seasons, including the fall turkey season.	Agency plans to address this in future rulemaking effort.
NR 11.07 (6) (m)	Wildlife Refuges and Closed Areas	Obsolete	Requires updates to the boundaries of Grand River Marsh Wildlife Refuge to reflect property recently acquired by the department.	Agency plans to address this in future rulemaking effort.
NR 12.15 (11) (b)	Wildlife Damage and Nuisance	Obsolete	Currently the rule only allows Class A license holders to assist with bear damage shooting permits. By expanding the types of license holders that are eligible to participate in bear shooting permits we can ensure that producers have hunters available to fill permits.	Agency plans to address this in future rulemaking effort.
NR 13	Chippewa Treaty Rights Participants	Obsolete/ Unnecessary	In discussion with legal staff, ch. NR 13 is no longer kept up to date with changes to Administrative Code and is mainly regarded as reference material.	No action has been taken and none is planned. It is most likely that the agency will continue to retain NR 13 for reference only.
NR 17.08 (3) (c)	Bear Dog Trailing Under Class A and B Bear Licenses	Obsolete	Requires an individual to possess a Class B bear license as a condition of using dogs to pursue wild bear. The Class B bear license was eliminated under 2015 Wis. Act 55.	Agency plans to address this in future rulemaking effort.
NR 18.10 (3) (c)	Falconry	In Conflict with	NR 18.10 (3) (c) authorizes the take of passage (first year migratory) Peregrine Falcons (state endangered) for falconry, but Wis. Stat. § 29.604 does not make that exception for falconry.	Agency plans to address this in future rulemaking effort.
NR 18.12 (14)	Falconry	In Conflict with	NR 18.12 (14) indicates that an endangered resources permit is needed in order for a licensed falconer to possess a raptor that is on the federal or state list of endangered and threatened species. Wis. Stat. § 29.604 prohibits the possession of listed species unless authorized by an endangered resources permit. Endangered resources permits can only be issued for zoological, educational or scientific purposes, or for propagation of such wild animals and wild plants in captivity for preservation purposes. Falconry is considered a recreational activity.	Agency plans to address this in future rulemaking effort.
NR 18.13 (2)	Falconry Permits and Wildlife Rehabilitation Permits	In Conflict with	In conflict with Wis. Stat. § 169.01 (30m).	Agency plans to address this in future rulemaking effort.
NR 19.11	Scientific Collectors Permit	In Conflict with	In conflict with Wis. Stat. § 169.25. At one time, the possession of wild animals, their carcasses and parts was regulated by Wis. Stat. § 29.614, which created the scientific collector permit. 2001 Wis. Act 56 created Wis. Stat. ch. 169, which regulated captive wildlife. At that time, the possession of live captive wildlife was removed from the scientific collector permit, and instead addressed by the newly created scientific research license in Wis. Stat. § 169.25. Although the title to NR 19.11,	Agency plans to address this in future rulemaking effort.

Administrative Code	Related to	Category	Rationale	Agency actions
			which administers these permits, was amended to recognize the creation of the scientific research license, corresponding changes in terminology do not consistently appear in the body of the rule.	
NR 19.72 (4)	Falconry Permits and Wildlife Rehabilitation Permits	In Conflict with	In conflict with Wis. Stat. § 169.01 (30m).	Agency plans to address this in future rulemaking effort.
NR 21.11 (2) (d) 3.	Fishing – Wisconsin-Minnesota Boundary Waters	Duplicative of	Duplicative of Wis. Stat. § 29.516.	Rulemaking in progress – SS 021-21.
NR 21.11 (4) (f)	Fishing – Wisconsin-Minnesota Boundary Waters	Duplicative of	Duplicative of Wis. Stat. § 29.516.	Rulemaking in progress – SS 021-21.
NR 25.09 (1) (am) 3. h.	Commercial Fishing – Outlying Waters	Duplicative of	Duplicative of NR 25.09 (1) (am) 3. f.	Rulemaking in progress – SS 022-21.
NR 27.05	Wildlife Rehabilitation Licenses and Endangered and Threatened Species Permits	In Conflict with	In conflict with Wis. Stat. § 29.604 (6).	Agency plans to address this in future rulemaking effort.
NR 35	Zones of Infestation of Forest Pest (Jack Pine Budworm)	Unnecessary	There is currently no jack pine budworm outbreak, so this rule is no longer relevant.	No action has been taken and none is planned. No specific timeline has been planned for repeal of this rule chapter.
NR 45.04 (3) (a)	Disorderly Conduct	Duplicative of	Duplicative of Wis. Stat. § 947.01.	Rulemaking in progress – SS 074-21.
NR 45.05 (1) (a)	Road Speed Limits	Duplicative of	Duplicative of Wis. Stat. § 346.57 (4).	Rulemaking in progress – SS 074-21.
NR 45.05 (3) (c)	Speed Limits	Duplicative of	Duplicative of Wis. Stat. § 346.57.	No action has been taken and none is planned. Department needs to retain for citation authority purposes.
NR 45.11 (1)	Boats	Duplicative of	Duplicative of Wis. Stat. § 30.68 (7).	No action has been taken and none is planned. Department needs to retain for citation authority purposes.
NR 45.12 (2) (b) 1.	Campsite Electricity	In Conflict with	In conflict with Wis. Stat. § 27.01 (10) (g) 5. and 6.	Rulemaking in progress – SS 074-21.
NR 45.12 (2) (b) 2.	Firewood Fees	Obsolete	Provision specifies a price per bundle of wood which would be significantly below market prices.	Rulemaking in progress – SS 074-21.
NR 45.12 (3) (c)	Trail Pass Fees	In Conflict with	In conflict with Wis. Stat. § 27.01 (8) (c).	Rulemaking in progress – SS 074-21.



