

1 **NR 155.20 Project selection and funding.** (1) SELECTION. (a) The department shall  
2 place all of the projects scored in accordance with s. NR 155.19 on a statewide list in descending  
3 rank order according to the final project score. The department shall use the statewide ranked list  
4 and available budget to allocate grant funds.

5 (b) The projects shall be identified for funding by starting with the highest ranked  
6 projects on the statewide list and proceeding down the ranked list until available project funds  
7 have been allocated.

8 (c) Before November 1 of each year, the department shall select projects for funding  
9 under this chapter based on the final project scores.

10 (d) The department shall inform applicants if the location of the project indicates  
11 measures may be needed to address potential negative impacts of the project on navigable  
12 waters, endangered, threatened or wetland resources, historic properties or historic places.

13 (2) FUNDING. (a) The department shall, where practicable, issue grants to grantees by  
14 December 31 of each year for work in the following calendar year.

15 (b) If the department determines, following scoring, that a project may have unacceptable  
16 impacts on endangered, threatened or wetland resources, historic places or historic properties, it  
17 may do any of the following:

- 18 1. Decide not to provide a grant for the project.
- 19 2. Place a condition on a grant requiring that the grantee take specific actions to reduce or  
20 eliminate the impacts of the project.
- 21 3. Place a condition in a grant that the grantee and the department identify an acceptable  
22 plan to reduce or eliminate impacts of the project.

23 **Note:** In addition, s. NR 154.04 (2) (k) states that all required permits, including those  
24 mandated by the department, shall be obtained prior to installing a best management practice  
25 listed in this chapter.

26 (c) The department may fund in a grant those planning activities needed to identify  
27 impacts on navigable waters, endangered, threatened or wetland resources, historic places or  
28 historic properties and actions needed to reduce or eliminate the impacts.

1 The department may consider the factors in pars. (b) and (c) when determining final grant  
2 awards.

3 (d) The department may establish a maximum amount that any project can receive in  
4 grant awards based on the amount of funding available and the funding demand in any year.

5 (e) The department shall make adjustments to the requested grant amount if necessary to  
6 correct errors made by the applicant concerning eligibility of items for cost-sharing and errors in  
7 cost-share rates used in developing the application.

8 (3) JOINT ALLOCATION PLAN. The department shall provide the department of  
9 agriculture, trade and consumer protection information about grant decisions it has made under  
10 this section for incorporation into the joint allocation plan required under ss. 281.65(4)(pm) and  
11 92.14(14), Stats.

12  
13 **NR 155.21 Runoff management grant agreement. (1) PURPOSE.** (a) The department  
14 shall use the runoff management grant agreement to commit funds to a governmental unit or the  
15 board of regents for the purpose of implementing urban best management practices for a project  
16 selected under s. NR 155.20.

17 **Note:** In this situation, the department is a grantor of funds to the governmental unit or  
18 board of regents. The governmental unit or board of regents serves as a grantee in receiving  
19 funds from the department. A governmental unit may also serve as a provider of those funds to  
20 cost-share recipients such as landowners and land operators.

21 (b) The department may use the runoff management grant agreement in lieu of a cost-  
22 share agreement required under s. NR 155.22 with a governmental unit or the board of regents  
23 for the installation of a urban best management practice on land the governmental unit or board  
24 of regents owns or operates. The department may also may use the runoff management grant  
25 agreement in lieu of a cost-share agreement required under s. NR 155.22 with a governmental  
26 unit not having jurisdiction over the project area if the local government is required to control  
27 storm water discharges under s. 283.33, Stats., provided that inter-governmental agreements are  
28 in place, or will be put in place, as needed to assure the measure is installed and maintained.

1 Runoff management grant agreements used in lieu of cost-share agreements shall comply with  
2 the requirements of s. NR 155.22.

3 **Note:** In this situation, the department is a grantor of funds to the governmental unit or  
4 board of regents. The governmental unit or board of regents receiving these funds serves as the  
5 grantee.

