

CR 94-105



George E. Meyer
Secretary

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, George E. Meyer, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. WR-36-94 was duly approved and adopted by this Department on September 29, 1994. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Natural Resources Building in the City of Madison, this 4th day of December, 1994.

George E Meyer
George E. Meyer, Secretary

(SEAL)

3-1-95



ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
REPEALING, RENUMBERING, AMENDING,
REPEALING AND RECREATING, AND CREATING RULES



IN THE MATTER of repealing NR 120.02(3), (4), (16), (23), (30) and (32), 120.03(2) and (3), 120.04, 120.07(3), (5) and (7), 120.08(1)(a)5., 6., (1)(b)1.b., (2)(cg) and (f), 120.10(2)(e), (f), (i), (t) and (v), 120.11, 120.12(6) and (7), 120.14(2)(c)1., (3)(c)1., (4)(b)1.c. to g., 2., (c)1., 2., (5)(b)1.b., c., e., 2., (c)1., 2., (6)(b), (c)1., (c)2., (11)(c)1., 2., (12)(b)1.c., d., 3., (c)1., (13)(c)1., 2., (14)(b)2., 3., (c)1., (15)(b)2.d., e., (b)4., (16)(c)1., (17)(b)5., 6., (c)1., (18)(b)1.b., (c)1., (19)(c)1., (20)(b)1., 2., (22)(b)3. to 5., (c)2., and (23)2., 120.16(1)(a) to (d) and (2)(b)2. to 4., 120.19(2) and 120.23(3)(b); renumbering NR 120.03(4), 120.10(1)(f), 120.14(5)(b)3., and 120.21(4)(c); renumbering and amending NR 120.02(5) to (7), (9), (11) to (13), (17) to (20), (24) to (27), (31), (33) and (34), 120.06(1)(d), (2), 120.07(6), 120.08(2)(cr), (d) and (e), 120.14(2)(c)2., (3)(c)2., (4)(b)3., 4., (4)(c)3., (5)(b)1.d., (5)(c)3., (6)(c)3., 11(c)3., (12)(b)4., (12)(c)2., (13)(c)3., (14)(b)1., (14)(b)4., (16)(c)2., (17)(c)2., (18)(c)2., 3., (19)(c)2., (20)(b)3. and 4. and (23)1., 120.17(7) and 120.185; amending NR 120 Foreword, NR 120.01(1), 120.02(1), (15) and (22), 120.05(title), (intro.), (1) and (2), 120.06(1)(a), 120.07(1) and (2)(e), 120.08(1)(intro.), (a)(intro.), 2, 5, 6, Table 1, (1)(b)1.(intro.), (c), (2)(title) and (a) to (c), 120.10(title), (1)(intro.), (1)(e), (2)(intro.), (a) to (d), (2)(n) to (p), (r), (s) and (x), 120.12(2), (3), (4)(intro.), (a), (b), (f), and (8), 120.13(title), (1) to (4)(c), (e), (f), (j), (k), (m), (5) to (8)(a), and (9) to (11), 120.14(title), (2)(b), (3)(b), (4)(b)1. and 1.a., (5)(b)1., (7)(b), (8)(b), (8)(c)3., (9)(b)(intro.), (10)(b)(intro.), (11)(a), (12)(b)1.(intro.), 2. and 2.a., (13)(b)1., 2.(intro.), 3.(intro), a., (14)(c)2.(intro.), g., h., 5. note, (15)(b)1., 2.(intro.), 2.a. and 3.(intro.), (16)(b), (17)(b)(intro.), (18)(title), (b)1., 1.c., 3., 4.a., 4.b., 19(b)1., 2.(intro.), a., c., e., f., 3.(intro.), a., 5., (20)(c)1., (21)(b)1., (c)(intro.), (22)(b)1., a., (c)4. and 5.a., 120.15(1) and (2), 120.16(intro.) and (1)(intro.), 120.17(title), (intro.), (1), (2) and (6), 120.18(title), (1)(title), (a), (b)(intro.), (c)(intro.), (d), (2) and (3), 120.19(1)(intro.), (d), (e), (3) and (4), 120.21(1), (2), (3)(b), (c), (4)(a)1.(intro.), c., j., m., n., (a)2., 5., 10., (4)(b) and (7)(b), 120.23(2)(a), (b)2., 5., 6., (c), (3)(a) and (3)(c), 120.25(1)(intro.), (e)3.(intro.), a., b., f., (h) and (2)(c), 120.26(1)(a), (1)(am), (b)4., (c)2. and (2)(b) and 120.30; repealing and recreating NR 120.02(8), (10), (14), (21), (28) and (29), 120.03(1), 120.07(2)(intro.), a. and (4), 120.08(1)(a)8., 120.10(1)(d), 120.12(1) and (4)(h), 120.14(1), (9)(a), (c), (10)(a), (c), (11)(b), (15)(b)3.b., (c), (18)(b)1.a., (19)(a), (22)(a), (b)1.b., 2.(intro.), a., b., (c)5.b., e. and f. and 120.18(1)(a) Table 2; creating NR 120.02 (intro.), (6), (13), (20), (24) to (26), and (33), 120.07(2)(title), 120.08(1)(b)1.g. to l., (2)(d) and (e), 120.10(1)(f) and (g), 120.12 (intro.), (2)(a), (b) and (c), 120.13(4m), 120.14(9)(b)3., (10)(b)3., (10m), (10p), (14)(b)1., (c)2.i., (c)5., (15m), (17)(c)14., (19)(b)2.g., (19e), (19s), (21m), (22)(b)1.c., d. and (c)(6), 120.16(2)(g), 120.17(7), 120.18(1)(b)6., (1)(e), (3)(b) and (4), 120.185(1)(d) and (2) to (4), 120.21(4)(a)1.o to s., (4)(c)(title), (1), (2) and (d)3., 120.25(1)(i) to (k) and 120.26(3), Wisconsin Administrative Code, pertaining to the Nonpoint Source Pollution Abatement Program.

WR-36-94

Analysis Prepared by Department of Natural Resources

Authorizing statutes: ss. 144.025, 144.25, and 227.11(2)(a), Stats.

Statutes interpreted: ss. 144.25(8)(o), 144.25(8)(gm), 144.25(8)(m), 144.25(8)(gm), 144.25(3), 144.25(5m), 227.10(2) and 227.11(2)(a), Stats.

Changes made to s. 144.25, Stats., resulting from the passage of 1991 Wisconsin Act 309, 1993 Wisconsin Act 16 and 1993 Wisconsin Act 166 necessitate the proposed changes to this rule.

Specifically, 1991 Act 309 increased the maximum state cost share amount for manure storage facilities from \$10,000 to \$20,000 under s. 144.25(8)(o), Stats. The Act also created s. 144.25(8)(gm), Stats., in order to allow the Department to exceed the \$20,000 cap and the 70% cost sharing limit in cases of economic hardship.

In August, 1993, the biennial budget bill, 1993 Wisconsin Act 16 amended s. 144.25(8)(o), Stats. This Act removed the \$20,000 maximum cap for manure storage facilities granted under 1991 Wisconsin Act 309 and instructed the Department to establish the maximum amount allowed for animal waste storage facilities by Department rule. The Department participated in an interagency committee, headed by the DATCP, which conducted a study of the cost of installing animal waste storage facilities. This order incorporates the recommendations of the interagency committee into s. NR 120.18.

Additionally, this order reflects the changes made to s. 144.25 (8) (gm), Stats, the economic hardship provision, under 1993 Wisconsin Act 16. Economic hardship is defined under s. NR 120.02(14). In addition, s. NR 120.18(4) explains how the cost-share grant caps may be exceeded for barnyard control measures and manure storage facilities for those individuals demonstrating economic hardship.

This order also reflects the additions to conservation easements under s. NR 120.185. In accordance with the language created under s. 144.25 (8)(m), Stats., the Department will now recognize the value of a conservation easement as constituting all or a portion of the landowner's or operator's share of a cost-sharing grant.

1993 Wisconsin Act 16 renamed the Land Conservation Board to the Land and Water Conservation Board and gave the Board specific responsibilities in the Nonpoint Source Pollution Abatement Program under 144.25(3), Stats. In March 1994, 1993 Wisconsin Act 166 transferred additional responsibilities to the Board. Sections NR 120.07(4) and NR 120.08(2)(c) and (2)(e) reflect the responsibilities the board now possesses including the designation of priority watersheds and the approval of priority lake and priority watershed plans.

Under the authority of 1991 Wisconsin Act 309, the Department has amended the sign up period for cost-share agreements and has extended the grant period of the nonpoint source grant agreement in order to offer more flexibility to local units of government implementing the Nonpoint Source Program. These changes are reflected under s. NR 120.13. Additionally, in consultation with the Department of Agriculture, Trade and Consumer Protection and the state Soil and Conservation Service, the Department has expanded and streamlined best management practices under s. NR 120.14. All of the proposed revisions are intended to affect counties, municipalities, land owners and operators in a positive manner.

SECTION 1. Chapter NR 120 Foreword is amended to read:

The Wisconsin legislature established the nonpoint source water pollution abatement program in 1978. Both urban and rural nonpoint sources are recognized as contributors to the degradation of Wisconsin's lakes, streams, and groundwater and wetlands. Section 144.25, Stats., assigns overall responsibility for this water quality program to the department of natural resources and assigns local administration and implementation responsibilities to counties, cities and villages other governmental units.

The department of natural resources has developed the administrative framework in chs. NR 120 and 121 under which areawide water quality management areas and plans are identified, priority watershed projects are selected and ~~counties, cities, villages~~ governmental units and state agencies ~~receive~~ are granted technical and financial assistance necessary to implement nonpoint source water pollution abatement projects. ~~The department of natural resources identifies~~ land and water conservation board designates priority watershed areas where nonpoint source related water quality problems are most severe and control is most feasible ~~and develops.~~ The department of natural resources recommends best management practices which are the most effective, ~~practicable~~ means of preventing or reducing nonpoint source pollution. More specifically, the department identifies lakes, streams, groundwater and other water resources where the uses of the waters are impaired or threatened by nonpoint sources; ~~selects~~ proposes projects to the land and water conservation board to protect or rehabilitate beneficial uses of the waters; and prepares plans in cooperation with governmental units identifying the best means to achieve the protection or rehabilitation. ~~The statewide water quality advisory committee assists the department of natural resources in selecting priority watershed areas and in the planning and implementation of projects and best management practices in priority watersheds.~~ The department of natural resources enters into nonpoint source grant agreements, and local assistance grant agreements ~~and education grant agreements with counties, cities, villages~~ governmental units and state agencies in order to implement priority watershed projects. The department of natural resources assists ~~counties, cities, villages~~ governmental units and state agencies 1) by coordinating the nonpoint source pollution abatement program with other state and federal water quality programs, 2) by providing technical and financial assistance, and 3) by evaluating the nonpoint source pollution abatement program for recommended modifications.

~~Counties, cities, and villages~~ Participating governmental units enter into ~~cost-share~~ cost-share grant agreements with landowners, land operators and state agencies in order to implement the nonpoint source pollution abatement program on a local level. Landowners, land operators and state agencies as ~~cost-share~~ cost-share recipients are responsible for installing and maintaining best management practices.

SECTION 2. NR 120.01(1) is amended to read:

NR 120.01(1) APPLICABILITY. This chapter applies to governmental units and state agencies when acting as nonpoint source grant agreement, or local assistance grant agreement ~~or education grant agreement~~ recipients; to governmental units when acting as ~~cost-share~~ cost-share agreement grantors; and to landowners, land operators and state agencies when acting as ~~cost-share~~ cost-share recipients.

SECTION 3. NR 120.02(3), (4), (16), (23), (30) and (32) are repealed.

SECTION 4. NR 120.02(5) to (7), (9), (11) to (13), (17) to (20), (24) to (27), (31), (33) and (34) are renumbered NR 120.02(3) to (5), (7), (9), (11),

(31)?

