

1 f. The development of a watering system including pipeline watering systems,  
2 pasture watering systems, wells, spring developments and portable watering systems such  
3 as pumps, pipes and tanks. The total cost-share of the watering system may not exceed  
4 \$2,000 for components listed in this subparagraph.

5 g. The stabilization of a site eroding due to cattle access or cropland erosion  
6 through the critical area planting processes.

7  
8 **Note:** NRCS has examples of practices that may be beneficial to this BMP, for  
9 example 512-pasture and hayland planting; March, 1992. For more information  
10 reference UWEX Publication A3529 Wisconsin Pastures for Profit: A hands on guide to  
11 rotational grazing-August, 1994.

12 **Note:** Copies of "Wisconsin Pastures for Profit: A hands on guide to rotational  
13 grazing," are on file with the department, the secretary of the state and the revisor of  
14 statutes. Copies may be purchased from the department or from the university of  
15 Wisconsin-extension, UWEX Pub. No. A3529.

16 **(12) CRITICAL AREA STABILIZATION.** (a) *Description.* Critical area  
17 stabilization is the planting of suitable trees, shrubs and other vegetation appropriate for  
18 controlling and stabilizing sloped lands which are producing nonpoint source pollutants  
19 and lands which drain into bedrock crevices, openings and sinkholes. This practice shall  
20 be implemented using one or more of the standards in par. (c).

21 (b) *Conditions.* Trees may not be sold during the operation and maintenance  
22 period.

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

- 25 1. 342 - critical area planting; November, 1999.
- 26 2. 382 - fence; November, 1999.
- 27 3. 386 - field borders; December, 1991.
- 28 4. 472 - livestock exclusion; June, 1983.
- 29 5. 484 - mulching; July, 1987.
- 30 6. 500 - obstruction removal; January, 1983.
- 31 7. 612 - tree planting; October, 1991.

1 8. 725- sinkhole treatment; March, 2000.

2 9. 645 - wildlife upland habitat management; June, 1987.

3 **(13) GRADE STABILIZATION STRUCTURES.** (a) *Description.* A grade  
4 stabilization structure is a structure used to reduce the grade in a drainageway or channel  
5 to protect the channel from erosion or to prevent the formation or advance of gullies. This  
6 practice shall be implemented using one or more of the standards in par. (c).

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

8 a. Channel linings, chutes, drop spillways and pipe drops of less than 15 feet in  
9 height to discharge excess water.

10 b. Detention or retention structures, such as erosion control dams, desilting  
11 reservoirs, sediment basins, debris basins or similar structures of less than 15 feet in  
12 structural height and with maximum storage capacities of less than 15 acre-feet.

13 2. Cost-sharing may be provided for structures with embankments of 15 to 25 feet  
14 in structural height or with maximum storage capacities of 15 to 50 acre-feet if the  
15 department makes a determination in writing that all of the following apply:

16 a. Control of the site is needed to achieve the water quality objectives specified in  
17 an approved priority watershed or lake plan or in the approved priority watershed plan,  
18 priority lake plan or project grant application.

19 b. Construction of the structure is cost-effective.

20 c. Failure of the structure would have minimum potential to endanger life or real  
21 or personal property.

22 3. Cost-sharing may not be authorized for any grade stabilization structure on a  
23 navigable stream or stream classified as supporting a fishery.

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

26 1. 410 - grade stabilization structure; July, 1994.

27 2. 350 - sediment basin; September, 1990.

28 3. 638 - water and sediment control basin; September, 1989.

29 4. 342 - critical area planting; November, 1999.

30 5. 348 - diversion dam; March, 1987.

31 6. 362 - diversion; September, 1989.



- 1           7. 382 - fence; November, 1999.
- 2           8. 412 - grassed waterway; June, 1993.
- 3           9. 468 - lined waterway or outlet; June, 1993.
- 4           10. 484 - mulching; July, 1987.
- 5           11. 500 - obstruction removal; January, 1983.
- 6           12. 620 - underground outlet; June, 1993.
- 7           13. 606 – subsurface drain; September, 1989.
- 8           14. 638 – water and sediment control basin; September, 1989.

9           **(14) AGRICULTURAL SEDIMENT BASINS.** (a) *Description.* Agricultural  
 10 sediment basins are permanent basins designed and constructed to reduce the transport of  
 11 pollutants to surface waters and wetlands of sediment eroded from critical agricultural  
 12 fields. This practice shall be implemented using one or more of the standards in par. (c).

13           (b) *Conditions.* 1. Cost-sharing may be provided for the sediment basin including  
 14 embankments, principal and emergency spillway structures, including anti-seep collars,  
 15 dewatering outlet and outlet protection.

16           2. Cost-sharing may not be provided for:

17           a. Basins having embankments exceeding 25 feet in structural height or with  
 18 maximum storage capacity of more than 50 acre-feet.

19           b. Basins located where failure may result in loss of life.

20           3. Sediment basins with embankments of 15 to 25 feet in structural height or with  
 21 maximum storage capacities of 15 to 50 acre-feet in volume may be cost-shared only  
 22 when approved by the department, in writing, prior to construction. For the department to  
 23 authorize cost-sharing, it shall make the following findings:

24           a. Control of the site is needed to achieve the water quality objectives specified in  
 25 the approved priority watershed plan, priority lake plan or project grant application.

26           b. Construction of the structure is cost-effective.

27           c. Failure of the structure would have minimum potential to endanger life or real  
 28 or personal property.

29           (c) *Standards.* The sediment basin shall be designed consistent with standards for  
 30 construction site sediment basins in the *Wisconsin Construction Site Best Management*

1 *Practice Handbook*, WDNR Pub. WR-222, November 1993 Revision and the NRCS field  
2 office technical standards from the NRCS field office technical guide as follows:

- 3 1. 350 - sediment basin; September, 1990.
- 4 2. 342 - critical area planting; November, 1999.
- 5 3. 382 - fence; November, 1999.
- 6 4. 412 - grassed waterway; June, 1993.
- 7 5. 468 - lined waterway or outlet; June, 1993.
- 8 6. 484 – mulching; July, 1987.
- 9 7. 393 – filter strip; January, 1984.
- 10 8. 561-- heavy use protection area; August, 1999.
- 11 9. 620 – underground outlet; June, 1993.

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

16 **(15) SHORELINE AND STREAMBANK PROTECTION.** (a) *Description.*

17 Shoreline or streambank stabilization is the stabilization and protection of the banks of  
18 streams and lakes against erosion and the protection of fish habitat and water quality from  
19 livestock access. This practice shall be implemented using one or more of the standards  
20 in par. (c).

21 (b) *Conditions.* 1. The cost-share recipient is responsible for obtaining all permits  
22 for the installation of the practice.

23 2. Cost-sharing may be provided:

24 a. For planting trees if approved by a county's land conservation department in  
25 consultation with the department fish manager.

26 b. For water pumps and other measures required to eliminate livestock access to  
27 water.

28 c. To install livestock and machinery crossings that will minimize disturbance of  
29 the stream channel and banks.

30 d. For the design and placement of practices such as shaping and placement of  
31 vegetation, riprap or structures which improve fishery habitat, or other materials on banks

1 and shores identified in an approved priority watershed plan, priority lake plan or the  
2 project grant application, or in areas where streambank repair is the least costly  
3 alternative. Written departmental approval is required for the stabilization of banks with  
4 structural heights higher than 15 feet.

5 e. For required permits.

6 **Note:** A permit may be required under ch. 30, Stats., when installing this best  
7 management practice. For more information, please contact the Bureau of Fisheries  
8 Management and Habitat Protection, P.O. Box 7921, Madison, Wisconsin 53707.

9 3. Cost-sharing is not authorized for wood chunks, unsorted demolition material,  
10 brick, plaster, blacktop and any other material that could produce leachates or would  
11 violate provisions of statutes or administrative codes for use as riprap.

