

1 **ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD**
2 **REPEALING AND RECREATING RULES**

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4 The Natural Resources Board proposes an order to repeal and recreate ch. NR 120
5 relating to the priority watershed management program

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7 WT-7-00

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9 Analysis Prepared by Department of Natural Resources

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11 Statutory authority: ss. 227.11 and 281.65(4)(e), Stats.

12 Statutes interpreted: s. 281.65, Stats.

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14 The department administers the Nonpoint Source Water Pollution Abatement Grant
15 Program under existing ch. NR 120.

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17 Chapter NR 120 is being repealed and recreated in response to 1997 Wisconsin Act 27
18 and 1999 Wisconsin Act 9. These acts require changes to the department's nonpoint
19 source water pollution abatement program and to the department of agriculture, trade and
20 consumer protection's soil and water resources management program. Creation of these
21 rules is an integral part of promulgating a series of inter-related administrative rules to
22 implement a re-design of Wisconsin's nonpoint source programs as set forth in the
23 statutes. The rule actions included in the re-design effort are: repeal and recreation of
24 chapter NR 120, Priority Watershed and Priority Lake Program; creation of chapter NR
25 151, Runoff Management; creation of chapter NR 152, Model Ordinances for
26 Construction Site Erosion Control and Storm Water Management; creation of chapter NR
27 153, Targeted Runoff Management Grant Program; creation of chapter NR 154, Best
28 Management Practices and Cost-share Conditions; creation of chapter NR 155, Urban
29 Nonpoint Source Water Pollution Abatement and Storm Water Management Grant
30 Program; revision of chapter NR 216, Storm Water Discharge Permits and repeal and
31 recreation of chapter NR 243, Animal Feeding Operations. The department of
32 agriculture, trade and consumer protection is revising ATCP 50, Soil and Water Resource
33 Management, to incorporate changes in its programs.

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36 Chapter NR 120 as recreated contains changes in three main areas including scope of the
37 chapter, cost share administration and critical sites administration.

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39 Scope of Chapter NR 120

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41 Chapter NR 120, as recreated, would be reduced in scope from the existing chapter.

- 42
43 • The process for selecting priority watershed and priority lake projects has been
44 eliminated entirely, pursuant to s. 281.65(3m), Stats.
45 • The focus of chapter NR 120 is to administer cost-sharing for rural best management
46 practices in priority watershed projects. The department of agriculture, trade and

1 consumer protection under chapter ATCP 50 will administer rural local assistance
2 grants for priority watershed projects. Urban municipalities in priority watershed
3 projects will be able to seek grant funds under chs. NR 153 and NR 155. In limited
4 situations, an urban municipality may also be able to receive assistance from counties
5 that are receiving grants under ch. NR 120.
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8 Cost Share Administration

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10 There are several key differences. Nonpoint source grant periods are increased,
11 procedures by which the department will recover un-used grant funds are clarified,
12 economic hardship provisions are modified pursuant to state statute, provisions allowing
13 counties to increase the state cost share rate by providing a county match are eliminated
14 pursuant to state statute and provisions requiring counties to cover 100% of cost share
15 payments made in excess of those authorized by the department are added pursuant to
16 state statute. In addition, rural cost share rates have been adjusted to provide greater
17 consistency with cost share rates administered under chapter ATCP 50 and to assure that
18 at least 70% cost sharing is available so that the department can require landowner
19 compliance with agricultural performance standards. Minor changes have been made in
20 code provisions dealing with the following areas to reduce the burden of project
21 administration: recording cost share agreements; releasing landowners and operators
22 from cost- share agreements; department review and approval of cost share agreements
23 and single audit requirements.
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25 Critical Sites

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27 Changes have been made in the schedule requirements for critical site notification.
28 Additional time is allowed where grants are delayed or funding available from the state
29 for reimbursement is inadequate. A provision has been added requiring that a grantee
30 provide cost sharing to all critical sites out of the reimbursements it receives for the
31 priority watershed project from the department.
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38 SECTION 1. Chapter NR 120 is repealed and recreated to read:
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41 **Chapter NR 120**

42 **PRIORITY WATERSHED AND PRIORITY LAKE PROGRAM**

- 43 NR 120.01 Applicability; purpose.
44 NR 120.02 Definitions.
45 NR 120.03 Role of governmental units in watershed plan development.

- 1 NR 120.04 Role of citizen advisory committee.
- 2 NR 120.05 Responsibilities of state agencies, governmental units and agents as cost-
- 3 share recipients.
- 4 NR 120.06 Incorporation of the department of agriculture, trade and consumer
- 5 protection's planning elements.
- 6 NR 120.08 Watershed plans.
- 7 NR 120.09 Notification and status of critical sites.
- 8 NR 120.12 Nonpoint source grant agreement.
- 9 NR 120.13 Cost-share agreement.
- 10 NR 120.14 Cost-share agreement conditions for best management practices.
- 11 NR 120.15 Interim best management practices and alternative design criteria.
- 12 NR 120.16 Ordinances.
- 13 NR 120.17 Cost-share eligibility.
- 14 NR 120.18 Cost-share rates.
- 15 NR 120.185 Easements.
- 16 NR 120.186 Property acquisition.
- 17 NR 120.19 Cost containment procedures.
- 18 NR 120.22 Interest earned on grant advances.
- 19 NR 120.23 Reimbursement procedures.
- 20 NR 120.24 Procurement.
- 21 NR 120.25 Record keeping and reporting requirements.
- 22 NR 120.26 Record retention and auditing.
- 23 NR 120.27 Suspension or termination of grant.
- 24 NR 120.28 Enforcement.
- 25 NR 120.29 Variances.
- 26 NR 120.30 Annual report.

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29 **Note:** The Wisconsin legislature established the nonpoint source water pollution
30 abatement program in 1978, recognizing both urban and rural nonpoint sources as
31 contributors to the degradation of Wisconsin's lakes, streams, groundwater and wetlands.
32 The department identified lakes, streams, groundwater and other water resources where
33 the uses of the waters were impaired or threatened by nonpoint sources; proposed
34 projects to the land and water conservation board to protect or rehabilitate beneficial uses
35 of the waters, and prepared plans in cooperation with governmental units identifying the
36 best means to achieve the protection or rehabilitation. The department of natural
37 resources has entered into nonpoint source grant agreements and local assistance grant
38 agreements with governmental units and state agencies in order to implement priority
39 watershed projects.

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1 The legislature restructured the nonpoint source program in 1997 and 1999, creating a
2 new targeted runoff management grant program under ch. NR 153 and a new urban
3 nonpoint source and stormwater grant program under ch. NR 155. The legislature also
4 instructed the department of natural resources in s. 281.16, Stats., to prescribe nonpoint
5 source performance standards. These performance standards are listed in ch. NR 151.

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7 The priority watershed and priority lake projects established prior to the legislative
8 restructuring of the program are governed by ch. NR 120 and ch. ATCP 50. Section
9 281.65, Stats., assigns overall responsibility for this water quality program to the
10 department of natural resources and assigns local administration and implementation
11 responsibilities to other governmental units. Chapter ATCP 50 contains policy and
12 procedures for DATCP to use to administer staffing grants to counties needed to operate
13 watershed projects. No new priority watershed or priority lake projects will be selected
14 under this chapter.

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17 **NR 120.01 Applicability; purpose. (1) APPLICABILITY.** For designated priority
18 watershed and priority lake projects, this chapter applies to governmental units and state
19 agencies when acting as nonpoint source grantees; to governmental units when acting as
20 cost-share agreement grantors; and to landowners, land operators and state agencies when
21 acting as cost-share recipients.

22 **(2) PURPOSE.** The purpose of this chapter is to establish the administrative
23 framework for the implementation of the state's priority watershed and priority lake
24 projects.