Administrative Code	Related to	Category	Rationale	Agency actions
NR 45.12 (4) (g) 7.	Shelter and Picnic Area Reservations	In Conflict with	In conflict with Wis. Stat. § 27.01 (11).	Rulemaking in progress – SS 074-21.
NR 47 Subchapter II	Forest Stewardship Grant Program	Obsolete	Contains reference to a process no longer in use.	No action has been taken and none is planned. This grant program is no longer in place and the department plans a clean up the next time substantive changes are made to NR 47.
NR 47 Subchapter III	Stewardship Incentives Program	Obsolete	Contains reference to a federal grant program that no longer exists.	No action has been taken and none is planned. This federal grant program no longer exists, and the department plans a clean up the next time substantive changes are made to NR 47.
NR 47 Subchapter IV	Small Business Administration Tree Planting Program	Obsolete	Contains reference to a program that was discontinued in 1995.	No action has been taken and none is planned. This grant program is no longer in place and the department plans a clean up the next time substantive changes are made to NR 47.
NR 47.52 (7)	Urban and Community Forestry Grant Program	Obsolete	Contains outdated definition. It defines region as one of the 5 regional field administrative units of the department. The program has 6 regions.	No action has been taken and none is planned. This does not negatively impact program implementation, but it can be cleaned up if NR 47 is opened for substantive changes.
NR 47.53 (2) and (3), 47.55 (1) (b)	Urban and Community Forestry Grant Program	Obsolete	Contains outdated information regarding grant application procedures.	No action has been taken and none is planned. This does not negatively impact program implementation, but it can be cleaned up if NR 47 is opened for substantive changes.
NR 47.85 (2) (b)	Private Forest Landowner Grant Program	Obsolete	Contains reference to a federal grant program that no longer exists.	No action has been taken and none is planned. This does not negatively impact program implementation, but it can be cleaned up if NR 47 is opened for substantive changes.
NR 47.903 (2)	Forest Fire Protection Grant Program	Obsolete	Provision was only needed the first year of the grant cycle.	No action has been taken and none is planned. There are no specific plans or timelines to take action, but the department is contemplating future rulemaking.
NR 47.915 (1) (a), (b), and (c)	Federal Cost Sharing to Suppress Gypsy Moth	Obsolete	Provisions set cost sharing levels which are not up to date. Currently, the Forest Service funds all land uses at 50%.	No action has been taken, and none is planned. These provisions are not currently in use by the department but may be utilized in the future, as provided in NR 47.911 (2).
NR 47.917 (1)	Federal Cost Sharing to Suppress Gypsy Moth	Obsolete	This section references cost sharing levels contained in NR 47.915 (1) (a) through (c). These levels are out-of-date and are included	No action has been taken, and none is planned. These provisions are not currently in use by the agency but may be utilized in the future, as provided in NR 47.911 (2).

Administrative Code	Related to	Category	Rationale	Agency actions
			elsewhere in this report. When those cost sharing levels are updated, this section will also need to be updated.	
NR 52.05 (1) (c)	Prohibition of Nature-Based Outdoor Activities for Stewardship Grants	Superseded by	Superseded by Wis. Stat. § 23.0916 (2) (c).	No action has been taken and none is planned because the department does not use the "usership patterns" criteria in NR 52.05 (1) (c) when evaluating grant awards.
NR 60	Public Inland Lake Protection and Rehabilitation	Superseded by	Superseded by NR 190 and 191.	No action has been taken and none is planned. The department has chosen not to repeal NR 60 in the event legislature, or the department chose to utilize one of these provisions.
NR 60.11 (3)	Public Inland Lake Protection and Rehabilitation	Obsolete	Contains outdated information. It refers to a "council" which ceased to exist in 1997.	No action has been taken and none is planned. NR 193, the code in place at this time, does not make any reference to "council."
NR 64.03 (3) (a)	Effective Periods for ATV Registration	Superseded by	Superseded by 2011 Wis. Act 208.	Agency plans to address this in future rulemaking effort.
NR 101.03 (6)	Reports and Fees	Obsolete	Contains outdated reference.	Agency plans to address this in future rulemaking effort.
NR 101.03 (8)	Reports and Fees	In Conflict with	In conflict with Wis. Stat. § 299.01 (10).	Agency plans to address this in future rulemaking effort. The agency will continue to follow statutory definitions.
NR 103.02 (1m)	Definition of Artificial Wetland	Superseded by	Superseded by 2017 Wis. Act 183.	Agency plans to address this in future rulemaking effort.
NR 103.02 (5)	Definition of Artificial Wetland	Duplicative of	Duplicative of Wis. Stat. § 23.32 (1).	Agency plans to address this in future rulemaking effort.
NR 103.05 (2)	Water Quality Standards for Wetlands	Obsolete	The provision clarifies that NR 103 supersedes a process in NR 1 that no longer exists.	Agency plans to address this in future rulemaking effort.
NR 104	Water Uses and Designated Standards	Obsolete	Some provisions contain outdated references.	Agency plans to address this in future rulemaking effort.
NR 106.61 (1) (a)	Procedures for Calculating Water Quality Based Effluent Limitations for Point Source Discharges to Surface Waters	In Conflict with	In conflict with 40 C.F.R. §§ 124.3, 124.5, 124.6 124.11, 124.59.	Agency plans to address this in future rulemaking effort.
NR 107.04 (1), (3) (f) 1., 109.04 (1)	Application for Aquatic Plant Management Permit	Obsolete	Portions of the Aquatic Plant Management Permitting process as outlined in these provisions are obsolete. The department now utilizes	Agency plans to address this in future rulemaking effort.