12 (c) *Standards*. 1. Standards from the NRCS field office technical guide are as  
13 follows:

14 a. 580 - streambank and shoreline protection; February, 1997.

15 b. 342 - critical area planting; November, 1999.

16 c. 382 - fence; November, 1999.

17 d. 472 - livestock exclusion; June, 1983.

18 e. 612 - tree planting; October, 1991.

19 f. 395 - fish stream improvement; June, 1987.

20 g. 560 - access road; March, 1989.

21 h. 614 - trough or tank; September, 1989.

22 i. 510 - pasture and hayland management; December, 1984.

23 2. Other standards:

24 a. U.S. department of transportation hydraulic engineering circulars numbers 11  
25 and 15.

26 b. American fisheries society's stream obstruction removal guidelines.

27 c. U.S. department of agriculture's Stream Habitat Improvement Handbook,  
28 publication R8-TP-16, June 1992.

29 d. Natural Resources Conservation Service *Engineering Field Handbook, Soil*  
30 *Bioengineering for Upland Slope Protection and Erosion Reduction*, Pub. 210-EFH,  
31 October, 1992.

1           **Note:** Copies of the materials described in subd. 2.a. to d. may be inspected at the  
2 offices of the department, 101 S. Webster Street, Madison; the Secretary of State, 30 W.  
3 Mifflin, Madison; and the Revisor of Statutes, 131 W. Wilson, Suite 800, Madison.

4           **(16) RIPARIAN BUFFERS.** (a) *Description.* Riparian buffers are areas in which  
5 vegetation is enhanced or established to reduce or eliminate the movement of sediment,  
6 nutrients and other nonpoint source pollutants to adjacent surface water resources or  
7 groundwater recharge areas and to protect the banks of streams and lakes from erosion  
8 and to protect fish habitat. This practice shall be implemented using one or more of the  
9 standards in par. (c).

10           (b) *Conditions.* 1. Cost-sharing may be provided only when the riparian buffers  
11 are used consistent with the approved priority watershed plan, priority lake plan or  
12 project grant application or approved priority watershed or lake plan.

13           2. Cost-sharing may be provided for:

14           a. Permanent fencing to protect a riparian buffer.

15           b. Establishment or enhancement of permanent vegetative cover in a riparian  
16 buffer.

17           c. Mulch, fertilizer, seed, seedling trees and other necessary materials.

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

21           1. 342 – critical area planting; May, 2000.

22           2. 382 – fence; November, 1999.

23           3. 386 – field border; December, 1991.

24           4. 393 – filter strip; January, 2001.

25           5. 472 – livestock exclusion; June, 1983.

26           6. 484 – mulching; July, 1987.

27           7. 645 – wildlife upland habitat management; July, 2000.

28           **(17) LAKE SEDIMENT TREATMENT.** (a) *Description.* Lake sediment  
29 treatment is a chemical, physical or biological treatment of polluted lake sediments.

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

1 a. Design and treatment of lake sediments with chemical compounds, including,  
2 but not limited to, aluminum sulfate, sodium aluminate, ferric chloride, calcium  
3 hydroxide and calcium carbonate.

4 b. Treatment of lake sediments with physical or biological methods including, but  
5 not limited to, the aeration of water overlaying lake sediments and the biological  
6 manipulation of organisms which exacerbate sediment contamination of overlaying lake  
7 water.

8 2. Cost-sharing may not be provided for the dredging of sediments.

9 3. Water quality objectives shall be achieved through the control of polluted lake  
10 sediments.

11 4. Significant nonpoint sources of the pollution to the lake shall be controlled  
12 prior to treatment of lake sediments.

13 5. The department prior to implementation shall approve the engineering design  
14 and, if required will issue an appropriate permit.

15 (c) *Standards.* The design and proposed implementation of lake sediment  
16 treatments shall be approved by the department prior to implementation.

17 **(18) WETLAND RESTORATION.** (a) *Description.* Wetland restoration is the  
18 construction of berms or destruction of the function of tile lines and drainage ditches to  
19 create conditions suitable for wetland vegetation. This practice shall be implemented  
20 using the standard in par. (c).

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

22 1. Earth moving to construct or remove berms, levees or dikes.

23 2. Earth moving to fill in portions of drainage ditches.

24 3. Destruction of portions of tile lines.

25 4. Vegetative cover needed to develop or restore wetlands consistent with the  
26 approved priority watershed plan, priority lake plan or project grant application.

27 (c) *Standards.* NRCS field office technical guide technical standards 657 -  
28 wetland restoration; September, 2000.

29 **(19) SHORELINE HABITAT RESTORATION FOR DEVELOPED AREAS.** (a)  
30 *Description.* Shoreline habitat restoration is the establishment in developed areas of a  
31 shoreline buffer zone of diverse native vegetation that extends inland and waterward from



1 the ordinary high water mark. The shoreline habitat restoration design seeks to restore  
2 the functions provided by the original, natural vegetation, and includes a mixture of  
3 native trees, shrubs, ground cover or wetland species. This practice includes the  
4 following:

5 1. Natural recovery. Used where native vegetation will recover naturally when a  
6 site is protected from disturbance, due to the presence of existing native plants, and  
7 adequate seed sources and site conditions. This method may be applied to wet margins of  
8 lakes or rivers where turf grasses are not well established and in shallow water areas  
9 adjacent to shoreland restoration areas.

10 2. Accelerated recovery. Used in areas not suited for natural recovery. Native  
11 vegetation is established by seeding and planting. This method shall be used in areas  
12 where dense turf grasses have been maintained for several years. This may also be used  
13 in limited situations where one or more layers of natural vegetative cover have been  
14 removed if approved by the department. This practice shall be implemented using one or  
15 more of the standards in par. (c).

16 (b) *Conditions*. 1. Cost-sharing for shoreline habitat restoration may be approved  
17 when existing shoreline vegetation lacks the structure or complexity to support habitat  
18 functions for littoral and riparian areas.

19 2. Cost-sharing may be provided for plants, seed, mulch and erosion control  
20 materials.

21 3. Cost-sharing may be provided for labor and services necessary for installation,  
22 not to exceed 70% of total practice costs, or not to exceed a cost containment policy  
23 developed by the governmental unit for this practice.

24 4. Cost-sharing may not be provided for the following:

25 a. Practice design unless approved by the department.

26 b. Plants, seed, mulch or other materials not approved by the department.

27 c. Shoreline erosion control materials such as riprap or biologs unless approved  
28 by the department.

29 d. Material for stairs, walkways, paths or other access structures.

30 5. The following conditions shall be met in order for cost-sharing to be available:

1 a. No violations of county and local shoreland zoning requirements are present on  
2 the entire property.

3 b. Runoff from roofs, driveways or other hard surfaces on the property shall be  
4 maintained in sheet flow with no channels or gullies to the greatest extent possible. This  
5 can be accomplished with downspout runoff spreaders, directing runoff to flat or gently  
6 sloping grassy areas and minor landscaping to temporarily pond or spread out runoff.  
7 There may be no channelized flow through the restoration area. Where fertilizers are  
8 desired outside the buffer area, zero-phosphorus types shall be used unless soil tests  
9 specifically indicate a need for phosphorus and the project sponsor approves its use.

10 c. No changes in land use or management may occur that cause increased  
11 pollution to surface water from sources that were controlled prior to the installation of a  
12 shoreline habitat restoration practice.

13 6. The following dimensions or restrictions apply to the restoration:

14 a. The buffer created by shoreline habitat restoration shall extend the entire length  
15 of the lot along the shoreline except that a viewing and access corridor is allowed, which  
16 corridor will not be eligible for cost-sharing. Corridors may not exceed 30 feet in width  
17 and may encompass no greater than 30% of the property for lots less than 100 feet wide.  
18 The restoration area design may include the provision of water access, the enhancement  
19 of desirable views, the screening of unwanted views and consideration of privacy. Where  
20 buildings are set back 50 feet or more, the buffer shall extend at least 35 feet inland from  
21 the ordinary high water mark. Where buildings are set back less than 50 feet, the zone  
22 where vegetation removal and land-disturbing activity are prohibited after buffer  
23 establishment, shall extend to within 15 feet of the structure.