25 **Note:** This chapter is to administer existing and future grants for rural grantees
26 within priority watershed and priority lake projects. Urban grantees within priority
27 watershed and priority lake projects, formerly funded under this chapter, are now funded
28 under chs. NR 153 and 155. Local assistance grants for existing and future rural grantees
29 within priority watershed and priority lake projects, formerly funded under this chapter,
30 are now funded under ch. ATCP 50.

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1 **NR 120.02 Definitions.** In this chapter:

2 **(1)** “Anticipated cost-share reimbursement amount” or “ACRA” means the annual
3 amount of cost-sharing funds that a project sponsor may receive from the department for
4 a specific priority watershed or priority lake project under s. NR 120.12.

5 **(2)** "Best management practice" as defined in s. 281.65 (2)(a), Stats., means a
6 practice, technique or measure, except for dredging, which is determined to be an
7 effective means of preventing or reducing pollutants generated from nonpoint sources, or
8 from the sediments of inland lakes polluted by nonpoint sources, to a level compatible
9 with water quality objectives established under this chapter and which does not have an
10 adverse impact on fish and wildlife habitat. The practices, techniques or measures include
11 land acquisition, storm sewer rerouting and the removal of structures necessary to install
12 structural urban best management practices, facilities for the handling and treatment of
13 milkhouse wastewater, repair of fences built using grants under this chapter and measures
14 to prevent or reduce pollutants generated from mine tailings disposal sites for which the
15 department has not approved a plan of operation under s. 289.30, Stats.

16 **(3)** "Contiguous" means touching or sharing a common boundary with a second
17 parcel of land. A lake, river, stream, road, railroad or utility right of way which separates
18 any part of the parcel from any other part does not render the parcel of land
19 noncontiguous.

20 **(4)** "Core urban program activities" means those activities included in a discrete
21 set of nonstructural management measures, identified jointly by the department and the
22 governmental unit in the priority watershed or priority lake area plan, that are considered
23 to be the minimum acceptable level of storm water management.

24 **(5)** "Cost-effective" means economical in terms of the tangible benefits produced
25 by the money spent. Tangible benefits include pollution control, fish and wildlife habitat
26 enhancement, enhancements to recreation, public safety, economical operation,
27 economical maintenance and enhanced life expectancy of the best management practice.

28 **(6)** "Cost-share agreement" means the agreement established between the
29 governmental unit and the cost-share recipient which identifies the best management
30 practices to be used on the cost-share recipient's lands and the cost estimate, installation

1 schedule and operation and maintenance requirements for these best management
2 practices.

3 (7) "Critical sites" as described in s. 281.65 (4) (g) 8. am., Stats., means those
4 sites that are significant sources of nonpoint source pollution upon which best
5 management practices must be implemented in order to obtain a reasonable likelihood
6 that the water quality objectives established in the priority watershed or priority lake plan
7 can be achieved.

8 (8) "Dam" means any artificial barrier in or across a waterway which has the
9 primary purpose of impounding or diverting water. A dam includes all appurtenant
10 works, such as a dike, canal or powerhouse.

11 (9) "DATCP" means the Wisconsin department of agriculture, trade and
12 consumer protection.

13 (10) "Department" means the Wisconsin department of natural resources.

14 (11) "Designation of critical sites by criteria" means the description or means of
15 identifying critical sites in the plan of a priority watershed or priority lake which may
16 include estimations of pollutant contribution or other adverse impact on water quality.

17 (12) "Force account work" means the use of the governmental unit's own
18 employees or equipment for construction, construction related activities, or repair or
19 improvement to a best management practice.

20 (13) "Governmental unit" means any unit of government including, but not
21 limited to, a county, city, village, town, metropolitan sewerage district created under ss.
22 200.01 to 200.15 or 200.21 to 200.65, Stats., town sanitary district, public inland lake
23 protection and rehabilitation district, regional planning commission or drainage district
24 operating under ch. 89, 1961 Stats., or ch. 88, Stats. Governmental unit does not include
25 the state or any state agency.

26 (14) "Grant period" means the time period during which governmental units are
27 eligible to incur eligible costs and obtain departmental reimbursement for a watershed
28 project.

29 (15) "Integrated resource management plan" means a plan for managing,
30 protecting and enhancing ground and surface water quality which considers the
31 interrelationship of water quality and land and water resources.

1 **(16)** "Interim best management practice" means a practice, technique or measure
2 which is approved under s. NR 120.15 as an effective means of preventing or reducing
3 pollutants generated from nonpoint sources to a level compatible with water quality
4 objectives and which does not have an adverse impact on fish and wildlife habitat.

5 **(17)** "Land conservation committee" means the committee created by a county
6 board under s. 92.06, Stats. "Land conservation committee" includes employees or agents
7 of a county land conservation committee whom, with committee authorization, act on
8 behalf of the committee.

9 **(18)** "Landowner" means any individual, partnership, corporation, municipality or
10 person holding title to land.

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

14 **(20)** "Local share" means that portion of the best management practice installation
15 cost that is not authorized for funding under s. 92.14, 281.65 or 281.66, Stats.

16 **(21)** "Maximum storage capacity" means the volume of water in acre-feet capable
17 of being stored behind a dam at maximum water elevation before overtopping any part
18 that is not part of the spillway system.

19 **(22)** "Milking center wastes" means all wastewater, cleaning ingredients, waste
20 milk or other discharges from a milkhouse or milking parlor.

21 **(23)** "Municipal WPDES storm water discharge permit" means any permit issued
22 to a municipality by the department under s. 283.33 (1), Stats., for the purpose of
23 controlling storm water discharges owned or operated by a municipality.

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

27 **(25)** "Notification to landowner" means a certified letter sent by the department to
28 inform landowners that one or more sites under their ownership have been verified as
29 meeting the criteria for critical sites in accordance with the provisions of s. NR 120.09.

30 **(26)** "NRCS" means the natural resources conservation service of the U.S.
31 department of agriculture.

1 **(27)** "Operation and maintenance period" means the length of time a best
2 management practice shall be operated and maintained.

3 **(28)** "Period of cost-sharing availability for critical sites" means the 36 month
4 period identified in the notification of critical site designation to the landowner during
5 which cost-sharing at the maximum rate allowed under s. NR 120.18 is available.

6 **(29)** "Priority lake area" means a hydrologic unit which drains to a lake or group
7 of lakes and serves as the project boundary for watershed projects identified through the
8 process stated in s. 281.65 (3m) (b), Stats.

9 **(30)** "Priority watershed" means a watershed or lake area which the department
10 has identified through the continuing planning process under s. 283.83, Stats., and which
11 has been designated by the land and water conservation board under s. 281.65 (3m) (a),
12 Stats., as a watershed where the need for nonpoint source water pollution abatement is
13 most critical.

14 **(31)** "Priority watershed plan" means the detailed portion of the areawide water
15 quality management plan prepared for priority watersheds as described in s. NR 120.08.

16 **(32)** "Project completion" means the date on which a priority watershed project's
17 nonpoint source grant has expired.

18 **(33)** "Project sponsor" means the governmental unit or state agency applying for
19 and receiving grant assistance under s. 281.65, Stats., and this chapter.

20 **(34)** "Segmented urban program activities" means those individual structural and
21 non-structural management measures identified jointly by the department and the
22 governmental unit within the priority watershed or priority lake area plan that are
23 considered to be advanced storm water management activities.

24 **(35)** "Structural height" means the difference in elevation in feet between the
25 point of lowest elevation of a dam before over-topping and the lowest elevation of the
26 natural stream or lake bed at the downstream toe of the dam.

27 **(36)** "Structural urban best management practices" means detention basins, wet
28 basins, infiltration basins and trenches and wetland basins.

29 **(37)** "Technical guide" means Section IV of the Wisconsin natural resources
30 conservation service field office technical guide, published by the natural resources
31 conservation service of the U.S. department of agriculture.