Administrative Code	Related to	Category	Rationale	Agency actions
			an electronic filing system for permit applications and intends to update the public notice requirements to a similar electronic system.	
NR 108.02 (9)	Plans and Specifications for Community Water Systems, Sewerage Systems, and Industrial Wastewater Facilities	Obsolete	Contains outdated reference.	Agency plans to address this in future rulemaking effort.
NR 115.01	County Shoreland Zoning	Superseded by	Superseded by 2015 Wis. Act 55.	Agency plans to address this in future rulemaking effort.
NR 115.02	County Shoreland Zoning	Superseded by	Superseded by 2013 Wis. Act 80.	Agency plans to address this in future rulemaking effort.
NR 115.03 (1h), (5)	County Shoreland Zoning	Superseded by	Superseded by Wis. Stat. § 281.31 (2) (d) and (2m).	Agency plans to address this in future rulemaking effort.
NR 115.05 (1) (c) 2. b.	County Shoreland Zoning	Superseded by	Superseded by Wis. Stat. § 59.692 (1f) (b).	Agency plans to address this in future rulemaking effort.
NR 115.05 (1) (e) 3m.	County Shoreland Zoning	Superseded by	Superseded by Wis. Stat. § 59.692 (1k) (am) 1.	Agency plans to address this in future rulemaking effort.
NR 115.05 (1) (g) 4.	County Shoreland Zoning	Superseded by	Superseded by Wis. Stat. § 59.692 (1k) (a) 2.	Agency plans to address this in future rulemaking effort.
NR 115.05 (1) (g) 5.	County Shoreland Zoning	Superseded by	Superseded by Wis. Stat. § 59.692 (1k) (a) 4.	Agency plans to address this in future rulemaking effort.
NR 115.05 (1) (g) 6.	County Shoreland Zoning	Superseded by	Superseded by Wis. Stat. § 59.692 (1k) (a) 2.	Agency plans to address this in future rulemaking effort.
NR 115.06 (4) (a)	County Shoreland Zoning	Superseded by	Superseded by Wis. Stat. § 59.692 (4) (b).	Agency plans to address this in future rulemaking effort.
NR 117.03 (7)	Wisconsin City/Village Shoreland/Wetland Zoning	Superseded by	Superseded by Wis. Stat. § 281.31 (2) (d) and (2m).	Agency plans to address this in future rulemaking effort.
NR 118	Standards for the Lower St. Croix National Scenic Riverway	Superseded by	Superseded by 2017 Wis. Act 67.	Agency plans to address this in future rulemaking effort.
NR 120	Priority Watershed Program	Obsolete	NR 120 implements parts of Wis. Stat. § 281.65, the Priority Watershed Program. The Priority Watershed Program was gradually	Agency plans to address this in future rulemaking effort. Related statutory language modifications to

