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1 **NR 153.22 Cost-share agreement. (1) PURPOSE OF AGREEMENT.** (a) The cost-
2 share agreement is an agreement listing the best management practices and establishing the
3 conditions and considerations under which a cost-share recipient agrees to install the practices
4 listed. The cost-share agreement may be used as an offer of cost sharing in accordance with ss.
5 NR 151.09 and 151.095.

6 (b) A local governmental unit shall use the cost-share agreement if serving as a cost-share
7 provider to a landowner, land operator or state agency.

8 (c) The department may use the runoff management grant agreement in lieu of a cost-
9 share agreement if it serves as a grantor of funds to a governmental unit or state agency and the
10 grant recipient uses the funds to implement management practices on lands it owns or operates.
11 Runoff management grant agreements used in lieu of cost-share agreements shall comply with
12 the requirements in this section as well as those in s. NR 153.21.

13 (d) For best management practices to be eligible for cost sharing, the cost-share
14 agreement shall be signed by the cost-share provider and cost-share recipient before best
15 management practice installation is initiated.

16 **(2) PARTIES TO THE AGREEMENT.** (a) The cost-share agreement shall be between
17 the governmental unit and the individual landowner, land operator or state agency. Agreements
18 with land operators shall be co-signed by the landowner except in instances where the cost-share
19 agreement contains no other practices than those enumerated in sub. (6) (b) 1. If other practices
20 are included in a cost-share agreement amendment, the landowner shall co-sign the amendment.

21 (b) Governmental units, as cost-share agreement providers, shall enter into cost-share
22 agreements only during the period specified in the runoff management grant agreement.

23 (c) The cost-share agreement applies to all contiguous sites under the same ownership. At
24 the discretion of the governmental unit, the cost-share agreement may also apply to
25 noncontiguous sites under the same ownership or operation in the watershed. In this paragraph,
26 "contiguous" means touching or sharing a common boundary with a second parcel of land. A
27 lake, river, stream, road, railroad or utility right of way that separates any part of the parcel from
28 any other part does not render the parcel of land noncontiguous.

1 (d) A cost-share agreement may not be signed with an individual whose name appears on
2 the statewide support lien docket under s. 49.854 (2) (b), Stats., unless the individual submits to
3 the provider a payment agreement that has been approved by the county child support agency
4 under s. 59.53 (5), Stats., and that is consistent with rules promulgated under s. 49.858 (2) (a),
5 Stats.

6 (3) CONTENT OF THE AGREEMENT. The cost-share agreement shall contain or
7 describe:

8 (a) The name and address of the cost-share recipient.

9 (b) The best management practices to be applied and the cost-share rates for those
10 practices that are to be cost shared. The cost-share agreement shall require that all best
11 management practices listed on the cost-share agreement be implemented and maintained as a
12 condition of the agreement.

13 (c) The estimated total practice cost, cost-share rate and estimated cost-share amount.

14 (d) The installation schedule for applying the practices.

15 (e) A statement of maintenance requirements.

16 (f) A prohibition against adopting any land use or practice which defeats the purposes of
17 the best management practices, the cost-share agreement or the runoff management grant
18 agreement.

19 (g) A provision stating that the governmental unit shall provide appropriate technical
20 assistance during the required operation and maintenance period of the best management
21 practices.

22 (h) A stipulation that the cost-share recipient may not discriminate against a contractor on
23 the basis of age, sex, religion or other prohibited factor.

24 (i) A provision describing the procedure for amendment.

25 (j) The location of the land on which the cost-shared practice is to be installed, and a
26 specific legal description of the land if cost-share payments may exceed \$10,000.

27 (k) A prohibition against any change in land use or management on the entire property
28 described on the cost-share agreement which may cause sources which were adequately managed

1 at the time of cost-share agreement signing, including compliance with performance standards
2 under ch. NR 151 to produce a significant increase in pollutant loading to surface water or
3 ground water. If such a change in land use or management occurs, the landowner or land
4 operator shall control the source at the landowner or land operator's own expense or return any
5 cost-sharing funds awarded through the cost-share agreement to the provider.

6 (L) A requirement to amend the cost-share agreement if practices are added or deleted
7 and to add or delete practices only if they are consistent with the project grant application.

8 (m) A statement that any loss of cost sharing that results from a recipient's failure to
9 abide by the conditions of the cost-share agreement does not void the notice issued under ss. NR
10 151.09 and 151.095.

11 (n) A statement that partial or full release from the cost-share agreement in accordance
12 with this section does not void the notice issued under ss. NR 151.09 and 151.095.

13 **Note:** Compliance with conditions in a cost-share agreement does not assure compliance
14 with performance standards under ch. NR 151. For example, the operation and maintenance
15 period for purposes of cost sharing is 10 years for most practices. However, best management
16 practices must be maintained in perpetuity to comply with performance standards under ch. NR
17 151. Under ch. NR 151, cost sharing must only be made available once to bring a specific
18 nonpoint source into compliance with the performance standard. Continued cost sharing is not
19 required to be made available and long-term compliance with performance standards is the
20 responsibility of the landowner or operator, heirs or subsequent owners or operators. Chapters
21 NR 151 and ATCP 50 identify when cost sharing is considered to be available for purposes of
22 required compliance with performance standards.

23 **(4) DEPARTMENT APPROVAL.** The governmental unit shall obtain prior department
24 approval when the total cost-share agreement amount, including amendments, exceeds \$50,000
25 in state share. The department shall consider the cost-effectiveness of the best management
26 practices and eligibility for cost sharing under this chapter in making its decision whether to
27 grant approval.

1 (5) SUBMITTAL TO DEPARTMENT. Unless required otherwise under sub. (4), the
2 cost-share agreement provider shall submit a copy of the cost-share agreement and amendments
3 to the department within 30 days of execution. The department may deny reimbursement to the
4 governmental unit for costs associated with the installation of a best management practice not in
5 conformance with the cost-share agreement, the runoff management grant agreement or the
6 project grant application.

7 (6) AGREEMENT PERIOD. The cost-share agreement period shall be the period from
8 the cost-share agreement signing to the end of the operation and maintenance period.

9 (a) The period during which practices in a signed cost-share agreement may be installed
10 may not extend beyond the period of the runoff management grant agreement for the project.

11 (b) For purposes of complying with the cost-share agreement, the operation and
12 maintenance period for a best management practice begins when the best management practice
13 installation is complete and ends after the required operation and maintenance period has
14 expired. The operation and maintenance period for each cost-shared and not cost-shared best
15 management practice shall last for a minimum of 10 years except that the operation and
16 maintenance period shall last for a minimum of 15 years if a payment is made under s. NR
17 154.03 (1) (i) 3.

18 1. Except if required as a component of another practice, the following practices are
19 exempt from the multi-year operation and maintenance period requirement and only need to be
20 maintained during the years for which cost sharing is received:

- 21 a. High residue management systems.
- 22 b. Nutrient management.
- 23 c. Pesticide management.
- 24 d. Cropland protection cover or green manure.

25 2. If a practice in subd. 1. is required as a component of another practice in ch. NR 154,
26 the operation and maintenance period for the component practice shall be the same as the
27 operation and maintenance period for the practice for which it is required.

1 **Note:** In many situations, best management practices will need to be maintained in
2 perpetuity to comply with performance standards in ch. NR 151.

3 **(7) FAILURE TO FULFILL AGREEMENT.** If the cost-share recipient fails to fulfill any
4 terms of the cost-share agreement, including failing to install, operate and properly maintain the
5 practices of the agreement, the full amount of cost-shared funds received by the cost-share
6 recipient shall be repaid to the governmental unit which is the provider of the agreement. The
7 provider shall forward the repayment to the department.

8 **Note:** Under s. NR 153.22 (3) (m), loss of cost sharing that results from failure to fulfill
9 the agreement does not void the notice issued under ss. NR 151.09 and 151.095.

10 **(8) INEFFECTIVE PRACTICES.** If the practice becomes ineffective either during or
11 beyond the grant period of the runoff management grant agreement for the project and the reason
12 for the practice becoming ineffective is beyond the control of the cost-share recipient, the
13 department may award a new grant agreement or amend and extend the existing runoff
14 management grant agreement to cost share the replacement of the practice.

15 (a) The department may not provide cost sharing for the replacement of a practice more
16 than once.

17 (b) An appropriate operation and maintenance period for the replacement practice shall
18 be identified in the cost-share agreement.

19 **(9) CHANGE IN OWNERSHIP.** If a change in ownership occurs during the cost-share
20 agreement period, the new landowner shall be responsible for fulfilling all conditions of the cost-
21 share agreement. Upon receiving written approval from the respective local governmental unit,
22 the new landowner may implement alternative approved best management practices provided
23 that an equal or greater level of pollution control is achieved.

24 **(10) RECORDING OF COST-SHARE AGREEMENTS WITH REGISTER OF DEEDS.**

25 (a) The governmental unit shall record the cost-share agreement and its amendments in
26 the office of the register of deeds for each county in which the property is located if the cost-
27 share agreement includes a riparian buffer, or payments under s. 154.03(1)(i)3., or if the total
28 cost-share agreement amount exceeds the following:

1 1. \$10,000 prior to January 1, 2005.

2 2. \$12,000 after December 31, 2004 and prior to January 1, 2010.

3 3. \$14,000 after December 31, 2009.

4 (b) The governmental unit shall record these documents prior to making reimbursements
5 to the landowner or land operator.

6 (c) A cost-share agreement may be exempt from the recording requirement if the cost-
7 share agreement contains no other practices than the following:

8 1. Contour farming.

9 2. Contour and field strip-cropping.

10 3. Cropland protection cover or green manure.

11 4. High residue management.

12 5. Nutrient management.

13 6. Pesticide management.

14 **(11) RELEASE OF PROPERTY FROM OBLIGATIONS OF COST-SHARE**

15 **AGREEMENTS.** At the request of the cost-share recipient, a governmental unit may fully or
16 partially release a property from the obligations of the cost-share agreement provided that the
17 governmental unit has determined that the best management practices installed on the property
18 will be maintained or replaced with practices which will not increase the pollutant loading to
19 surface water or groundwater counter to the water resource objectives of the grant application. If
20 state dollars in excess of \$10,000 have been expended for best management practices that are
21 located on the property to be released, the governmental unit shall obtain written approval from
22 the department before the property may be released. The release form shall be obtained from the
23 department and filed with the cost-share agreement.