1 **Note:** Copies of the technical guide are on file with the department, the secretary
2 of state, and the revisor of statutes. Copies of individual standards contained in the
3 technical guide may be obtained from the county land conservation committee or from a
4 field office of the U.S. department of agriculture, natural resources conservation service.

5 **(38)** "Urban best management practice" means a practice, technique or measure,
6 except for dredging, which is determined to be an effective means of preventing or
7 reducing urban runoff to a level compatible with water quality objectives established
8 under this chapter and which does not have an adverse impact on fish and wildlife
9 habitat. The practices, techniques or measures include source area, transport system and
10 end-of-pipe measures designed to control storm water runoff rates, volumes and
11 discharge quality, including structural urban best management practices and land
12 acquisition, storm sewer rerouting and the removal of structures necessary to install
13 structural urban best management practices.

14 **(39)** "Wetland" or "wetlands" has the meaning specified under s. 23.32 (1), Stats.
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16 **NR 120.03 Role of governmental units in watershed plan development.** A
17 governmental unit may prepare any portion of the watershed plan provided the
18 department and the governmental unit agree that the governmental unit has the
19 appropriate technical, financial and staffing capability. The governmental unit shall
20 prepare the elements of the watershed plan in accordance with s. NR 120.08(1)(b)1. This
21 requirement may be waived if the department and the governmental unit agree that
22 nonparticipation by the governmental unit will not impair the objectives of the watershed
23 plan.
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25 **NR 120.04 Role of citizen advisory committee.** The department, in cooperation
26 with governmental units, shall appoint a citizen advisory committee for each priority
27 watershed and priority lake project in accordance with s. 281.65 (4) (dr), Stats. The
28 citizen advisory committee shall advise the department, DATCP and governmental units
29 concerning all aspects of the planning and implementation program for their specific
30 priority watershed or priority lake project.
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1 **NR 120.05 Responsibilities of state agencies, governmental units and agents**
2 **as cost-share recipients.** Each state agency, unit of government or agent receiving cost-
3 sharing funds in a nonpoint source grant shall do all of the following:

4 (1) Provide the department with verification of proper installation, operation and
5 maintenance of best management practices for which it is the cost-share recipient.

6 (2) Prepare and maintain adequate fiscal management and technical assistance
7 files as described in ss. NR 120.25 and 120.26.

8 (3) Obtain prior written approval from the department for use of nonpoint source
9 grant funds for best management practices installed on land owned or operated by the
10 grantee.

11
12 **NR 120.06 Incorporation of the department of agriculture, trade and**
13 **consumer protection's planning elements.** (1) The department shall assist DATCP in
14 developing the following elements of priority watershed plans as described in s. 281.65
15 (5), Stats.:

16 (a) Proposed farm-specific implementation schedules for providing technical
17 assistance, contacting landowners, inspection and disbursement of grants on those farms
18 that are identified in the approved priority watershed plan.

19 (b) Proposed agriculturally related best management practices to achieve the
20 water quality objectives of the plan.

21 (c) Identification of those farms which are subject to ss. 92.104 and 92.105, Stats.

22 **Note:** All lands enrolled in the farmland preservation program subject to s.
23 92.105, Stats., are required to meet the mandatory T-value standard and other
24 discretionary soil and water conservation standards specified in ch. ATCP 50. A copy of
25 ch. ATCP 50 may be obtained, at no charge, from the Department of Agriculture, Trade
26 and Consumer Protection, P.O. Box 8911, Madison, WI 53708.

27 (2) The department shall assist DATCP and the county involved in a watershed
28 project in developing a proposed project management schedule for the installation of
29 agriculturally related best management practices.

30 (3) The department shall approve and incorporate the elements described in subs.
31 (1) and (2) into the priority watershed plan.

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NR 120.08 Watershed plans. (1) WATERSHED PLAN CONTENT. (a)

Watershed plan. In cooperation with DATCP and the appropriate governmental unit, the department shall prepare watershed plans for all priority watersheds. A participating governmental unit located within the priority watershed shall identify, in writing, a person to represent the unit of government during watershed plan preparation. The watershed plan shall consist of a watershed assessment, a detailed program for implementation, and a project evaluation strategy. Priority watersheds and priority lakes selected after August 12, 1993, shall have critical sites designated in the plan.

(b) *Watershed assessment.* The department, in cooperation with the appropriate governmental units, shall prepare a watershed assessment analyzing the water quality problems or threats to the water quality in the watershed's lakes, streams, wetlands and groundwater and which determines the nonpoint sources causing the problem or threat. The watershed assessment shall contain:

1. An identification of the water quality problems or threats to water quality including degradation of fish habitat and wetlands caused by nonpoint sources of pollution in the watershed.

2. An identification of water quality objectives to maintain and improve the quality of lakes, streams, wetlands and groundwater of the watershed.

3. An identification of target levels of pollutant control and resource protection necessary to meet the water quality objectives.

4. An identification and ranking of significant nonpoint source types and contributing areas.

5. A designation of critical sites listing their respective water quality problems or threats to water quality.

6. A listing of and an analysis of need for best management practices which will significantly aid in the achievement of the target level of pollution abatement.

7. An assessment of the need for the protection and enhancement of fish and wildlife habitat, endangered resources, aesthetics or other natural resources.

1 8. An analysis of the need for adoption of local ordinances for manure storage,
2 construction site erosion control and storm water management.

3 (c) *Detailed program for implementation.* 1. As required under s. 281.65 (6) (a),
4 Stats., governmental units except those waived under s. NR 120.03 shall prepare the
5 following portion of the detailed program for implementation including:

6 a. An estimate of costs for practice installation.

7 b. An information and education strategy.

8 c. A description of fiscal management procedures, including cost containment
9 procedures.

10 d. An estimate of technical assistance needs.

11 e. A grant disbursement and project management schedule.

12 f. An identification of those urban storm water control practices, techniques or
13 measures included in a municipal WPDES storm water permit for which the local
14 governmental unit may seek either local assistance or nonpoint source grant funding
15 through the priority watershed or priority lake project under ch. NR 153.

16 g. An identification of the state and local regulatory framework under which
17 erosion control activities shall be conducted.

18 h. An identification of those storm water management activities identified in the
19 watershed plan that shall be included as part of the core urban program for the local
20 governmental unit and funded under this chapter and ch. NR 153. Core urban program
21 activities may include: information and education activities; development,
22 implementation and enforcement of construction erosion control ordinances; and
23 development and implementation of activities, including, but not limited to, those
24 activities that reduce storm water pollution from lawn and leaf litter, pet waste, road
25 salting and illicit dumping into the storm sewer system. When adoption of a construction
26 site erosion control ordinance is required under the watershed plan, it shall be considered
27 a core program activity and the schedule for urban implementation activities shall provide
28 for adoption, implementation and enforcement of the ordinance within 2 years of the date
29 the department approves the watershed plan.

30 i. An identification of those storm water management activities identified in the
31 watershed plan that may be included as part of the segmented urban program for the local

1 governmental unit and funded under this chapter and ch. NR 153. Segmented urban
2 program activities may include: storm water planning for urban and urbanizing areas;
3 development, implementation and enforcement of local storm water management
4 ordinances; engineering site feasibility studies for urban best management practices;
5 design, installation and maintenance of urban best management practices; and
6 development of local institutional mechanisms to fund and administer storm water
7 management programs.

8 j. A schedule of rural implementation activities. When adoption of a manure
9 storage ordinance is required under the watershed plan, the schedule shall include a
10 provision stating that a manure storage ordinance shall be adopted within 2 years of the
11 date the department approves the watershed plan.

12 k. A schedule for urban implementation activities.

13 L. A schedule for the completion within 5 years of plan approval of the inventory
14 of land resources in the priority watershed or priority lake to locate sites which meet the
15 critical sites criteria.