Administrative Code	Related to	Category	Rationale	Agency actions
			phased out by 1997 Wis. Act 27. The department no longer utilizes NR 120.	Wis. Stat. § 281.65 needed prior to initiating repeal of NR 120.
NR 122	Nitrate Removal	Obsolete	This financial assistance program is no longer funded and was replaced by a subsidized loan program in NR 166.	No action has been taken and none is planned. This program is no longer funded and was replaced by a loan program in NR 166. Removing this obsolete chapter is not an immediate priority.
NR 125	State Grants for Water Pollution Control Facilities	Obsolete	This financial assistance program is no longer funded and was replaced by a subsidized loan program in NR 162.	No action has been taken and none is planned. This program is no longer funded and was replaced by a loan program in NR 162. Removing this obsolete chapter is not an immediate priority.
NR 126	Waste Water	Obsolete	Chapter NR 126 relates to funding small sewerage projects and compliance maintenance under Wis. Stat. § 281.56. This financial assistance program is no longer funded and was replaced by a subsidized loan program in NR 162.	No action has been taken and none is planned. This program is no longer funded and was replaced by a loan program in NR 162. Removing this obsolete chapter is not an immediate priority.
NR 129	Flood Plain and Shoreland Mapping Grant Program	Obsolete	The statutory authorization for the grant program had a sunset date of February 5, 1986.	Agency plans to address this in future rulemaking effort.
NR 151.003 (2)	BMP Location	In Conflict with	In conflict with Wis. Stat. § 281.16 (2) (c) following enactment of 2015 Wis. Act 387. Amendment added exception for location of BMP in the case of artificial waterbodies.	Agency plans to address this in future rulemaking effort.
NR 151.07(4) - (6)	Runoff Management	Obsolete	These sections went into effect on January 1, 2005, January 1, 2008, or October 1, 2003, so these areas are already covered in existing rule. We don't use source water protection areas defined in NR 243.03 (61).	Agency plans to address this in future rulemaking effort.
NR 151.095 (5) (b) 2. c.	Runoff Management	Obsolete	Provision specifies the date for facility status, including manure storage. Language includes facilities that were constructed prior to the performance standard date but have an operation and maintenance plan that extends past the date of the performance standard. This is no longer needed because the latest operation and maintenance plan would have expired in 2012.	Agency plans to address this in future rulemaking effort.
NR 151.11 (2) (a)	Non-Agricultural Performance Standards, Construction Sites	Obsolete	NR 151.11 (2) (a) specifies the applicability of certain construction site performance standards in NR 151.11 for which the DNR or Dept. of Commerce received a Notice of Intent before January 1, 2011, or for which a bid had been advertised or construction contract signed before January 1, 2011. Since these situations are no longer possible based on that date, paragraph (a) is obsolete.	Agency plans to address this in future rulemaking effort.
NR 151.11 (2) (b)	Non-Agricultural Performance Standards, Construction Sites	Unnecessary	NR 151.11 (2) (b) specifies the applicability of certain construction site performance standards for which the department received a Notice of Intent on or after January 1, 2011, or for which a bid had been advertised or construction contract signed on or after January 1, 2011.	Agency plans to address this in future rulemaking effort.

Administrative Code	Related to	Category	Rationale	Agency actions
			Since NR 151.11 now only applies to construction sites that fall into these categories, paragraph (b) is unnecessary.	
NR 151.11 (3) (e), and (6)	Non-Agricultural Performance Standards, Construction Sites	Obsolete	NR 151.11 (3) (e) only applies to constructions sites to which NR 151.11 (2) (a) applies. Since NR 151.11 (2) (a) is obsolete, paragraph (e) is also obsolete. NR 151.11 (6) only applies to constructions sites to which NR 151.11 (2) (a) applies. Since NR 151.11 (2) (a) is obsolete, subsection (6) is also obsolete.	Agency plans to address this in future rulemaking effort.
NR 151.11 (6m) (b) 1.	Non-Agricultural Performance Standards, Construction Sites	Obsolete	NR 151.11 (6m) (b) 1. sets the sediment performance standard at an 80% reduction as compared to no controls until January 1, 2013, after which subdivision 2. specifies that the sediment performance standard shall be a load of no more than 5 tons per acre per year. Consequently, subdivision 1. is obsolete.	Agency plans to address this in future rulemaking effort.
NR 151.12 (2) (a), (b), and (c)	Non-Agricultural Performance Standards, Post-Construction	Obsolete	Provision became inoperative after January 1, 2011.	Agency plans to address this in future rulemaking effort.
NR 151.125 (1) (g)	Non-Agricultural Performance Standards, Post-Construction	In Conflict with	In conflict with NR 103.03.	Agency plans to address this in future rulemaking effort.
NR 151.13 (2) (b) 5. and (d)	Non-Agricultural Performance Standards, Developed Urban Areas	Obsolete	NR 151.13 (2) (b) 2. was rendered unauthorized with 2011 Wis. Act 32 and therefore repealed through CR 19-050 on Feb. 1, 2020. However, the exemption under NR 151.13 (2) (d) continues to cite subdivision 2., which no longer exists.	Agency plans to address this in future rulemaking effort.
NR 151.21 (5) (a)	Transportation Facility Performance Standards, Definitions	Obsolete	Provides a definition that sunset as of January 1, 2011.	Agency plans to address this in future rulemaking effort.
NR 151.22 (3)	Transportation Facility Performance Standards, Responsible Party	In Conflict	In conflict with NR 151.20 (2).	Agency plans to address this in future rulemaking effort.
NR 151.23 (1) (a), (b), and (2) (c)	Transportation Facility Performance Standards, Construction Sites	Obsolete	Provisions became inoperative after January 1, 2017.	Agency plans to address this in future rulemaking effort.
NR 151.23 (4)	Transportation Facility Performance Standards, Construction Sites	Obsolete	Provisions became inoperative after January 1, 2017.	Agency plans to address this in future rulemaking effort.
NR 151.23 (4m) (b) 1.	Transportation Facility Performance Standards, Construction Sites	Obsolete	Provisions became inoperative after January 1, 2017.	Agency plans to address this in future rulemaking effort.
NR 151.24 (1) (a), (b), and (c)	Transportation Facility Performance Standards, Post-Construction	Obsolete	Provision became inoperative after January 1, 2017.	Agency plans to address this in future rulemaking effort.