(12), (16) to (19), (23), (27), (30) to (32), (34) and (35), respectively, and (4), (5), (7), (18), (23), (30), (34) and (35), as renumbered, are amended to read:

NR 120.02(4) "Best management practice" as defined in s. 144.25 (2) (a), Stats., means a practice, technique or measure ~~identified in areawide water quality management plans, except for dredgings,~~ which is determined to be the most effective, ~~practicable~~ means of preventing or reducing pollutants generated from nonpoint sources, ~~or from the sediments of inland lakes polluted by nonpoint sources,~~ to a level compatible with water quality objectives ~~established under this chapter and which does not have an adverse impact on fish and wildlife habitat and which is described in s. NR 120.14 or 120.17.~~ The practices, techniques or measures include land acquisition, storm sewer rerouting and the removal of structures necessary to install structural urban best management practices, facilities for the handling and treatment of milkhouse wastewater, repair of fences built using grants under this chapter and measures to prevent or reduce pollutants generated from mine tailings disposal sites for which the department has not approved a plan of operation under s. 144.44(3), Stats.

(5) "Completed practice" means a best management practice or alternative best management practice which has been installed and has been verified to meet the standards and specifications or procedures identified in s. NR 120.14 or 120.15.

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

(18) "Governmental unit" means any unit of government including, but not limited to, a county, city, village, town, metropolitan sewerage district created under ~~s.~~ ss. 66.20 to 66.26 or 66.88 to 66.918, Stats., town sanitary district, public inland lake protection and rehabilitation district, regional planning commission or drainage district operating under ch. 89, 1961 Stats., or ch. 88, Stats. Governmental unit does not include the state or any state agency.

(23) "Local share" means the portion of the cost of the installation of a best management practice, including federal ~~cost sharing~~ cost-sharing, not funded through s. 20.370 (4) (cc), (cq) or 20.866(2)(te), Stats.

(30) "Priority watershed" means a ~~large scale or small scale~~ watershed or lake area which the department has identified through the continuing planning process under s. 147.25, Stats., and which has been designated by the land and water conservation board, as one of those watersheds where the need for nonpoint source water pollution abatement is most critical.

(34) "Technical guide" means the ~~Wisconsin~~ soil conservation service field office technical guide ~~(December 1988),~~ published by the soil conservation service of the U.S. department of agriculture, that was in effect April, 1994.

Note: Copies of technical guides may be inspected at the offices of the department, 101 S. Webster Street, Madison; the Secretary of State, 30 W. Mifflin, Madison; and the Revisor of Statutes, 30 W. Mifflin 131 W. Wilson, Suite 800, Madison. Copies of technical guides are also available in Soil Conservation Service offices located throughout the state.

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

SECTION 5. NR 120.02(1), (15) and (22) are amended to read:

NR 120.02(1) "Additional staff" means employes hired or contracted for by the governmental unit for watershed project activities including previous or ongoing watershed projects. ~~Furthermore, for counties, additional staff are those employes that are not necessary to meet DATCP's maintenance of effort requirements under s. 92.14 (7), Stats.~~

(15) "Embankment height" means the structural height defined in s. NR ~~335.03(8)~~ NR 335.03(23).

(22) "Landowner or land operator" means any individual, partnership, corporation, municipality or person holding title to ~~or having an interest in land, having possession of or holding a lease in land who is a cost share recipient of a cost share agreement with a county, city or village for the purpose of installing best management practices.~~

SECTION 6. NR 120.02(8), (10), (14), (21) and (28) and (29) are repealed and recreated to read:

NR 120.02(8) "Critical area stabilization" means the planting of suitable trees, shrubs and other vegetation on highly erodible areas such as steep slopes, gullies and roadsides, in order to reduce soil erosion or pollution on nonpoint source sites.

(10) "Demonstration practices" means best management practices or alternative best management practices installed in order to demonstrate the efficiency or economic benefits of the practices or the benefits of participating in a priority watershed project.

(14) "Economic hardship" means a situation where a landowner or land operator has a debt-to-asset ratio of more than 60% and verifies this to the appropriate responsible governmental unit and the department with a signed statement from an accredited financial institution.

(21) "Installation period" means the time period during which all cost-shared and not cost-shared practices shall be installed.

(28) "Operation and maintenance period" means the length of time from which the last best management practice in the cost-share agreement was installed or implemented.

(29) "Priority lake area" means a hydrologic unit which drains to a lake or group of lakes and serves as the project boundary for watershed projects identified through the process stated in s. 144.25 (4)(cd), Stats.

SECTION 7. NR 120.02(intro.), (6), (13), (20), (24) to (26) and (33) are created to read:

NR 120.02 DEFINITIONS. (intro.) In this chapter:

(6) "Core urban program activities" means those activities included in a discrete set of nonstructural management measures, identified jointly by the department and the governmental unit in the priority watershed or lake area

plan, that are considered to be the minimum acceptable level of storm water management.

(13) "DILHR" means the Wisconsin department of industry, labor and human relations.

(20) "Grassed waterway" means a natural or constructed drainageway or channel shaped, graded and established in suitable cover as needed to prevent erosion by runoff waters.

(24) "Milking center waste control systems" means any equipment, practice or combination of practices installed in a milking center for the purpose of reducing the quantity or pollution potential of the wastes.

(25) "Milking center wastes" means all waste water, cleaning ingredients and waste milk which is discharged from a milkhouse or milking parlor.

(26) "Municipal WPDES storm water discharge permit" means any permit issued to a municipality by the department under s. 147.021(1), Stats., for the purpose of controlling storm water discharges owned or operated by a municipality.

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

SECTION 8. NR 120.03(1) is repealed and recreated to read:

NR 120.03(1) The department and governmental units shall form a watershed project or lake project committee to advise the department on the development of the watershed plan. The watershed project committee shall be formed in accordance with s. 144.25 (4)(dr), Stats.

SECTION 9. NR 120.03(2) and (3) are repealed.

SECTION 10. NR 120.03(4) is renumbered NR 120.03(2).

SECTION 11. NR 120.04 is repealed.

SECTION 12. NR 120.05(title), (intro.), (1) and (2) are amended to read:

NR 120.05 (title) RESPONSIBILITIES OF STATE AGENCIES, GOVERNMENTAL UNITS AND AGENTS AS COST-SHARE RECIPIENTS. (intro.) Each state agency, unit of government or agent receiving ~~cost-sharing~~ cost-sharing funds in a nonpoint source grant shall:

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

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

SECTION 13. NR 120.06(1)(a) is amended to read:

NR 120.06(1)(a) Proposed farm-specific implementation schedules for providing technical assistance, contacting landowners, inspection and

disbursement of grants on those farms that are identified in ~~critical management~~ areas as identified in the approved priority watershed plan.

SECTION 14. NR 120.06(1)(d) and 120.06(2) are renumbered NR 120.06(2) and 120.06(3) and, as renumbered, are amended to read:

NR 120.06(2) ~~In cooperation with counties~~ The department shall assist DATCP and the county involved in a watershed project, in developing a proposed project management schedule for the installation of agriculturally related best management practices installation to be used by the county in its development of the annual workload analysis as described in s. NR 120.21.

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

SECTION 15. NR 120.07(1) is amended to read:

NR 120.07(1)(title) IDENTIFICATION OF PRIORITY WATERSHEDS. ~~The~~ In accordance with s. 144.25 (4)(c) and (cd), Stats., the department shall identify proposed large scale and small scale priority watershed and priority lake area projects in areawide water quality management plans. The plans shall identify critical priority watershed and priority lake area projects to be considered for selection.

SECTION 16. NR 120.07(2) (title) is created to read:

NR 120.07(2) (title) CRITERIA FOR RECOMMENDING PROJECTS.

SECTION 17. NR 120.07(2)(intro.) and (a) are repealed and recreated to read:

NR 120.07(2)(intro.) The department and the advisory committee described in sub. (3) shall use the following criteria for recommending projects from those identified in sub. (1) to the land and water conservation board:

(a) The water quality impairment or threat to the use of the lake, stream, groundwater, wetland or other waters of the state and the practicability of alleviating the impairment or threat.

SECTION 18. NR 120.07(2)(e) is amended to read:

NR 120.07(2)(e) ~~Unique or endangered~~ The uniqueness of the designated area or the endangerment to its environmental resources.

SECTION 19. NR 120.07(3) is repealed.

SECTION 20. NR 120.07(4) is repealed and recreated to read:

NR 120.07(4) LAND AND WATER CONSERVATION BOARD DESIGNATION. After the priority watershed and priority lake area projects have been selected under the process described in subs. (1) to (3), the department shall submit the recommended watershed and lake area projects to the land and water conservation board for priority designation.

SECTION 21. NR 120.07(5) is repealed.

SECTION 22. NR 120.07(6) is renumbered NR 120.07(3) and as renumbered is amended to read:

NR 120.07(3)(title) ADVISORY COMMITTEES. The department shall appoint advisory committees ~~at every in each~~ district to participate in the ~~selection process~~ identification of priority watersheds to be recommended to the land and water conservation board. The committee shall be comprised of representatives from state agencies, regional, county land conservation committees, lake districts and local and private organizations involved in water quality and soil conservation programs. The committee shall recommend proposed projects for selection from the water quality management plan list in the appropriate district.

SECTION 23. NR 120.07(7) is repealed.

SECTION 24. NR 120.08(1)(intro.), (a)(intro.), 2, 5, 6 and Table 1 are amended to read:

NR 120.08 (1) WATERSHED PLAN CONTENT. (intro.) ~~Watershed plans shall be prepared~~ In cooperation with DATCP and the appropriate governmental unit, the department shall prepare watershed plans for all watershed projects 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.

(a) Watershed assessment. (intro.) The department shall prepare a watershed assessment analyzing the water quality problems or threats ~~of 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:

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

5. An identification of critical management areas where cost-shared and ~~non-cost shared~~ not cost-shared best management practices are to be applied.

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 including, but not limited to, practices listed in Table 1.

Table 1

COST-SHARED AND NOT COST-SHARED BEST MANAGEMENT PRACTICES
(~~cost shared and not cost shared~~)

Cropland Practices:

Change in crop rotations
Change from cropland to grassland
Contour cropping
Cropland protection cover (green manure)
Stripcropping
~~Field diversions~~
~~Terraces~~
~~Grassed Waterways~~
Reduced tillage
Nutrient management

Pesticide management

Cropland, Urban and Other Area Practices:

Critical area stabilization
Field diversions
Grassed waterways
Grade stabilization structures
Intensive grazing management
Shoreline and streambank protection ~~(including fish structures)~~
Shoreline buffers
Terraces
Wetland restoration
Livestock exclusion from woodlots
Well abandonment
Lake sediment treatment
Milking center waste control systems

Animal Waste Management Practices:

Manure spreading management
Barnyard runoff management
Animal lot relocation
Manure storage facilities
Roofs for barnyard runoff management and manure storage facilities
Manure storage ordinances
Animal waste storage systems abandonment
Cattle mounds

Non-structural Urban Practices:

Street sweeping
Leaf collection
Pet waste ordinances
Construction site erosion control ordinances
~~Infiltration basins~~
~~Infiltration trenches~~
~~Porous pavement~~
~~Grassed swales~~
~~Wet basins~~
~~Detention basins~~
~~Wetland basins~~
~~Covering materials being stored~~
Storm water management ordinances
Storm water plans

Structural Urban Practices:

Infiltration basins
Infiltration trenches
Porous pavement
Grassed swales
Wet basins
Detention basins
Wetland basins
Covering materials being stored
Storm water filtration devices
Pre-treatment devices

SECTION 25. NR 120.08(1)(a)5. and 6. are repealed.

[Drafter's note] The subdivisions being repealed are the ones appearing after Table 1, not the ones before Table 1.

SECTION 26. NR 120.08(1)(a)8. is repealed and recreated to read:

NR 120.08(1)(a)8. An analysis of the need for adoption of local ordinances for manure storage, construction site erosion control and storm water management.

SECTION 27. NR 120.08(1)(b)1.(intro.) is amended to read:

NR 120.08(1)(b)1.(intro.) ~~The As required under s. 144.25 (6)(a), Stats., governmental units as required under s. 144.25 (6) (a), Stats.,~~ except those waived under s. NR 120.03(4)(2), shall prepare the following portion of the detailed program for implementation including:

SECTION 28. NR 120.08(1)(b)1.b. is repealed.