24 **Note:** Under s. NR 153.22 (3) (n) any release granted under this subsection does not void
25 the notice issued under ss. NR 151.09 and 151.095.

26
27 **NR 153.23 Cost containment.** (1) Governmental units as providers of cost-share
28 agreements shall identify and agree to use one or more of the following cost containment

1 procedures for each best management practice identified in the runoff management grant
2 agreement.

3 (a) *Average cost.* Based on past cost information, a governmental unit determines an
4 average cost per unit of materials and labor for the installation of a best management practice
5 which may not be exceeded. A governmental unit may use its own experience, or information
6 obtained from the department or other sources, to estimate typical costs.

7 (b) *Range of costs.* Based on past cost information, a governmental unit establishes a cost
8 range for the installation of a best management practice. Eligible costs may not exceed the
9 maximum cost of the range. A governmental unit may use its own experience, or information
10 obtained from the department or other sources, to estimate typical costs.

11 (c) *Competitive bidding.* A governmental unit requires the landowner or land operator to
12 request bids from contractors for the installation of a best management practice. The cost-share
13 payment shall be calculated based on the lowest bid meeting acceptable qualifications. The
14 governmental unit shall identify criteria for determining acceptable qualifications. The
15 landowner or land operator may select a qualified contractor other than the low qualified bidder,
16 but shall contribute 100% of the difference between the bids.

17 **Note:** The department suggests the following bidding procedures:

- 18 • The governmental unit shows the proposed construction site to all prospective bidders on the
19 same day and at the same time.
- 20 • There are at least 3 qualified bidders.
- 21 • All bids are sealed and delivered by a bid deadline to a location specified by the
22 governmental unit.
- 23 • Bids are opened within 2 weeks after the bid deadline.
- 24 • The amount of the cost-share grant is based on the lowest qualified bid.
- 25 • The landowner or land operator selects a higher bidding contractor only if the landowner or
26 land operator agrees to pay the difference.
- 27 • The landowner or land operator may not select a contractor who did not bid.

1 (d) *Maximum cost-share limit.* A governmental unit or the department establishes a
2 maximum cost-share rate limit not to exceed the rates specified in ch. NR 154 for installation of
3 a best management practice.

4 (e) *Municipal work group.* A governmental unit hires or assigns its employees to install a
5 best management practice for landowners and land operators if the employees are able to
6 perform the work at a cost lower than the private sector.

7 (f) *Wisconsin conservation corps.* A governmental unit uses the Wisconsin conservation
8 corps to install best management practices for landowners and land operators.

9 (g) *Other cost containment procedures.* If a governmental unit determines another cost
10 containment procedure would be at least as or more effective than the cost containment
11 procedures described in this subsection, it shall include the alternative in the project application
12 and the department shall include the alternative in the runoff management grant agreement.

13 (2) The cost-containment procedures in this section shall be used to control the cost of in-
14 kind contributions, including the substantiated value of donated materials, equipment, services
15 and labor by landowners or land operators installing best management practices:

16 (a) All sources of local share donation shall be indicated in the project application
17 submitted under s. NR 153.17.

18 (b) The maximum value of donated labor may not exceed the prevailing local market
19 wage for equivalent work.

20 (c) The value of donated equipment may not exceed the equipment rates for highways
21 established by the Wisconsin department of transportation.

22 **Note:** The county highway rates for equipment are formulated under s. 84.07, Stats., and
23 can be found in chapter 5 of the State Highway Maintenance Manual published by the Wisconsin
24 Department of Transportation, 4802 Sheboygan Avenue, Madison, WI 53705.

25 (d) The value of donated materials and services may not exceed market rates and shall be
26 established by invoice.

27

1 **NR 153.24 Easements.** (1) Governmental units holding runoff management grants from
2 the department for a project awarded under this section may enter into easements with
3 landowners. Easements, including donated conservation easements, shall be acquired for
4 perpetuity. Funding for the easement shall be included in the project application submitted under
5 s. NR 153.17. In no instance shall funding for an easement under this section be required to
6 accomplish compliance with a performance standard.

7 (2) Easements may be used in conjunction with the following best management
8 practices:

9 (a) Critical area stabilization.

10 (b) Riparian buffer.

11 (c) Wetland restoration.

12 (d) Structural urban best management practices.

13 (e) Any other best management practice specified as eligible for easement support in an
14 approved runoff management grant.

15 (f) Animal lot relocation in conjunction with pars. (a) to (c), provided that written
16 approval of the governmental unit is obtained prior to easement acquisition, in accordance with
17 the requirements of ch. NR 154.

18 (3) (a) The maximum allowable state cost-share rate for the acquisition cost of easements
19 under this chapter shall be 70% of the acquisition cost of the easement, except that the maximum
20 allowable state cost-share shall be 50% when the purpose of the easement is to support a
21 structural urban best management practice.

22 (b) The maximum allowable state cost-share rate for appraisals for the acquisition of
23 property shall be 100% of the cost of the appraisal when a grant for the appraisal was first issued
24 by the department for this activity prior to July 1, 1998. When a grant for the appraisal was first
25 issued by the department for this activity after July 1, 1998, the maximum allowable state cost-
26 share rate for appraisals shall be 70%.

27 (c) Eligible acquisition costs include the fair market value of the property as determined
28 by department valuation guidelines and reasonable costs related to the purchase of the property

1 limited to the cost of appraisals, land surveys, relocation payments, title evidence costs,
2 recording fees, interest on installment payments with prior written approval of the department,
3 and the cost of environmental inspections and audits. It does not include attorneys fees,
4 environmental clean up costs, brokerage fees paid by the buyer, real estate transfer taxes or any
5 other cost not identified in this subsection.

6 (4) The department may authorize, in writing, any governmental unit, non-profit
7 organization or person to enter into easements or accept a donated conservation easement
8 consistent with the eligibility provision of the approved grant application and runoff management
9 grant in accordance with the following:

10 (a) Prior written department approval for the purchase of an easement shall be obtained if
11 the cost exceeds \$50,000.

12 (b) The value of an easement shall be based on a valuation procedure that has received
13 prior department approval. The department shall review and approve the appraisal.

14 (c) An easement acquired by a governmental unit, non-profit organization or person shall
15 be recorded in the register of deeds office in each of the counties in which the property subject to
16 the easement is located. The deed will vest title or a property interest in the governmental unit
17 and reference the interest of the state of Wisconsin in the property under the terms of the grant
18 contract.

19 (5) Upon acceptance of a donated easement under s. NR 154.03 (2) (c), the department
20 shall appraise the easement and issue a written opinion on the value or issue a statement of value
21 of the easement.

22 (6) The department may distribute grants and aids to itself for the purchase of easements
23 in a priority watershed area. In no instance shall the department be required to obtain an
24 easement from a landowner in order to accomplish compliance with a performance standard.

25
26 **NR 153.25 Property acquisition. (1) ELIGIBLE ACTIVITIES.** The department may
27 distribute grants to a governmental unit holding a runoff management grant agreement under s.
28 NR 153.21 to perform any of the following activities:

1 (a) Acquire land or an interest in land identified in the grant application for the
2 construction of a structural urban best management practice.

3 (b) Acquire land or an interest in land identified in the grant application, which is
4 contributing or will contribute nonpoint source pollution. In no instance shall funding for
5 property acquisition under this section be required to accomplish compliance with a performance
6 standard.

7 (c) Land acquisition for the purpose of complying with a notice of discharge under ch.
8 NR 243 is not eligible for cost sharing.

9 (2) ACQUISITION PROPOSALS. A governmental unit requesting runoff management
10 grant funds for the acquisition of property under this section shall submit an acquisition proposal
11 to the department for its review and approval. The acquisition proposal shall be submitted with
12 the runoff management grant application or grant amendment request. The acquisition proposal
13 shall include all of the following:

14 (a) A description of the purpose for acquiring the land and how the acquisition will meet
15 applicable goals of the project for which the grant is applied.

16 (b) A description of the land management plan for the property including a list of any
17 owner-occupants or tenants that occupy the buildings or land to be acquired, a general time
18 frame for project completion, and a description of how long-term management will be provided.
19 Identification of other governmental units that will be involved in management and their
20 respective roles shall also be included.

21 (c) A copy of the appropriate county, township, topographic and local land use planning
22 maps showing the proposed acquisition.

23 (d) An estimate of overall acquisition and annual maintenance costs, including the
24 number of parcels and acres to be acquired which notes the number of improved parcels
25 involved.

26 (e) A description of how the proposed acquisition complements other nonpoint source
27 pollution abatement program efforts.

28 (f) Other information the department may request.

1 **(3) GENERAL PROVISIONS.** (a) Governmental units shall acquire and manage
2 property acquired with a runoff management grant in accordance with all applicable local, state
3 and federal laws and regulations.

4 (b) After approval of the acquisition proposal and receipt of a grant from the department,
5 a governmental unit shall obtain an appraisal for each property.

6 1. All appraisals shall be subject to department review and approval in accordance with
7 the following procedure:

8 a. The governmental unit shall submit the appraisal to the department.

9 b. The department shall review and approve the appraisal.

10 c. After it has received approval from the department, the governmental unit may act on
11 the appraisal.

12 2. All appraisals shall be conducted by a certified or licensed appraiser as described in ch.
13 458, Stats., and chs. RL 80 to 86.

14 3. All acquisitions with a fair market value of more than \$200,000 shall require 2
15 appraisals. The department may require a second appraisal for property valued under \$200,000 if
16 the department finds that the property presents a difficult appraisal problem or if the first
17 appraisal is unacceptable.

18 (c) Property may be purchased only from willing sellers. The governmental unit shall
19 provide the seller with a just compensation statement, which identifies the fair market value of
20 the property, as determined by an appraiser meeting the requirements listed in par. (b) 2. and
21 which describes the benefits due to the seller in exchange for the transfer of the seller's property.

22 (d) If applicable, relocation plans shall be developed in accordance with ch. COMM 202.

23 (e) Property acquired with a runoff management grant shall be maintained and managed
24 in accordance with the provisions, conditions and scope description in the grant contract.

25 (f) A governmental unit may be allowed to acquire property prior to entering into a runoff
26 management grant agreement, provided that the governmental unit has received written approval
27 of the department prior to purchasing the targeted property. The governmental unit shall submit a
28 written statement to the department, which explains the special circumstances justifying the need

1 to acquire the property at that time. Prior to runoff management grant reimbursement for the
2 acquisition, the governmental unit shall establish the value of the property in accordance with
3 par. (b).