24 b. Shallow water areas that are capable of supporting aquatic vegetation  
25 waterward of the ordinary high water mark shall be managed as a zone where vegetation  
26 removal and land-disturbing activity are prohibited after buffer establishment. Areas  
27 waterward of the viewing and access corridor are exempt from this condition.

28 c. An evaluation of existing vegetation on the site is necessary prior to the  
29 selection of plant materials and restoration method. The natural vegetation that occurs in  
30 the region or vicinity of the restoration site shall be considered in developing restoration  
31 plans.

1           d. In order to restore the functional values of the vegetative buffer, it shall consist  
2 of 3 layers: a ground cover, a shrub layer and a tree canopy. Vegetation in all 3 layers  
3 shall be vigorous, diverse and structurally complex. The only exception to this  
4 requirement shall be where natural conditions in the region lack these characteristics.

5           e. Vegetation shall be adapted to the local soils, climate and the surrounding  
6 vegetation. Only species approved by the project sponsor may be planted. Native species  
7 are required, and certain invasive species such as reed canary grass and purple loosestrife  
8 are prohibited.

9           f. The project sponsor shall identify the most appropriate recovery methods for  
10 each individual site.

11           7. The following conditions apply to practice installation:

12           a. Refer to compliance with local NRCS planting recommendations to determine  
13 recommended planting dates for ground covers, shrubs and trees.

14           b. Exposure of bare soil shall be kept to an absolute minimum by using methods  
15 such as black plastic covers to remove competing weeds. All exposed soils shall be  
16 mulched. A temporary seeding is required on sites where permanent ground cover will  
17 not be established until the following year. A temporary or companion seeding is required  
18 on any exposed slopes exceeding 12%. Mulching and netting or erosion control matting  
19 is required on slopes exceeding 20%.

20           c. Zero-phosphorus start-up fertilization is permitted. Phosphorus application is  
21 only permitted where soil tests indicate deficiencies.

22           d. Herbicides approved for use near water may be used only where essential, and  
23 with the approval of the project sponsor.

24           e. Heavy equipment is prohibited, except where specifically approved by the  
25 project sponsor, to prevent soil compaction. If heavy equipment is used, tree roots shall  
26 be protected by not driving over the root zone.

27           8. The following conditions apply to practice operation and maintenance:

28           a. All buffer areas are to be managed as zones where vegetation removal and  
29 land-disturbing activity are prohibited after buffer establishment.

30           b. Fertilizers are prohibited after the buffer is established.

1 c. Herbicides are prohibited except as approved by the project sponsor, where this  
2 is the best method to control undesirable invasive species.

3 d. Burning to clear or maintain buffer areas shall be approved by the project  
4 sponsor, and is limited to regions where prairies are the natural habitat.

5 e. Cutting of trees or shrubs may be done only to prevent safety hazards, or to  
6 remove undesirable competitive species, and shall be approved by the project sponsor.

7 f. The forest floor duff layer and leaf litter shall remain intact to provide a  
8 continuous ground cover and meet the habitat functions of this practice.

9 g. Lawn mowing is permitted in the viewing and access corridors. Elsewhere,  
10 mowing is prohibited except in established prairie buffer areas, and in accordance with a  
11 mowing plan approved by the project sponsor. In viewing and access corridors, mowing  
12 is allowed to a minimum height of 10 inches, and only as needed to reduce competition  
13 from undesirable species. Mowing may occur only between August 1 and September 1  
14 to avoid disturbance of nesting birds and allow regrowth before winter.

15 h. Vehicles, boats, docks or other equipment storage shall be excluded from the  
16 restoration area to prevent soil compaction and damage to the buffer vegetation. Boats  
17 and docks may be temporarily stored during non-growing seasons as long as vegetative  
18 cover is unaffected.

19 i. The access corridor may not channel runoff to the waterbody and shall be  
20 located to avoid areas of high runoff or erodible soils. Grass or other cover that will hold  
21 the soil is required for the access corridor.

22 j. Except for areas waterward of the access corridor, areas waterward of the buffer  
23 shall be managed as zones where vegetation removal and land-disturbing activity are  
24 prohibited after buffer establishment.

25 (c) *Standards.* UW Extension Publication GWQ014, *Shoreline Plants and*  
26 *Landscaping*, DNR Publication PUBL-WM-228, *Home on the Range - Restoring and*  
27 *Maintaining Grasslands for Wildlife*, or similar publications as approved by the project  
28 sponsor.

29 **Note:** Copies of these publications may be inspected at the offices of the  
30 department, 101 S. Webster Street, Madison; the Secretary of State, 30 W. Mifflin,  
31 Madison; and the Revisor of Statutes, 131 W. Wilson, Suite 800, Madison.

1           **(20) BARNYARD RUNOFF MANAGEMENT.** (a) *Description.* Barnyard runoff  
2 management is the use of structural measures to contain, divert, retard, treat, collect,  
3 convey, store or otherwise control the discharge of surface runoff from outdoor areas of  
4 concentrated livestock activity. Measures include, gutters, downspouts and diversions to  
5 intercept and redirect runoff around the barnyard, feeding area or farmstead. This  
6 practice shall be implemented using one or more of the standards in par. (c).

7           (b) *Conditions.* 1. Cost-sharing may not be provided if:

8           a. The operator intentionally aggravated a pollution discharge for the purpose of  
9 receiving cost-sharing.

10           b. The discharge could be prevented through improved management practices at  
11 significantly lower costs than for a barnyard runoff system.

12           c. The operator could have prevented the discharge by means of a previously  
13 agreed operations and maintenance plan with the department, the department of  
14 agriculture, trade and consumer protection, the county land conservation committee or  
15 the natural resources conservation service.

16           2. Cost-sharing may not be provided for:

17           a. Costs to design or construct a barnyard that is not installed.

18           b. Costs to construct or modify a building. This subdivision paragraph does not  
19 apply to a modification that is essential for the installation of a barnyard runoff control  
20 system or to the construction of a roof system pursuant to s. NR 120.14 (26).

21           c. Costs for equipment to apply manure to land.

22           d. Costs resulting from anticipated changes in livestock numbers, housing or  
23 management.

24           3. Cost-sharing may be provided for:

25           a. Diversions, gutters, downspouts, collection basins, infiltration areas, filter  
26 strips, waterway outlet structures, piping, land shaping and filter walls needed to manage  
27 runoff from areas where livestock manure accumulates.

28           b. Concrete paving of portions of yards necessary to support walls, necessary to  
29 enable proper yard scraping and used as a settling basin.

1 c. Concrete paving of all or portions of the yard required to protect groundwater  
2 when specified in the approved priority watershed plan, priority lake plan, ch. NR 243  
3 project or other project grant application.

4 (c) *Standards*. 1. Standards from the NRCS field office technical guide are as  
5 follows:

- 6 a. 362 - diversion; September, 1989.
  - 7 b. 558 - roof runoff management; March, 1996.
  - 8 c. 342 - critical area planting; May, 2000.
  - 9 d. 561 - heavy use area protection; August, 1999.
  - 10 e. 382 - fence; November, 1999.
  - 11 f. 412 - grassed waterway; June, 1993.
  - 12 g. 468 - lined waterway or outlet; June, 1983.
  - 13 h. 484 - mulching; July, 1987.
  - 14 i. 620 - underground outlet; June, 1993.
  - 15 j. 350 - sediment basin; September, 1990.
  - 16 k. 533- pumping plant for water control; September, 1986. -
  - 17 l. 590 - nutrient management; March, 1999.
  - 18 m. 312 - waste management system; January 1987.
- 19 2. Other standards as approved by the department.