16 m. An implementation strategy to direct staff effort at sites in proportion to the
17 amount of pollutants contributed until pollutant reduction goals are met. The strategy
18 shall contain a schedule for notification to landowners of critical sites.

19 n. A description of the measures of performance for the priority watershed or
20 priority lake project.

21 o. A strategy for measuring progress toward meeting pollutant reduction goals and
22 water quality objectives.

23 2. The department shall prepare a strategy to address the protection, enhancement
24 and mitigation of fish and wildlife habitat, endangered resources, aesthetics or other
25 natural resources through the identification of best management practices, provision of
26 information and education programs and involvement of other resource management
27 programs.

28 **Note:** Wisconsin's Forestry Best Management Practices for Water Quality: A
29 Field Manual for Loggers, Landowners and Land Managers may be obtained, at no
30 charge, as a reference for forestry activities from the Bureau of Forestry, Department of
31 Natural Resources, Box 7921, Madison, WI 53707.

1 (d) *Project evaluation plan.* The department shall prepare as a portion of each
2 priority watershed plan a project evaluation strategy. The evaluation strategy shall
3 contain criteria and procedures to evaluate the water resource and land management
4 components of the project.

5 (2) WATERSHED PLAN REVIEW AND APPROVAL. (a) *Watershed plan development*
6 *meeting.* During the preparation of the watershed plan, the department and the
7 participating governmental units shall hold a public information meeting in the watershed
8 to solicit comments and information pertinent to the preparation of the plan. Following
9 the information meeting, a proposed watershed plan shall be drafted.

10 (b) *Watershed plan hearing.* After a proposed watershed plan has been drafted,
11 the department and the participating governmental units shall hold a public informational
12 hearing for comment on the proposed watershed plan.

13 (c) *Submittal of watershed plan to DATCP, county and other governmental units.*
14 Within 45 days after the public informational hearing, the department shall submit the
15 draft watershed plan to DATCP for comment; to the appropriate county or counties for
16 approval; and at the discretion of the department, to other governmental units for review
17 and comment.

18 (d) *County approval of watershed plan.* Within 60 days of receipt of the draft
19 watershed plan, the appropriate county shall approve, conditionally approve or reject the
20 watershed plan. If the county conditionally approves or rejects the watershed plan, the
21 department may revise the watershed plan to address the issues identified.

22 (e) *Submittal of watershed plan to land and water conservation board.* A copy of
23 the county approved plan shall be submitted to the land and water conservation board
24 created under s. 15.135(4), Stats., for its approval.

25 (f) *Final approval of individual county plan.* Upon receiving the approval of the
26 land and water conservation board, the department shall approve the final plan for the
27 priority watershed or priority lake area in accordance with s. 281.65 (5m), Stats. The date
28 that the secretary of the department signs the approval letter to the project sponsors marks
29 the beginning of eligibility for funding for implementation. Notwithstanding par. (d), the
30 department may approve the watershed plan for individual counties in multi-county
31 watershed projects if the respective county approves the watershed plan.

1 **(3) AREAWIDE WATER QUALITY MANAGEMENT PLAN REVISION.**

2 After approval of the detailed program for implementation, the watershed plan shall be
3 approved as a revision to the areawide water quality management plan for the appropriate
4 basin as described in ss. NR 121.07 and 121.08.

5 **(4) WATERSHED PLAN REVISION.** (a) Plan revisions may be initiated by either the
6 governmental unit or the department. The approved watershed plan may be revised using
7 the procedures in ss. NR 121.07 and 121.08 for amending areawide water quality
8 management plans.

9 (b) Plan revisions which add or change criteria for critical sites shall be approved
10 by the land and water conservation board and by every governmental unit which
11 approved the original watershed plan.

12 (c) Plan revisions which add or change criteria for critical sites for projects which
13 have fewer than 4 years remaining for implementation shall include a schedule for
14 notification to landowners which will allow implementation of best management
15 practices at the critical sites to be completed before the end of the nonpoint source grant
16 period.

17 (d) The department shall approve or reject a governmental unit's request for a
18 revision to the watershed project's detailed program for implementation within 90 days of
19 receipt of the revision request.

20

21 **NR 120.09 Notification and status of critical sites. (1) START OF NOTIFICATION**
22 **PROCESS.** Within 6 months following issuance by the department of the first nonpoint
23 source grant after department watershed plan approval to a project sponsor for a priority
24 watershed or priority lake project, the process of notification to landowners shall begin.
25 The first to begin the process shall be those highest-ranked critical sites based on
26 estimated pollutant contribution, which together would provide at least 25% of the
27 pollutant reduction goal for inventoried sites available at the time the final plan is written,
28 if best management practices were applied at those sites. Notification shall proceed in
29 accordance with the schedule identified in the plan. The department may grant up to 3
30 90-day extensions of this 6 month period to allow verification under sub. (2).

1 **(2) VERIFICATION.** The purpose of verification is to assure that individual sites
2 within the watershed meet the criteria for critical sites and to conduct site visits and
3 complete the inventory of nonpoint sources on additional lands in the watershed owned
4 by those landowners with sites which meet the criteria for critical sites. If the landowner
5 has not signed a cost-share agreement for required best management practices, the
6 verification findings shall be reported in writing to the department. Verification shall
7 include an on-site assessment before a notification letter can be issued.

8 **(3) CONTENT OF NOTIFICATION LETTER.** Within 60 days after receiving the
9 verification findings, the department shall send notification to the landowner to include
10 the following information:

11 (a) The dates of the beginning and end of the 36-month period of cost-share
12 availability.

13 (b) The potential consequences of either s. NR 120.18 (1) (a), ch. NR 243 or s.
14 281.20 (1), (3) or (5), Stats., that the landowner may face if no action is taken and the site
15 continues to meet the critical sites criteria described in the watershed plan.

16 (c) The right to appeal the designation as a critical site through a written request
17 to the county land conservation committee within 60 days of receipt of the notification
18 letter as described in s. 281.65 (7) (a), (b) and (c), Stats.

19 (d) Additional information as requested and prepared by the local governmental
20 unit.

21 **(4) POSTPONEMENT OF NOTIFICATION LETTER.** The department shall postpone
22 notification to any landowner who has signed a cost-share agreement and continues to
23 comply with the annual progress and implementation schedules described in s. NR
24 120.13. If the landowner is responsible for failure to comply with the schedules, the
25 department shall send the notification.

26 **(5) COMPLETION OF NOTIFICATION SCHEDULE.** Notification to landowners shall be
27 completed within 5 years and 60 days of the issuance of the first nonpoint source grant
28 for the project after department plan approval.

29 **(6) CHANGE IN CRITICAL SITE STATUS.** A site is no longer considered a critical site
30 if one of the following conditions applies:

31 (a) The site no longer meets the criteria for critical sites.

1 (b) The site has had best management practices implemented in accordance with
2 the cost-share agreement.

3 (c) The department determines that the water quality objectives for the watershed
4 have been achieved.

5 (7) PRIORITIZING USE OF COST-SHARE FUNDS. By the end of the project
6 implementation period, a project sponsor shall have offered cost-share funding to
7 landowners, in accordance with this chapter, for the control of all critical sites. During
8 the implementation period, this requirement applies if the total amount of cost-share
9 funds made available to the project sponsor equals or exceeds the amount necessary to
10 control all critical sites.

11

12 **NR 120.12 Nonpoint source grant agreement. (1) GRANT AGREEMENT.**

13 The nonpoint source grant agreement is an agreement entered into between the
14 department and a grantee, consisting either of a governmental unit or a state agency, to
15 provide cost- share funding for a priority watershed or priority lake project. The nonpoint
16 source grant agreement may be used in lieu of a cost-share agreement with a grantee for
17 the installation of a structural practice on land owned or operated by the grantee. More
18 than one nonpoint source grant agreement may be awarded for a project.