SECTION 29. NR 120.08(1)(b)1.g. to l. are created to read:

NR 120.08(1)(b)1.g. An identification of those urban storm water control practices, techniques or measures included in a municipal WPDES storm water permit for which the local governmental unit may seek either local assistance or nonpoint source grant funding through the nonpoint source program.

h. An identification of the state and local regulatory framework under which construction site erosion control activities shall be conducted.

i. An identification of those storm water management activities identified in the watershed plan that shall be included as part of the core urban program for the local governmental unit. Core urban program activities can include: information and education activities; development and implementation of construction erosion control ordinances; and development and implementation of activities such as those that reduce storm water pollution from lawn and leaf litter, pet waste, road salting and illicit dumping into the storm sewer system. When adoption of a construction site erosion control ordinance is required under the watershed plan, it shall include a provision stating that the construction site erosion control ordinance shall be adopted within 2 years of the date the department approves the watershed plan.

j. An identification of those storm water management activities identified in the watershed plan that may be included as part of the segmented urban program for the local governmental unit. Segmented urban program activities can include: storm water planning for urban and urbanizing areas; development and implementation of local storm water management ordinances; engineering site feasibility studies for structural urban practices; design, installation and maintenance of structural urban best management practices; and development of local institutional mechanisms to fund and administer storm water management programs.

k. A schedule of rural implementation activities including those identified in s. NR 120.21(4)(a). When adoption of a manure storage ordinance is required under the watershed plan, the schedule shall include a provision stating that manure storage ordinance shall be adopted within 2 years of the date the department approves the watershed plan.

l. A schedule for urban implementation activities including those identified in s. NR 120.21(4)(a).

SECTION 30. NR 120.08(1) (c) is amended to read:

NR 120.08(1)(c)(title) Project evaluation strategy. The department shall prepare as a portion of each priority watershed plan a project evaluation ~~monitoring plan identifying procedures and schedules for determining project progress and accomplishment strategy~~. The evaluation ~~monitoring plan strategy~~ shall contain criteria and procedures to evaluate the water resource and land management components of the project.

SECTION 31. NR 120.08(2)(title) and (a) to (c) are amended to read:

NR 120.08(2) (title) WATERSHED PLAN REVIEW AND APPROVAL. (a) Watershed plan development meeting. During the preparation of the watershed plan, the department and the participating ~~counties, cities, and villages~~ governmental units shall hold a public informational meeting in the watershed to solicit comments and information pertinent to the preparation of the plan. Following the informational meeting, a proposed watershed plan shall be drafted.

(b) Watershed plan hearing. ~~After the preparation of a draft of the watershed plan~~ After a proposed watershed plan has been drafted, the department and the participating ~~counties, cities, or villages~~ governmental units shall hold a public informational hearing for comment on the proposed watershed plan.

(c)(title) Submittal of watershed plan to DATCP, county and other governmental units. Within 45 days after the public informational hearing, the department shall submit the draft watershed plan to DATCP and for comment; to the appropriate county or counties for approval; and at the discretion of the department to other governmental units for review and comment. ~~Within 60 days of receipt of the draft watershed plan, the appropriate county shall approve, conditionally approve or reject the watershed plan.~~

SECTION 32. NR 120.08(2)(cg) is repealed.

SECTION 33. NR 120.08(2)(cr), (d) and (e) are renumbered NR 120.08(2)(f), 120.08(3) and 120.08(4), respectively, and NR 120.08(2)(f) and 120.08(4) as renumbered are amended to read:

NR 120.08(2)(f) (title) Final approval of individual county plan. Upon receiving the approval of the land and water conservation board, the department shall prepare and approve the final plan for the priority watershed or priority lake area in accordance with s. 144.25 (5m), Stats. Notwithstanding par. ~~(eg)~~ (d), the department may approve the watershed plan for individual counties in multicounty watershed projects if ~~DATCP and the~~ respective county approve approves the watershed plan.

(4) WATERSHED PLAN REVISION. The approved watershed plan may be revised using the procedures in ss. NR 121.07 and 121.08 for amending areawide water quality management plans. The department shall approve or reject a ~~county's, city's or village's~~ governmental unit's request for a revision to the watershed project's detailed program for implementation within 90 days of receipt of the revision request.

SECTION 34. NR 120.08(2)(d) and (e) are created to read:

NR 120.08(2)(d) County approval of watershed plan. Within 60 days of receipt of the draft watershed plan, the appropriate county shall approve, conditionally approve or reject the watershed plan. If the county conditionally approves or rejects the watershed plan, the department may revise the watershed plan to address the issues identified.

(e) Submittal of watershed plan to land and water conservation board.
A copy of the county approved plan shall be submitted to the land and water conservation board for its approval.

SECTION 35. NR 120.08(2)(f) is repealed.

SECTION 36. NR 120.10 (title) and (1) (intro.) are amended to read:

NR 120.10 (title) COST-SHARE ELIGIBILITY. (1) (intro.) Best management practices installed and maintained to control the following nonpoint sources are eligible for ~~cost-share~~ cost-share assistance when addressing critical nonpoint sources of pollution in a watershed plan:

SECTION 37. NR 120.10(1)(d) is repealed and recreated to read:

NR 120.10(1)(d) Lake sediments.

SECTION 38. NR 120.10(1)(e) is amended to read:

NR 120.10(1)(e) Lawns, parking lots, streets, roofs, and other areas associated with residential land uses, retail businesses, office buildings, schools, libraries, parks, and other similar institutional buildings and areas.

SECTION 39. NR 120.10(1)(f) is renumbered (1)(h).

SECTION 40. NR 120.10(1)(f) and (g) are created to read:

NR 120.10(1)(f) Source areas at industrial sites that are not considered to be associated or contaminated by industrial activity, as defined under ch. NR 216.

(g) Urban nonpoint sources that must be controlled to meet the requirements of a municipal WPDES storm water discharge permit provided that:

1. Control of the sources is identified in the priority watershed plan.
2. Sources are not required to obtain coverage under a WPDES storm water permit for discharges associated with industrial activity, as defined under ch. NR 216.

SECTION 41. NR 120.10(2) (intro.), (a) to (d) are amended to read:

NR 120.10(2) (intro.) The following practices, sources or activities are not eligible for ~~cost-share~~ cost-share assistance:

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

(b) Best management practices ~~not cost-shared~~ described in s. NR 120.17.

(c) Activities covered by the Wisconsin pollutant discharge elimination system permit program including those identified in chs. NR 200 to 299, except as provided for in sub. (1) (g).

(d) Livestock operations with more than ~~1000~~ 1,000 animal units or livestock operations issued a notice of discharge under ch. NR 243.

SECTION 42. NR 120.10(2)(e), (f) and (i) are repealed.

SECTION 43. NR 120.10(2)(n) to (p), (r) and (s) are amended to read:

NR 120.10(2)(n) Dredging of harbors, lakes, rivers and ditches.

(o) Dams, pipes, conveyance systems and detention basins intended ~~primarily~~ solely for flood control.

(p) Operation and maintenance of ~~cost-shared~~ cost-shared practices.

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

(s) Practices to control spills from commercial bulk storage of pesticides, fertilizers, petroleum and similar materials required by chs. ~~Ag 162 and 163~~ ATCP 32 and 33 or other administrative rules.

SECTION 44. NR 120.10(2)(t) to (v) are repealed.

SECTION 45. NR 120.10(2)(x) is amended to read:

NR 120.10(2)(x) Practices ~~required-needed~~ to control sources which were adequately managed for the specific land use at the time of ~~cost share~~ cost-share agreement signing but due to the landowner's or land user's changes in land management which are producing an increased amount of pollutant loading to the surface or groundwater, counter to the water resource objectives of the approved watershed plan, including due to the landowner's or land user's changes in land management. Changes may include: increases in animal herd size, changes to more intensive cropping, and other changes in land use or management which increase the pollutant loading.

SECTION 46. NR 120.11 is repealed.

SECTION 47. NR 120.12(intro.) is created to read:

NR 120.12 (intro.) The nonpoint source grant agreement is an agreement entered into between the department and a governmental unit or a state agency to provide cost-share funding for a priority watershed project. The nonpoint source grant agreement may be used in lieu of a cost-share agreement with a governmental unit for the installation of a structural practice on land owned or operated by a governmental unit. More than one nonpoint source grant agreement may be awarded for a project.

SECTION 48. NR 120.12(1) is repealed and recreated to read:

NR 120.12(1) CONDITIONS. (a) A participating governmental unit located within the priority watershed project or priority lake area project shall:

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

2. Enter into cost-share agreements with eligible recipients located within its jurisdiction. This requirement may be waived if the department and the governmental unit agree to delegate this responsibility to another unit of government.

3. Be fiscally responsible for the use of cost-share funds provided to cost-share recipients under the nonpoint source grant. Specifically, this

includes preparing and maintaining adequate fiscal management and technical assistance files as described in ss. NR 120.25 and 120.26. This requirement may be waived if the department and the governmental unit agree to delegate these responsibilities to another unit of government.

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

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

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

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

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

(b) A participating governmental unit located within the priority watershed project or priority lake area project may identify a lead unit of government responsible during the grant period for the following:

1. Local project coordination.
2. Identification of a project manager.
3. Maintenance of project ledgers.

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

1. Funding existing and additional staff support costs necessary for the project that are not provided for in the local assistance grant.
2. Funding the local share of any best management practice the governmental unit installs on property it owns or controls.
3. Funding the local share of items cost-shared in the local assistance grant.

(d) Participating governmental units located within the priority watershed project or priority lake area project shall perform inspections beyond the nonpoint source grant period and shall include this activity in the annual workload analysis submitted to DATCP to ensure that cost-share recipients are complying with the maintenance requirements described in s. NR 120.13.

(e) Counties, cities, villages and towns located within the priority watershed project or priority lake area project shall adopt and enforce the following ordinances if required in the watershed plan within 2 years of department approval of the watershed plan:

1. Manure storage ordinances in accordance with s. 92.16, Stats.
2. Construction site erosion control ordinances in accordance with ss. 59.974, 60.627, 61.354 and 62.234, Stats., respectively, for all construction activities as defined in s. 144.266(3)(b) 1 to 5, Stats., within the county's,

city's, village's or town's jurisdiction unless the construction site activities are otherwise regulated by the department under ch. NR 216, or regulated by DILHR.

SECTION 49. NR 120.12(2) is amended to read:

NR 120.12(2) SIGN UP PERIOD. The period in which cost-share agreements may be signed through the nonpoint source grant agreement shall be for a minimum of 3 years but may not extend beyond the grant period. No cost-share agreement, except those signed under a demonstration project, may be signed until after the priority watershed plan has been approved. ~~The department may extend this period upon written request by the grantee where the additional time will result in a significant reduction of the pollutant load from nonpoint sources or otherwise further the intent of the program and where the grantee has demonstrated satisfactory effort towards project management. The grantee may identify specific time periods for cost sharing sign ups within the project sign up period if identified in an approved watershed plan.~~

SECTION 50. NR 120.12(2)(a), (b) and (c) are created to read:

(a) A watershed project in planning may choose the specific duration of the sign up period, provided that:

1. The sign up period is for a minimum of 3 years;
2. The sign up period is clearly stated in the watershed plan; and
3. The watershed plan clearly delineates the procedures necessary for the extension of the sign up period.

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

(c) Nonpoint source grant agreements between the department and local governmental units for urban structural practices may be signed anytime within the grant period provided that deadlines established in this chapter for cost-share fund expenditures are met. Funding for urban structural practices shall be conditional upon the implementation of core urban program activities identified in the priority watershed plan.

SECTION 51. NR 120.12(3) is amended to read:

NR 120.12(3) (title) LENGTH OF GRANT PERIOD. The grant period of the nonpoint source grant agreement is the period when ~~cost share~~ cost-share funds may be expended. ~~It shall be no more than 10 years from~~ department plan approval. Demonstration practices may be allowed prior to department plan approval. The department may extend the grant period for one year upon written request by the grantee where the additional time will result in a significant reduction of the pollutant load from nonpoint sources or otherwise further the intent of the program.

SECTION 52. NR 120.12(4)(intro), (a), (b) and (f) are amended to read:

NR 120.12(4)(intro) ~~The grantee shall meet the following requirements when it installs best management practices~~ When installing best management practices, the grantee shall:

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

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

(f) Submit ~~a statement of the maintenance requirements~~ strategy for the practices.