4 (g) The governmental unit shall record in the office of the register of deeds for each
5 county in which property is located the deed which vests title or a property interest in the
6 governmental unit and which references the interest of the state of Wisconsin in the property
7 under the terms of the grant contract.

8 **(4) STATE COST-SHARE RATE.** (a) The maximum allowable state cost-share rate for
9 the acquisition of property under this chapter shall be the lesser of the following 2 amounts:

10 1. 50% of the acquisition cost of the property. In this subsection, "acquisition cost"
11 means the fair market value of the property as determined by department valuation guidelines
12 and reasonable costs related to the purchase of the property limited to the cost of appraisals, land
13 surveys, relocation payments, title evidence costs, recording fees, interest on installment
14 payments with prior written approval of the department and the cost of environmental
15 inspections and audits. It does not include attorneys fees, environmental clean up costs,
16 brokerage fees paid by the buyer, real estate transfer taxes or any other cost not identified in this
17 subsection.

18 2. 50% of the appraisal amount approved by the department.

19 (b) The maximum allowable state cost-share rate for appraisals for the acquisition of
20 property shall be 70% of the cost of the appraisal for acquisition projects added to grants after
21 June 30, 1998. The department may cost share up to 100% of the appraisal costs if the land
22 acquisition was added to the grant prior to July 1, 1998.

23 **(5) CRITERIA.** The department shall consider the following criteria when determining
24 whether to provide funding for the proposed acquisition:

25 (a) The degree to which the acquisition of the property would provide for the protection
26 or improvement of water quality.

1 (b) The degree to which the acquisition of the property would provide for protection or
2 improvement of other aspects of the natural ecosystem such as fish, wildlife, wetlands or natural
3 beauty.

4 (c) The degree to which the acquisition of the property would complement other
5 watershed management efforts.

6 (d) The level of financial support by the governmental unit.

7 (e) In cases where the acquisition will prevent further degradation of water quality, that
8 acquisition is cost-effective relative to the degree of threat of further degradation to the site.

9
10 **NR 153.26 Local assistance grant agreement. (1)** The local assistance grant agreement
11 is an agreement between the department and a state agency or governmental unit providing funds
12 for activities to carry out the tasks identified in a project selected for funding under this chapter.
13 A local assistance grant awarded under this section may be used for local project administration
14 and management activities or other activities determined by the department to satisfy the
15 requirements of s. 281.65 (4) (f), Stats. A local assistance grant may not be used for promotional
16 items, except for promotional items that are used for informational purposes, such as brochures
17 or videos.

18 (2) If the local assistance grant provides funding to accelerate implementation of best
19 management practices within a priority watershed project, the department shall require that the
20 funds be administered consistent with requirements of the approved priority watershed plan.

21 (3) All water tests that require laboratory analyses and which are part of the project shall
22 be analyzed by a laboratory certified in accordance with ch. NR 149. In the event there is no
23 certification available for the analyses to be conducted, the department shall approve the
24 selection of a laboratory.

25 (4) Any grant provided for funding of a project that includes acquisition of physical,
26 biological or chemical data may be conditioned to require implementation of a quality control
27 and quality assurance plan approved by the department. The methods and procedures to be used
28 in the project are subject to department approval.

1 (5) No local assistance grant may be made for a project under this chapter before the
2 project has been selected by the department

3 (6) The grantee shall apply for local assistance grant funds using the application process
4 under s. NR 153.17.

5 (7) If a governmental unit contracts with a government agency or person to provide field,
6 administrative, planning or other services to carry out activities of the local assistance grant
7 agreement, the contract shall be submitted to the department. Contracts greater than \$10,000
8 shall be submitted for review and approval prior to signing.

9 (8) GRANT ADJUSTMENTS. The grant amount may be reduced by the department if
10 the grantee has not met all conditions of the grant or grant amendment or has not expended all of
11 the awarded funds by the end of the project period or if the grantee fails to meet a schedule
12 included in the grant for interim work products. The grantee shall provide an estimate of
13 unexpended funds at the request of the department.

14
15 **NR 153.27 Procurement. (1) PROFITS.** Contractors for contracts under grants described
16 in this chapter may earn only fair and reasonable profits. Profits included in a formally
17 advertised, competitively bid, fixed price construction contract are presumed to be reasonable.

18 (2) RESPONSIBILITY. The governmental unit shall administer and successfully
19 complete activities for which grant assistance under this chapter is awarded in accordance with
20 sound business judgment and good administrative practice under state and local laws.

21 (3) GENERAL REQUIREMENTS FOR CONTRACTS. Contracts shall be all of the
22 following:

23 (a) Necessary for and directly related to the accomplishment of activities necessary for
24 the activity listed on the grant or grant amendment.

25 (b) In the form of a bilaterally executed written agreement for any professional services
26 or construction activities in excess of \$10,000.

27 (c) For monetary or in-kind consideration.

1 (4) FORCE ACCOUNT WORK. (a) A governmental unit shall secure prior written
2 approval from the department for use of the force account method in lieu of contracts for any
3 professional services or construction activities in excess of \$35,000.

4 (b) The department shall approve the use of force account work if the governmental unit
5 demonstrates to the department's satisfaction that the governmental unit has the necessary
6 competence required to accomplish the work and that the work can be accomplished more
7 economically by the use of the force account method.

8 (5) WISCONSIN CONSERVATION CORPS. Each governmental unit shall encourage
9 and use the Wisconsin conservation corps for appropriate projects to the greatest extent
10 practicable.

11
12 **NR 153.28 Grant reimbursement procedures. (1) RUNOFF MANAGEMENT**
13 **GRANT AGREEMENTS.** (a) State cost-share funds may be used to share in the actual cost
14 required for the installation of eligible best management practices identified in runoff
15 management grant agreements described in s. NR 153.21.

16 (b) Governmental units and state agencies shall comply with the following procedures
17 when requesting reimbursement:

18 1. Reimbursement requests shall be submitted on forms provided by the department.

19 **Note:** Reimbursement request forms may be obtained, at no charge, from the Bureau of
20 Community Financial Assistance, Department of Natural Resources, Box 7921 – CFA/8,
21 Madison, Wisconsin 53707.

22 2. All reimbursement requests shall be submitted to the department within the time frame
23 established in the grant agreement. Payments for reimbursement requests submitted after the
24 deadlines established in the grant agreement or grant amendment will be subject to the
25 availability of state funds and to financial commitments made to other grantees by the
26 department.

1 a. Final reimbursement requests for runoff management grants shall be submitted to the
2 department after the best management practice has been verified as properly installed and its cost
3 has been substantiated by the documentation required by the department.

4 b. The grantee may submit a reimbursement request for a partially installed best
5 management practice with approval from the department. In making its reimbursement decision,
6 the department shall consider the level of pollution control provided by the completed
7 component and the component's structural and functional relationship to other components of the
8 best management practice.

9 c. The department may deny reimbursement if a cost-share agreement or amendment is
10 not in accordance with the project application or the runoff management grant agreement.

11 **Note:** Cost-share calculation and practice verification forms may be obtained, at no
12 charge, from the Bureau of Community Financial Assistance, Department of Natural Resources,
13 Box 7921, Madison, Wisconsin 53707.

14 3. Progress reports required by the department shall accompany each reimbursement
15 request.

16 4. Reimbursements may not exceed the grant budget line for that practice, unless
17 amended.

18 5. Reimbursement may not be made in any amount that results in the combined state
19 share under s. 92.14, Stats., and this chapter exceeding the cost share rate required under s.
20 281.16 (3) (e), Stats.

21 6. The department, in the scope of the grant agreement or grant amendment, may further
22 specify eligible costs, reimbursement amounts and reimbursement filing deadlines.

23 7. Failure to submit reports on schedule may result in withholding of grant payments.

24 8. The department shall deny reimbursements requested for installed practices which are
25 not included in a cost-share agreement ratified by the department, or enumerated as a grantee-
26 installed practice on the grant agreement or grant amendment, or otherwise authorized by this
27 chapter. Reimbursement for local assistance expenses shall be limited to those activities
28 identified as a grant budget line item or specifically enumerated in the grant agreement scope.

1 **(2) LOCAL ASSISTANCE GRANT AGREEMENTS.** (a) State funds may be used to
2 share in the actual costs expended by the governmental unit for eligible activities identified in
3 local assistance grant agreements.

4 (b) Governmental units and state agencies shall comply with the reimbursement
5 procedures listed under sub. (1).

6 **(3) GENERAL PROVISIONS.** (a) Grant payments to a governmental unit or other
7 grantee under this chapter are contingent on the availability of funding.

8 (b) The department may remove an authorized activity from a grant if there has been
9 substantial nonperformance of the project work by the grantee or the grantee has not met the
10 conditions in the grant or grant amendment.

11 (c) The state share of any refunds, rebates, credits or other amounts that accrue to or are
12 received by the grantee for the project, and that are properly allocable to costs for which the
13 grantee has been paid under a grant, shall be paid to the department.

14 (d) The department shall pay the grantee the balance of the state share of the eligible
15 project costs after project completion, department approval of the request for payment which the
16 grantee has designated "final payment request" and department verification of the grantee's
17 compliance with all applicable requirements of this chapter and the grant agreement. The final
18 payment request shall be submitted by the grantee promptly after project completion. Prior to
19 final payment under the grant, the grantee shall execute an assignment to the department for the
20 state share of refunds, rebates, credits or other amounts properly allocable to costs for which the
21 grantee has been paid by the department under the grant. The grantee shall also execute a release
22 discharging the department, its officers, agents and employees from all liabilities, obligations and
23 claims arising out of the project work or under the grant, subject only to the exceptions specified
24 in the release.

25 (e) The department may withhold a grant payment if the department determines, in
26 writing, that a grantee has failed to comply with project objectives, grant or grant amendment
27 conditions or reporting requirements.

1 (f) The department shall withhold payment of, or otherwise recover, the amount of any
2 indebtedness to the department, unless the department determines that collection of the debt will
3 impair accomplishment of the project objectives and that continuation of the project is in the best
4 interest of the nonpoint source water pollution abatement program.

5
6 **NR 153.29 Records. (1) REQUIRED RECORDS.** Each governmental unit serving as a
7 runoff management grant grantee or as a cost-share agreement provider shall maintain a financial
8 management system which adequately provides for all of the following:

9 (a) Accurate, current and complete disclosure of payments to landowners, land operators,
10 contractors or municipalities including receipts, canceled checks, invoices and bills to support
11 payments made in the program in accordance with department reporting requirements in this
12 chapter and in the grant conditions. All records shall be in accordance with generally accepted
13 accounting principles and practices, consistently applied, regardless of the source of funds.