19 (2) CONDITIONS. (a) Consistent with the priority watershed plan, a grantee located
20 within the priority watershed project or priority lake area project shall:

21 1. Execute a nonpoint source grant agreement with the department for nonpoint
22 source pollution abatement funds necessary to administer cost-share agreements with
23 eligible recipients. This requirement may be waived if the department and the grantee
24 agree to delegate these responsibilities to another grantee.

25 2. Enter into cost-share agreements with eligible recipients located within its
26 jurisdiction. This requirement may be waived if the department and the grantee agree to
27 delegate this responsibility to another grantee.

28 3. Be fiscally responsible for the use of cost-share funds provided to cost-share
29 recipients under the nonpoint source grant. Specifically, this includes preparing and
30 maintaining adequate fiscal management and technical assistance files as described in ss.

1 NR 120.25 and 120.26. This requirement may be waived if the department and the
2 grantee agree to delegate these responsibilities to another grantee.

3 4. Provide the department with verification of proper installation, operation and
4 maintenance of best management practices for agreements in which it is the cost-share
5 grantor.

6 5. Provide best management practice technical design and installation assistance
7 for all best management practices in cost-share agreements within its jurisdiction. The
8 grantee may assign this requirement to another grantee if approved by the department.

9 6. Contact all owners or operators of lands identified as significant nonpoint
10 sources in the watershed plan.

11 7. Participate with the department in the annual watershed project review meeting.

12 8. Enforce the terms and conditions of the cost-share agreement as described in s.
13 NR 120.13.

14 (b) A grantee located within the priority watershed project or priority lake area
15 project may identify a lead grantee responsible during the grant period for the following:

- 16 1. Local project coordination.
- 17 2. Identification of a project manager.
- 18 3. Maintenance of project ledgers.

19 (c) A grantee located within the priority watershed project or priority lake area
20 project shall provide financial support towards the implementation of a project, including,
21 but not limited to, the following:

- 22 1. Funding staff support costs necessary for the project that are not provided for in
23 the local assistance grant from DATCP.
- 24 2. Funding the local share of any best management practice the grantee installs on
25 property it owns or controls.
- 26 3. Funding the local share of items cost-shared in the local assistance grant from
27 DATCP.

28 (d) Grantees located within the priority watershed project or priority lake area
29 project shall perform inspections beyond the nonpoint source grant period and shall
30 include this activity in the work plan portion of the county land and water resource

1 management plan to ensure that cost-share recipients are complying with the maintenance
2 requirements described in s. NR 120.13.

3 (3) SIGN-UP PERIOD. (a) The period in which cost-share agreements may be
4 signed through the nonpoint source grant agreement shall be for a minimum of 3 years
5 but may not extend beyond the grant period. No cost-share agreement, except those
6 signed under a demonstration project, may be signed until after the priority watershed
7 plan has been approved.

8 (b) A watershed project in planning may choose the specific duration of the sign-
9 up period, provided that all the following conditions are met:

- 10 1. The sign-up period is for a minimum of 3 years.
- 11 2. The sign-up period is clearly stated in the watershed plan.
- 12 3. The watershed plan clearly delineates the procedures necessary for the
13 extension of the sign-up period.

14 (c) A grantee whose watershed project is in implementation may amend the
15 nonpoint source grant agreement to modify the length of the sign-up period provided that
16 a written grant amendment request and an explanation justifying circumstances is
17 submitted to the department for approval.

18 (d) The department may unilaterally extend the sign-up period for a project
19 sponsor by amending the nonpoint source grant.

20 (4) LENGTH OF GRANT PERIOD. The grant period of the nonpoint source grant
21 agreement is the period when cost-share funds may be expended.

22 (a) The department may adjust the grant period to meet budgetary limitations.

23 (b) Extensions to grant periods shall be consistent with s. 281.65 (5q) or (11).

24 (5) INSTALLING BEST MANAGEMENT PRACTICES. When installing best
25 management practices, the grantee shall do all of the following:

26 (a) Comply with the responsibilities stated in s. NR 120.05.

27 (b) Submit estimates of all practice costs, eligible costs, ineligible costs, cost-
28 share rates and estimated total cost-share amount.

29 (c) Submit a schedule of installation and maintenance for the practices.

30 (d) Submit copies of all professional services contracts, construction contracts, bid
31 tabulations, force account proposals, proposals and other related information requested by

1 the department. Professional services contracts exceeding \$10,000, or amendments
2 causing the total contract to exceed \$10,000, amendments exceeding \$10,000 and
3 construction contracts exceeding \$35,000 shall be submitted to the department for
4 approval before execution. Force account proposals exceeding \$35,000 shall be submitted
5 to the department for approval prior to the initiation of construction.

6 (e) Repay the department the full amount of funds received if the grantee fails to
7 fulfill any terms of the agreement, including failing to install, operate and properly
8 maintain the practices included in the grant agreement.

9 (f) Submit a maintenance strategy for the practices.

10 (g) Agree not to adopt any land use or practice which defeats the purposes of the
11 best management practices.

12 (h) Comply with the requirements for cost-share agreements specified in s. NR
13 120.13(6) to (8).

14 (6) EXPENSES. The grantee may use nonpoint source grant funds to cover
15 reasonable expenses necessary to secure refunds, rebates or credits described in s. NR
16 120.23 when approved by the department.

17 (7) FUNDS FOR EASEMENTS. The grantee may use nonpoint source easement
18 funds to acquire easements as provided for in s. NR 120.185(2).

19 (8) GRANT REDUCTIONS. The department may unilaterally reduce the
20 nonpoint source grant to the amount necessary to meet budgetary limitations. The
21 department shall make every effort to provide funding for projects the grantee has
22 committed to in cost-share agreements and contracts.

23 (9) DEMONSTRATION PROJECTS. A governmental unit participating in the
24 preparation of a watershed plan may request from the department a demonstration project
25 nonpoint source grant prior to department approval of the watershed plan. Grant periods
26 of grants awarded for demonstration projects may not exceed 2 years in length. Requests
27 for demonstration projects shall include a summary of the proposed activities and their
28 projected benefits to the watershed or lake project.

29 (10) JOINT ALLOCATION PLAN. The department shall prepare an ACRA for
30 each grantee each calendar year. The department shall provide the department of
31 agriculture, trade and consumer protection information about grant decisions it has made

1 under this section for incorporation into the joint allocation plan required under ss.
2 281.65 (4) (pm) and s. 92.14 (14), Stats.

3
4 **NR 120.13 Cost-share agreement. (1) PURPOSE OF AGREEMENT.** The cost-share
5 agreement is an agreement listing the best management practices and establishing the
6 conditions and considerations under which a cost-share recipient agrees to install the
7 practices listed consistent with the watershed plan.

8 **(2) EFFECTIVE DATE.** For best management practices to be eligible for cost-
9 sharing, the nonpoint source grant agreement and the cost-share agreement shall be
10 signed before the installation of practices may be initiated. A cost-share agreement is not
11 necessary if the nonpoint source grant agreement allows the grantee to use funds directly.
12 Nonpoint source grant agreements used in lieu of cost-share agreements shall comply
13 with the requirements in this section.

14 **(3) PARTIES TO THE AGREEMENT. (a)** The cost-share agreement shall be between
15 the participating grantee and the individual landowner or landowners if joint owners, land
16 operator or state agency. Agreements with land operators shall be co-signed by the
17 landowner except in instances where the cost-share agreement contains no other practices
18 than those enumerated in sub. (6) (c) 1. If other practices are included in a cost-share
19 agreement amendment, the landowner shall co-sign the amendment.

20 **(b)** Governmental units, as cost-share agreement grantors, shall enter into cost-
21 share agreements only during the period specified in the nonpoint source grant.

22 **(c)** The cost-share agreement shall apply to all contiguous sites under the same
23 ownership. At the discretion of the governmental unit, the cost-share agreement may also
24 apply to noncontiguous sites under the same ownership or operation in the watershed.