Administrative Code	Related to	Category	Rationale	Agency actions
NR 151.245 (1) (g)	Transportation Facility Performance Standards, Post-Construction	In Conflict with	In conflict with NR 103.03.	Agency plans to address this in future rulemaking effort.
NR 151.242 (3)	Transportation Facility Performance Standards, Post-Construction	Obsolete	Provisions became inoperative after January 1, 2017.	Agency plans to address this in future rulemaking effort.
NR 151.249 (1) (b)	Transportation Facility Performance Standards, Swale Treatment	Obsolete	Contains reference to technical standard 1005, "Vegetated Infiltration Swale," dated May 2007, which is out-of-date.	Agency plans to address this in future rulemaking effort.
NR 151.31 (1) (f) 1. a.	Technical Standards Development	Obsolete	Contains reference to NR 151.23 (4) which is obsolete.	Agency plans to address this in future rulemaking effort.
NR 151.31 (1) (f) 2.	Technical Standards Development	Obsolete	Contains reference to NR 151.23 (4) which is obsolete.	Agency plans to address this in future rulemaking effort.
NR 152, Appendix B, S.07 (4) (d) 1. g.	Model Post-Construction Storm Water Management Ordinance	In Conflict	In conflict with NR 103.03.	Agency plans to address this in future rulemaking effort.
NR 155.16 (1) (b)	Urban Nonpoint Source Water Pollution Abatement and Storm Water Management Grant Program	Superseded by	Superseded by 2015 Wis. Act 55.	Agency plans to address this in future rulemaking effort.
NR 162	Clean Water Fund	Obsolete	Rule does not reflect recent changes to Wis. Stat. § 281.58 and federal regulations.	Rulemaking in progress - CR 22-045.
NR 166	Safe Drinking Water Loan Program	Obsolete	Chapter NR 166 must be updated to be consistent with federal regulations and to incorporate recent changes to Wis. Stat. § 281.58.	Rulemaking in progress - CR 22-068.
NR 168	Brownfield Site Assessment Grant Program	Obsolete/ Unauthorized	The Brownfield Site Assessment Grant Program is now administered by the Wisconsin Economic Development Corporation (WEDC) under Wis. Stat. § 238.133. WEDC does not have authority to implement NR 168.	Agency plans to file petition to repeal.
NR 185	Solid Waste Management Planning Criteria	Obsolete	Contains outdated reference. It references statute requiring area-wide solid waste management plans and associated grant funding which no longer exists.	Agency plans to address this in future rulemaking effort.
NR 187	Household Hazardous Waste Grant Program	Obsolete	The program established in NR 187 was transferred from DNR to DATCP by the biennial budget act 2003 Wis. Act 33.	Agency plans to address this in future rulemaking effort.
NR 200.065 Table 1	Related to WPDES Permit Application Requirements for Major Municipal Facilities	In Conflict with	In conflict with federal regulations in 40 C.F.R. §§ 122.21 (j) (4) (iv), (vi) and (vii) and Appendix J, Table 2.	Agency plans to address this in future rulemaking effort.
NR 203.06 (2) (L)	Time Period for Notice of Public Informational Hearing on Proposed WPDES Permit	In Conflict with	In conflict with federal regulations in 40 C.F.R. §§ 124.10 and 124.12.	Agency plans to address this in future rulemaking effort.

Administrative Code	Related to	Category	Rationale	Agency actions
NR 205.07 (1) (d) 4.	Effluent Sampling	In Conflict with	The language regarding agency authority to take effluent samples in NR 205.07 (1) (d) 4. is not as broad as language in 40 CFR 122.41 (i) (4).	Agency plans to address this in future rulemaking effort.
NR 203.15	Wisconsin Pollutant Discharge Elimination System Public Participation Procedures	In Conflict with	In conflict with Wis. Stat. § 283.63 (1).	Agency plans to address this in future rulemaking effort.
NR 205.07 (3) (b)	WPDES Permit	Obsolete	Contains outdated reference.	Agency plans to address this in future rulemaking effort.
NR 207	Antidegradation and Antibacksliding	Superseded by	Superseded by 40 CFR 131.12 and Appendix E to 40 CFR 132.	Rulemaking in Progress - SS 051-21.
NR 210.205	Combined Sewer Overflows	Superseded by	This section does not include all of the requirements in 40 CFR 122.38, 40 CFR 122.21 (j) (8) iii and 40 CFR 122.42 (f).	Agency plans to address this in future rulemaking effort.
NR 220.33	Effluent Guidelines and Standards	In Conflict with	In conflict with 40 C.F.R. 122.21 (m), (n).	When the statute is revised, the agency will initiate rule revision process.
NR 240	Effluent Guidelines and Standards for Dairy Products Processing	In Conflict with	Contains references that are not up to date with 40 C.F.R. 405.	Agency plans to address this in future rulemaking effort. Federal requirements are currently incorporated into permits.
NR 243.121	Informing the Public of Incorporating a CAFO in a General Permit.	In Conflict with a Federal Regulation	In conflict with 40 C.F.R. 122.23 (h). This is a rule that is in conflict with the federal regulation it is supposed achieve the same standard as. Wis. Stat. § 283.11 (2) (a) requires that all rules that concern point source discharges must comply with federal Clean Water Act regulations.	Agency plans to address this in future rulemaking effort.
NR 243.13 (3) (c)	CAFO Discharge Limitations	In Conflict with a Federal Regulation	In conflict with 40 C.F.R. 412.46 (a). This is a rule that is in conflict with the federal regulation it is supposed achieve the same standard as. Wis. Stat. § 283.11 (2) (a) requires that all rules that concern point source discharges must comply with federal Clean Water Act regulations.	Agency plans to address this in future rulemaking effort.
NR 243.14 (7) (e)	CAFO NMP Requirements	Obsolete	Contains a compliance period that is no longer applicable.	Agency plans to address this in future rulemaking effort.
NR 243.15 (3) (h), (j)	CAFO Plan Review	Obsolete	Contains a compliance period that is no longer applicable.	Agency plans to address this in future rulemaking effort.
NR 258	Effluent Guidelines and Standards for Meat Products	In Conflict with	Contains references that are not up to date with 40 C.F.R. 432.	Agency plans to address this in future rulemaking effort. Federal requirements are currently incorporated into permits.