6 **(2) GRANT PERIOD LENGTH.** (a) The department may set the grant period for one to  
7 2 years from the date the department transmits the agreement to the grantee, except that the  
8 department may approve an extension for one year.

9 (b) The department shall require that a grantee submit a written request in order to  
10 consider a project extension. The request shall meet all the following requirements:

- 11 1. Be received by the department prior to the expiration of the grant period.
- 12 2. Identify how the additional time will result in a significant reduction in the pollutant  
13 loading from the project area or otherwise further the intent of the project.

14 **(3) LOCAL GOVERNMENT RESPONSIBILITIES AS A RUNOFF MANAGEMENT**  
15 **GRANTEE AND COST-SHARE PROVIDER.** The department shall require the governmental  
16 unit to do all of the following as conditions of receiving a runoff management grant when the  
17 governmental unit will use the grant funds to provide cost sharing to landowners and land  
18 operators.

19 (a) Execute a runoff management grant agreement with the department for grant funds  
20 necessary to administer cost-share agreements with eligible landowners and land operators. This  
21 requirement may be waived if the department and the governmental unit agree to delegate these  
22 responsibilities to another governmental unit with jurisdiction sufficient to meet all the  
23 conditions of the grant.

24 (b) Enter into cost-share agreements with eligible recipients located within the project  
25 area. This requirement may be waived if the department and the governmental unit agree to  
26 delegate this responsibility to another governmental unit with jurisdiction sufficient to enforce all  
27 the conditions of the cost-share agreement.

1 (c) Be fiscally responsible for the use of cost-share funds provided to cost-share  
2 recipients under the runoff management grant agreement. This includes preparing and  
3 maintaining adequate fiscal management and technical assistance files as described in s. NR  
4 155.29. This requirement may be waived if the department and the governmental unit agree to  
5 delegate these responsibilities to another governmental unit with adequate jurisdiction.

6 (d) Provide the department with verification of proper installation, operation and  
7 maintenance of urban best management practices for cost-share agreements for which it is the  
8 cost-share provider.

9 (e) Contact all landowners and land operators within the project area that are the target of  
10 technical assistance and cost-sharing under the grant.

11 (f) Participate with the department in project reviews.

12 (g) Enforce the terms and conditions of the cost-share agreement as described in s. NR  
13 155.22.

14 **(4) LOCAL GOVERNMENT AND BOARD OF REGENTS RESPONSIBILITIES AS A**  
15 **COST-SHARE RECIPIENT.** The department shall require the governmental unit and the board  
16 of regents to do all of the following as conditions of receiving a runoff management grant to  
17 perform work on lands the grant recipient owns, operates or otherwise controls in accordance  
18 with s. NR 155.13 (1) (b).

19 (a) Provide the department with verification of proper installation, operation and  
20 maintenance of urban best management practices for which it is the cost-share recipient.

21 (b) Prepare and maintain adequate fiscal management and technical assistance files as  
22 described in s. NR 155.29.

23 (c) Obtain prior written approval from the department for use of runoff management  
24 grant funds for urban best management practices installed on land owned or operated by the  
25 grantee.

26 (d) When installing urban best management practices, the grantee shall do all of the  
27 following:

1 1. Submit to the department estimates of all practice costs, eligible costs, ineligible costs,  
2 cost-share rates and estimated total cost-share amount.

3 2. Submit to the department a schedule of installation, operation and maintenance for the  
4 practices.

5 3. Submit to the department copies of all professional service contracts, construction  
6 contracts, bid tabulations, force account proposals, proposals and other related information  
7 requested by the department.

8 a. Professional services contracts exceeding \$10,000 and construction contracts  
9 exceeding \$35,000 shall be submitted to the department for approval before execution.

10 b. Force account proposals exceeding \$35,000 shall be submitted to the department for  
11 approval prior to the initiation of construction.