25 **(4) CONTENT OF THE AGREEMENT.** The cost-share agreement shall contain or
26 describe:

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

28 **(b)** The best management practices cost-shared and not cost-shared to be applied
29 and the cost-share rates for the practices to be cost-shared.

30 **(c)** The estimated total practice cost, cost-share rate and estimated cost-share
31 amount.

1 (d) The installation schedule for applying the practices. For sites that meet the
2 critical sites criteria, implementation shall begin within 18 months and be completed
3 within 4 years following the effective date of the cost-share agreement.

4 (e) A statement of maintenance requirements.

5 (f) A prohibition against adopting any land use or practice which defeats the
6 purposes of the best management practices, the cost-share agreement or the nonpoint
7 source grant agreement.

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

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

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

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

16 (k) A prohibition against any significant change in land use or management on the
17 entire property described on the cost-share agreement which may cause sources which
18 were adequately managed at the time of cost-share agreement signing to produce a
19 significant increase in pollutant loading to surface water or groundwater counter to the
20 water resource objectives of the approved watershed plan. If a significant change in land
21 use or management occurs, the landowner or land operator shall control the source at his
22 or her own expense or return any cost-sharing funds awarded through the cost-share
23 agreement to the grantor.

24 (L) A requirement to amend the cost-share agreement if practices are added or
25 deleted and to add or delete practices only when they are consistent with watershed
26 project objectives.

27 (m) A requirement for annual progress in pollutant reduction may be imposed by
28 the governmental unit on the landowner of a critical site, subject to availability of cost-
29 sharing funds.

30 **(4m)** DEPARTMENT APPROVAL. The governmental unit shall obtain prior
31 department approval when the total cost-share agreement amount, including amendments,

1 exceeds \$50,000 in state share. The department shall consider the cost-effectiveness of
2 the best management practices and eligibility for cost-sharing under this chapter in
3 making its decision whether to grant approval.

4 (5) SUBMITTAL TO DEPARTMENT. The cost-share agreement provider shall submit
5 a copy of the cost-share agreement and amendments to the department within 30 days of
6 execution. The department may deny reimbursement to the governmental unit for costs
7 associated with the installation of a best management practice not in conformance with
8 the cost-share agreement, the nonpoint source grant agreement or the priority watershed
9 plan.

10 (6) AGREEMENT PERIOD. (a) The cost-share agreement period shall be the period
11 from the cost-share agreement signing through 10 years after the last practice is installed,
12 unless all practices in the agreement are those identified in par. (c)1., in which case the
13 agreement shall end when cost-sharing ceases.

14 (b) The period during which practices on a signed cost-share agreement may be
15 installed may not extend beyond the grant period of the nonpoint source grant agreement
16 for the watershed project.

17 (c) Unless otherwise provided for in this paragraph, the operation and
18 maintenance period for both cost-shared and not cost-shared best management practices
19 shall begin when the practice is installed and shall end at least 10 years past the
20 installation date for the last practice on the agreement.

21 1. The operation and maintenance period shall be a minimum of 15 years if a
22 payment is made under s. NR 120.18(1)(f)2.

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

- 26 a. High residue management systems.
- 27 b. Nutrient management.
- 28 c. Pesticide management.
- 29 d. Cropland protection cover (green manure).

1 3. When a practice in subd. 2. is required as a component of another practice in s.
2 NR 154.04, the operation and maintenance period for the component practice shall be the
3 same as the operation and maintenance period for the practice for which it is required.

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

9 **(8) INEFFECTIVE PRACTICES.** (a) If the practice becomes ineffective during the
10 grant period of the nonpoint source grant agreement of a watershed project, the parties to
11 the cost-share agreement may amend it to cost-share the replacement of the practice from
12 funds allocated for the project, if the parties identify the appropriate maintenance period
13 for the replacement practice.

14 (b) If the practice becomes ineffective beyond the grant period of the nonpoint
15 source grant agreement of the watershed project, the department may award a new grant
16 agreement or modify and extend the project's nonpoint source grant agreement.

17 **(9) CHANGE IN OWNERSHIP.** If a change in ownership occurs during the cost-share
18 agreement period, the new landowner shall be responsible for fulfilling all conditions of
19 the cost-share agreement. Upon receiving written approval from the respective local
20 governmental unit, the new landowner may implement alternative approved best
21 management practices in order to obtain the water quality goals in the original agreement.

22 **(10) RECORDING OF COST-SHARE AGREEMENTS WITH REGISTER OF DEEDS.** (a) The
23 governmental unit shall record the cost-share agreement and its amendments in the office
24 of the register of deeds for each county in which the property is located if the cost-share
25 agreement includes a riparian buffer, or payments under s. 154.03(1)(i)3., or if the total
26 cost-share agreement amount exceeds the following:

- 27 1. \$10,000 prior to January 1, 2005.
- 28 2. \$12,000 after December 31, 2004 and prior to January 1, 2010.
- 29 3. \$14,000 after December 31, 2009.

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

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

- 3 1. Contour farming.
- 4 2. Contour and field stripcropping.
- 5 3. Cropland protection cover (green manure).
- 6 4. High residue management.
- 7 5. Nutrient management.
- 8 6. Pesticide management.

9 **(11) RELEASE OF PROPERTY FROM OBLIGATIONS OF COST-SHARE AGREEMENTS. (a)**

10 A governmental unit may fully or partially release a landowner's property from the
11 obligations of the cost-share agreement provided that the governmental unit has
12 determined that the best management practices installed on the property will be
13 maintained or replaced with practices which will not increase the pollutant loading to
14 surface water or groundwater counter to the water resource objectives of the approved
15 watershed plan. If state dollars in excess of \$10,000 have been expended for best
16 management practices that are located on the property to be released, the governmental
17 unit shall obtain written approval from the department before the property may be
18 released. The release form shall be obtained from the department and filed with the cost-
19 share agreement.

20 (b) With the approval of the department, a governmental unit may fully release a
21 landowner's property from the obligations of the cost-share agreement provided that both
22 of the following conditions are met:

- 23 1. The governmental unit has determined that there are not sufficient cost-share
24 funds remaining in its nonpoint source grant to provide reimbursement for practices for
25 which it has committed funds.
- 26 2. The cost-share recipient has failed to install all of the best management
27 practices identified in the agreement.

28 **Note:** Copies of the release form are available from the Bureau of Community
29 Financial Assistance, Department of Natural Resources, Box 7921, Madison, WI 53707.

1 (12) APPLICABILITY. Subsections (3)(c), (4)(j), (k), (m), (6) (a) and (9) and (10)
2 apply to all cost-share agreements signed after December 1, 1989, and amendments to
3 those agreements.

4

5 **NR 120.14 Cost-share agreement conditions for best management practices.**

6 (1) GENERAL APPLICABILITY. (a) The cost-share agreement conditions
7 described in this section apply to best management practices included in cost-share
8 agreements or otherwise provided for in s. NR 120.12(4) or identified by variance under
9 s. NR 120.29. The cost-share conditions and standards for all best management practices
10 listed in this chapter shall apply to all cost-share agreements signed after the effective
11 date of the rule... [revisor insert date].

12 (b) The following conditions shall be met while implementing the best
13 management practices in this chapter:

14 1. Wildlife habitat shall be recreated to replace significant wildlife habitat lost
15 through the removal of obstructions or other means required to install the best
16 management practice.

17 2. Wetlands may not be destroyed or degraded as a result of installing the best
18 management practice.

19 3. Sediment generated from the construction of the best management practice
20 shall be controlled consistent with performance standards in ch. NR 151 and with
21 standards of the *Wisconsin Construction Site Best Management Practice Handbook*,
22 WDNR Pub. WR-222, November 1993 Revision and other technical standards
23 disseminated by the department under subch. V of ch. NR 151.