14 (b) Effective control over and accountability for all project funds and other assets.

15 (c) Comparison of actual costs with the grant amount on each grant.

16 (d) Procedures for determining the eligibility and allocability of installation expenses in
17 accordance with the cost containment requirements of s. NR 153.23 for all practices installed by
18 the landowner or land operator.

19 (e) Accounting records supported by source documentation including all of the following:

20 1. One separate project account for the total grant identified in the grant agreement
21 reflecting all receipts and expenditures of that grant.

22 2. Accounting records showing all receipts, encumbrances, expenditures and fund
23 balances.

24 3. A complete file for each cost-share agreement including the following documentation:

25 a. Approval of best management practices and cost-share amounts by the governmental
26 unit.

27 b. Cost-share agreement and cost-share agreement amendment forms.

28 c. Verification by the governmental unit official of proper installation.

1 d. Request for reimbursement by a landowner or land operator documenting costs
2 incurred directly or for in-kind contributions by the landowner or land operator. For management
3 practices funded jointly under this chapter and other sources, the request shall verify that funding
4 under this chapter is in accordance with s. NR 153.28 (1) (b) 5.

5 e. Evidence of payment for best management practice by a landowner or land operator
6 including copies of checks or receipts.

7 f. Verification of practice completion in accordance with the cost-share agreement
8 including amendments and approval of cost-share amounts by the governmental unit.

9 4. A duplicate copy of each reimbursement request submitted to the department.

10 (f) A systematic method to assure timely and appropriate resolution of audit findings and
11 recommendations by the department.

12 (g) A final accounting of project expenditures submitted to the department within 120
13 days of the completion of all project work.

14 (h) Records which relate to appeals, disputes or litigation on the settlement of claims
15 arising out of the performance of the project for which funds were awarded.

16 (i) Records which relate to costs or expenses of the project to which the department or
17 any of its duly authorized representatives has taken exception.

18 **(2) RECORD RETENTION.** (a) The governmental unit or its agent's records and the
19 records of contractors, including professional services contracts, shall be subject at all reasonable
20 times to inspection, copying and audit by the department or its agent.

21 (b) The governmental unit or its agent or contractors shall preserve and make all records
22 available to the department or its agent for whichever of the following is appropriate for their
23 grant situation:

24 1. For 3 years after the date of final settlement.

25 2. For a longer period if required by statute or contract.

26 3. For 3 years after the date of termination of a grant agreement. If a grant is partially
27 terminated, records shall be retained for a period of 3 years after the date of final settlement.

28 4. For 3 years after the date of settlement of any dispute.

1 5. Cost-share agreement records shall be kept for the duration of the operation and
2 maintenance period of the cost-share agreement with the longest operation and maintenance
3 period to enable the governmental unit to fulfill its responsibility under this chapter.

4 **(3) AUDITING.** (a) The department may perform, or cause to be performed, interim
5 audits on all grants.

6 (b) The department may conduct a final audit after the submission of the final payment
7 request. The department shall determine the time of the final audit. Any payments made prior to
8 the final audit are subject to adjustment based on the audit.

9 (c) All audits shall include review of fiscal accountability and consistency with grants or
10 grant amendments.

11 **(4) OPEN RECORDS REQUIREMENTS.** (a) All project-related records are subject to
12 the state's open records law.

13 (b) The grantee will keep any confidential information that is not subject to the open
14 records law, such as social security numbers that is required for income tax purposes for the cost-
15 share funding, safe from unauthorized access.

16
17 **NR 153.30 Project evaluation and reporting.** (1) Grantees shall report to the
18 department an annual accounting for accomplishments regarding its activities funded under the
19 grant.

20 (2) The department may require more frequent reports than those required under sub. (1)
21 from a grantee which document accomplishments regarding activities funded under the grant.

22 (3) The grantee shall submit a final report after project completion. At a minimum, the
23 report shall include project evaluation and monitoring information consistent with the
24 commitments made in the project application submitted under s. NR 153.17. The department
25 may require the grantee to submit other information in the final report.

1 **NR 153.31 Variances.** The department may approve in writing a variance from a
2 requirement of this chapter upon written request from the grantee if the department determines
3 that a variance is essential to effect necessary grant actions or water quality objectives and where
4 special circumstances make a variance in the best interest of the program. A grantee's written
5 variance request shall clearly explain the circumstances justifying the variance. Before approving
6 a variance, the department shall take into account factors such as good cause, circumstances
7 beyond the control of the grantee and financial hardship. The department may not grant
8 variances from statutory requirements.
9

10 **NR 153.32 Grant evaluation and enforcement. (1)** On an annual basis, the department
11 shall evaluate the progress of projects. During the evaluation, the department shall examine the
12 progress of the project toward project goals and water quality objectives specified in the grant
13 application, grant or grant amendment. Upon consulting with the project sponsor, the department
14 may take appropriate action to improve the progress of the project. Department action may
15 include, but is not limited to, more frequent project evaluation, the use of interim project goals,
16 changes to project funding, and the adoption of sanctions in sub. (2).

17 **(2)** The following sanctions may be imposed by the department for noncompliance with
18 the provisions of s. 281.65, Stats., this chapter or any grant agreement entered into or amended in
19 accordance with this chapter:

20 (a) The grant may be terminated or annulled under sub. (4).

21 (b) Project costs directly related to noncompliance may be declared ineligible.

22 (c) Up to 10% of the payment otherwise due the grantee may be withheld if the
23 conditions of par. (f) are met.

24 (d) Project work may be suspended under sub. (3).

25 (e) Other administrative or judicial remedies may be instituted as legally available and
26 appropriate.

27 (f) The department may authorize the withholding or recovery of a grant payment if the
28 department determines, in writing, that a grantee has failed to comply with project objectives,

1 grant award conditions or reporting requirements or has not expended all funds it has received
2 under this chapter on eligible activities. The department may recover payments made to grantees
3 when it determines that the governmental unit will not complete the eligible activities on its grant
4 within the current grant project budgeting period. Withholding and recovery shall be limited to
5 only that amount necessary to assure compliance.

6 (3) SUSPENSION OF GRANTS. (a) *Liability*. The department may suspend state
7 liability for work done under a grant after notification is given to the grantee in accordance with
8 this subsection. Suspension of state liability under a grant shall be accomplished by the issuance
9 of a "stop-work order."

10 (b) *Stop-work order issuance*. 1. The department may issue a stop-work order if there is a
11 breach of the grant or grant amendment.

12 2. Prior to the issuance of a stop-work order, the department shall meet with the grantee
13 to present the facts supporting a decision to issue a stop-work order.

14 3. After discussion of the department's proposed action with the grantee, the department
15 may issue a written order to the grantee, sent by certified mail, return receipt requested, requiring
16 the grantee to stop all, or any part of the project work for a period of not more than 45 days after
17 the order is delivered to the grantee, and for any extended period to which the parties may agree.

18 (c) *Stop-work order components*. A stop-work order shall contain all of the following:

- 19 1. A description of the work to be suspended.
- 20 2. Instructions for how the grantee may acquire materials or services.
- 21 3. Guidance for action to be taken on contracts.
- 22 4. Other suggestions to the grantee for minimizing costs.

23 (d) *Suspension period*. 1. Upon receipt of a stop-work order, the grantee shall comply
24 with its terms and take all reasonable steps to minimize the incurrence of costs allocable to work
25 covered by the stop-work order during the period of work stoppage.

26 2. Within the suspension period the department shall do one of the following:

- 27 a. Cancel the stop-work order, in full or in part.
- 28 b. Terminate grant assistance for the work covered by the stop-work order under par. (b).

1 c. Authorize resumption of work.

2 (e) *Stop-work order cancellation or expiration.* If a stop-work order is canceled or
3 expires, the grantee shall promptly resume the previously suspended work. An equitable
4 adjustment may be made to the grant period.

5 (f) *Ineligible costs during suspension period.* Costs incurred by the grantee or its
6 contractors, subcontractors or representatives, after a stop-work order is issued by the
7 department, which relate to the project work suspended by the order and which are not
8 authorized by this section or specifically authorized in writing by the department, are not eligible
9 for reimbursement.

10 (4) TERMINATION OF GRANTS. (a) A grant may be terminated or annulled in whole
11 or in part by the department in accordance with this subsection.

12 (b) The parties to a grant agreement may enter into an agreement to terminate the grant at
13 any time. The agreement shall establish the effective date of termination of the grant, the basis
14 for settlement of grant termination costs and the amount and date of payment of any money due
15 to either party.

16 (c) A grantee may not unilaterally terminate project work for which a grant has been
17 awarded except for good cause. The grantee shall notify the department in writing within 30 days
18 of any complete or partial termination of the project work. If the department determines that
19 there is good cause for the termination of all or any portion of a project for which a grant has
20 been awarded, the department may enter into a termination agreement or unilaterally terminate
21 the grant pursuant to par. (d). The grant termination becomes effective on the date the grantee
22 ceases project work. If the department determines that a grantee has ceased work on the project
23 without good cause, the department may unilaterally terminate the grant pursuant to par. (d) or
24 annul the grant pursuant to par. (e).

25 (d) The department in accordance with the following procedure may terminate grants:

26 1. The department shall give 10 days written notice to the grantee of its intent to
27 terminate a grant in whole or in part. Notice of intent to terminate the grant shall be served on the
28 grantee personally or by certified mail, return receipt requested.

1 2. The department shall consult with the grantee prior to termination. Any notice of
2 termination shall be in writing and state the reasons for terminating the grant. Notices of
3 termination shall be served on the grantee personally or by certified mail, return receipt
4 requested.

5 (e) The department may annul a grant if any of the following occur:

6 1. There has been substantial nonperformance of the project work by the grantee without
7 good cause.

8 2. There is substantial evidence the grant was obtained by fraud.

9 3. There is substantial evidence of gross abuse or corrupt practices in the administration
10 of the grant or project.

11 4. The grantee has not met the conditions in the grant or grant amendment.

12 (f) Upon termination, the grantee shall refund or credit to the department that portion of
13 the grant funds paid or owed to the grantee and allocable to the terminated project work, except
14 an amount as may be required to meet commitments which became enforceable prior to the
15 termination. The grantee may not make any new commitments without department approval. The
16 grantee shall reduce the amount of outstanding commitments insofar as possible and report to the
17 department the uncommitted balance of funds awarded under the grant.