20 **(21) ANIMAL LOT ABANDONMENT OR RELOCATION.** (a) *Description*.

21 Animal lot relocation is relocation of an animal lot from a site such as a floodway to a  
22 suitable site to minimize the amount of pollutants from the animal lot to surface or  
23 ground waters. This practice does not include the purchase of land. This practice shall be  
24 implemented using one or more of the standards in par. (c).

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

26 a. Stabilization and abandonment of a site, which does or does not include  
27 relocation to a different site owned, operated or controlled by the cost-share recipient. For  
28 abandonment of a site which does not include relocation, the site shall either have been in  
29 existence for a minimum of 3 years and found to be a significant nonpoint source of  
30 pollution, have been issued a notice of discharge under ch. NR 243, or have been  
31 identified during a watershed inventory as being a nonpoint source of pollution and listed

1 as eligible in the approved priority watershed plan, priority lake plan or project grant  
2 application.

3 b. Reconstruction or replacement of buildings and other structures necessary for  
4 the relocation of the animal lot.

5 c. Proper abandonment of wells required as a result of the relocation of the animal  
6 lot.

7 d. Runoff management practices needed on the relocated lot consistent with sub.  
8 (20).

9 e. Stabilization and abandonment of a previously used earthen animal lot which  
10 has either been in existence for a minimum of 3 years and is found to be a significant  
11 nonpoint source of pollution or has been identified during a watershed inventory as being  
12 a nonpoint source of pollution and is listed as eligible in the approved priority watershed  
13 plan, priority lake plan or project grant application.

14 2. Wells shall be properly abandoned in accordance with the requirements of ch.  
15 NR 812.

16 3. The landowner agrees to abandon the existing site permanently for livestock  
17 use and agrees to record a restrictive covenant to this effect in the office of the register of  
18 deeds for each county in which the property is located. The restrictive covenant shall  
19 permanently exclude the use of the property by livestock. A maximum of 10 animals may  
20 be kept on the site, provided that no more than 4 individual animals exceed a live weight  
21 of 200 pounds and the desired level of pollutant control for the site is maintained.

22 4. A plan for relocation shall be approved by the governmental unit, in writing,  
23 prior to initiation of relocation. The project grant application shall list criteria for  
24 relocation plan approval. At a minimum, these criteria shall include the following:

25 a. The site is identified as eligible in the approved priority watershed plan, priority  
26 lake plan or project grant application.

27 b. The relocation to a site owned, operated or controlled by the cost-share  
28 recipient is cost-effective provided the cost-sharing for repairing, reconstructing or  
29 replacement of buildings and other structures at the relocation site does not exceed the  
30 appraised values of the buildings and other structures to be abandoned which have utility  
31 for livestock operations.

1 c. The relocated lot will not significantly contribute to a water quality problem.

2 5. If the cost-share recipient has received state cost-share funding at the site to be  
3 abandoned for practices listed in this paragraph, the amount of cost-sharing received shall  
4 be deducted from the relocation cost-share payment.

5 6. In cases of abandonment which does not include relocation to a different site  
6 owned, operated or controlled by the cost-share recipient, livestock may not be relocated  
7 to a site which will significantly contribute to surface water or groundwater quality  
8 degradation. A written plan shall be submitted to the governmental unit for approval  
9 detailing the disbursement of the animals.

10 7. The abandonment of a site without relocation to a site owned, operated or  
11 controlled by the cost-share recipient is cost-effective provided the cost-share grant does  
12 not exceed the estimated cost-share grant of the best management practices which would  
13 have been installed at the abandoned site. The best management practice cost-effective  
14 requirement may be waived by the department if the site to be abandoned has a  
15 significant water quality impact and the proposed best management practice cannot  
16 ensure an acceptable level of water quality protection when compared to relocation.

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

- 19 1.635 – wastewater treatment strip; July, 2001.
- 20 2. 362 - diversion; September, 1989.
- 21 3. 558 - roof runoff management; March, 1996.
- 22 4. 342 - critical area planting; November, 1999.
- 23 5. 561 - heavy use area protection; August, 1999.
- 24 6. 382 - fence; November, 1999.
- 25 7. 412 - grassed waterway; June, 1993.
- 26 8. 468 - lined waterway or outlet; June, 1993.
- 27 9. 484 - mulching; July, 1987.
- 28 10. 620 - underground outlet; June, 1993.
- 29 11. 350 - sediment basin; September, 1990.
- 30 12. 312 - waste management system; January, 1987.
- 31 13. 500 - obstruction removal; January, 1983.



1 14. 590 - nutrient management; March, 1999.

2 (22) WELL ABANDONMENT. (a) *Description*. Well abandonment is the proper  
3 filling and sealing of a well to prevent it from acting as a channel for contaminants to  
4 reach the groundwater or as a channel for the vertical movement of surface water to  
5 groundwater. This practice shall be implemented using one or more of the standards in  
6 par. (c).

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

8 a. The removal of the pump, pump piping, debris or other obstacles that interfere  
9 with the proper sealing of the well.

10 b. The sand-cement grout, sodium bentonite, clay slurry, chipped bentonite or  
11 concrete used for the well sealing.

12 c. Chlorine used as a disinfectant.

13 d. The backfilling operations to fill the surface around a well pit.

14 e. The necessary labor costs to complete the proper abandonment.

15 2. Cost-sharing may not be provided for:

16 a. The abandonment of wells at an oil or gas drilling site or wells that produced  
17 gas or oil.

18 b. The abandonment of wells used for test or exploratory purposes.

19 c. The abandonment of mine shafts, drill holes or air vents associated with the  
20 mining industry.

21 d. The abandonment of high capacity wells.

22 (c) *Standards*. 1. NRCS field office technical standard 642 – Well  
23 Decommissioning; April, 1999.

24 2. Section NR 812.26 on well and drillhole abandonment.

25 (23) MANURE STORAGE FACILITIES. (a) *Description*. A manure storage  
26 facility is a structure which stores manure from operations where manure is generated or  
27 from operations where the location and site characteristics of manure spreading areas  
28 result in a high potential for runoff to carry pollutants to lakes, streams and groundwater  
29 during periods of frozen or saturated conditions. The facility shall be necessary to  
30 accommodate proper land application of manure in accordance with a nutrient

- 1 management plan. This practice shall be implemented using one or more of the standards  
2 in par. (c).
- 3 (b) *Conditions*. 1. A nutrient management plan for the operation is required.
- 4 2. Cost-sharing may be provided if:
- 5 a. The locations and site characteristics of areas where manure is spread have high  
6 potentials to carry runoff to lakes and streams and the facilities are necessary to  
7 accommodate proper land application of the manure in accordance with the nutrient  
8 management plan.
- 9 b. The existing storage or spreading of manure has a high potential for  
10 contaminating groundwater as specified in the approved priority watershed plan, priority  
11 lake plan or project grant application.
- 12 3. Cost-sharing may be provided for:
- 13 a. Aerobic or anaerobic basins, liquid manure tanks and solid manure stacking  
14 facilities, piping and other stationary equipment necessary for conveying manure to the  
15 storage facility required as part of a nutrient management plan.
- 16 b. Storage capacities of no less than 30 days and no more than 365 day manure  
17 generation.
- 18 c. Leases of manure storage tanks subject to the restrictions of ss. NR 120.18 (2)  
19 (c) and 153.16(2)(e).
- 20 d. The repair, modification or abandonment of existing manure storage facilities  
21 needed to meet water quality objectives including well abandonment required under ch.  
22 NR 812.
- 23 e. Manure storage structures at operations where manure is generated.
- 24 4. Cost-sharing may not be provided if:
- 25 a. Manure can be spread at acceptable rates on locations which are nearly flat and  
26 represent a minimal risk to surface water and groundwater or which do not drain to  
27 surface waters.
- 28 b. The landowner intentionally aggravated conditions in order to qualify for cost-  
29 sharing.
- 30 5. Cost-sharing may not be provided for any of the following:
- 31 a. Portable pumps and other nonstationary equipment.