24 **Note:** Copies of the materials described in subd. 3. may be inspected at the offices
25 of the department, 101 S. Webster Street, Madison; the Secretary of State, 30 W. Mifflin,
26 Madison; and the Revisor of Statutes, 131 W. Wilson, Suite 800, Madison.

27 4. Permanent and temporary vegetative cover including any or all of the
28 following: seed, mulch, fertilizer, trees, shrubs and other necessary materials, except for
29 conventional agricultural crop cover, shall be established.

30 5. Preparation, grading, shaping and removal of obstructions necessary to permit
31 the installation of best management practices shall be conducted on the site.

1 6. Temporary or permanent fencing and the repair of fencing necessary to
2 implement or protect a best management practice shall be built.

3 7. All required permits, including those mandated by the department, shall be
4 obtained prior to installing a best management practice listed in this chapter.

5 (c) A landowner, land operator or governmental unit shall comply with the
6 standards in subs. (2) to (28) when installing best management practices.

7 (d) Cost-sharing is authorized when the best management practices are installed
8 on sites in a manner consistent with par. (b) and the watershed plan approved under ch.
9 NR 120.

10 (e) Best management practices listed in this chapter and which are conducted
11 below the ordinary high water mark may be eligible for cost-sharing only when the
12 practice is a cost-effective means of preventing or reducing pollutants generated from
13 sources of runoff or from sediments of inland lakes polluted by runoff.

14 **(2) CONTOUR FARMING.** (a) *Description.* Contour farming is farming on
15 sloped land so all cultural operations from seedbed preparation to harvest are done on the
16 contour. This practice shall be implemented using one or more of the standards in par.
17 (c).

18 (b) *Conditions.* Cost-sharing may be provided for the establishment of a contour
19 farming system and, if necessary, subsurface drains and the removal of obstructions.

20 (c) *Standards.* Standards from the NRCS field office technical guide are as
21 follows:

- 22 1. 330 - contour farming; May, 1986.
- 23 2. 500 - obstruction removal; January, 1983.
- 24 3. 606 - subsurface drain; September, 1989.
- 25 4. 645 - wildlife upland habitat management; June, 1987.

26 **(3) CONTOUR AND FIELD STRIPCROPPING.** (a) *Description.* Contour and
27 field stripcropping is growing crops in a systematic arrangement of strips or bands,
28 usually on the contour, in alternated strips of close growing crops, such as grasses or
29 legumes, and tilled row crops. This practice shall be implemented using one or more of
30 the standards in par. (c).

1 (b) *Conditions*. Cost-sharing may be provided for the establishment of the
2 stripcropping system including field stripcropping.

3 (c) *Standards*. Standards from the NRCS field office technical guide are as
4 follows:

- 5 1. 585 – contour stripcropping; July, 1987.
- 6 2. 586 - field stripcropping; August, 1983.
- 7 3. 500 - obstruction removal; January, 1983.
- 8 4. 606 - subsurface drain; September, 1989.
- 9 5. 645 - wildlife upland habitat management; June, 1987.
- 10 6. 330 - contour farming; May, 1986.
- 11 7. 589 - wind strip-cropping; July, 1987.

12 (4) FIELD DIVERSIONS. (a) *Description*. Field diversions are structures
13 installed to divert excess water to areas where it can be used, transported or discharged
14 without causing excessive erosion or contacting materials with water pollution potential.
15 Usually the system is a channel with a supporting ridge on the lower side constructed
16 across the slope at a suitable grade with a self-discharging and non-erosive gradient. This
17 practice shall be implemented using one or more of the standards in par. (c).

18 (b) *Conditions*. 1. Cost-sharing may be provided for:

19 a. Diversions and subsurface drains necessary for proper functioning of the
20 diversion. Cost-sharing for subsurface drains is limited to areas on sloping land where the
21 internal water seeps to the surface and causes the land or cover to lose its stability.

22 b. Installations of structures such as pipe, underground outlets or other outlets, if
23 needed, for proper functioning of the dike, for more even flow or to protect outlets from
24 erosion.

25 2. Diversions shall discharge to a suitable outlet.

26 3. Cost-sharing may not be authorized for ditches or dikes designed to impound
27 water for later use, or which will be a part of a regular irrigation system.

28 (c) *Standards*. Standards are the following from the NRCS field office technical
29 guide:

- 30 1. 362 - diversion; September, 1989.
- 31 2. 342 - critical area planting; November, 1999.

- 1 3. 382 - fence; November, 1999.
- 2 4. 412 - grassed waterway or outlet; June, 1993.
- 3 5. 468 - lined waterway or outlet; June, 1993.
- 4 6. 500 - obstruction removal; January, 1983.
- 5 7. 606 - subsurface drains; September, 1989.
- 6 8. 620 - underground outlet; June, 1993.
- 7 9. 645 - wildlife upland habitat management; June, 1987.

8 **(5) TERRACES.** (a) *Description.* Terraces are a system of ridges and channels
9 constructed on the contour with a non-erosive grade at a suitable spacing. This practice
10 shall be implemented using one or more of the standards in par. (c).

11 (b) *Conditions.* 1. Cost-sharing may be provided for:

12 a. Terraces and the necessary grading to permit installation of an effective system
13 consistent with the type of terrace and criteria for use specified in the approved priority
14 watershed plan, priority lake plan or project grant application.

15 b. Materials and installation of underground pipe outlets and other mechanical
16 outlets necessary for the proper functioning of the terrace.

17 2. Terraces shall discharge to a suitable outlet.

18 (c) *Standards.* Standards from the NRCS field office technical guide are as
19 follows:

- 20 1. 600 - terrace; September, 1990.
- 21 2. 342 - critical area planting; November, 1999.
- 22 3. 412 - grassed waterway or outlet; June, 1993.
- 23 4. 468 - lined waterway or outlet; June, 1993.
- 24 5. 500 - obstruction removal; January, 1983.
- 25 6. 606 - subsurface drain; September, 1989.
- 26 7. 620 - underground outlet; June, 1993.
- 27 8. 638 - water and sediment control basin; September, 1989.
- 28 9. 645 - wildlife upland habitat management; June, 1987.

29 **(6) GRASSED WATERWAYS.** (a) *Description.* A grassed waterway is a natural
30 or constructed drainageway or channel which is shaped, graded and established in

1 suitable cover as needed to prevent erosion by runoff waters. This practice shall be
2 implemented using one or more of the standards in par. (c).

3 (b) *Conditions*. Cost-sharing may be provided for the following:

4 1. Site preparation, grading, shaping, filling, establishing temporary and
5 permanent vegetation cover and for subsurface drains necessary for proper functioning of
6 the waterway.

7 2. Removal of obstructions necessary to permit installation of an effective system.

8 (c) *Standards*. Standards from the NRCS field office technical guide are as
9 follows:

10 1. 412 - grassed waterway or outlet; June, 1993.

11 2. 342 - critical area planting; November, 1999.

12 3. 382 - fence; November, 1999.

13 4. 500 - obstruction removal; January, 1983.

14 5. 606 - subsurface drain; September, 1989.

15 6. 645 - wildlife upland habitat management; June, 1987.

16 7. 484 - mulching; July, 1987.

17 8. 620- underground outlet; June, 1993.

18 (7) HIGH RESIDUE MANAGEMENT SYSTEMS. (a) *Description*. High residue
19 management systems refer to any tillage and planting system that is designed to reduce
20 soil erosion caused by water or wind. This practice shall be implemented using one or
21 more of the standards in par. (c). These systems include the following:

22 1. No-till. The soil is left undisturbed prior to planting. Planting is completed in a
23 narrow seedbed or slot created by the planter or drill.

24 2. Mulch-till. The total soil surface is disturbed by tillage prior to planting. Tillage
25 tools such as chisels, field cultivators, disks or sweeps are used.