Administrative Code	Related to	Category	Rationale	Agency actions
NR 284	Effluent Guidelines and Standards for Pulp and Paper Manufacturing	In Conflict with	Contains references that are not up to date with 40 C.F.R. 430.02, 40 C.F.R. 430.03, and 40 C.F.R. Appendix A to Part 430.	Agency plans to address this in future rulemaking effort. Federal requirements are currently incorporated into permits.
NR 290.02	Effluent Guidelines and Standards for Stream Electric Power Generating	In Conflict with	Contains references that are not up to date with federal regulation.	Agency plans to address this in future rulemaking effort.
NR 290.03	Effluent Guidelines and Standards for Stream Electric Power Generating	In Conflict with	Contains references that are not up to date with federal regulation.	Agency plans to address this in future rulemaking effort.
NR 290.12 (1)	Effluent Guidelines and Standards for Stream Electric Power Generating	In Conflict with	Contains references that are not up to date with federal regulation.	Agency plans to address this in future rulemaking effort.
NR 290.22 (1), (2)	Effluent Guidelines and Standards for Stream Electric Power Generating	In Conflict with	Contains references that are not up to date with federal regulation.	Agency plans to address this in future rulemaking effort.
NR 296.03 (1)	Effluent Guidelines and Standards for Textile Industry	Obsolete	Contains cross reference to a test method in NR 296.05 which was deleted in a recent rule package (effective 2018).	Agency plans to address this in future rulemaking effort.
NR 305.03 (10)	Time Limits for Water Regulation Decisions	Obsolete	Contains a reference to a permit information center maintained by the Department of Commerce, which was dissolved in 2011. It does not appear this repository exists anymore, either at DOA or DSPS.	Rulemaking in progress – CR 22-013.
NR 310.18	Procedures for Exemptions, General Permits, Individual Permits, Notices, Hearings, and Administrative Review	Duplicative	Duplicative of Wis. Stat. § 30.209 (1m).	Rulemaking in progress – CR 22-013.
NR 320.04 (1) (b), (d)	Bridges and Culverts in or Over Navigable Waterways	In Conflict with	Clearance standards found in NR 320.04 (1) conflict with culvert replacement exemption standards found in Wis. Stat. § 30.123 (6) (d).	Rulemaking in progress – SS 048-22.
NR 320.06 (1) (b), (e)	Bridges and Culverts in or Over Navigable Waterways	Superseded by	Superseded by Wis. Stat. § 30.123 (6) (d).	Rulemaking in progress – SS 048-22.
NR 320.06 (2)	Bridges and Culverts in or Over Navigable Waterways	In Conflict with	In conflict with Wis. Stat. § 30.123 (7).	Rulemaking in progress – SS 048-22.
NR 320.06 (2) (b)	Bridges and Culverts in or Over Navigable Waterways	Obsolete	Contains outdated reference.	Rulemaking in progress – SS 048-22.
NR 325.03 (2)	Maintenance, Repair and Removal Procedures for Boathouses and Fixed Houseboats on Navigable Waterways	In Conflict with	In conflict with Wis. Stat. § 30.01 (1d).	Rulemaking in progress – SS 048-22.
NR 325.05, 325.06, 325.07	Maintenance, Repair and Removal Procedures for Boathouses and Fixed Houseboats on Navigable Waterways	In Conflict with	In conflict with Wis. Stat. § 30.121 (3c), (3g), (3m), (3r), or (3w).	Rulemaking in progress – SS 048-22.