18 (g) Upon termination, all prospective department liability ceases.

19 (h) Upon annulment, the grant agreement is null and void and all department liability is
20 extinguished.

21 **(5) TERMINATION SETTLEMENT COSTS.** (a) The reasonable costs resulting from a
22 termination order, including a previously issued stop-work order on a project's work or grant, are
23 eligible in negotiating a termination settlement.

24 (b) The department shall negotiate appropriate termination settlement costs with the
25 grantee. The department shall pay reasonable settlement costs.

26 **(6) RESPONSIBILITIES OF GOVERNMENTAL UNITS.** Suspension or termination of
27 a grant or portion of grant under this section does not relieve the grantee of its responsibilities
28 under this chapter.

1 SECTION 2. Chapter NR 155 is created to read:

2
3 CHAPTER NR 155

4 URBAN NONPOINT SOURCE WATER POLLUTION ABATEMENT AND STORM
5 WATER MANAGEMENT GRANT PROGRAM

- 6
- 7 NR 155.10 Purpose
 - 8 NR 155.11 Applicability
 - 9 NR 155.12 Definitions
 - 10 NR 155.13 Eligible applicants
 - 11 NR 155.14 Eligible projects
 - 12 NR 155.15 Cost-sharing for urban best management practices
 - 13 NR 155.16 Aids for local assistance activities
 - 14 NR 155.17 Project application
 - 15 NR 155.18 Project screening
 - 16 NR 155.19 Project scoring
 - 17 NR 155.20 Project selection and funding
 - 18 NR 155.21 Runoff management grant agreement
 - 19 NR 155.22 Cost-share agreement
 - 20 NR 155.23 Cost containment
 - 21 NR 155.24 Easements
 - 22 NR 155.25 Property acquisition
 - 23 NR 155.26 Local assistance grant agreement
 - 24 NR 155.27 Procurement
 - 25 NR 155.28 Grant reimbursement procedures
 - 26 NR 155.29 Records
 - 27 NR 155.30 Project evaluation and reporting
 - 28 NR 155.31 Variances
 - 29 NR 155.32 Grant evaluation and enforcement

30

31 **NR 155.10 Purpose.** The purpose of this chapter is to establish administrative policies
32 and procedures for a competitive grant program to abate urban nonpoint source water pollution
33 and storm water runoff, as authorized by s. 281.66, Stats. This chapter promotes management of
34 urban runoff from existing urban areas, developing urban areas and areas of urban
35 redevelopment. The goal of urban runoff management in these areas is to achieve water quality
36 standards, minimize flooding, protect groundwater, coordinate urban nonpoint source

1 management activities with the municipal storm sewer discharge permit program authorized
2 under s. 283.33, Stats., and implement non-agricultural nonpoint source performance standards
3 authorized under s. 281.16 (2), Stats.

4
5 **NR 155.11 Applicability.** This chapter applies to all of the following when conducting
6 urban nonpoint source water pollution abatement and storm water management activities
7 authorized under s. 281.66, Stats.:

8 (1) The department, when acting to solicit, accept and score urban runoff project
9 applications and select urban runoff projects.

10 (2) The department when acting to administer grants and the grant program, including
11 when the department acts as the grantor of runoff management grant agreements and local
12 assistance grant agreements for urban runoff projects.

13 (3) Governmental units when acting to submit applications to the department for urban
14 runoff projects, receive grants from the department for urban runoff projects and serve as cost-
15 share providers to landowners and land operators in urban runoff projects.

16 (4) The board of regents, when acting as a grant applicant, runoff management grantee or
17 a local assistance grantee for urban runoff projects.

18 (5) Landowners and land operators when acting as cost-share recipients in urban runoff
19 projects.

20
21 **NR 155.12 Definitions.** In this chapter:

22 (1) "Applicant" means a governmental unit or board of regents when applying for a grant
23 under this chapter.

24 (2) "Board of regents" means the board of regents of the university of Wisconsin system.

25 (3) "Certification" means that an authorized representative has attested in writing that the
26 statement is true.

27 (4) "Cost-effective" means economical in terms of the tangible benefits produced by the
28 money spent. Tangible benefits include pollution control, fish and wildlife habitat enhancement,

1 enhancements to recreation, public safety, economical operation, economical maintenance and
2 enhanced life expectancy of the urban best management practice.

3 (5) "Cost-share agreement" means the agreement established between the governmental
4 unit and the cost-share recipient which identifies the urban best management practices to be used
5 on the cost-share recipient's lands and the cost estimate, installation schedule and operation and
6 maintenance requirements for these urban best management practices.

7 (6) "Department" means the Wisconsin department of natural resources.

8 (7) "Force account work" means the use of the governmental unit's or board of regent's
9 own employees and equipment for construction, construction related activities, or repair or
10 improvement to a urban best management practice.

11 (8) "Governmental unit" means any unit of government including, but not limited to, a
12 county, city, village, town, metropolitan sewerage district created under ss. 200.01 to 200.15 or
13 200.21 to 200.65, Stats., town sanitary district, public inland lake protection and rehabilitation
14 district, regional planning commission or drainage district operating under ch. 89, 1961 Stats., or
15 ch. 88, Stats. "Governmental unit" does not include the state or any state agency.

16 (9) "Grant period" means the time period during which a governmental unit or the board
17 of regents is eligible to incur eligible costs and obtain reimbursement from the department for a
18 project under a runoff management grant agreement or a local assistance grant agreement.

19 (10) "Grantee" means a governmental unit or the board of regents that receives funding
20 from the department under a runoff management grant agreement or a local assistance grant
21 agreement.

22 (11) "Grantor" means the department when serving to provide funds under this chapter to
23 a grantee.

24 (12) "Landowner" means any individual, partnership, corporation, municipality or person
25 holding title to land.

26 (13) "Land operator" means any individual, partnership, corporation, municipality or
27 person having possession of or holding a lease in land and is not a landowner.

1 **(14)** "Local assistance grant agreement" means an agreement between the department
2 and a governmental unit or the board of regents for the purpose of providing funds for staffing
3 activities to carry out the tasks identified in an urban runoff project selected for funding under
4 this chapter.

5 **(15)** "Local share" means that portion of the best management practice installation cost
6 funded under sources other than those authorized in s. 92.14, 281.65, 281.66 or 281.665.

7 **(16)** "Nonpoint source" means a land management activity which contributes to runoff,
8 seepage or percolation which adversely affects or threatens the quality of waters of this state and
9 which is not a point source under s. 283.01 (12), Stats.

10 **(17)** "Operation and maintenance period" means the length of time an urban best
11 management practice included on a cost-share agreement or a runoff management grant
12 agreement shall be operated and maintained.

13 **(18)** "Point source" has the meaning in s. 283.01 (12), Stats.

14 **(19)** "Population" means population shown by the last federal census or by subsequent
15 population estimate under s. 16.96, Stats.

16 **(20)** "Priority lake area" means a hydrologic unit which drains to a lake or group of lakes
17 and serves as the project boundary for watershed projects identified through the process in s.
18 281.65 (3m) (b), Stats., and implemented through the process in ch. NR 120.

19 **(21)** "Priority watershed" means any watershed that is identified under s. 281.65 (3) (am)
20 or 4 (cm) or (co).

21 **(22)** "Priority watershed plan" means the detailed portion of the area-wide water quality
22 management plans prepared for priority watersheds as described in s. NR 120.08.

23 **(23)** "Project" means an urban runoff project.

24 **(24)** "Project area" means the geographic extent of a targeted runoff management project.

25 **(25)** "Project completion" means the expiration date of a runoff management grant
26 agreement.

27 **(26)** "Provider" means a governmental unit when serving to administer cost-share funds
28 through a cost-share agreement with a private landowner or land operator.

1 (27) "Recipient" means the receiver of cost-share funds from a provider.

2 (28) "Runoff management grant agreement" means an agreement entered into between
3 the department and a governmental unit or the board of regents which establishes the terms under
4 which funds are provided by the department for the installation of urban best management
5 practices or the purchase of property or easements in an urban runoff project funded under this
6 chapter.

7 (29) "Source area" means a component of urban land use including rooftops, sidewalks,
8 driveways, parking lots, storage areas, streets and lawns from which urban runoff pollutants are
9 generated during periods of snow melt and rainfall runoff.

10 (30) "Structural urban best management practices" means detention basins, wet basins,
11 infiltration basins and trenches and wetland basins.

12 (31) "Urban area" means an area with a population density of 1,000 or more per square
13 mile, or an area of industrial or commercial land uses, or an area that is surrounded by an area
14 described in this definition.

15 (32) "Urban best management practice" means structural urban best management
16 practices and other source area measures, transport system and end-of-pipe measures designed to
17 control storm water runoff rates, volumes and discharge quality.

18 (33) "Urban runoff" means runoff from rainfall or snow melt that is either a point source
19 discharge as defined under s. 283.01 (12), Stats., or a nonpoint source discharge as defined under
20 s. 281.65 (2) (b), Stats.

21 (34) "Watershed" means a region or area bounded peripherally by a divide and draining
22 ultimately to a water of the state.

23 (35) "Wetland" or "wetlands" has the meaning specified under s. 23.32 (1), Stats.

24 (36) "WPDES" means Wisconsin pollutant discharge elimination system.

25
26 **NR 155.13 Eligible applicants. (1)** A governmental unit is eligible to apply for and
27 receive a runoff management grant and local assistance grant administered under this chapter if
28 at least one of the following conditions is met:

1 (a) The grant application is for a local governmental unit having jurisdiction over the
2 project area.

3 (b) The grant application is for a local governmental unit not having jurisdiction over the
4 project area if both of the following conditions are met:

5 1. The local governmental unit is required to control storm water discharges under s.
6 283.33, Stats.

7 2. Inter-governmental agreements are in place, or will be put in place, as needed to assure
8 urban best management practices included on the grant are installed and maintained.

9 (2) The board of regents is eligible to apply for and receive a runoff management grant
10 and a local assistance grant administered under this chapter if all of the following conditions are
11 met:

12 (a) The grant is for practices, techniques or measures to control stormwater discharges on
13 a university of Wisconsin system campus, including the acquisition of property or easements as
14 required to install structural urban best management practices.

15 (b) The university of Wisconsin campus where the project is located is in a municipality
16 required to obtain a permit under s. 283.33, Stats.

17 (c) The municipality where the campus is located meets at least one of the following:

18 1. It is located in a priority watershed as defined in s. 281.65 (2) (c), Stats.