26 3. Ridge-till. The soil is left undisturbed prior to planting. The seedbed is prepared
27 on ridges with sweeps, disks or other row cleaners. The ridges are rebuilt for the next
28 year's crop during cultivation.

29 4. Strip-till. The soil is left undisturbed prior to planting. Tillage in the row is
30 done at planting using tools such as a rototiller, in row chisel or other row cleaner.

1 (b) *Conditions*. 1. Cost-sharing may be provided on a per acre basis to convert to
2 high residue management systems.

3 2. Cost-sharing may not be provided to a landowner or land operator for both this
4 practice and cropland protection cover (green manure) for the same acreage in the same
5 crop year without prior departmental approval.

6 3. Cost-sharing may not be provided for continuous no-till unless surface
7 applications of nutrients, including animal manure, are prohibited or the surface
8 application of nutrients is in compliance with NR 151.07. Continuous no-till is defined as
9 3 or more consecutive years.

10 4. Cost-sharing may be provided for nutrient management and pesticide
11 management under subs. (8) and (9) provided that the approved priority watershed plan,
12 priority lake plan or project grant application identifies these practices as eligible.

13 5. *Standards*. A minimum 30% residue coverage shall remain on the soil surface
14 after planting.

15 6. Tillage and planting shall occur as close to the contour as practical.

16 7. Residue cover may be from meadow, winter cover crop, and small grain or row
17 crop.

18 (c) *Standards*. The practice shall meet the requirements in either NRCS field
19 office technical guide, Technical Standard:

20 1. 329A – residue management, no till and strip till; May, 1998.
21 2. 329B- residue management mulch till; May 1998.

22 **(8) NUTRIENT MANAGEMENT.** (a) *Description*. Nutrient management is
23 controlling the amount, source, form, location and timing of application of plant
24 nutrients, including organic wastes, sludge, commercial fertilizers, soil reserves and
25 legumes, for the purpose of providing plant nutrients and minimizing the entry of nutrient
26 to surface water and groundwater. This practice shall be implemented using the standard
27 in par. (c).

28 (b) *Conditions*. As part of a nutrient management plan, cost-sharing may be
29 provided for:

1 1. Soil testing including residual nitrogen analysis. Cost-sharing for soil testing
2 shall be limited to an initial testing for purposes of plan preparation and another test 4
3 years after plan preparation.

4 2. Manure nutrient analysis. Cost-sharing for manure nutrient analysis shall be
5 limited to an initial analysis for purposes of plan preparation and another analysis 4 years
6 after plan preparation.

7 3. Use of crop consulting services for the purpose of preparing and implementing
8 a nutrient management plan. To be eligible for cost-sharing, consultants shall meet the
9 certification requirements in ch. ATCP 50.

10 (c) *Standards*. NRCS field office technical standard: 590-nutrient management;
11 March, 1999.

12 **(9) PESTICIDE MANAGEMENT.** (a) *Description*. Pesticide management is
13 controlling the handling, disposal, type, amount, location and timing of application of
14 pesticides in order to minimize contamination of water, air and nontarget organisms. This
15 practice shall be implemented using one or more of the standards in par. (c).

16 (b) *Conditions*. 1. As part of a pesticide management plan, cost-sharing may be
17 provided for:

18 a. Spill control facilities with liquid-tight floors for pesticide handling areas. Spill
19 control facilities consist of structures designed to contain accidental spills or overflows
20 from pesticide mixing, loading and unloading operations for the purposes of groundwater
21 and surface water protection. The items eligible for cost-share funds associated with these
22 facilities include a sealed, liquid-tight, reinforced concrete pad for the mixing area; water-
23 tight walls or perimeter flow diversion structures to convey spills or contaminated water
24 to the sump area; perimeter flow diversion structures needed to convey surface water
25 away from the mixing area; a shallow sump collection area capable of storing spills,
26 rinsate, washwater and precipitation that may leak or fall on the pad; roof structures and
27 walls protecting the pad mixing area; approach ramps; water supply systems needed for
28 the facility; and sump pump alarm and recovery systems.

29 b. Use of crop consulting services for the purpose of preparing and implementing
30 an integrated crop management plan for not more than 3 years per operation. To be

1 eligible for cost-sharing, consultants shall meet the certification requirements in ch.
2 ATCP 50.

3 2. Operators shall adhere to the requirements of chs. ATCP 29 (pesticide use and
4 control) and 33 (pesticide bulk storage).

5 3. Licensed commercial pesticide applicators, as described in s. ATCP 29.11, are
6 not eligible for cost-share funding for this practice.

7 4. Material storage buildings are not eligible for cost-sharing under this
8 subsection.

9 (c) *Standards.* The following standards apply under this subsection:

10 1. NRCS field office technical standard - 595-pest management; January, 1991.

11 2. Designing Facilities for Pesticide and Fertilizer Containment, MWPS-37, 1st
12 ed. 1991.

13 **Note:** Copies of this publication may be inspected at the offices of the
14 department, 101 S. Webster Street, Madison; NRCS; the Secretary of State, 30 W.
15 Mifflin, Madison; and the Revisor of Statutes, 131 W. Wilson, Suite 800, Madison.

16 **(10) CROPLAND PROTECTION COVER (GREEN MANURE).** (a)

17 *Description.* Cropland protection cover are close-growing grasses, legumes or small grain
18 grown for seasonal protection and soil improvement. This practice shall be implemented
19 using the standard in par. (c).

20 (b) *Conditions.* 1. Cost-sharing may be provided for the planting of cover and
21 green manure crops for all of the following purposes:

22 a. To control erosion during periods when the major crops do not furnish adequate
23 cover.

24 b. To add organic material to the soil.

25 c. To improve infiltration, aeration and tilth to the soil.

26 2. Cost-sharing may only be provided for those fields that contribute to the
27 degradation of water quality as a result of harvesting a crop during the growing season
28 that either leaves the field devoid of residue or lacks enough residue from the harvested
29 crop to provide for adequate surface protection.

1 3. Cost-sharing may not be provided to a landowner or land operator for both this
2 practice and high residue management systems for the same acreage in the same crop
3 year without prior departmental approval.

4 (c) *Standards*. NRCS field office technical guide: 340 - cover and green manure
5 crop (acre); May, 1986.

6 **(11) INTENSIVE GRAZING MANAGEMENT (ROTATIONAL GRAZING).**

7 (a) *Description*. Intensive grazing management is the division of pastures into multiple
8 cells that receive a short but intensive grazing period with high animal density followed
9 by a period suitable to allow for the recovery of the vegetative cover. Rotational grazing
10 systems can correct existing pasturing practices that result in degradation and should
11 replace the practice of summer dry-lots when this practice results in water quality
12 degradation.

13 (b) *Conditions*. 1. Cost-sharing may be provided for the installment of rotational
14 grazing systems on croplands, animal lots or pastures that are currently contributing
15 sediments, nutrients or pesticides to a water source. This practice may also be eligible for
16 an animal lot that adversely impacts groundwater or surface water, provided the adverse
17 impacts are adequately addressed through the resulting reduction in animal manure and
18 use of any additional cost-effective best management practices such as clean water
19 diversions.

20 2. In instances of eligibility due to soil loss or eligibility due to animal lot
21 abandonment, cost-sharing may be provided for:

22 a. Practices that would remediate streambank erosion and streambank habitat
23 degradation.

24 b. Practices that would exclude livestock from woodlands, wildlife lands and
25 recreational lands.

26 c. The establishment of cattle access lanes that are stable and not prone to erosion.
27 This includes cattle crossings either on streams or severely eroded areas.

28 d. The development of permanent boundary and main paddock fences. This may
29 include perimeter fencing, lane fencing, portable fencing including gates and electrical
30 connections and supply limited to the immediate area being protected.

31 e. The establishment of good seeding stands for pasture and hayland planting.