Administrative Code	Related to	Category	Rationale	Agency actions
NR 325.08 (1)	Maintenance, Repair and Removal Procedures for Boathouses and Fixed Houseboats on Navigable Waterways	Obsolete	Contains references to Wis. Stat. § 30.121 (3g) but should be expanded to include expanded exceptions in Wis. Stat. § 30.121 (3c).	Rulemaking in progress – SS 048-22.
NR 325.09 (1), (1) (c), and (2) (c)	Maintenance, Repair and Removal Procedures for Boathouses and Fixed Houseboats on Navigable Waterways	Obsolete	Contains reference to Wis. Stat. § 30.121 (3) but needs to be expanded to include standards for new exceptions listed in subsections (3c), (3g), (3m).	Rulemaking in progress – SS 048-22.
NR 326.03 (1)	Piers, Boat Shelters, and Swim Rafts in Navigable Waterways	Superseded by	Superseded by Wis. Stat. § 30.01 (1c).	Rulemaking in progress – SS 048-22.
NR 326.03 (4)	Piers, Boat Shelters, and Swim Rafts in Navigable Waterways	Duplicative of	Duplicative of Wis. Stat. § 30.01 (3c).	Rulemaking in progress – SS 048-22.
NR 326.03 (8)	Piers, Boat Shelters, and Swim Rafts in Navigable Waterways	Duplicative of	Partially duplicative of Wis. Stat. § 30.01 (5).	Rulemaking in progress – SS 048-22.
NR 326.04	Piers, Boat Shelters, and Swim Rafts in Navigable Waterways	In Conflict with	In conflict with Wis. Stat. § 30.12 (1g) (f), (1h), (1j), (1k) and partially duplicative of Wis. Stat. § 30.13.	Rulemaking in progress – SS 048-22.
NR 326.04 (3)	Piers, Boat Shelters, and Swim Rafts in Navigable Waterways	Obsolete	Contains reference to Wis. Stat. § 30.12 (2) which was repealed by 2003 Wis. Act 118.	Rulemaking in progress – SS 048-22.
NR 326.04 (8)	Piers, Boat Shelters, and Swim Rafts in Navigable Waterways	Obsolete	Contains reference to Wis. Stat. § 30.12 (2) which was repealed by 2003 Wis. Act 118.	Rulemaking in progress – SS 048-22.
NR 326.05	Piers, Boat Shelters, and Swim Rafts in Navigable Waterways	In Conflict with	In conflict with Wis. Stat. § 30.12 (3) (c).	Rulemaking in progress – SS 048-22.
NR 326.055 (1) (e)	Piers, Boat Shelters, and Swim Rafts in Navigable Waterways	In Conflict with	Contains reference to Wis. Stat. § 30.12 (3) (a) 6. and (c) and should reference Wis. Stat. § 30.12 (3) (c).	Rulemaking in progress – SS 048-22.
NR 326.055 (2) (e)	Piers, Boat Shelters, and Swim Rafts in Navigable Waterways	In Conflict with	In conflict with Wis. Stat. § 30.01 (1c).	Rulemaking in progress – SS 048-22.
NR 326.055 (4) (e)	Piers, Boat Shelters, and Swim Rafts in Navigable Waterways	In Conflict with	In conflict with Wis. Stat. § 30.12 (3m) (cr) 1.	Rulemaking in progress – SS 048-22.
NR 326.055 (4) (f)	Piers, Boat Shelters, and Swim Rafts in Navigable Waterways	In Conflict with	In conflict with Wis. Stat. § 30.12 (3m) (cr) 2.	Rulemaking in progress – SS 048-22.
NR 341	Grading on the Bank of Navigable Waterways	In Conflict with	In conflict with Wis. Stat. § 30.19.	Agency plans to address this in future rulemaking effort.

Administrative Code	Related to	Category	Rationale	Agency actions
NR 343.02 (3) (a) - (e)	Ponds and Artificial Waterways	Duplicative of	Duplicative of Wis. Stat. § 30.19 (1m) (c), (cm), (d) and (e).	Agency plans to address this in future rulemaking effort.
NR 343.02 (3) (f) - (h)	Ponds and Artificial Waterways	In Conflict with	Lists exemptions which do not exist in statute.	Agency plans to address this in future rulemaking effort.
NR 343.03 (1)	Ponds and Artificial Waterways	Duplicative of	Duplicative of Wis. Stat. § 30.40 (1).	Agency plans to address this in future rulemaking effort.
NR 343.03 (4)	Ponds and Artificial Waterways	Duplicative of	Duplicative of Wis. Stat. § 30.01 (1j).	Agency plans to address this in future rulemaking effort.
NR 343.03 (5)	Ponds and Artificial Waterways	Duplicative of	Duplicative of Wis. Stat. § 30.29 (1g) (c).	Agency plans to address this in future rulemaking effort.
NR 343.03 (7)	Ponds and Artificial Waterways	Duplicative of	Duplicative of Wis. Stat. § 30.01 (4m).	Agency plans to address this in future rulemaking effort.
NR 343.07	Ponds and Artificial Waterways	Obsolete	General permits under NR 343.07 are obsolete because the department is authorized to issue statewide (non-rule) general permits under Wis. Stat. § 30.206.	Agency plans to address this in future rulemaking effort.
NR 343.08 (3) (a) 3.	Ponds and Artificial Waterways	Unnecessary	Unnecessary because Wis. Stat. § 30.19 (3r) (a) already allows the department to issue General Permits for unconnected ponds.	Agency plans to address this in future rulemaking effort.
NR 350.03 (5) and (15)	Wetland Compensatory Mitigation	Superseded by	Superseded by Wis. Stat. § 281.36 (3r) (a) 3.	Agency plans to address this in future rulemaking effort.
NR 351, 352	Exemptions from Water Quality Certification in Nonfederal Wetlands	In Conflict with	In conflict with Wis. Stat. § 281.36.	Agency plans to address this in future rulemaking effort.
NR 418.06, 419.05,	Sulfur Dioxide Emission Control in Specific Geographic Areas	Obsolete	Contains compliance deadlines that have passed.	Agency plans to address this in future rulemaking effort.
NR 425.03 (Portions of)	Compliance Schedules for Organic Compound Emission Sources in chs. NR 419 to 424	Obsolete	Contains compliance deadlines that have passed.	No action has been taken and none is planned. No sources are currently impacted.
NR 425.04 (3) (d)	Compliance Schedules, Delays, Exceptions and Internal Offsets for Organic Compound Emission Sources	Obsolete	Contains a reference to an exception to NR 422.15 that was removed as of March 1, 1990.	Agency plans to address this in future rulemaking effort.