SECTION 53. NR 120.12(4)(h) is repealed and recreated to read:

NR 120.12(4)(h) Comply with the requirements for cost-share agreements specified in s. NR 120.13 (6) to (8).

SECTION 54. NR 120.12(6) and (7) are repealed.

SECTION 55. NR 120.12(8) is amended to read:

NR 120.12(8) The department may unilaterally reduce the nonpoint source grant to the amount the grantee has committed on ~~cost share~~ cost-share agreements and contracts at the end of the period for the signing of ~~cost share~~ cost-share agreements.

SECTION 56. NR 120.13 (title), (1) to (4)(c), (e), (f), (j), (k) and (m) are amended to read:

NR 120.13 (title) COST-SHARE AGREEMENT. (1) PURPOSE OF AGREEMENT. The ~~cost share~~ cost-share agreement is an agreement listing the best management practices and establishing the conditions and considerations under which a ~~cost share~~ cost-share recipient agrees to install the practices listed consistent with the watershed plan.

(2) EFFECTIVE DATE. For best management practices to be eligible for ~~cost sharing~~ cost-sharing, the nonpoint source grant agreement and the ~~cost share~~ cost-share agreement, shall be signed before the installation of practices may be initiated. A ~~cost share~~ cost-share agreement is not necessary if the nonpoint source grant agreement allows the grantee to use funds directly.

(3) PARTIES TO THE AGREEMENT. (a) The ~~cost share~~ cost-share agreement shall be between the participating governmental unit and the individual landowner, land operator or state agency. Agreements with land operators shall be co-signed by the landowner.

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

(c) The ~~cost share~~ cost-share agreement shall apply to all contiguous sites under the same ownership ~~that are either within the critical management area or are in the priority watershed and are contiguous to sites in the critical management area at the time of cost share agreement signing.~~ At the discretion of the governmental unit, the ~~cost share~~ cost-share agreement may also apply to noncontiguous property under the same ownership in the watershed.

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

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

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

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

(e) A statement of maintenance requirements ~~including those specified in s. NR 120.14.~~

(f) A requirement to not adopt any land use or practice which defeats the purposes of the best management practices, the ~~cost share~~ cost-share agreement or the nonpoint source grant agreement.

(j) ~~Legal~~ A legal description of the entire property to which the ~~cost share~~ cost-share agreement applies.

(k) A requirement that disallows any change in land use or management on the entire property described on the ~~cost share~~ cost-share agreement which may cause sources which were adequately managed at the time of ~~cost share~~ cost-share agreement signing to produce an increased pollutant loading to surface water or groundwater counter to the water resource objectives of the approved watershed plan. If such a change in land use or management occurs, the landowner or operator shall control the source at his or her own expense or return any ~~cost-sharing~~ cost-sharing funds awarded through the ~~cost share~~ cost-share agreement to the grantor.

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

SECTION 57. NR 120.13(4m) is created to read:

NR 120.13(4m) DEPARTMENT APPROVAL. The governmental unit shall obtain prior department approval when any practice exceeds \$50,000 or when the total cost-share agreement amount and its amendments exceed \$100,000.

SECTION 58. NR 120.13(5) to (8)(a) and (9) to (11) are amended to read:

NR 120.13(5) SUBMITTAL TO DEPARTMENT. The nonpoint source grantor shall submit a copy of the ~~cost share~~ cost-share agreement and or amendments to the department within 30 days of execution. ~~The department may deny reimbursement to the governmental unit for costs associated with the installation of a best management practice not in conformance with the cost share agreement, the nonpoint source grant agreement or the watershed plan. Any cost share agreement exceeding \$50,000 in state share or amendment to an existing cost share agreement which causes the total state share commitment to the cost share agreement to exceed \$50,000 shall be submitted to the department for approval before becoming effective. The governmental unit shall describe the best management practices available to control nonpoint sources of pollution and identify the least cost practice. The department shall approve the cost share agreement if the best management practices are the least cost alternatives to control the nonpoint sources and the significance of the nonpoint sources justifies the expenditure of the grant funds. The department shall ratify the expenditures listed in the cost-share agreement if the best management practices listed are the least cost alternatives to controlling the nonpoint sources of pollution and the significance in the reduction of nonpoint source pollution justifies the expenditure of the grant funds. However, the department may deny reimbursement to the governmental unit for costs associated with the installation of a best management practice not in conformance with the cost-share agreement, the nonpoint source grant agreement or the watershed plan.~~

(6) AGREEMENT PERIOD. The ~~cost-share~~ cost-share agreement period shall be the installation period plus the operation and maintenance period.

(a) ~~The installation period is the time when all cost shared and not cost shared practices shall be installed. The installation period may not exceed 5 years extend beyond the grant period of the nonpoint source grant agreement for the watershed project. The department may grant a variance from this subsection under the procedures described in s. NR 120.29, if the governmental unit submits a written request. In no case may the installation period extend beyond the grant period of the nonpoint source grant agreement identified in s. NR 120.12(3). In support of its request for a variance from this subsection, the governmental unit shall, for each cost share agreement, justify the extension taking into account the following:~~

- ~~1. Economic hardship,~~
- ~~2. Construction delay,~~
- ~~3. Change in ownership, and~~
- ~~4. Addition of practices to the cost share agreement.~~

(b) ~~The operation and maintenance period for both cost shared cost-shared and not cost shared cost-shared best management practices shall be 10 years, beginning The operation and maintenance period shall begin when the last practice on in the agreement has been installed or implemented. The parties to a cost share agreement signed prior to July 1, 1986 may amend the agreement to include a 10 year operation and maintenance period. The department may exempt demonstration practices included in education grant agreements from the 10 year operation and maintenance period.~~

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

(8) INEFFECTIVE PRACTICES. ~~If a practice is rendered ineffective during the cost share agreement period due to circumstances beyond the control of the cost share recipient, repayment of cost share payments will not be required. The department, after review for the need for the practice, may authorize the cost shared replacement of the practice. When replacement is authorized, the department shall specify an appropriate operation and maintenance period for the practices. The department shall provide cost sharing as follows:~~

(a) ~~If the practice becomes ineffective during the grant period of the nonpoint source grant agreement of a watershed project, the parties to the cost-share agreement may amend it to cost-share the replacement of the practice may be cost shared from funds allocated for the project, providing that the parties identify the appropriate maintenance period for the replacement practice.~~

(9) CHANGE IN OWNERSHIP. If a change in ownership occurs during the ~~cost-share~~ cost-share agreement period, the new landowner ~~is~~ shall be responsible for fulfilling all conditions of the ~~cost-share~~ cost-share agreement as described in s. NR 120.13. Upon receiving written approval from the department and the respective local governmental unit, the new landowner may institute alternative best management practices in order to obtain the water quality goals in the original agreement.

(10) (title) RECORDING OF COST-SHARE AGREEMENTS WITH REGISTER OF DEEDS. The governmental unit shall record the ~~cost-share~~ cost-share agreement and its

amendments in the office of the register of deeds for each county in which the property is located within 30 days after the signing of the ~~cost-share~~ cost-share agreement if the total cost-share agreement amount and its amendments exceed \$1,000. A cost-share agreement may be exempt from the recordation requirement if the cost-share agreement contains no other practices than the following:

- (a) Contour farming.
- (b) Contour and field stripcropping.
- (c) Cropland protection cover (green manure).
- (d) Reduced tillage systems.
- (e) Nutrient management.
- (f) Pesticide management.

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

SECTION 59. NR 120.14 (title) is amended to read:

NR 120.14 (title) COST-SHARE AGREEMENT CONDITIONS FOR BEST MANAGEMENT PRACTICES.

SECTION 60. NR 120.14(1) is repealed and recreated to read:

NR 120.14(1) GENERAL APPLICABILITY. (a) The cost-share agreement conditions described in this section apply to best management practices included in cost-share agreements or otherwise provided for in s. NR 120.12 (4) or identified by variance under s. NR 120.29.

(b) The following conditions shall be met while implementing the best management practices listed in subs. (2) to (22):

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

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

3. Sediment generated from the construction of the best management practice shall be controlled consistent with standards and specifications of the Wisconsin Construction Site Best Management Practice Handbook, WDNR Pub. WR-222, November 1993 Revision.

4. Permanent and temporary vegetative cover including seed, mulch, fertilizer, trees, shrubs and other necessary materials, except for conventional agricultural crop cover, shall be established.

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

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

(c) A landowner, land operator or governmental unit shall comply with the standards and specifications provided for in each of the following subsections when installing a best management practice identified in this chapter.

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

SECTION 61. NR 120.14(2)(b) is amended to read:

NR 120.14(2)(b) Conditions. ~~1. Cost-sharing~~ Cost-sharing may be provided for+

~~a. Establishment~~ the establishment of a contour farming system and, if necessary, subsurface drains and the removal of obstructions.

~~b. Establishment of wildlife habitat to recreate habitat lost through the removal of obstructions or other means required to install the contour cropping.~~

~~2. Wildlife habitat shall be recreated to replace wildlife habitat lost through the removal of obstructions or other means required to install the contour cropping consistent with the approved watershed plan.~~

SECTION 62. NR 120.14(2)(c) 1. is repealed.

SECTION 63. NR 120.14(2)(c) 2. is renumbered NR 120.14(2)(c) and 120.14(2)(c)(intro.) is amended to read:

NR 120.14(2)(c) Standards and specifications. (intro.) SCS field office technical guide standards and specifications as of ~~May, 1989~~ January, 1995:

SECTION 64. NR 120.14(3)(b) is amended to read:

NR 120.14 (3)(b) Conditions. ~~1. Cost-sharing~~ Cost-sharing may be provided for+

~~a. Establishment~~ the establishment of the stripcropping system including field stripcropping and, if necessary, removal of obstructions and installation of subsurface drains.

~~b. Establishment of wildlife habitat to recreate habitat to recreate habitat lost through the removal of obstructions or other means required to install the stripcropping.~~

~~2. Wildlife habitat shall be recreated to replace wildlife habitat lost through the removal of obstructions or other means required to install the stripcropping consistent with the approved watershed plan.~~

SECTION 65. NR 120.14(3)(c)1. is repealed.

SECTION 66. NR 120.14(3)(c)2. is renumbered NR 120.14(3)(c) and 120.14(3)(c)(intro.) is amended to read:

NR 120.14(3)(c) Standards and specifications. (intro.) SCS field office technical guide standards and specifications as of ~~May, 1989~~ January, 1995:

SECTION 67. NR 120.14(4)(b)1. and 1.a. are amended to read:

NR 120.14(4)(b)1. ~~Cost-sharing~~ Cost-sharing may be provided for:

1.a. Diversions and subsurface drains necessary for functioning of the diversion. ~~Cost-sharing~~ Cost-sharing for subsurface drains is limited to

areas on sloping land where the internal water seeps to the surface and causes the land or cover to lose its stability.

SECTION 68. NR 120.14(4)(b)1.c. to g. and 2. are repealed.

SECTION 69. NR 120.14(4)(b) 3. and 120.14(4)(b)4. are renumbered NR 120.14(4)(b)2. and NR 120.14(4)(b)3. is amended to read:

NR 120.14(4)(b)3. ~~Cost-sharing~~ Cost-sharing may not be authorized for ditches or dikes designed to impound water for later use, or which will be a part of a regular irrigation system.

SECTION 70. NR 120.14 (4)(c)1. and 2. are repealed.

SECTION 71. NR 120.14(c)3. is renumbered NR 120.14(4)(c) and 120.14(4)(c)(intro.) is amended to read:

NR 120.14 (4)(c) (intro.) SCS field office technical guide standards and specifications as of ~~May, 1989~~ January, 1995:

SECTION 72. NR 120.14(5)(b)1. is amended to read:

NR 120.14(5)(b)1. ~~Cost-sharing~~ Cost-sharing may be provided for:

SECTION 73. NR 120.14 (5)(b)1.b. and c. are repealed.

SECTION 74. NR 120.14(5)(b)1.d. is renumbered NR 120.14(5)(b)1.b. and as renumbered, is amended to read:

NR 120.14(5)(b)1.b. Materials and installation of underground pipe outlets and other mechanical outlets necessary for the proper functioning of the terrace.