- 1           b. Buildings or modifications to buildings.
- 2           c. Equipment for land applying or incorporating manure.
- 3           d. Additional costs associated with the construction of a manure storage facility
- 4 incurred for the purpose of providing structural support for a building or other structure
- 5 located over or attached to the facility.
- 6           6. Runoff from solid manure stacking facilities shall be controlled.
- 7           7. Manure stored in the storage facility shall be land applied in accordance with
- 8 the operation's nutrient management plan. Manure stored in facilities designed to be
- 9 emptied annually or semi-annually may not be applied on frozen or saturated ground and
- 10 shall be incorporated within 3 days after application.
- 11           8. Basins shall be constructed to assure sealing of the bottom and sides to prevent
- 12 contamination of wells and groundwater.
- 13           9. The project sponsor prior to the payment of cost-share funds shall certify
- 14 compliance with the manure management prohibitions in s. NR 151.08.
- 15           (c) *Standards.* 1. NRCS field office technical guides are as follows:
- 16           a. 312 - waste management system; January, 1987.
- 17           b. 313 - waste storage structure; September, 1998.
- 18           c. 634 - manure transfer; January, 1999.
- 19           d. 590 - nutrient management; March, 1999.
- 20           e. 382 – fence; November, 1999.
- 21           f. 561 – heavy use protection area; August, 1999.
- 22           2. Other standards as specified by the department.
- 23           **(24) ANIMAL WASTE STORAGE SYSTEM ABANDONMENT. (a)**
- 24           *Description.* Manure storage system abandonment is the permanent disabling and proper
- 25 abandonment of leaking and improperly sited manure storage systems including a system
- 26 with bottom at or below groundwater level; a system whose pit fills with groundwater; a
- 27 system whose pit leaks into the bedrock; a system which has documented reports of
- 28 discharging manure into surface water or groundwater due to structural failure; or a
- 29 system with evidence of existing structural failure or evidence of imminent structural
- 30 failure that will likely result in resource degradation. This practice shall be implemented
- 31 using one or more of the standards in par. (c).

1 (b) *Conditions*. 1. Cost-sharing may be provided for the following practices to  
2 protect water resources from contamination by manure:

- 3 a. Proper removal and disposal of accumulated wastes in the pond or structure.
- 4 b. Removal of any constructed soil liner, concrete or membrane liner.
- 5 c. Removal of all soil saturated with waste, which can be removed.
- 6 d. Proper land spreading of excavated liner material and waste saturated soil.
- 7 e. Filling, shaping to insure surface drainage away from site, and seeding of area.

8 2. Cost-sharing may not be provided for removal and spreading of manure that  
9 can be removed using conventional equipment and routine agricultural practices.

10 (c) *Standards*. 1. Standards from the NRCS field office technical guide are as  
11 follows:

- 12 a. 312 - waste management system; January, 1987.
- 13 b. 313 - waste storage structure; September, 1998.
- 14 c. 634 - manure transfer; January, 1999.
- 15 d. 590 - nutrient management; March, 1999.
- 16 e. 382 - fence; November, 1999.
- 17 f. 561 - heavy use protection area; August, 1999.

18 2. Other standards as specified by the department.

19 **(25) MILKING CENTER WASTE CONTROL SYSTEMS.** (a) *Description*. A  
20 milking center waste control system is a piece of equipment, practice or combination of  
21 practices installed in a milking center for purposes of reducing the quantity or pollution  
22 potential of the wastes. This practice shall be implemented using one or more of the  
23 standards in par. (c).

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

- 25 a. Design and construction of filter strip systems with appropriate pretreatment  
26 measures, storage systems and land irrigation equipment.
- 27 b. Repair or modification of existing milking center waste control measures.
- 28 c. Stationary waste transfer equipment, such as piping and pumps, needed to  
29 convey milking center wastes to storage, treatment or land application systems provided  
30 that the equipment is an integral component of the system and is designed for that  
31 exclusive use.

1 d. Other milking center waste control measures when they are needed to assure  
2 that the milking center waste treatment systems will meet identified water quality  
3 objectives. These measures may include conservation sinks, pre-cooler water utilization  
4 systems, manifold cleaning systems, air injection systems, waste milk diverter valves,  
5 booster pumps for parlor floor cleaning and other measures as approved by the  
6 department.

7 2. Cost-sharing may not be provided for:

8 a. Design and construction of systems, practices or components that are installed  
9 or adopted for purposes other than for the correction of an identified water pollution  
10 hazard.

11 b. Buildings or modifications to buildings, unless modifications to buildings are  
12 essential for installation of a milking center waste control system.

13 c. Portable equipment for spreading milking center wastes onto land or  
14 incorporating the wastes into land.

15 (c) *Standards*. 1. Standards from the NRCS field office technical guide are as  
16 follows:

17 a. 635- wastewater treatment strip; July, 2001.

18 b. 634 - manure transfer; January, 1999.

19 c. 614 - trough or tank; September, 1989.

20 d. 313 – waste storage facility; September, 1998.

21 e. 590 – nutrient management; March, 1999.

22 2. Milking center waste control systems shall be planned in accordance with the  
23 Pollution Control Guide for Milking Center Wastewater Management (UWEX Pub. No.  
24 A3592-July, 1994), and designed in accordance with standards approved by the  
25 department.

26 **(26) ROOFS FOR BARNYARD RUNOFF MANAGEMENT AND MANURE**  
27 **STORAGE FACILITIES.** (a) *Description*. Roofs for barnyard runoff management and  
28 manure storage facilities are a roof and supporting structure constructed specifically to  
29 prevent precipitation from contacting manure. This practice shall be implemented using  
30 the standards in par. (c).

1 (b) *Conditions.* 1. Cost-sharing may not be provided for materials and labor for  
2 other structures or buildings.

3 2. The roofed structure may not be permanently enclosed unless the landowner  
4 receives written approval from the department.

5 a. For purposes of this subsection, a permanently enclosed structure is defined as  
6 a structure where the sum of the length of the walls exceeds 50% of the total length of the  
7 perimeter of the structure. When the structure has a shape other than a rectangle or  
8 square, each rectangular or square portion of the total structure, excluding the common  
9 sides, shall be calculated separately to determine whether it exceeds 50%. A segment of  
10 the perimeter shall be considered a wall if greater than 50% of the opening from eave to  
11 floor is of solid building material.

12 b. An application requesting cost-sharing for the enclosure of a roofed barnyard  
13 runoff management system shall be submitted in writing to the department for its  
14 approval. The written application and the applicable cost-share agreement shall include a  
15 recognition by the landowner or land operator that the barnyard may not be used for  
16 purposes other than an animal lot for the duration of the cost-share agreement.

17 3. The livestock facility may not establish additional outdoor animal lots on the  
18 site unless the department certifies that adequate runoff control practices are established  
19 for the duration of the cost-share agreement.

20 (c) *Standards.* 1. The roof shall be designed to support wind, snow and other live  
21 and dead loads consistent with the American Society of Agricultural Engineers (ASAE)  
22 Engineering Practice (EP) 288.5, 1992.

23 **Note:** Copies of this publication are available for inspection at the central office  
24 of the Department of Natural Resources, and the offices of the Revisor of Statutes and  
25 Secretary of State.

26 2. The roof and supporting structure shall be constructed of materials with a life  
27 expectancy of a minimum of 10 years.

28 3. The structure shall have sufficient ventilation.

29 **(27) LIVESTOCK FENCING.** (a) *Description.* Livestock fencing is the  
30 enclosure, separation or division of one area of land from another in a manner that  
31 provides a permanent barrier to livestock. The purpose of the practice is to exclude

1 livestock from land areas that should be protected from grazing or gleaning where  
2 degradation of the natural resource will likely result if livestock access is permitted. This  
3 practice shall be implemented using one or more of the standards in par. (c).