Administrative Code	Related to	Category	Rationale	Agency actions
	in chs. NR 419 to 424 - Exceptions and Non-Ozone Season Allowances			
NR 439.06 (3) (c)	Methods and Procedures for Determining Compliance with Emission Limitations (by Air Contaminant)	Obsolete	Contains a reference to NR 439.06 (3) (i) which was repealed by CR 15-077.	Rulemaking in progress - SS 047-22.
NR 487	Clean Fuel Fleet Program	Obsolete	Contains requirements that are no longer relevant. New federal vehicle emission standards are cleaner than those required under this rule.	No action has been taken and none is planned. The program is still required to be implemented per Section 246 of the Clean Air Act.
NR 493	Air Pollution Episode Levels and Episode Emission Control Action Programs	Obsolete	Contains episode levels and episode-triggered emission control plans that are no longer relevant to current air quality conditions and statewide control programs.	No action has been taken and none is planned. If this rule were repealed, Wisconsin would be required to replace the existing code with some other form of episode plan. State plans are required to set forth episode criteria (pollutant concentrations at which specified emission control actions will be initiated in order to prevent significant harm to the health of persons). As the federal government has not updated their criteria for episode plans since 1987, a change would require the department to complete a comprehensive legal review of the federal statutory and regulatory procedures to make such a revision, including research on appropriate criteria levels.
NR 502.10 (3) (c)	Air Curtain Destructor Operating Plan Requirements	Superseded	NR 502.10 (3) (c) was promulgated in 1996. It seeks to allow public input on operations from public who may be impacted by this type of facility. In 2019, the EPA promulgated rules regulating emissions from air curtain destructors at 40 CFR subpart CCCC. Implementation of these air emissions rules in Wisconsin includes permitting of these facilities and requires public notice and input. These air rules supersede the previously promulgated solid waste rules targeting public notice of an air emission facility.	Agency plans to address this in a future rulemaking effort.
NR 510	Pre-feasibility Reports for Landfills	Unnecessary	Contains reference to pre-feasibility reports that have not been used since its codification in the mid-1990s.	Rulemaking in progress - SS 088-22.
NR 520.14 (3) (c) 6.	Environmental Fees, Out-of-State Units	Obsolete	Contains a reference to Wis. Stat. § 287.01 (5) which was repealed by 2011 Wis. Act 32.	Rulemaking in progress - SS 088-22.

Administrative Code	Related to	Category	Rationale	Agency actions
NR 538.20 (2) and (3)	Environmental Monitoring	Obsolete	The department intended to repeal these paragraphs in CR 19-080, but the repeal was erroneously omitted from the final rule. As described in the note that follows NR 538.20 in the Administrative Code, these paragraphs are not applicable.	Agency plans to address this in future rulemaking effort.
NR 540	Waste Separation and Recycling Collection Facilities	Obsolete	NR 540 was enacted in 1988, before enactment of the current state Recycling Law in 1989.	Rulemaking in progress - SS 022-22.
NR 700.03 (45e)	General Requirements	In Conflict with	Defined term of “property” is in conflict with definition of property created by 2017 Wis. Act 70 and found in Wis. Stat. § 292.15 (1) (c) and NR 758.05 (2).	Agency plans to address this in future rulemaking effort.
NR 700.03 (54)	General Requirements	Superseded by	Superseded by 2015 Wis. Act 204.	Rulemaking in progress - CR 20-038.
NR 747	Petroleum Environmental Cleanup Fund	Obsolete	Contains outdated reference. Some provisions in NR 747 reference Wis. Stat. § 101.144 which was repealed by 2013 Wis. Act 20. See NR 747.54 (11) (d) 1., 747.62 (1) (c), (4) (b), and (6), 747.623 (1) (a) and (b), 747.64 (1) (a) and (b), and 747.70 (1) (b).	Agency plans to address this in future rulemaking effort.
NR 750	Fees for Providing Oversight for The Contaminated Land Recycling Program	Obsolete	Contains outdated reference. It refers to Wis. Stat. § 292.15 (4) which was repealed by 2011 Wis. Act 103.	Agency plans to address this in future rulemaking effort.
NR 810.09 (2) (a)	General Treatment and Disinfection Requirements	Superseded by	Superseded by Wis. Stat. § 281.17 (8) (b).	Agency plans to address this in future rulemaking effort.

Note 1: On December 30, 2022, the Wisconsin Legislative Reference Bureau (LRB) issued a memorandum entitled “Report on rules in the Wisconsin Administrative Code that may need revision” (the LRB Report), which lists rules with incorrect cross-references. This report includes the rules listed in the LRB Report, which fall into any of the categories under Wis. Stat. § 227.29 (1). For the rules that do not fit into these categories, the department will address them accordingly either in future rulemaking or by other appropriate actions.

Note 2: Pursuant to Wis. Stat. § 227.29 (2) (b) this report includes the rules listed in the 2021 report which the department has resolved with rulemaking or repeal petition. Future reports will not include these rules.