19 2. It is located in a priority lake area as defined in s. 281.65 (2) (bs), Stats.

20 3. It is located in an area identified as an area of concern by the international joint
21 commission as defined in s. 281.35 (1) (h), Stats., under the great lakes water quality agreement.

22 **Note:** A landowner or land operator that is not a governmental unit or the board of
23 regents may not apply directly to the department for a runoff management or local assistance
24 grant. However, a landowner or land operator may enter into a cost-share agreement with a
25 governmental unit to receive grant funds awarded by the department to the governmental unit.

26 **NR 155.14 Eligible projects.** (1) An eligible project is that specified in the scope of a
27 runoff management grant agreement developed in accordance with s. NR 155.21 or in the scope

1 of a local assistance grant agreement developed in accordance with s. NR 155.26. A project
2 scope shall have a geographic component and a time component.

3 (a) The geographic component of the project scope may range from controlling pollution
4 from a single source on a property to controlling multiple pollution sources within a specified
5 drainage area.

6 (b) The time component of the project scope may last up to 2 years. The department may
7 grant an extension of up to one year in accordance with s. NR 155.21 (2). Multiple projects can
8 be conducted consecutively or simultaneously in the same project area.

9 (2) The department may provide a runoff management grant under s. NR 155.21 for a
10 project to design and install urban best management practices, stream bank stabilization projects
11 or shoreline stabilization projects necessary to control pollution. The department may provide a
12 runoff management grant only if all of the following apply:

13 (a) The project application submitted under s. NR 155.17 specifies the watershed, sub-
14 watershed or specific site that will be served by the project.

15 (b) The project is consistent with priorities identified by the department on a watershed or
16 other geographic basis.

17 (c) The project is consistent with non-agricultural performance standards under subchs.
18 III and IV of ch. NR 151.

19 (d) The project is in an urban area.

20 1. For purposes of administering this paragraph, the department shall use the criteria
21 under s. NR 155.17 (2) (b) 3. to determine whether an area is urban based on population density
22 and the criteria under s. NR 155.15 (1) (b) 3. to 6. to determine if an area is an eligible
23 commercial or industrial land use.

24 2. The department may waive the requirement in this paragraph for grants made to the
25 board of regents.

26 (e) The governmental unit with jurisdiction over the project area ensures, in accordance
27 with s. NR 155.17 (2) (b) 4. adequate implementation of construction site pollution control, and

1 of storm water management after development, for development and redevelopment of sites of
2 one or more acres.

3 (3) The department may award a local assistance grant in accordance with s. NR 155.16
4 (1) or 155.26 for an urban runoff project in an urban area and for projects in areas that are
5 expected to become an urban area within 20 years. For purposes of administering this
6 subsection, the department shall use the criteria under s. NR 155.17 (2) (b) 3. to determine
7 whether an area is, or will become, urban based on population density and the criteria under s.
8 NR 155.15 (1) (b) 3. to 6. to determine if an area is an eligible commercial or industrial land use.
9 The department may waive the requirement that the project be in an urban area, or an area
10 projected to become an urban area, for grants made to the board of regents.

11
12 **NR 155.15 Cost sharing for urban best management practices. (1) ELIGIBLE**
13 **COSTS.** (a) The department may provide cost sharing for the construction of urban best
14 management practices to abate urban runoff. Design and construction services are included as
15 eligible components of the construction or implementation of the urban best management
16 practice.

17 (b) Urban best management practices are eligible for cost-sharing when used to:

18 1. Stabilize stream banks and shorelines in areas under subds. 2. to 7. as necessary to
19 filter or infiltrate urban runoff or to reduce sediment pollution caused by stream bank erosion.

20 2. Abate urban runoff from an area with a population of 1,000 or more per square mile.

21 3. Abate urban runoff from commercial land uses such as strip commercial, office parks,
22 shopping centers and downtown commercial.

23 4. Abate urban runoff from government, institutional, transportation and recreational land
24 uses where the land uses contain source areas that generate above average urban runoff volumes,
25 peak flows or pollutant loading.

26 5. Abate urban runoff from manufacturing and non-manufacturing industrial land uses
27 owned or operated by a governmental unit or the board of regents, including sites requiring
28 coverage under subch. II of ch. NR 216.

1 6. Abate urban runoff from industrial land uses that are not owned or operated by a
2 municipality or the board of regents, but only those source areas within these industrial land uses
3 that are not considered to be associated or contaminated by industrial activity, as defined under
4 subch. II of ch. NR 216.

5 7. Abate urban runoff from areas geographically surrounded by areas described in subds.
6 2. to 6.

7 (c) Eligible costs include land acquisition, easements, storm sewer rerouting and removal
8 of structures and associated flood management necessary to implement structural urban best
9 management practices.

10 (d) An urban best management practice shall be included in ch. NR 154 or be available in
11 accordance with the technical standards development and dissemination requirements of subch.
12 V of ch. NR 151 to be considered eligible for cost sharing under this chapter.

13 (e) An urban best management practice shall be constructed in accordance with
14 applicable technical standards and conditions identified in this chapter, ch. NR 154, in a
15 document identified or developed by a state agency in accordance with subch. V of ch. NR 151
16 or a runoff management grant agreement in order to be considered eligible for cost sharing under
17 this chapter.

18 (f) An urban best management practice shall be included as an eligible item for cost
19 sharing on a runoff management grant agreement, signed by the department and the
20 governmental unit or the board of regents in order to be considered eligible for cost sharing
21 under this chapter.

22 (g) If a cost-share agreement is required, the urban best management practice shall be
23 included as an eligible item on the cost-share agreement, signed by the governmental unit and a
24 landowner or land operator in order to be considered eligible for cost sharing under this chapter.

25 (h) Urban best management practice costs shall meet requirements for use of bond-
26 sourced funding to be eligible for funding from the appropriation under s. 20.866 (2) (th), Stats.

1 **(2) INELIGIBLE COSTS.** All of the following practices, sources and activities are
2 ineligible for cost sharing under this chapter unless approved by the department as part of a
3 demonstration project in accordance with sub. (3):

4 (a) The replacement cost of any urban best management practice that is designed to
5 achieve non-agricultural performance standards under subch. III or IV of ch. NR 151. The
6 department may make an exception for an urban best management practice if the urban best
7 management practice was constructed, and the design life of the urban best management practice
8 expired, prior to the effective date of this rule... [revisor insert date].

9 (b) Operation and maintenance of urban best management practices.

10 (c) Best management practices needed to control sources of urban runoff that were
11 adequately managed for the specific land use at the time the cost-share agreement or runoff
12 management grant agreement is signed, including management of a source in compliance with
13 performance standards, but that are producing an increased amount of pollutant loading to the
14 surface water or groundwater due to the landowner's or land operator's significant changes in
15 land management. Changes that the department may consider significant and ineligible for cost-
16 sharing include those that create an increase in the urban runoff counter to the water resource
17 objectives in an approved areawide water quality management plan, priority watershed or
18 priority lake plan, county land and water resources management plan or performance standard
19 for the area. In this paragraph, "approved areawide water quality management plan" means a
20 plan, which has been adopted pursuant to ch. NR 121.

21 (d) Urban best management practice installation, started prior to the signing of a runoff
22 management grant and, when required, a cost-share agreement. This paragraph does not preclude
23 the department from providing reimbursement for structural best management practice design
24 work commenced or completed prior to signing the runoff management grant agreement and the
25 cost-share agreement, provided that practice construction is commenced prior to reimbursement.

26 (e) Activities covered by the WPDES permit program including those identified in chs.
27 NR 200 to 299, except for municipal activities identified in sub. (1) carried out by the
28 municipality to comply with municipal storm water permitting requirements under ch. NR 216.

1 (f) Activities required as part of or as a condition of a license for a solid waste
2 management site.

3 (g) Urban best management practices associated with new construction or new
4 development.

5 1. The department may consider redevelopment of an existing urban land use to be either
6 existing development or new development for purposes of this paragraph.

7 2. In making its determination, the department shall consider the type of land cover
8 within and adjacent to the redevelopment and the areal extent of the redevelopment.

9 (h) Pollutant control measures needed during construction of highways and bridges.

10 (i) Installing, operating and repairing a small-scale on-site human domestic waste
11 facility.

12 (j) Dredging of harbors, lakes, rivers and ditches.

13 (k) Installing dams, pipes, conveyance systems and urban best management practices,
14 including storm sewer rerouting and land acquisition for structural urban best management
15 practices, when intended solely for flood control. In this subsection, "dam" means any artificial
16 barrier in or across a waterway, which has the primary purpose of impounding or diverting
17 water. A dam includes all appurtenant works, such as a dike, canal or powerhouse.

18 (L) Practices whose purpose is to accelerate or increase the drainage of land or wetlands,
19 except where drainage is required as a component of an urban best management practice.

20 (m) Practices to control spills from commercial bulk storage of pesticides, fertilizers,
21 petroleum and similar materials required by chs. ATCP 32 and 33 or other administrative rules.

22 (n) Practices to be fully funded through other programs.

23 (o) Practices previously installed and necessary to support cost-shared practices.

24 (p) Urban best management practices located outside an eligible geographic area.

25 (q) Activities funded through state or federal grants for wastewater treatment plants.

26 (r) Active mining activities.

27 (s) Urban best management practices that do not meet the eligibility criteria under sub.

28 (1).

1 (t) Costs that another governmental unit is also reimbursing.

2 (u) Other practices, which the department determines, are not necessary to achieve the
3 objectives of the project.

4 (3) DEMONSTRATION PROJECTS. (a) The department may allow cost sharing for
5 items identified under sub. (2) if necessary to implement a demonstration project. The
6 department shall require demonstration projects to meet all of the following criteria to be
7 considered eligible for cost sharing under this subsection:

8 1. The project shall be selected according to the process identified in s. NR 155.20.

9 2. The project shall be determined by the department to have statewide or regional
10 significance and shall be designed to provide results that are transferable to other locations
11 within the state. This includes projects that demonstrate traditional or innovative management
12 measures or urban best management practices needed in order to increase acceptance, use and
13 understanding of cost-effectiveness, including pollutant control capability.

14 3. The project shall have an approved strategy for developing and disseminating
15 information and education materials explaining the project and its management implications.

16 (b) The department may consult with the university of Wisconsin-extension or its agent
17 in considering demonstration project proposals.

18 (4) COST-SHARE RATES AND COST-SHARE CONDITIONS. Cost-share rates and
19 cost-share conditions identified in ch. NR 154 or the runoff management grant agreement shall
20 be used for urban best management practices funded under this chapter.