4 (b) *Conditions*. 1. Cost-sharing may be provided for permanent fencing when  
5 fencing is needed to:

6 a. Eliminate the degradation of a surface water body.

7 b. Reduce the impact to a resource from sedimentation that is being caused by  
8 livestock.

9 c. Exclude livestock from a forest or woodlot.

10 d. Eliminate the degradation of other natural resources as defined within the  
11 approved priority watershed plan, priority lake plan, notice of discharge or project grant  
12 application.

13 2. Cost-sharing may not be provided for:

14 a. Fencing of cropland fields for the primary purpose of providing areas for  
15 gleaning by livestock or for handling or segregating of livestock.

16 b. Temporary fencing.

17 c. Situations where benefits to water quality improvement cannot be readily  
18 defined.

19 d. Electric fence energizers.

20 (c) *Standards and specifications*. NRCS field office technical guide standards  
21 and specifications are as follows:

22 1. 382- fence; November, 1999.

23 2. 472- livestock exclusion; June, 1983.

24 **(28) URBAN BEST MANAGEMENT PRACTICES.** (a) *Description*. Urban best  
25 management practices include structural urban best management practices and other  
26 source area measures, transport system and end-of-pipe measures designed to control  
27 storm water runoff rates, volumes and discharge quality. In this definition, "source area"  
28 means a component of urban land use including rooftops, sidewalks, driveways, parking  
29 lots, storage areas, streets and lawns from which storm water pollutants are generated  
30 during periods of snowmelt and rainfall runoff.

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

- 1           a. Excavation, grading, mulching, seeding, necessary landscaping, piping, drop  
2           spillways and other measures required to implement the practice.
- 3           b. Land acquisition, including storm sewer rerouting and the removal of structures  
4           necessary to install structural urban best management practices.
- 5           c. Materials and labor for the initial installation of groundwater monitoring wells  
6           required by the department.
- 7           d. On a prorated basis, for multi-purpose practices which manage both water  
8           quality and unrelated water quantity problems.
- 9           2. Cost-sharing under this chapter may not be provided for:
  - 10           a. Urban best management practices, land acquisition, storm sewer rerouting or  
11           removal of structures where the practices serve solely to solve drainage and flooding  
12           problems unrelated to the primary water quality improvement strategy in a priority  
13           watershed or lake plan or application selected for funding under this chapter.
  - 14           b. Removal or disposal of accumulated sediments or other materials needed to  
15           properly maintain the practice.
- 16           (c) *Review and approval procedures.* 1. The department shall identify acceptable  
17           standards for each best management practice in an approved priority watershed plan,  
18           approved priority lake plan or project grant.
  - 19           2. The department shall consider documents containing non-agricultural technical  
20           standards developed under the process in subch. V of ch. NR 151 and other documents  
21           when identifying acceptable technical standards.
  - 22           3. The governmental unit, landowner or land operator shall submit preliminary  
23           designs for each identified alternative to the department for review and comment.
  - 24           4. Based on the review of the preliminary designs for each alternative, the  
25           governmental unit, landowner or land operator shall submit a detailed design including  
26           pertinent information addressing each criterion listed in subd. 5., for the selected  
27           alternative prepared by a registered professional engineer or other individual trained in  
28           the design of the practice and approved by the department, to the department for review  
29           and approval.
  - 30           5. The department shall approve or disapprove within 90 days the detailed design  
31           based on the following criteria:



1 a. Adequacy of pollutant control to protect surface water, groundwater and  
2 wetland resources in accordance with the objectives of a watershed plan. Applicable  
3 performance standards identified in ch. NR 151 may be considered and addressed in the  
4 detailed design.

5 b. Consistency with water quality provisions of department approved plans, such  
6 as priority watershed or lake plans, integrated resource management plans, remedial  
7 action plans or wellhead protection plans, or with existing local storm water management  
8 ordinances or plans that meet minimum department requirements.

9 c. Structural integrity of the design.

10 d. Aesthetics.

11 e. The degree to which other environmental considerations are integrated in the  
12 proposal.

13 f. The adequacy of the provisions for long-term maintenance of the structural  
14 practice.

15 g. Other pertinent factors.

16 6. The department may waive or modify the review or approval procedures under  
17 subs. 3. to 5. Any waiver shall be specifically described in the grant agreement or the  
18 cost-share agreement.

19

20 **NR 120.15 Interim best management practices. (1) INTERIM BEST**  
21 **MANAGEMENT PRACTICES.** The department may approve best management  
22 practices not listed in s. NR 120.14 where necessary to meet the water resources  
23 objectives identified in the watershed plan. The department shall consult with DATCP  
24 regarding agricultural best management practices approved under this subsection. The  
25 department may identify in the nonpoint source grant agreement design criteria and  
26 standards and specifications; cost-share conditions; and cost-share rates for each best  
27 management practice approved under this section.

28 **(2) ALTERNATIVE DESIGN CRITERIA.** For best management practices described in s.  
29 NR 120.14, the department may approve alternative design criteria or standards and  
30 specifications where an alternative will achieve the same or a greater level of pollutant

1 control. The department shall consult with DATCP regarding alternative design criteria  
2 for agricultural best management practices.

3

4 **NR 120.16 Ordinances. (1) APPLICABILITY.** Counties, cities, villages and towns  
5 located within the priority watershed project or priority lake area project shall adopt the  
6 following ordinances if required within the watershed plan:

7 (a) Manure storage ordinance under s. 92.16, Stats.

8 (b) Construction site control ordinance under s. 59.693, 60.627, 61.354 or 62.234,  
9 Stats.

10 **(2) CONDITION OF GRANT.** Adoption, implementation and enforcement of  
11 ordinances under sub. (1) within the time frame specified under s. NR 120.08(1)(b)1.i.  
12 and k. shall be a condition of receiving funding from the department under a nonpoint  
13 source grant. Actions to implement and enforce these ordinances are subject to the  
14 provisions of s. NR 120.28(1) and (2).

15 **(3) CONSTRUCTION SITE EROSION CONTROL ORDINANCES.** (a) An ordinance to  
16 control construction site erosion that is adopted by the governmental unit prior to the  
17 effective date of this rule ...[revisor insert date] shall meet the requirements of this  
18 paragraph.

19 1. An ordinance under sub. (1) shall apply, at a minimum, to construction  
20 activities as defined in s. 281.33 (3) (b) 1. to 5., Stats., within the jurisdiction unless the  
21 construction site activities are otherwise regulated by the department under s. NR 216.42,  
22 or regulated by ch. COMM 20, 21, 50 or 52, or exempted by s. 13.48 (13), Stats., or  
23 subject to the department of transportation and department liaison cooperative agreement  
24 under s. 30.12(4), Stats.

25 2. The ordinance shall contain the following:

26 a. Statements of authority, findings and purpose.

27 b. An applicability statement identifying activities subject to the ordinance.

28 c. Performance standards, criteria and other conditions to minimize the amount of  
29 sediment and other pollutants reaching the waters of the state during the development of  
30 lands and until final stabilization of the site.

1 d. A provision requiring consistency with the accepted design criteria, standards  
2 and specifications identified in the *Wisconsin Construction Site Best Management*  
3 *Practice Handbook*, WDNR Pub. WR-222 November 1993 Revision, or other design  
4 guidance and technical standards identified, developed or disseminated by the department  
5 under subch. V of chapter NR 151.

6 e. Permit application and planning requirements.

7 f. Permit issuance, administration and enforcement procedures.

8 g. Violation penalties.

9 h. Appeal procedures.

10 (b) An ordinance to control construction site erosion adopted by the governmental  
11 unit after the effective date of this rule ...[revisor insert date] shall be consistent with the  
12 performance standards in s. NR 151.11.