SECTION 75. NR 120.14(5)(b)1.e. and 2. are repealed.

SECTION 76. NR 120.14(5)(b)3. is renumbered 120.14(5)(b) 2.

SECTION 77. NR 120.14(5)(c)1. and 2. are repealed.

SECTION 78. NR 120.14(5)(c)3. is renumbered NR 120.14(5)(c)(intro.) and 120.14(5)(c)(intro.) is amended to read:

NR 120.14(5)(c) Standards and specifications. (intro.) SCS field office technical guide standards and specifications as of ~~May, 1989~~ January, 1995:

SECTION 79. NR 120.14(6)(b), (c)1., and (c)2. are repealed.

SECTION 80. NR 120.14(6)(c)3. is renumbered NR 120.14(6)(b) and is amended to read:

NR 120.14(6)(b) Standards and specifications. SCS field office technical guide standards and specifications as of ~~May, 1989~~ January, 1995:

SECTION 81. NR 120.14(7)(b) is amended to read:

NR 120.14(7)(b) Conditions. ~~Cost-sharing~~ Cost-sharing may be provided for costs necessary to convert to reduced tillage systems excluding ~~no-till~~ no-till.

SECTION 82. NR 120.14(8)(b) and (8)(c)3. are amended to read:

NR 120.14(8)(b) Conditions. ~~Cost-sharing~~ Cost-sharing may be provided for costs necessary to convert to reduced tillage systems including ~~no-till~~ no-till.

(c)3. SCS field office technical guide standards and specifications as of May, ~~1989~~ 1986: 329 - conservation tillage.

SECTION 83. NR 120.14(9)(a) is repealed and recreated to read:

NR 120.14(9)(a) Description. Nutrient management is controlling the amount, source, form, location and timing of application of plant nutrients, including organic wastes, sludge, commercial fertilizers, soil reserves and legumes, for the purpose of providing plant nutrients and minimizing the entry of nutrient to surface water and groundwater.

SECTION 84. NR 120.14(9)(b) (intro.) is amended to read:

NR 120.14(9)(b) Conditions. (intro.) As part of a nutrient management plan, ~~cost-sharing~~ cost-sharing may not be provided for ~~no~~ more than 3 years on an operation for:

SECTION 85. NR 120.14(9)(b) 3. is created to read:

NR 120.14(9)(b) 3. Use of crop consulting services for the purpose of preparing and implementing a nutrient management plan.

SECTION 86. NR 120.14(9)(c) is repealed and recreated to read:

NR 120.14(9)(c) Standards and specifications. SCS field office technical guide January, 1995: 590 - nutrient management. Consultants shall meet the certification requirements in s. ATCP 50.895.

SECTION 87. NR 120.14(10)(a) is repealed and recreated to read:

NR 120.14(10)(a) Description. Pesticide management is controlling the handling, disposal, type, amount, location and timing of application of pesticides used in crop production in order to minimize contamination of water, air and nontarget organisms.

SECTION 88. NR 120.14(10)(b)(intro.) is amended to read:

NR 120.14(10)(b)(intro.) As part of a pesticide management plan, ~~cost~~ sharing cost-sharing may be provided for:

SECTION 89. NR 120.14(10)(b)3. is created to read:

NR 120.14(10)(b)3. Use of crop consulting services for the purpose of preparing and implementing an integrated crop management plan which includes nutrient and pest management.

SECTION 90. NR 120.14(10)(c) is repealed and recreated to read:

NR 120.14(10)(c) Standards and specifications. SCS field office technical guide as of January, 1995: 595 - pest management. Consultants shall meet the certification requirements in s. ATCP 50.895.

SECTION 91. NR 120.14(10m) is created to read:

NR 120.14(10m) CROPLAND PROTECTION COVER (GREEN MANURE). (a) Description. Cropland protection cover are close-growing grasses, legumes or small grain grown for seasonal protection and soil improvement.

(b) Conditions. 1. Cost-sharing may be provided for the planting of cover and green manure crops:

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

b. To add organic material to the soil; or

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

2. Cost-sharing may only be provided for those fields that contribute to the degradation of water quality as a result of harvesting crops early including, but not limited to, vegetable crops.

(c) Standards and specifications. SCS field office technical guide as of May, 1986: 340 - cover and green manure crop (acre).

SECTION 92. NR 120.14(10p) is created to read:

NR 120.14(10p) INTENSIVE GRAZING MANAGEMENT (ROTATIONAL GRAZING). (a) Description. Intensive grazing management is the division of pastures into multiple cells that receive a short but intensive grazing period with high animal density followed by a period suitable to allow for the recovery of the vegetative cover. Rotational grazing systems can correct existing pasturing practices that result in degradation and should replace the practice of summer dry-lots when this practice results in water quality degradation.

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

a. The installment of rotational grazing systems on croplands that are currently contributing sediments, nutrients or pesticides to a water source. This practice may be eligible if the average sediment delivery exceeds the identified priority watershed delivery threshold.

b. Sites which have streambank erosion and streambank habitat degradation.

c. Sites which exclude livestock from woodlands, wildlife lands and recreational lands.

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

e. The development of permanent boundary and main paddock fences. This may include perimeter fencing, land fencing, portable fencing and gates.

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

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

h. The stabilization of a site eroding due to cattle access or cropland erosion through the critical area planting process.

(c) Standards and specifications. 1. SCS field office technical standards and specifications as of January, 1995:

- a. 342 - critical area planting;
- b. 382 - fencing;
- c. 560 - access road, cattle crossings;
- d. 512 - pasture and hayland planting;
- e. 472 - livestock exclusion;
- f. 580 - streambank protection;
- g. 561 - heavy use area protection-cattle lanes; and
- h. 642 - well.

2. UWEX Publication A3529 Wisconsin Pastures for Profit: A hands on guide to rotational grazing.

3. Field Office Computer System (FOCS)- Grazing land application module.

SECTION 93. NR 120.14(11)(a) is amended to read:

NR 120.14(11)(a) Description. Critical area stabilization is the planting of suitable trees, shrubs, and other vegetation on critical nonpoint source sites appropriate for controlling and stabilizing sloped lands which are eroding from nonpoint source pollutants.

SECTION 94. NR 120.14(11)(b) has been repealed and recreated to read:

NR 120.14(11)(b) Condition. Trees may not be sold during the operation and maintenance period.

SECTION 95. NR 120.14(11)(c)1. and 2. are repealed.

SECTION 96. NR 120.14(11)(c)3. is renumbered NR 120.14(11)(c)(intro.) and 120.14(11)(c)(intro.) is amended to read:

NR 120.14(11)(c) Standards and specifications. (intro.) SCS field office technical guide standards and specifications as of ~~May, 1989~~ January, 1995:

SECTION 97. NR 120.14(12)(b)1.(intro.) is amended to read:

NR 120.14(12)(b)1.(intro.) ~~Cost-sharing~~ Cost-sharing may be provided for:

SECTION 98. NR 120.14(12)(b)1.c. and d. and 3. are repealed.

SECTION 99. NR 120.14(12)(b)2. and 2.a. are amended to read:

NR 120.14(12)(b)2. ~~Cost-sharing~~ Cost-sharing may be provided for structures with embankments of 15 to 25 feet in height or with impoundment

capacities of 15 to 50 acre-feet if the department makes a determination in writing that all of the following apply:

2.a. Control of the ~~critical~~ site is needed to achieve the water quality objectives specified in the approved watershed plan.

SECTION 100. NR 120.14(12)(b)4. is renumbered NR 120.14(12)(b)3. and 120.14(12)(b)3., as renumbered, is amended to read:

NR 120.12(b)3. ~~Cost-sharing~~ Cost-sharing may not be authorized for any grade stabilization structure on a navigable stream classified as supporting a fishery.

SECTION 101. NR 120.14(12)(c)1. is repealed.

SECTION 102. NR 120.14(12)(c)2. is renumbered NR 120.12(c)(intro.) and 120.12(c)(intro.) is amended to read:

NR 120.14(12)(c) Standards and specifications. (intro.) SCS field office technical guide standards and specifications as of ~~May, 1989~~ January, 1995:

SECTION 103. NR 120.14(13)(b)1., 2.(intro.), 3.(intro.) and a. are amended to read:

NR 120.14(13)(b)1. ~~Cost-sharing~~ Cost-sharing may be provided for the sediment basin including embankments, principal and emergency spillway structures, including anti-seep collars, dewatering outlet, and outlet protection, ~~temporary and permanent vegetation and fencing.~~

2. (intro.) ~~Cost-sharing~~ Cost-sharing may not be provided for:

3. (intro.) Sediment basins with embankments of 15 to 25 feet in height or with impoundment capacities of 15 to 50 acre-feet in volume may be ~~cost shared~~ cost-shared only when approved by the department, in writing, prior to construction. For the department to authorize such ~~cost-sharing~~ cost-sharing, it ~~must~~ shall make the following findings:

a. Control of ~~critical~~ the site is needed to achieve the water quality objectives specified in the approved watershed plan.

SECTION 104. NR 120.14(13)(c)1. and 2. are repealed.

SECTION 105. NR 120.14(13)(c)3. is renumbered NR 120.14(13)(c) and 120.14(13)(c)(intro.) is amended to read:

NR 120.14(13)(c) Standards and specifications. (intro.) The sediment basin shall be designed consistent with standards and specifications for construction site sediment basins in the Wisconsin Construction Site Best Management Practice Handbook, WDNR Pub. WR-222, November 1993 Revision and the SCS field office technical guide standards and specifications as of ~~May, 1989~~ January, 1995:

SECTION 106. NR 120.14(14)(b)1. is renumbered NR 120.14(14)(b)2. and, as renumbered, is amended to read:

NR 120.14(14)(b) Conditions. 2. ~~Cost-sharing~~ Cost-sharing may be provided:

~~a. For permanent fencing to protect banks from damage by domestic livestock and to limit or eliminate livestock access to water.~~

~~b. a. For planting trees (if approved by a department fish manager), shrubs and temporary and perennial grass cover as filter strips or buffer zones along banks.~~

~~c. b. For water pumps and other measures required to eliminate livestock access to water.~~

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

~~e. d. For the design and placement of riprap and other materials on banks of less than 6 feet in height measured from the bed when other practices are not practical.~~

~~f. For shaping and smoothing banks prior to the installation of protective structures or plantings.~~

~~g. For clearing and removal of snags and trees likely to cause erosion of the stream banks.~~

~~h. e. For required permits.~~

~~i. f. For fish habitat structures installed in conjunction with riprap consistent with the priority watershed plan.~~

SECTION 107. NR 120.14(14)(b)1. is created to read:

NR 120.14(14)(b)1. The cost-share recipient is responsible for obtaining all permits for the installation of the practice.

SECTION 108. NR 120.14(14)(b)2. and 3. are repealed.

SECTION 109. NR 120.14(14)(b)4. is renumbered NR 120.14(14)(b)3. and 120.14(14)(b)3., as renumbered, is amended to read:

NR 120.14(14)(b)3. ~~Cost-sharing~~ Cost-sharing is not authorized for wood chunks, unsorted demolition material, brick, plaster, blacktop and any other material that could produce leachates or would violate provisions of statutes or administrative codes for use as riprap.

SECTION 110. NR 120.14(14)(c)1. is repealed.

SECTION 111. NR 120.14(14)(c)2.(intro.), g. and h. are amended to read:

NR 120.14(14)(c)2.(intro.) SCS field office technical guide standards and specifications as of ~~May, 1989,~~ January, 1995:

g. 560 - access road; and

h. 614 - trough and tank-; and

SECTION 112. NR 120.14(14)(c)2.i. is created to read:

NR 120.14(14)(c)2.i. 510 - pasture and hayland management.

SECTION 113. NR 120.14(14)(c)5. is created to read:

NR 120.14(14)(c)5. U. S. department of agriculture's Stream Habitat Improvement Handbook, publication R8-TP-16, June 1992.

SECTION 114. NR 120.14(14)(c)5. note is amended to read:

Note: Copies of the materials described in ~~subs. 3. and 4.~~ subds. 3 to 5 may be inspected at the offices of the department, 101 S. Webster Street, Madison; the Secretary of State, 30 W. Mifflin, Madison; and the Revisor of Statutes, ~~30 W. Mifflin,~~ 131 W. Wilson, Suite 800, Madison.