21 (5) COST-EFFECTIVENESS. The state cost-sharing amount shall be the total cost of an
22 eligible practice multiplied by the cost-share rate, unless otherwise provided for in this chapter or
23 in ch. NR 154. Where 2 or more practices are of equal effectiveness in reducing pollutants, the
24 amount of cost sharing shall be based on the least cost practice.

25 (6) INTERIM BEST MANAGEMENT PRACTICES AND ALTERNATIVE DESIGN
26 CRITERIA. (a) *Purpose.* The purpose of this subsection is to provide for the use of best
27 management practices, management measures, design criteria or standards and specifications that
28 are not included in ch. NR 154 but that will contribute to achieving water quality goals.

1 (b) *Requirements.* The department may consider eligible for cost sharing best
2 management practices, management measures, design criteria or standards and specifications
3 other than those included in ch. NR 154 provided that all of the conditions in this paragraph are
4 met.

5 1. The practices, design criteria, standards or specifications developed under this
6 subsection may not be applied for the purpose of meeting a non-agricultural or transportation
7 performance standard identified in ch. NR 151.

8 **Note:** Development of urban practices, design criteria and standards for compliance with
9 non-agricultural performance standards must be in accordance with subch. V of ch. NR 151.

10 2. The applicant shall justify all of the following:

11 a. That the practices, design criteria, standards or specifications are necessary to meet the
12 water quality objectives of the project.

13 b. That the practice is a cost-effective means of preventing or reducing pollutants.

14 c. That the practice does not have an adverse impact on fish and wildlife habitat.

15 3. The department shall identify the best management practice, design criteria, standards,
16 specifications, operation and maintenance period, cost-share rates and cost-share conditions in
17 the runoff management grant agreement.

18 (c) *Time period.* Department approval to use a practice, measure, standard or
19 specification not included in ch. NR 154 shall be for a limited period of time, which the
20 department shall specify. After the specified time period has expired, the department will either
21 discontinue the approved use of the interim measures or adopt the measures in ch. NR 154.

22
23 **NR 155.16 Aids for local assistance activities. (1) ELIGIBLE COSTS. (a)**

24 The department may provide cost sharing under s. NR 155.26 for activities in projects selected
25 by the department under this chapter that are in an urban area or area expected to become urban
26 within 20 years of the application submittal date.

27 (b) The cost-share rates for eligible activities in par. (c) may not exceed 70% of the cost
28 of the activities.

1 (c) The activities identified in this paragraph are eligible for cost sharing if additional
2 staff are hired or retained under contract to perform the project activities, or if a professional
3 services contract is developed and implemented to complete the activities.

4 1. Urban runoff control planning activities, for all or part of a municipality or university
5 of Wisconsin system campus identified in s. NR 155.13 (2). Activities include:

6 a. Developing comprehensive urban runoff control plans for development, new
7 development and redevelopment including planning, pre-design and general engineering
8 feasibility studies. Plans for existing development include urban runoff control planning for
9 urban areas, plans for illicit discharge detection, pollution prevention and good housekeeping for
10 municipal, university or facility operations.

11 b. Preparing local ordinances including urban runoff control ordinances, construction
12 site erosion control ordinances, pet waste management ordinances, illicit discharge management
13 ordinances and other environmental resource conservation ordinances that the department
14 determines can further the intent of this chapter.

15 c. Evaluating alternatives for local financing of urban runoff control programs,
16 including storm water utilities.

17 d. Other urban runoff control planning activities determined by the department to further
18 the intent of this chapter.

19 2. Urban runoff control implementation activities, to include:

20 a. Administering and enforcing local ordinances including construction site erosion
21 control ordinances, urban runoff control ordinances and other environmental resource
22 conservation ordinances that the department determines can further the intent of this chapter.
23 The department may reduce the amount of cost sharing to reflect the actual or anticipated
24 collection of local revenues.

25 b. Administration associated with initial establishment of local funding programs such
26 as storm water utilities.

27 c. Conducting engineering designs and detailed site engineering feasibility studies for
28 projects in existing urban areas and areas of urban redevelopment. The department may include

1 engineering designs and detailed engineering feasibility studies for projects in new development
2 for practices to be owned and operated by a governmental unit or the board of regents.

3 d. Construction services attendant to practice installation and certification.

4 e. Administration of easements.

5 f. Costs of appraisals for land acquisition.

6 g. Contacting landowners and land operators of urban runoff sources described in the
7 project.

8 h. Developing, reviewing and implementing cost-share agreements with the cost-share
9 recipient.

10 i. Illicit discharge detection and elimination.

11 j. Pollution prevention and good housekeeping measures for municipal facilities or
12 operations.

13 k. Project evaluation activities identified in the project application and required by the
14 runoff management grant agreement, including monitoring.

15 L. Other storm water management implementation activities determined by the
16 department to be necessary to implement the project.

17 3. Fiscal management and project costs associated with administering cost-share
18 agreements and local assistance grant agreements.

19 4. Public participation, education and outreach activities to include:

20 a. Forming partnerships to cost-effectively manage urban runoff.

21 b. Preparing and using educational materials and strategies.

22 c. Developing and conducting demonstrations, tours and activities that incorporate citizen
23 involvement.

24 d. Other education activities determined by the department to be necessary to implement
25 the project.

26 5. Professional services contracts for necessary activities the grantee lacks expertise or
27 staff to complete.

28 (d) The following staff support costs are eligible for cost-sharing, including:

- 1 1. Information and education activities approved by the department.
- 2 2. Training of staff approved by the department.
- 3 3. The governmental unit or board of regent's share of the single audit costs.
- 4 4. The cost of testing materials for use in urban best management practice design,
- 5 installation or operation or in project evaluation, including monitoring.
- 6 5. Travel expenses including personal vehicle mileage charges, meals, lodging and other
- 7 reasonable travel expenses necessary to the project.
- 8 6. The cost of office space required for the project prorated based on percent use on the
- 9 project.
- 10 7. The cost of recording a cost-share agreement with the county register of deeds.
- 11 8. Field equipment necessary for the project.
- 12 9. Office supplies including paper, copies, printing and postage, necessary to support staff
- 13 and the project.
- 14 10. Other direct costs necessary for the project and approved by the department.

15 (e) The participating governmental unit and board of regents shall complete time sheets
16 which shall track hours spent on the project by all staff hired to conduct the project. Hours of
17 staff retained under contract shall be accounted for as specified under the terms of the contract.

18 (f) Hours of staff hired to conduct the project may not be accrued or carried over to a
19 subsequent calendar year. Hours of staff retained under contract may be carried over to a
20 subsequent calendar year with prior approval by the department.

21 **(2) INELIGIBLE COSTS.** The following costs are not eligible for funding under this
22 section:

- 23 (a) Direct costs for other items not listed as eligible for up to 70% cost-sharing.
- 24 (b) Indirect project costs.

25
26 **NR 155.17 Project application. (1) APPLICATION PROCESS.** (a) Subject to the
27 availability of funds, the department shall:

1 1. Solicit applications for projects to be funded under this chapter by providing public
2 notice that application materials are available upon request.

3 2. Distribute to any potential applicant that requests it a copy of the application,
4 instructions for completing the application and guidelines that the department will use to score
5 project applications.

6 (b) A governmental unit or the board of regents may request funding under this chapter
7 for one or more projects.

8 (c) Applicants shall submit completed project applications to the department in order to
9 be considered for funding in the following calendar year. The department shall establish the
10 deadline for project application and shall include the deadline in the application materials.

11 **(2) REQUIRED INFORMATION.** An applicant shall submit all of the information
12 required by this subsection to be considered for funding under this chapter

13 (a) Administrative information required by the department to administer the grant
14 request. Administrative information shall include all of the following unless otherwise exempted
15 in this section:

16 1. Applicant name.

17 2. Name and title of authorized representative.

18 3. Contact name and telephone.

19 4. Type of governmental unit and applicant address.

20 5. Applicant's signature.

21 6. Project scope.

22 7. Other information that the department determines necessary to process the application.

23 (b) Screening information required by the department to determine whether the proposed
24 project complies with basic program and statutory funding requirements. This information shall
25 include all of the following unless otherwise exempted in this section:

26 1. Certification that the project meets the eligibility requirements of s. NR 155.14 (2).

27 2. A map of the project area showing the watershed, subwatershed or specific site to be
28 served by the project. The map shall be accompanied by information the applicant is aware of

1 that concerns endangered, threatened or wetland resources, historic properties or historic places
2 contained in the project area or potentially affected by the project.

3 3. For a project to be funded with a cost-sharing grant, documentation that the project is
4 in an urban area. For a project to be funded with a local assistance grant, documentation that the
5 project area is in an urban area or an area expected to become urban within 20 years of the
6 application date. In determining if a project area is, or will become urban:

7 a. Existing and projected population shall be the population shown by the last federal
8 census or by any subsequent population estimate under s. 16.96, Stats.

9 b. When the project covers part of a municipality or campus, such as a project for a urban
10 best management practice that serves a limited geographic area or an urban runoff control plan
11 for a limited area, the area over which the population density is calculated shall be limited, to the
12 extent allowed by the population data, to that included in the project area.

13 c. When the project covers substantially all of a municipality or campus, such as a project
14 for a comprehensive municipal urban runoff management plan, an information and education
15 program or a municipal ordinance, the area over which the population density is calculated shall
16 be the entire area within the municipal or campus boundary to the extent practical given existing
17 census data.

18 d. The department may waive the information requirement under this subdivision for
19 projects on a university of Wisconsin system campus meeting the requirements of s. NR 155.13
20 (2).

21 4. For projects to be funded with a cost-share grant, documentation that the applicant can
22 ensure adequate implementation of construction site pollution control, and of urban runoff
23 control after development, for development and redevelopment of project sites of one or more
24 acres within the municipality or campus. Information shall be submitted indicating the extent to
25 which the applicant can assure management of urban runoff from these sources. Information
26 includes:

27 a. Adoption, implementation and enforcement of local regulations for construction site
28 erosion control consistent with non-agricultural performance standards in s. NR 151.11.

1 **Note:** Chapter NR 152 contains a model ordinance to guide municipalities in developing
2 local regulations to control construction site erosion.

3 b. Adoption, implementation and enforcement of urban runoff control plans and
4 ordinances to control post-construction runoff from areas of new development and
5 redevelopment consistent with non-agricultural performance standards in s. NR 151.12.