13 (4) DEPARTMENTAL APPROVAL. An ordinance required under sub. (1) shall  
14 be reviewed and approved by the department prior to adoption.

15

16 **NR 120.17 Cost-share eligibility. (1) ELIGIBLE BEST MANAGEMENT PRACTICES.**  
17 Best management practices listed in s. NR 154.03 that are installed and maintained to  
18 control the following nonpoint sources in accordance with the minimum conditions in ch.  
19 NR 154 are eligible for cost-share assistance under this chapter when addressing  
20 nonpoint sources of pollution in a watershed plan:

21 (a) Croplands and undeveloped rural lands.

22 (b) Non-agricultural pollution sources

23 (c) Streambanks and shorelines.

24 (d) Livestock yards and manure management areas except those identified in sub.

25 (2)(b) 1 to 2.

26 (e) Lake sediments.

27 (f) Other sources determined by the department to meet the objectives of the  
28 program.

29 (2) INELIGIBLE BEST MANAGEMENT PRACTICES. The following practices, sources or  
30 activities are not eligible for cost-share assistance under this chapter:

1 (a) Best management practice installation, operation or maintenance started prior  
2 to the signing of the cost-share agreement.

3 (b) Activities requiring coverage under a WPDES permit including any of the  
4 following:

5 1. Activities at livestock operations with less than 1,000 animal units that have  
6 been issued a WPDES permit by the department under ch. 283, Stats. In this paragraph,  
7 "livestock operation" has the meaning given in s. 281.16 (1) (c), Stats. In this paragraph,  
8 "animal unit" has the meaning given in ch. NR 243.

9 2. Activities at livestock operations that have, or will have within 12 months, at  
10 least 1,000 animal units and are required to apply for a WPDES permit under s. NR  
11 243.12 (1) (a) or (b).

12 3. All other activities requiring coverage under a WPDES permit issued under  
13 chs. NR 200 to 242 and 244 to 299.

14 (c) Activities required as part of or as a condition of a license for a solid waste  
15 management site.

16 (d) Activities funded through state or federal grants for wastewater treatment  
17 plants.

18 (e) Active mining activities.

19 (f) Pollutant control measures needed during building and utility construction, and  
20 storm water management practices for new developments.

21 (g) Pollutant control measures needed during construction of highways and  
22 bridges.

23 (h) The planting, growing and harvesting of trees associated with silviculture,  
24 except as necessary for site stabilization.

25 (i) Installing, operating or repairing a small scale on-site human domestic waste  
26 facility construction.

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

28 (k) Installing dams, pipes, conveyance systems and detention basins intended  
29 solely for flood control.

30 (L) Operation and maintenance of cost-shared practices.

1 (m) Practices other than those in s. NR 154.03 that are normally and routinely  
2 used in growing crops and required for the growing of crops or the feeding of livestock.

3 (n) Practices whose purpose is to accelerate or increase the drainage of land or  
4 wetlands, except where drainage is required as a component of a best management  
5 practice.

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

9 (p) Significant expansions of livestock operations that are not in compliance with  
10 agricultural performance standards under subch. II of ch. NR 151. Significant expansions  
11 shall be determined using the criteria under par. (q) 2. The base livestock population and  
12 the portion of the expansion that is considered less than significant shall be eligible.

13 (q) Practices needed to control sources that were adequately managed for the  
14 specific land use at the time of cost-share agreement signing, including management of a  
15 source in compliance with performance standards, but that are producing an increased  
16 amount of pollutant loading to the surface water or groundwater due to the landowner's or  
17 land operator's significant changes in land management.

18 1. Changes that the department may consider significant and ineligible for cost  
19 sharing include significant increases in size of the livestock population, changes to more  
20 intensive cropping and other changes in land use or management which increase the  
21 pollutant loading counter to the water resource objectives in an approved areawide water  
22 quality management plan, priority watershed plan, county land and water resources  
23 management plan or performance standard for the area.

24 2. For purposes of this paragraph, the department shall use the criteria in this  
25 subdivision in determining whether the increase in the size of the livestock population is  
26 significant and ineligible for cost sharing. In this subdivision, "livestock population  
27 size" means the size of the livestock population, in animal units. In this subdivision,  
28 "base livestock population size" means the livestock population size determined when the  
29 department or governmental unit, including a county land conservation committee, visits  
30 the site and documents the size of the livestock population. In this subdivision, "animal  
31 unit" has the meaning given in ch. NR 243.

1 a. If the base livestock population size is less than or equal to 250 animal units,  
2 that portion of the expansion that results in a livestock population size exceeding 300  
3 animal units is considered to be significant and ineligible for cost sharing under this  
4 chapter.

5 b. If the base livestock population size is greater than 250 animal units but less  
6 than that required to apply for a WPDES permit under s. NR 243.12 (1) (a) or (b), and the  
7 expanded livestock population size will be less than that required to apply for a WPDES  
8 permit under s. NR 243.12 (1) (a) or (b), then that portion of the expansion that is greater  
9 than 20% of the base livestock population size is considered to be significant and  
10 ineligible for cost sharing under this chapter.

11 c. Any expansion to a base livestock population size that results in a livestock  
12 population size required to apply for a WPDES permit under s. NR 243.12 (1) (a) or (b)  
13 is considered to be significant and ineligible for cost sharing under this chapter, and shall  
14 also render the base livestock population component ineligible for cost sharing in  
15 accordance with s. NR 153.15 (2) (f) 2.

16 d. The base livestock population and the portion of the expansion that is  
17 considered less than significant shall be eligible.

18 **Note:** The department may not provide cost sharing under this chapter for  
19 activities requiring coverage under a WPDES permit. This includes activities requiring  
20 permit coverage at livestock operations that are greater than or equal to 1,000 animal  
21 units in size or that will become greater than or equal to 1,000 animal units through an  
22 expansion.

23 (r) Practices to be fully funded through other programs.

24 (s) Practices previously installed and necessary to support cost-shared practices.

25 (t) Changes in crop rotation unless required as a component of practices in s. NR  
26 154.03 (7), (8), (10) or (11).

27 (u) Changes in location of unconfined manure stacks involving no capital cost.

28 (v) Purchase of nonstationary manure spreading equipment.

29 (w) Practices needed for land use changes during the cost-share agreement period.

30 (x) Urban nonpoint sources that must be controlled to meet the requirements of a  
31 municipal WPDES storm water discharge permit.

- 1 (y) Correcting overtopping of a manure storage facility.  
2 (z) Moving a manure stack.  
3 (za) Maintaining existing grass cover.  
4 (zb) Installing or modifying an agricultural facility or practice which is required  
5 pursuant to a court order or court-ordered stipulation.  
6 (zc) Other practices which the department determines are not necessary to achieve  
7 the objectives of the watershed project.

8 (3) DEMONSTRATION PROJECTS. The department may establish alternative  
9 eligibility criteria for demonstration projects. With prior department approval,  
10 demonstration projects meeting these alternative criteria may be implemented during the  
11 grant period.

12 **NR 120.18 Cost-share rates. (1) STATE COST-SHARE RATES. (a)** The maximum  
13 state cost share rate for individual best management practices cost-shared under this  
14 chapter may not exceed 70%, except as otherwise provided in this subsection. Cost-share  
15 funds from the appropriations under s. 20.115(7)(c) and (qd), 20.370(6)(aa) and (aq) or  
16 20.866(2)(te) and (we), Stats., shall be considered part of the state rate.

17 (b) Cost-share rates in this section shall be increased in cases of economic  
18 hardship in accordance with sub. (4).

19 (c) The department may provide cost-share up to 100% to replace best  
20 management practices eligible in accordance with s. NR 120.186 (4).

21 (d) The cost-share rates for best management practices under existing cost-share  
22 agreements may be amended to use the rates identified in this section.