SECTION 115. NR 120.14(15)(b)1., 2.(intro.) and 2.a. are amended to read:

NR 120.14(15)(b)1. ~~Cost-sharing~~ Cost-sharing may be provided only when the shoreline buffers are used consistent with the approved watershed plan.

2.(intro.) For buffers used to filter pollutants, ~~cost-sharing~~ cost-sharing may be provided for:

2.a. Establishment of vegetative cover including native and wetland vegetation.

SECTION 116. NR 120.14(15)(b)2.d. and 2.e. are repealed.

SECTION 117. NR 120.14(15)3.(intro.) is amended to read:

NR 120.14(15)3.(intro.) For buffers used to manage a critical area, ~~cost-sharing~~ cost-sharing may be provided for:

SECTION 118. NR 120.14(15)(b)3.b. is repealed and recreated to read:

NR 120.14(15)(b)3.b. Establishment of buffers on non-critical sites in order to provide a continuous shoreline or streambank buffer system on the cost-share recipient's property.

SECTION 119. NR 120.14(15)(b)4. is repealed.

SECTION 120. NR 120.14(15)(c) is repealed and recreated to read:

NR 120.14(15)(c) Standards and specifications. 1. The physical dimension of the shoreline buffer shall be a minimum of 66 feet.

2. Agricultural Stabilization and Conservation Service (ASCS) standard and specification: WP-7 - riparian buffer strips, as described in 1-WI(ACP), January 1994.

SECTION 121. NR 120.14(15m) is created to read:

NR 120.14(15m) LAKE SEDIMENT TREATMENT. (a) Description. Lake sediment treatment is a chemical, physical or biological treatment of polluted lake sediments.

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

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

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

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

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

4. Sources of the pollution to the lake shall be controlled prior to treatment of lake sediments.

5. The engineering design shall be approved by the Department prior to implementation.

6. An appropriate permit, if required, and approval shall be obtained.

SECTION 122. NR 120.14(16)(b) is amended to read:

NR 120.14(16)(b) Conditions. ~~Cost-sharing~~ Cost-sharing may be provided for ~~earth~~ :

1. Earth moving to construct berms, levees or dikes ~~for earth~~;

2. Earth moving to fill in portions of drainage ditches ~~for destruction~~;

3. Destruction of portions of tile lines; and ~~vegetative~~

4. Vegetative cover needed to develop or restore wetlands consistent with the approved watershed plan.

SECTION 123. NR 120.14(16)(c)1. is repealed.

SECTION 124. NR 120.14(16)(c)2. is renumbered NR 120.14(16)(c) and, as renumbered, is amended to read:

NR 120.14(16)(c) Standards and specifications. SCS field office technical guide standards and ~~specification~~ specifications as of ~~May 1989: 393~~ ~~filter strip~~ March, 1994: 657 Wetland restoration.

SECTION 125. NR 120.14(17)(b)(intro.) is amended to read:

NR 120.14(17)(b)(intro.) ~~Cost-sharing~~ Cost-sharing may be provided for:

SECTION 126. NR 120.14(17)(b)5., 6. and (c)1. are repealed.

SECTION 127. NR 120.14(17)(c)2. is renumbered MR 120.14(17)(c) and 120.14(17)(c)(intro.) and 120.14(17)(c)13., as renumbered, are amended to read:

NR 120.14(17)(c) Standards and specifications.(intro.) SCS field office technical guide standards and specifications as of ~~May, 1989~~ January, 1995:

13. ~~633 - waste utilization.~~ 590 - nutrient management; and

SECTION 128. NR 120.14(17)(c)14. is created to read:

NR 120.14(17)(c)14. 312 - waste management system.

SECTION 129. NR 120.14(18)(title) and (b)1. are amended to read:

NR 120.14(18) (title) ANIMAL LOT RELOCATION.

(b)1. ~~Cost sharing~~ Cost-sharing may be provided for:

SECTION 130. NR 120.14(18)(b)1.a. is repealed and recreated to read:

NR 120.14(18)(b)1.a. Stabilization of the site to be abandoned.

SECTION 131. NR 120.14(18)(b)1.b. is repealed.

SECTION 132. NR 120.14(18)(b)1.c., 3., 4.a. and 4.b. are amended to read:

NR 120.14(18)(b)1.c. Reconstruction or replacement of buildings and other structures necessary for the relocation of the animal lot subject to limitations described in s. NR 120.18 (2) ~~(e)~~ (c).

3. The abandoned site shall remain abandoned ~~for the period of the cost share agreement~~ permanently.

4.a. Control of the ~~critical~~ site is needed to achieve the water quality objectives specified in the approved watershed plan.

4.b. The relocation is cost effective compared to repairing or reconstructing the structure or facility, including the loss in terms of appraised values of structures to be abandoned.

SECTION 133. NR 120.14(18)(c)1. is repealed.

SECTION 134. NR 120.14(18)(c)2. and 120.14(18)(c)3. are renumbered NR 120.14(18)(c)1. and 120.14(18)(c)2. and NR 120.14(18)(c)2.(intro.), 120.14(18)(c)2.e., 120.14(18)(c)2.g. and 120.14(18)(c)2.n., as renumbered, are amended to read:

NR 120.14(18)(c)2.(intro.) SCS field office technical guide standards and specifications as of ~~May, 1989~~ January, 1995:

e. 561 - ~~heavy~~ heavy use area protection;
g. 412 - ~~greased~~ grassed waterway;
n. ~~633 - waste utilization.~~ 590 - nutrient management.

SECTION 135. NR 120.14(19)(a) is repealed and recreated to read:

NR 120.14(19)(a) Description. A manure storage facility is a structure which stores manure from operations where manure is generated or from operations where the location and site characteristics of manure spreading areas result in a high potential for runoff to carry pollutants to lakes, streams and groundwater during periods of frozen or saturated conditions. The facility shall be necessary to accommodate proper land application of manure in accordance with a nutrient management plan.

SECTION 136. NR 120.14(19)(b)1., 2.(intro.), 2.a., c., e. and f. are amended to read:

NR 120.14(19)(b)1. A ~~manure~~ nutrient management plan for the operation is required.

2.(intro.) Cost sharing ~~Cost-sharing~~ may be provided for:

2.a. Operations where the location and site characteristics of areas where manure is spread have a high potential to carry runoff to lakes and streams and the facility is necessary to accommodate proper land application of the manure in accordance with the ~~operation's manure~~ nutrient management plan.

c. Aerobic or anaerobic basins, liquid manure tanks and solid manure stacking facilities and equipment necessary for transporting manure to the storage facility required as part of a ~~manure~~ nutrient management plan.

e. Leases of manure storage tanks subject to the restrictions of s. NR 120.18 (2) ~~(f)~~ (d).

f. The repair ~~or modifications to~~ , modification or abandonment of existing manure storage facilities as needed to meet the water quality objectives of the watershed plan including well abandonment required under ch. NR 812.

SECTION 137. NR 120.14(19)(b)2.g. is created to read:

NR 120.14(19)(b)2.g. Operations where manure is generated.

SECTION 138. NR 120.14(19)(b)3.(intro.), 3.a. and 5. are amended to read:

NR 120.14(19)(b)3.(intro.) ~~Cost-sharing~~ Cost-sharing may not be provided for:

3.a. Operations where manure can be spread at acceptable rates on locations which are nearly flat ~~land~~ and represent a minimal risk to surface and groundwater or which do not drain to surface waters ~~except those having a high potential to impair groundwater quality.~~

5. Manure stored in the storage facility shall be land applied in accordance with the operation's ~~manure~~ nutrient management plan. Manure stored in facilities designed to be emptied annually or semi-annually may not be applied on frozen or saturated ground and shall be incorporated within 3 days after application.

SECTION 139. NR 120.14(19)(c)1. is repealed.

SECTION 140. NR 120.14(19)(c)2. is renumbered NR 120.14(19)(c) and 120.14(19)(c)(intro.) and 120.14(19)(c)6., as renumbered, are amended to read:

(c) Standards and specifications. (intro.) SCS field office technical guide standards and specifications as of ~~May, 1989~~ January, 1995:

6. ~~633 - waste utilization~~ 590 - nutrient management.

SECTION 141. NR 120.14(19e) and (19s) are created to read:

NR 120.14(19e) ANIMAL WASTE STORAGE SYSTEM ABANDONMENT. (a) Description. Animal waste storage system abandonment is the proper abandonment of leaking and improperly sited manure storage systems including, a system with bottom at or below groundwater level; a system whose pit fills with groundwater; a system whose pit leaks into the bedrock; a system which has documented reports of discharging manure into surface or groundwater due to structural failure; and a system where there is evidence of structural failure.

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

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

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

(c) Standards and specifications. SCS field office technical guide standard 425 - Waste Storage Pond as of January, 1995.

(19s) MILKING CENTER WASTE CONTROL SYSTEMS. (a) Description. A milking center waste control system is a piece of equipment, practice or combination of practices installed in a milking center for purposes of reducing the quantity or pollution potential of the wastes.

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

- a. Filter strip systems with appropriate pretreatment measures, storage systems and land irrigation equipment.
- b. Repair or modification of existing milking center waste control measures.
- c. Waste transfer equipment needed to transport milking center wastes to storage, treatment or land application systems provided that the equipment is an integral component of the system and is designed for that exclusive use.
- d. Other milking center waste control measures when they are needed to assure that the milking center waste treatment systems will meet identified water quality objectives. These measures may include conservation sinks, pre-

cooler water utilization systems, manifold cleaning systems, air injection systems, waste milk diverter valves, booster pumps for parlor floor cleaning and other measures as approved by the department.

2. Cost-sharing may not be provided for:

a. Systems, practices or components that are installed or adopted for purposes other than for the correction of an identified water pollution hazard.

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

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

(c) Standards and specifications. 1. Storage, treatment and land application systems shall meet the following SCS field technical guide standards and specifications as of January, 1995:

- a. 393 - filter strip;
- b. 358 - waste transfer;
- c. 442 - irrigation system sprinkler; and
- d. 614 - trough or tank.

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

SECTION 142. NR 120.14(20)(b)1. and 2. are repealed.

SECTION 143. NR 120.14(20)(b)3. and 120.14(20)(b)4. are renumbered NR 120.14(20)(b)1. and 120.14(20)(b)2. and 120.14(20)(b)1., as renumbered, is amended to read:

NR 120.14(20)(b)1. ~~Cost-sharing~~ Cost-sharing may not be authorized for materials and labor for other structures or buildings.

SECTION 144. NR 120.14(20)(c)1. is amended to read:

NR 120.14(20)(c)1. The roof shall be designed to support wind, snow and other live and dead loads consistent with the ~~midwest plan service structures and environment handbook, 11th edition, 1987 revision~~ American Society of Agricultural Engineers (ASAE) Engineering Practice (EP) 288.4, 1990.

SECTION 145. NR 120.14(21)(b)1. and (c)(intro.) are amended to read:

NR 120.14(21)(b)1. ~~Cost-sharing~~ Cost-sharing may be provided for permanent fencing.

(c)(intro.) SCS field office technical guide standards and specifications as of ~~May, 1989~~ January, 1995:

SECTION 146. NR 120.14(21m) is created to read:

NR 120.14(21m) CATTLE MOUNDS. (a) Description. Cattle mounds are earthen mounds used in conjunction with feeding and dry lot operations and are intended to provide a dry and stable surface area for cattle.

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

a. To replace dry-lots or loafing areas that are identified as pollution sources.

b. To achieve shoreline and streambank protection in riparian zones where existing dry-lots and loafing areas are stabilized.

2. In cases where water resources are in close proximity to the animal lots, additional runoff control practices may be required.

3. Cost-sharing may not be provided for wind breaks associated with cattle mounds.

(c) Standards and specifications. 1. The animal lot meets current eligibility criteria identified in the watershed plan.

2. The proposed cattle mound provides water quality benefits which are verified by the BARNY model.

3. The cattle mound is an integral component of a comprehensive runoff control system.

4. The design and construction of the cattle mound is in accordance with standards approved by the department.

5. The grant recipient agrees to abandon all loafing areas or dry-lots, with the exception of approved pastures, and agrees to convert these areas to uses compatible with water quality goals. This provision shall be documented in the cost-share agreement.