6 **Note:** Chapter NR 152 contains a model ordinance to guide municipalities in developing
7 local regulations to control post-construction urban runoff from areas of new development and
8 redevelopment.

9 c. Adoption of municipal storm water plans or policies for developed urban areas
10 consistent with non-agricultural performance standards in s. NR 153.13.

11 5. A list of the urban best management practices for which funding is requested,
12 including easements or property acquisitions associated with any of these practices, and
13 identification of practice eligibility under s. NR 155.15.

14 6. Evidence that the proposed project is consistent with non-agricultural and
15 transportation performance standards contained in subchs. III and IV of ch. NR 151.

16 7. Evidence that inter-municipal agreements have been or will be executed when needed
17 to assure design, construction, operation and maintenance of urban runoff control implemented
18 cooperatively by multiple units of government or the board of regents.

19 8. A list of local assistance activities for which funding is requested and an identification
20 of eligibility under s. NR 155.16.

21 9. Certification that the activities listed on the application will be completed within the
22 allowable time period specified by the department in the application materials.

23 10. Certification that the applicant has made arrangements to provide the staff or contract
24 services necessary to implement the project.

25 11. Certification that staff and contractors designated for the project have adequate
26 training, knowledge and experience to implement the proposed project.

27 12. Other information that the department may require to screen the application for
28 compliance with minimum requirements.

1 (c) Scoring information required by the department to evaluate and rank the project.

2 Scoring information includes all of the following unless otherwise exempted in this section.

3 1. Fiscal accountability and cost-effectiveness information for the proposed project
4 including:

5 a. A work schedule.

6 b. A financial budget showing total costs.

7 c. All funding sources, including sources of in-kind local share donation as provided for
8 in s. NR 155.23(2).

9 d. Documentation of project cost-effectiveness.

10 2. A project evaluation and monitoring strategy including pre- and post-project
11 information concerning actual or potential changes in land use, changes in pollutant loading or
12 changes in chemical, physical or biological conditions of the water resources affected by the
13 project.

14 3. Evidence of local support and involvement including support from governmental units,
15 the board of regents, interest groups, landowners and land operators that need to implement
16 urban best management practices. Evidence of local involvement also includes a governmental
17 unit's continuous decision-making process which ensures participation by minority and low
18 income populations in affected areas, along with majority populations, to ensure that as an
19 outcome all people receive the benefits of a clean, healthy and sustainable environment
20 regardless of race, national origin or income.

21 4. The project priority in relation to other department water basin priorities, such as those
22 identified on priority lists established by the department or its basin partnership teams, or the
23 priority based on department statewide research needs relating to evaluation of urban runoff
24 control technologies.

25 5. The water quality need to be addressed by the project including impairment or threats
26 to water quality caused or contributed to by urban runoff in the area that will be addressed by the
27 project. The water quality need shall be related to one or more of the following categories:

1 a. Existence of impaired water bodies that the department has identified to the federal
2 environmental protection agency under 33 USC 1313 (d) (1) (A).

3 b. Existence of groundwater impairment due to nitrates or other compounds exceeding
4 the ground water enforcement standards.

5 c. Existence of surface waters identified in an areawide water quality management plan as
6 partially meeting designated uses.

7 d. Existence of surface waters where water quality is significantly threatened based on
8 changes in land use or evidence of declining water quality.

9 e. Existence of groundwater impairment due to nitrates or other compounds that are
10 greater than the preventive action limit but less than the enforcement standard.

11 f. Existence of high quality, recreationally significant waters, such as outstanding or
12 exceptional resource waters, where potential degradation is a concern but the water body is not
13 considered to be currently threatened.

14 g. Existence of waters that are neither high quality, recreationally significant nor
15 considered to be currently threatened but where urban runoff control is needed to prevent
16 eventual degradation.

17 h. Existence of waters used for public drinking water supplies where control of
18 contaminants is desired in the designated wellhead protection or source water protection area.

19 6. The extent of pollutant control to be achieved by the project, including the level of
20 knowledge concerning the amount of pollution control needed to achieve water quality goals and
21 the extent of pollution control that will be achieved in the project area.

22 7. Consistency between the project and other resource management plans such as urban
23 runoff control plans, land use plans, growth management plans, wellhead protection plans, lake
24 management plans, county land and water resource management plans and remedial action plans.

25 8. The use of other funding sources to supplement or reduce the state cost share provided
26 under this chapter, such as funding from federal, state, local and interest group sources or the
27 application of in-kind contributions to capital costs only.

1 9. The extent of local implementation programs in effect over the project area, including
2 information required to determine the project multiplier under s. NR 155.19 (4).

3 10. The way in which the proposed project will contribute to meeting storm water
4 requirements under ch. NR 216 for the city of Racine.

5 (d) Notwithstanding the application requirements of this subsection, the department may
6 establish modified requirements for applications submitted for funding for a project or activity
7 that meets all of the following:

8 1. The project or activity existed on a priority watershed or priority lake project grant
9 prior to January 1, 2000.

10 2. The department has a remaining contractual obligation to fund the project or activity.
11

12 **NR 155.18 Project screening.** (1) The department may deny consideration of
13 applications that are incomplete by the submittal deadline. The department may consider an
14 application incomplete if the project proposal requires significant additional review to determine
15 compliance with other state laws and the department determines that such reviews may
16 significantly delay the project. State laws that the department may consider in determining if the
17 application is incomplete include those to protect navigable waters, wetlands, historic places,
18 historic properties, endangered resources or threatened resources.

19 (2) The department shall screen each completed project application to determine if the
20 project meets basic eligibility criteria for funding under this chapter. The department shall use
21 the information required in s. NR 155.17 (2) (b) to make this determination.

22 (3) Notwithstanding sub. (2), the department may provide funding for projects or
23 activities that meet all of the following:

24 (a) The project or activity existed on a priority watershed or priority lake project grant
25 prior to January 1, 2000.

26 (b) The department has a remaining contractual obligation to fund the project or activity.
27

1 **NR 155.19 Project scoring. (1) SCORING PROCEDURE.** The department shall use the
2 procedure in this subsection to score each project that passes the eligibility screening under s. NR
3 155.18.

4 (a) The department shall develop an initial project score using the information submitted
5 by the applicant under s. NR 155.17 (2) (c) and detailed scoring guidelines developed by the
6 department. The department shall develop and maintain detailed scoring guidelines in
7 accordance with sub. (2).

8 (b) The department shall evaluate the initial project component sub-score for each
9 element of the project to determine if the project has overall viability. The department shall
10 determine viability of the project in accordance with sub. (3). Projects considered to be non-
11 viable shall be removed from further consideration.

12 (c) The department shall multiply the initial project score by a factor based on local
13 implementation capability to determine the final project score. The department shall determine
14 the local implementation factor in accordance with sub. (4).

15 **(2) INITIAL PROJECT SCORE.** (a) The department shall develop guidelines to assure
16 consistent and fair scoring of project applications. The department shall revise the guidelines
17 periodically as necessary to assure that project selections are consistent with priorities in s.
18 281.66, Stats. The department may convene an advisory committee to assist itself in developing
19 and revising the scoring guidelines.

20 (b) Guidelines for developing initial project scores shall be consistent with all of the
21 following:

22 1. Sub-scores shall be developed for key project components. Key components include
23 all of the following:

- 24 a. Fiscal accountability and cost-effectiveness.
- 25 b. Project evaluation and monitoring strategy.
- 26 c. Evidence of local support and involvement.
- 27 d. Consistency with department water basin priorities.
- 28 e. Water quality need.

- 1 f. Extent of pollutant control.
- 2 g. Consistency of project with other resource management plans.
- 3 h. Use of other funding sources.
- 4 i. Application of the project to storm water requirements for the city of Racine.

5 2. The project component for water quality need shall be assigned the highest sub-score.
6 The priorities within this sub-score component shall address the list of water quality needs in s.
7 NR 155.17 (2) (c) 5. The highest priority within this list shall be assigned to water quality need
8 that is based on the existence of impaired water bodies that the department has identified to the
9 federal environmental protection agency under 33 USC 1313 (d) (1) (A).

10 3. The intent to achieve performance standards contained in ch. NR 151 shall be
11 considered as a criterion for evaluating at least one of the key project components listed in subd.
12 1., and shall be the highest priority in developing that component sub-score.

13 4. The component sub-score related to application of the project to municipal storm water
14 permit requirements under ch. NR 216 for the city of Racine shall be assigned the lowest sub-
15 score.

16 5. The initial project score for a project shall be the sum of the project's component sub-
17 scores.

18 **(3) MINIMUM QUALIFYING SCORE REQUIREMENTS.** (a) The department shall
19 identify minimum qualifying component sub-score requirements to determine viable projects for
20 further consideration.

21 (b) The department shall consider minimum qualifying component sub-score
22 requirements for the following project components:

- 23 1. Fiscal accountability and cost effectiveness.
- 24 2. Project evaluation and monitoring strategy.
- 25 3. Local support and involvement.
- 26 4. Consistency with department water basin priorities.

27 **(4) MULTIPLIERS FOR LOCAL IMPLEMENTATION PROGRAMS.** (a) The
28 department shall increase the initial project score in accordance with this subsection if there is a

1 local implementation program applicable to the project area. The result shall be the final project
2 score.

3 (b) The department shall increase the initial project score in accordance with the
4 following:

5 1. The department shall multiply the initial project score by a factor of 1.1 if the applicant
6 certifies to the department that it has a qualifying local implementation program in effect for the
7 project area.

8 a. The applicant may certify that it has a qualifying local implementation program if it
9 develops and implements a program to conduct the activities in this subd. 1. b. to d.

10 b. Implement a pollution prevention information and education program targeted for
11 property owners and other residents.

12 c. Implement nutrient management for properties owned by the municipality or the board
13 of regents.

14 d. Implement tracking and reporting to the department on construction site erosion and
15 storm water management permit activity.

16 (c) The department may not increase the score of an urban project located in an area
17 where a local implementation program does not meet the requirements under par. (b). In this
18 case, the interim score shall be the final project score.

19 (d) Notwithstanding the scoring system in this section, the department may assign
20 maximum total points to any project application that meets the criteria in subd. 1. or 2.

21 1. The project meets all of the following criteria:

22 a. The project or activity existed on a priority watershed or priority lake project grant
23 prior to January 1, 2000.

24 b. The department has a remaining contractual obligation to fund the project or activity.

25 2. The urban runoff pollution to be controlled through the project poses an imminent
26 threat to public health or fish and aquatic life.

27