23 (e) The maximum state cost-share rates shall be reduced by 50% for landowners  
24 of critical sites when a cost-share agreement is signed after the period of cost-sharing  
25 availability for critical sites has ended.

26 (f) The following conditions further specify eligibility criteria for cost-share  
27 reimbursements under this section:

28 1. Wildlife habitat re-creation associated with implementation of contour  
29 farming, contour strip-cropping and field strip-cropping has a maximum state cost-share  
30 rate of 70%.

1           2. For the best management practices under NR 120.14 (16), riparian buffers, and  
2 120.14 (6), grassed waterways, a single payment in addition to installation costs may be  
3 made in accordance with the following:

4           a. For riparian buffers under NR 120 (16), \$500 per acre used for the buffer.

5           b. For waterway systems under NR 120 (6), \$300 per acre used for the waterway  
6 system.

7           c. Payments under this subdivision are eligible only for acreage upon which a  
8 commodity crop was harvested in at least 2 of the 5 years prior to the signing of the cost-  
9 share agreement. The 2 years need not be consecutive if separated by non-grain portions  
10 of a normal crop rotation.

11           3. Cost-share payments for high residue management systems may not be made  
12 for more than a total of 6 years.

13           4. Cost-share payments for cropland protection cover (green manure) may not be  
14 made for more than a total of 3 years.

15           5. Flat rates identified under par. (g) may be used in lieu of calculating cost-share  
16 amounts.

17           6. Cost-share payments for nutrient management may not be made for more than a  
18 total of 3 years.

19           7. Cost-share payments for pesticide management may not be made for more than  
20 a total of 3 years.

21           8. The maximum amount cost-shared for leases of manure storage tanks shall be  
22 70% of the down payment and lease cost of the tank during the grant period of the  
23 watershed project.

24           9. A governmental unit may establish a flat rate for cost-sharing critical area  
25 stabilization in order to simplify the administration of cost-share funding for this best  
26 management practice. The flat rate shall be calculated based on the cost-share rate, up to  
27 70%, and the average cost of the practice.

28           (g) Counties may use the following state cost-share rates per acre in lieu of the  
29 state cost-share percentage listed in this section.

30           1. \$9.00 per acre for contour cropping.

31           2. \$13.50 per acre for strip-cropping.



- 1 3. \$7.50 per acre for field strip-cropping.
- 2 4. \$18.50 per acre per year for high residue management systems.
- 3 5. \$25 per acre per year for cropland protection cover (green manure).
- 4 6. Flat rates for fencing as follows:
  - 5 a. Three strand barbed wire, steel or wooden post at a flat rate of \$5.00 per linear
  - 6 rod.
  - 7 b. Woven wire, steel or wooden post at a flat rate of \$8.00 per linear rod.
  - 8 c. Two strand electric, fiberglass, steel or wooden post and insulators at a flat rate
  - 9 of \$3.00 per linear rod.
  - 10 d. Fiberglass posts, high tensile wire at a flat rate of \$7.50 per linear rod.

11 **(2) MAXIMUM AMOUNTS.** (a) *Least cost.* A governmental unit may set cost-share  
12 rates up to the maximum amount specified for the practice in this section. Where 2 or  
13 more practices are of equal effectiveness in reducing pollutants, the cost-share rate shall  
14 be based on the least cost practice provided the practice is consistent with the use and  
15 management of the land in question. The department may approve, in writing, cost-  
16 sharing for a best management practice that is not the least cost if the practice is more  
17 cost effective. The department shall approve the cost-share agreement if the best  
18 management practices are the least-cost alternatives to control the nonpoint sources or if  
19 the practices provide greater water quality improvement or habitat enhancement than the  
20 least-cost alternative.

21 (b) *Leases of manure storage tanks.* The maximum amount cost-shared for leases  
22 of manure storage tanks shall be 70% of the down payment and lease cost of the tank  
23 during the grant period of the watershed project.

24 (c) *Critical area stabilization.* Governmental units may establish flat rates for the  
25 cost-sharing of critical area stabilization in order to simplify the administration of cost-  
26 share funds for this practice. Flat rates shall be based on the percentage, up to 70%, for  
27 state cost-sharing and the average cost of the practice.

28 **(3) LOCAL SHARE.** (a) The local share of project costs may include funds from  
29 federal, local or private sources, or state sources not identified under s. NR 120.18 (1)(a).  
30 A cost-share grant under this chapter may not reimburse a landowner or land operator for  
31 any cost that another unit of government is also reimbursing.

1 (b) In-kind contributions of labor and material used directly in the installations of  
2 best management practices may be considered part of the local share of best management  
3 practice costs, if properly described and substantiated to the cost-share agreement  
4 grantor.

5 (c) The value of a conservation easement donated to the department, or to any  
6 person approved by the department under s. 281.65(8) (m), Stats., may be considered as a  
7 portion of or all of the landowner's or land operator's share of a cost-sharing grant.

8 **(4) ECONOMIC HARDSHIP.** (a) The governmental unit submitting the cost-  
9 share agreement under s. NR 120.13(5) shall exceed the cost-share limits identified under  
10 sub. (2) if the landowner or land operator that will provide the local share of best  
11 management practice installation meets the application and economic hardship  
12 requirements as set forth in this subsection

13 (b) The landowner or land operator shall submit an application to the  
14 governmental unit in accordance with this subsection in order to be considered for a  
15 determination of economic hardship. The governmental unit may not make a  
16 determination of economic hardship for cost-share purposes until it has received a  
17 completed application.

18 (c) The landowner or land operator shall include the following financial  
19 information in the application:

20 1. The landowner or land operator's debt-to-asset ratio or the capitol debt  
21 repayment liability ratio.

22 2. Demonstration that the landowner or land operator has the ability to pay the  
23 local share of the best management practice installation cost.

24 3. The information required under subds. 1. and 2. shall be documented by a  
25 signed and notarized statement from an accredited financial institution or a certified  
26 public accountant. The grant recipient shall provide to the accredited financial institution  
27 or certified public accountant a full and true disclosure of applicable corporate,  
28 partnership, personal and marital assets and liabilities, including a copy of the prior year's  
29 federal tax returns, as verified by a sworn and signed affidavit. The affidavit shall be  
30 made on a form provided by the department.

1 (d) The governmental unit shall make a determination of economic hardship if the  
2 statement under par. (c) 3. verifies that one or both of the following conditions exist for  
3 the landowner or land operator:

4 1. The landowner or land operator of an eligible site has a debt-to-asset ratio of  
5 more than 60%, and net assets of less than \$200,000.

6 2. The landowner or land operator of an eligible site has a capitol debt repayment  
7 liability ratio of more than 60%. The capitol debt repayment liability ratio is determined  
8 by the following formula: (total debt payment) divided by (annual income +  
9 depreciation) – (family living expenses + annual debt principle payment)).

10 (e) If evidence of economic hardship is verified in accordance with the criteria in  
11 par. (d), the governmental unit shall increase the cost-share rate in accordance with this  
12 paragraph for all best management practices for which the landowner or land operator is  
13 eligible.

14 1. If the cost-share amount is based on a cost-share rate, the cost-share rate shall  
15 be increased so that the cost-share rate is not less than 70% and not greater than 90%.

16 2. If the cost-share amount is based on a flat rate, the flat rate shall be increased so  
17 that it approximates a cost-share rate that is not less than 70% and not greater than 90%.

18 (f) The governmental unit shall notify the department in writing when it has made  
19 a determination of economic hardship.

20

21 **NR 120.185 Easements.** (1) The department may enter into easements with  
22 landowners or land operators for lands identified in watershed plans. Easements shall be  
23 acquired for perpetuity. Easements may be used in conjunction with the following best  
24 management practices:

25 (a) Critical area stabilization.

26 (b) Riparian buffer.

27 (c) Wetland restoration.

28 (d) Structural urban best management practice.

29 (e) Any other best management practice specified as eligible for easement support  
30 in an approved priority watershed plan.