6. The runoff from the cattle mound shall be treated to levels equivalent to barnyard runoff control systems.¹

SECTION 147. NR 120.14(22)(a) is repealed and recreated to read:

NR 120.14(22)(a) Description. Structural urban best management practices are source area measures, transport system and end-of-pipe measures designed to control storm water runoff rates, volumes and discharge quality. These practices will reduce the amount of pollutants carried in runoff and flows destructive to stream habitat. These measures include, but are not limited, to such practices as infiltration trenches, porous pavement, oil water separators, sediment chambers, sand filtration units, grassed swales, infiltration basins and detention/retention basins.

SECTION 148. NR 120.14(22)(b)1. and (b)1.a. are amended to read:

NR 120.14(22)(b)1. ~~Cost-sharing~~ Cost-sharing may be provided ~~for:~~

(b)1.a. ~~Excavation~~ For engineering design, excavation, grading, mulching, seeding, necessary landscaping, piping, drop spillways and other measures required to construct the measure.

¹ The preferable method is to have cattle mound runoff captured and treated within the filtration or containment system for the planned barnyard.

SECTION 149. NR 120.14(22)(b)1.b.is repealed and recreated to read:

NR 120.14(22)(b)1.b. For land acquisition, including storm sewer rerouting and the removal of structures necessary to install structural urban best management practices.

SECTION 150. NR 120.14(22)(b)1.c. and 1.d. are created to read:

NR 120.14(22)(b)1.c. For materials and labor for the initial installation of groundwater monitoring wells required by the department.

1.d. On a prorated basis, for a practice which serves to manage both water quality and unrelated water quantity problems.

SECTION 151. NR 120.14(22)(b)2.(intro.), a. and b. are repealed and recreated to read:

NR 120.14(22)(b)2.(intro.) Cost-sharing may not be provided for:

a. Land acquisition, storm sewer rerouting or removal of structures where such practices serve solely to solve drainage and flooding problems unrelated to the primary water quality improvement strategy in the watershed plan.

b. Removal or disposal of accumulated sediments or other materials needed to properly maintain the practice.

SECTION 152. NR 120.14(22)(b)3. to 5. and (c)2. are repealed.

SECTION 153. NR 120.14(22)(c)4., and 5.a. are amended to read:

NR 120.14(22)(c)4. Based on the review of the preliminary designs for each alternative, the governmental unit, landowner or land operator shall submit a detailed design including pertinent information addressing each criteria listed in subd. 5 for the selected alternative prepared by a registered professional engineer or other individual trained in the design of the practice and approved by the department, to the department for review and approval.

5.a. Adequacy of pollutant control to protect surface water, groundwater and wetland resources.

SECTION 154. NR 120.14(22)(c)5.b., e. and f. are repealed and recreated to read:

NR 120.14(22)(c)5.b. Consistency with water quality provisions of department approved plans, such as areawide water quality management plans, remedial action plans or wellhead protection plans, or with existing local storm water management ordinances or plans that meet minimum department requirements.

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

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

SECTION 155. NR 120.14(22)(c)6. is created to read:

NR 120.14(22)(c)6. The department may waive or modify the review or approval procedures under subds. 3 to 5. Any waiver shall be specifically described in the grant agreement or the cost-share agreement.

SECTION 156. NR 120.14(23)1. is renumbered NR 120.14(23) and, as renumbered, is amended to read:

NR 120.14(23) EFFECTIVE DATES FOR BEST MANAGEMENT PRACTICES. The ~~cost share~~ cost-share conditions and standards and specifications for all best management practices shall apply to all ~~cost share~~ cost-share agreements signed after ~~December 1, 1989~~ the effective date of this subsection... [revisor please insert date].

SECTION 157. NR 120.14(23)2. is repealed.

SECTION 158. NR 120.15(1) and (2) are amended to read:

NR 120.15(1)(title) ALTERNATIVE BEST MANAGEMENT PRACTICES. The department may approve alternative best management practices where necessary to meet the water resources objectives identified in the watershed plan. The department shall consult with DATCP regarding alternative agricultural best management practices. ~~The department may consult with SCS, UWEX and other agencies.~~ The department shall may identify in the nonpoint source grant agreement design criteria and standards and specifications, ~~where appropriate;~~ cost-share cost-share conditions; and ~~cost share~~ cost-share rates for each approved alternative best management practice.

(2)(title) ALTERNATIVE DESIGN CRITERIA. For best management practices described in s. NR 120.14, the department may approve alternative design criteria or standards and specifications where an alternative will achieve the same or a greater level of pollutant control. The department shall consult with DATCP regarding alternative design criteria for agricultural best management practices. ~~The department may consult with SCS, UWEX and other agencies.~~

SECTION 159. NR 120.16(intro.) and (1)(intro.) are amended to read:

NR 120.16 CONSTRUCTION SITE ORDINANCE. (intro.) Where construction sites have been identified as significant nonpoint sources in a watershed plan, the enactment of a construction site erosion control ~~and runoff management~~ ordinance shall be a condition of the nonpoint source grant agreement ~~or a not cost shared practice of a cost share agreement.~~

(1) APPLICABILITY. (intro.) ~~The ordinance shall apply to all construction activities within the unit of government's jurisdiction including the following:~~ The ordinance shall apply, at a minimum, to construction activities not otherwise regulated by the department under ch. NR 216, or regulated by DILHR.

SECTION 160. NR 120.16(1)(a) to (d) are repealed.

SECTION 161. NR 120.16(2)(b)2. to 4. are repealed.

SECTION 162. NR 120.16(2)(g) is created to read:

NR 120.16(2)(g) A provision requiring consistency with the best management practice provisions contained in the Wisconsin Construction Site Best Management Practice Handbook, WDNR Pub. WR-222, November 1993 Revision.

SECTION 163. NR 120.17(title), (intro.), (1), (2) and (6) are amended to read:

NR 120.17 (title) PRACTICES NOT COST-SHARED. (intro.) The following best management practices are not eligible for ~~cost-sharing~~ cost-sharing but shall be requirements included in ~~cost-share~~ cost-share agreements-:

- (1) Practices to be fully funded through other programs.
- (2) Practices previously installed and necessary to support ~~cost-shared~~ cost-shared practices.
- (6) ~~Manure~~ Nonstationary manure spreading management equipment.

SECTION 164. NR 120.17(7) is renumbered NR 120.17(8) and, as renumbered, is amended to read:

NR 120.17(8) Other practices which the department determines are not necessary to achieve the objectives of the watershed project.

SECTION 165. NR 120.17(7) is created to read:

NR 120.17(7) Practices needed for land use changes during the cost-share agreement period.

SECTION 166. NR 120.18(title), (1)(title), (a) and (b)(intro.) are amended to read:

NR 120.18 (title) COST-SHARE RATES. (1)(title) STATE COST-SHARE RATES. (a) State ~~cost-share~~ cost-share rates for individual best management practices are identified in Table 2. The ~~cost-share~~ cost-share rates for best management practices under ~~cost-share~~ cost-share agreements ~~resulting from nonpoint source grant agreements entered into on or after January 1, 1989, but prior to December 1, 1989 may be amended to use the rates identified in this section.~~

SECTION 167. NR 120.18(1)(a) Table 2 is repealed and recreated to read:

Table 2

Practice	State cost-share rate
Contour farming	50%*
Contour and field stripcropping	50%*
Reduced tillage systems for continuous row cropping and long rotations	50%
Reduced tillage systems for short crop rotations and forage and small grains establishment	50%
Nutrient management	50%
Pesticide management	50%**
Livestock exclusion from woodlots	50%
Intensive grazing management	50%****
Manure storage facilities - for first \$20,000 costs	70%*****
Manure storage facilities - for remaining costs	50%*****

Animal waste system storage abandonment	70%
Field diversions	70%
Terraces	70%
Grassed waterways	70%
Critical area stabilization	70%
Grade stabilization structures	70%
Agricultural sediment basins	70%
Shoreline and streambank stabilization	70%
Shoreline buffers	70%
Wetland restoration	70%
Barnyard runoff management	70%
Animal lot relocation	70%
Roofs for barnyard runoff management and manure storage facilities	70%
Structural urban best management practices	70% ***
Milking center waste control	70%
Cattle mounds	70%
Lake sediment treatment	70%

* Wildlife habitat recreation has a state cost-share rate of 70%.

** Spill control basins have a state cost-share rate of 70%.

*** The maximum cost-share rate for land acquisition, storm sewer rerouting, and removal of structures necessary to install structural urban best management practices is 50%.

**** The maximum cost-share rate per watering system is \$2,000.

***** The maximum cost-share rate for manure storage facilities may not exceed \$35,000 total per facility. (See par. (2)(b) below for more detail).

(b)(intro.) Counties may use locally determined U. S. department of agriculture's cost-share rates per acre as provided for in Agricultural Stabilization and Conservation Service (ASCS) Handbook, 1-WI(ACP), January 1994 or the following state ~~cost-share~~ cost-share rates per acre in lieu of the state ~~cost-share~~ cost-share percentages listed in Table 2.

SECTION 168. NR 120.18(1)(b)6. is created to read:

NR 120.18(1)(b)6. \$25 per acre for up to 3 years for cropland protection cover (green manure).

SECTION 169. NR 120.18(1)(c)(intro.), (d) and (2) are amended to read:

NR 120.18(1)(c)(intro.) ~~Governmental units~~ Counties may increase the state ~~cost-share~~ cost-share rate up to 80% for the following practices provided the conditions of s. 144.25(8)(h), Stats., are met:

(d) Funds and ~~in-kind~~ in-kind contributions of labor and material from other state programs used directly in the installations of best management practices may be considered part of the local matching share for best management practices described in par. (c).

(2) MAXIMUM AMOUNTS. (a) Least cost. A governmental unit may set ~~cost share~~ cost-share rates up to the maximum amount specified for the practice in this section. Where 2 or more practices are of equal effectiveness in ~~the control of reducing~~ reducing pollutants, the ~~cost-share~~ cost-share rate shall be based on the least cost practice provided the practice is consistent with the use and management of the land in question. The department may approve, in writing, ~~cost-sharing~~ cost-sharing for a best management practice that is not the least cost if the practice is cost effective in improving safety, operation and maintenance or life expectancy of the practice or in providing greater control of pollutants or providing fish and wildlife habitat. The

department shall approve the cost-share agreement if the best management practices are the least-cost alternatives to control the nonpoint sources or if the practices provide greater water quality improvement or habitat enhancement than the least-cost alternative.

(b) Manure storage facilities. The maximum ~~cost share~~ cost-share for ~~long-term~~ manure storage facilities² may not exceed ~~\$10,000~~ \$35,000 total per facility including ~~no more than \$5,000 for~~ manure transfer equipment such as pipes, pumps, hoppers and push-off ramps which is an integral component of the system and is designed for that exclusive use.

(c) Relocation of agricultural buildings, structures and animal lots. The maximum ~~cost share~~ cost-share amount for relocation of buildings, structures and lots shall be 70% of the replacement cost up to the appraised value of the buildings, structures or lots to be replaced. Any salvage value or resale value realized during the maintenance period of the ~~cost share~~ cost-share agreement shall be deducted from the appraised value and reimbursement for the ~~cost shared~~ cost-shared amount be made to the department.

(d) Leases of manure storage tanks. The maximum amount ~~cost shared~~ cost-shared for leases of manure storage tanks shall be 70% of the down payment and lease cost of the tank during the grant period of the watershed project up to a maximum of ~~\$10,000~~ \$20,000.

SECTION 170. NR 120.18(1)(e) is created to read:

NR 120.18(1)(e) Governmental units may establish flat rates for the ~~cost sharing~~ cost-sharing of fencing and critical area stabilization in order to simplify the administration of cost-share funds for these practices. Flat rates shall be based on 70% of average cost and installation of these practices.

SECTION 171. NR 120.18(3) is amended to read:

(3) LOCAL SHARE. Funds from sources other than ~~the appropriation appropriations granted~~ under ~~s. ss. 20.370 (4) (cc), and (cc) and 20.866 (2)(te)~~, Stats., including federal programs, may be used to provide the local share of project costs, as set forth in s. 144.25 (8)(i) and (j), Stats.

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

SECTION 172. NR 120.18(3)(b) and (4) are created to read:

NR 120.18(3)(b) The value of a conservation easement donated to the department, or to any person approved by the department under s. 144.25 (8)(m), Stats., may be considered as a portion of or all of the landowner's or operator's share of a cost-sharing grant.

(4) ECONOMIC HARDSHIP. (a) The rate and maximum amount paid to a landowner or land operator under a cost share agreement may be exceeded only for manure storage facilities and barnyard runoff control systems with written approval from the department if the landowner or land operator can demonstrate economic hardship as defined in s. NR 120.02 (14). Under the provision of

² The higher \$35,000 total maximum state cost-share amount may only be available for a manure storage facility presently under an existing cost-share agreement which has not yet been certified as complete.

economic hardship, the following percentage payment rates and maximum payments will apply.

1. Manure storage facilities - for first \$20,000 costs 85%
2. Manure storage facilities - for remaining costs 75%
3. Barnyard runoff control systems 85%

(b) The maximum grant from the department for economic hardship cases for construction of manure storage facilities and barnyard runoff control systems, at the rates established under par. (a) 1 to 3, may not exceed \$45,000.

SECTION 173. NR 120.185 is renumbered NR 120.185(1) and 120.185(1)(intro.), as renumbered, is amended to read:

NR 120.185 EASEMENTS. (1)(intro.) The department may enter into easements with landowners for lands identified in watershed plans. ~~The easements~~ Easements, including donated conservation easements, shall be for a period of no less than 20 years. Easements may be used in conjunction with the following best management practices:

SECTION 174. NR 120.185(1)(d) and (2) to (4) are created to read:

NR 120.185(1)(d) Any other best management practice specified as eligible for easement support in an approved priority watershed plan.

(2) The department may authorize, in writing, any governmental unit, non-profit organization or person to enter into easements or accept a donated conservation easement consistent with the eligibility provision of the approved priority watershed plan.

(3) Upon acceptance of a donated easement under s. NR 120.18(3)(b), the department shall appraise the easement and thereafter, issue a written opinion on the value or issue a statement of value of the easement.

(4) The department may distribute grants and aids to itself or to any governmental unit that is eligible for a local assistance grant under s. NR 120.21 for the purchase of easements in priority watershed areas.

SECTION 175. NR 120.19(1)(intro.), (d) and (e) are amended to read:

NR 120.19(1)(intro.) Governmental units as grantors of ~~cost-share~~ cost-share agreements shall identify and agree to use one or more of the following cost containment procedures for each best management practice in the detailed program for implementation portion of the watershed plan.

(d)(title) Maximum cost-share limit. A governmental unit or the department establishes a maximum ~~cost-share~~ cost-share rate limit not to exceed the rates specified in s. NR 120.18 for installation of a best management practice.

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

SECTION 176. NR 120.19(2) is repealed.

SECTION 177. NR 120.19(3) and (4) are amended to read:

NR 120.19(3) Under unusual or exceptional circumstances, the governmental unit may accept costs exceeding the ~~cost-share~~ cost-share maximum identified in an adopted cost containment procedure. Requests for exceptions from landowners or land operators and the governmental unit's approval shall be documented in writing explaining the unusual or exceptional circumstances and attached to the ~~cost-share~~ cost-share agreement or amendment and attached to the request for reimbursement submitted to the department by the governmental unit.

(4) A governmental unit shall develop a cost containment procedure to control ~~in-kind~~ in-kind contributions by landowners installing best management practices using their own labor or equipment unless ~~in-kind~~ in-kind contributions will not be utilized in the project.

SECTION 178. NR 120.21(1), (2), (3)(b) and (c), (4)(a)1.(intro.), c., j., m. and n. are amended to read:

NR 120.21(1) PURPOSE. (intro.) The local assistance grant agreement is an agreement between the department and a state agency, governmental unit or an agent acting on behalf of a state agency, or governmental unit for providing funds for activities necessary for watershed plan preparation, ordinance development and administration, information and education, demonstration practices, easement acquisition and administration, educating and training staff and implementation of the priority watershed project and requiring additional staff, increased hours of existing staff or requiring the grantee to incur direct costs. A local assistance grant may be used to support activities that have program or statewide impact including education and training activities; such as public meetings and mailings, newsletters, tours, and other activities determined by the department to support program objectives.

(2)(title) GRANT PERIOD INITIATION. ~~(a) No local assistance grant agreement pertaining to a specific priority watershed plan may begin before the selection of the nonpoint source priority watershed project, nor extend beyond the end date of the nonpoint source grant agreement.~~

~~(b) Grants having program or statewide impact shall include a specific grant period in the grant.~~

(3)(b) Counties shall submit draft annual work plans and grant amendment applications in accordance with the procedures developed by DATCP in ~~s. Ag 166.40~~ ss. ATCP 50.50 and 50.53 and the department.

(c) ~~Amendment requests~~ The grant amount may be reduced by the department if the grantee has not expended all of the previously awarded funds by the end of the current funding period. The grantee shall provide an estimate of unexpended funds at the ~~end of the current funding period in the amendment application request of the department.~~

(4)(a)1.(intro.) Labor required by the grantee to carry out the activities listed in subpars. a. to ~~n. s.~~ The following activities ~~are~~ may be eligible for grant assistance provided ~~it requires~~ additional staff or increased hours of existing staff are required to plan or implement a project. The grant assistance for supporting additional staff positions or increased existing staff hours of the state agency, governmental unit or agent shall be based on rates not exceeding appropriate rates for state agency, governmental unit or agent employees including salary and fringe benefits.

c. Developing and reviewing ~~cost share~~ cost-share agreements with the ~~cost share~~ cost-share recipient;

j. Project management ~~and fiscal management~~;

m. Preparing and administering a construction site erosion control and storm water management ordinance under s. 144.266, Stats., and a manure storage ordinance under s. 92.16, Stats.; and

n. Administration of easements defined in s. ~~NR 120.18~~ NR 120.185;

SECTION 179. NR 120.21(4)(a)1.o. to s. are created to read:

NR 120.21(4)(a)1.o. Fiscal management;

p. Designing components of stormwater plans for urban development;

q. Conducting engineering feasibility studies for existing development for urban structural practices that are needed to achieve the water quality goals stated in the watershed plan; and

r. Evaluating alternatives for local financing of storm water management programs; and

s. Administrative costs associated with initial establishment of local funding programs such as storm water utilities.

SECTION 180. NR 120.21(4)(a)2., 5. and 10. are amended to read:

NR 120.21(4)(a)2. Work hours of additional staff ~~may be~~ used to offset the work hours spent by existing staff on the project. Reimbursement shall be based on the additional staff costs not the cost of existing staff work hours spent on the project.

5. Training of staff approved by the department. ~~Training for county staff is limited to training included in a DATCP approved training plan.~~

10. The cost of recording the ~~cost share~~ cost-share agreement with the county register of deeds.

SECTION 181. NR 120.21(4)(b) is amended to read:

NR 120.21(4)(b) The following costs are eligible for 70% ~~cost sharing~~ cost-sharing.

SECTION 182. NR 120.21(4)(c) is renumbered NR 120.21(4)(d).

SECTION 183. NR 120.21(4)(c)(title), 1., 2. and (d)3. are created to read:

NR 120.21(4)(c)(title) Conditions for eligibility. 1. To be eligible, core urban program activities, other than construction site erosion control ordinances, shall be initiated within 3 years of the date the department approves the watershed plan or applicable plan amendment. Construction site erosion control ordinances shall be adopted within 2 years of watershed plan approval.

2. Eligibility for urban storm water management activities identified for assistance in a priority watershed or priority lake area plan may not be affected as a result of such activities being included as requirements in a municipal WPDES storm water discharge permit.

(d)3. Indirect costs.

SECTION 184. NR 120.21(7)(b) is amended to read:

NR 120.21(7)(b) Counties shall submit quarterly project management reports to DATCP required under s. ~~Ag 166.40 (4)~~ ATCP 50.40(4) accounting for staff time, expenditures and accomplishments regarding its activities funded under this section.

SECTION 185. NR 120.23(2)(a), (b)2., 5., 6., (c) and (3)(a) are amended to read:

NR 120.23(2)(a) ~~Cost-share~~ Cost-share funds may be used to share in the actual cost required for the installation of eligible best management practices identified in nonpoint source grant agreements described in s. NR 120.12.

(b)2. All reimbursement requests shall be submitted to the department after the best management practice has been verified as properly installed and its cost has been verified and supported by the ~~cost-share~~ cost-share agreement including any amendments by the grantee.

5. If a reimbursement request exceeds \$40,000 for a partially completed structural urban best management practice described in s. ~~NR 120.14(15)~~ NR 120.14(22), documentation of costs incurred is required at the time reimbursement is requested.

6. Reimbursement may be denied if a ~~cost-share~~ cost-share agreement or amendment is not in accordance with the watershed plan.

(c) The department may advance monies to governmental units prior to best management practice installation. The amount of the advance necessary shall be ~~identified~~ proposed in the annual or periodic workplan submitted as required in s. NR 120.21 (3) and determined by the department. The amount of the advance may not exceed the amount of the grant.

(3)(a) Local assistance grant agreement grantees, except counties, shall submit ~~quarterly~~ reimbursement requests on forms provided by the department on a schedule determined by the department. Eligible costs listed in the local assistance grant agreement incurred during each quarter during the period covered by the reimbursement request shall be included in the request.

SECTION 186. NR 120.23(3)(b) is repealed.

SECTION 187. NR 120.23(3)(c) is amended to read:

NR 120.23(3)(c) The department may advance monies to local assistance agreement grantees ~~up to 50% of the estimated 12 month grant amount.~~

SECTION 188. NR 120.25(1)(intro.), (e)3.(intro.), a., b., f., (h) and (2)(c) are amended to read:

NR 120.25(1)(intro.) Each governmental unit as a grant agreement grantee or ~~cost-share~~ cost-share agreement grantor shall maintain a financial management system which adequately provides for:

(e)3.(intro.) A complete file for each ~~cost-share~~ cost-share agreement including the following documentation:

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

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

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

(h) A final accounting of project expenditures submitted to the department within ~~60~~ 120 days of the completion of all watershed project work.

(2)(c) ~~Cost-share~~ Cost-share calculation and practice verification form.

SECTION 189. NR 120.25(1)(i) to (k) are created to read:

NR 120.25(1)(i) Accurate and complete time reports for all employees working on the project.

(j) The best management practices available to control nonpoint sources of pollution.

(k) An identification of the least cost practices.

SECTION 190. NR 120.26(1)(a), (1)(am), (b)4., (c)2., and (2)(b) are amended to read:

NR 120.26(1)(a) The governmental unit or ~~it's~~ its agent's records and the records of contractors, including professional services contracts, shall be subject at all reasonable times to inspection, copying and audit by the department.

(am) Governmental units required to have a single audit based on receipt of federal funds shall include ~~the nonpoint source program~~ local assistance grants within the scope of such examinations.

(b)4. ~~Cost-share~~ Cost-share agreement records shall be kept for the duration of the maintenance period of the ~~cost-share~~ cost-share agreement with the longest maintenance period to enable the governmental unit to fulfill ~~it's~~ its responsibility under s. NR 120.05 ~~(8)~~.

(c)2. Records which relate to costs or expenses of the project to which the department or any of ~~it's~~ its duly authorized representatives has taken exception.

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

SECTION 191. NR 120.26(3) is created to read:

NR 120.26(3) FINAL PROJECT REPORT. The department with assistance from DATCP and local units of government, shall prepare and publish a final project report within 18 months of the end of the grant period.

SECTION 192. NR 120.30 is amended to read:

NR 120.30 ANNUAL REPORT. The department, jointly with the DATCP shall annually prepare the report on the progress of the program required in ss.

144.25 (4) (o) and ~~92.14 (13)~~ 92.14 (12), Stats. The report shall consider land management and water quality criteria in the evaluation of program progress. The report shall include information derived from watershed plans, annual work plans or other related activities.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on Sept. 29, 1994.

The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin December 4, 1994

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer
George E. Meyer, Secretary