12 4. Repay the department the full amount of funds received if the grantee fails to fulfill  
13 any terms of the agreement, including failing to install, operate and properly maintain the  
14 practices included in the runoff management grant agreement or failure to evaluate or monitor  
15 the project in accordance with the provisions of the runoff management grant agreement.

16 5. Submit an operation and maintenance strategy for the practices.

17 6. Agree not to adopt any land use or practice that reduces the effectiveness or defeats the  
18 purposes of the urban best management practices.

19 7. Comply with the requirements for cost-share agreements specified in s. NR 155.22.

20 8. Provide financial support towards the implementation of a project including:

21 a. Arrange funding for staff support necessary to complete the project.

22 b. Arrange funding for the local share of any urban best management practice the grantee  
23 installs on property it owns or controls.

24 **(5) OTHER GRANT PROVISIONS.** (a) The period in which cost-share agreements may  
25 be signed through the runoff management grant agreement may not extend beyond the runoff  
26 management grant period. For urban best management practices to be eligible for cost-sharing  
27 the runoff management grant agreement shall be signed prior to entering into a cost-share  
28 agreement.

1 (b) The grantee may use runoff management grant funds to cover reasonable expenses  
2 necessary to secure refunds, rebates or credits described in s. NR 155.28 (3) when approved by  
3 the department.

4 (c) The grantee may use runoff management grant funds to acquire easements or acquire  
5 land as provided for in ss. NR 155.24 and 155.25.

6 (d) The department may unilaterally reduce the runoff management grant to the amount  
7 necessary to meet budgetary limitations. The runoff management grant may not be reduced  
8 below the amount the grantee has committed in signed cost-share agreements and contracts.

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

14  
15 **NR 155.22 Cost-share agreement. (1) PURPOSE OF AGREEMENT.** (a) The cost-  
16 share agreement is an agreement listing the urban best management practices and establishing  
17 the conditions and considerations under which a cost-share recipient agrees to install the  
18 practices listed.

19 (b) A local governmental unit shall use the cost-share agreement if serving as a cost-share  
20 provider to a landowner or land operator.

21 (c) For urban best management practices to be eligible for cost-sharing, the cost-share  
22 agreement shall be signed by the cost-share provider and cost-share recipient before urban best  
23 management practice installation is initiated.

24 **(2) PARTIES TO THE AGREEMENT.** (a) The cost-share agreement shall be between  
25 the governmental unit and the individual landowner or land operator. Agreements with land  
26 operators shall be co-signed by the landowner.

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

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

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

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

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

15 (b) The urban best management practices to be applied and the cost-share rates for those  
16 practices that are to be cost shared. The cost-share agreement shall require that all cost-shared  
17 urban best management practices be implemented and maintained as a condition of the  
18 agreement.

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

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

21 (e) A statement of operation and maintenance requirements.

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

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

27 (h) A provision describing the procedure for amendment.

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

3 (j) A prohibition against any change in land use or management on the entire property  
4 described on the cost-share agreement which may cause sources which were adequately managed  
5 at the time of cost-share agreement signing, including compliance with performance standards  
6 under ch. NR 151 to produce a significantly increased pollutant loading to surface water or  
7 groundwater.

8 1. If a change in land use or management occurs, the landowner or land operator shall  
9 control the source at the landowner or land operator's own expense or return any cost-sharing  
10 funds awarded through the cost-share agreement to the provider.

11 2. Increases in urban pollutant loading resulting from the conversion of land to urban land  
12 cover may not be considered significant if the land development or redevelopment activity meets  
13 the non-agricultural and transportation performance standards in subchs. III and IV of ch. NR  
14 151.

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

17 **Note:** Compliance with conditions in a cost-share agreement does not assure compliance  
18 with performance standards under ch. NR 151. For example, the operation and maintenance  
19 period for purposes of cost-sharing is 10 years for most practices. However, compliance with  
20 non-agricultural and transportation performance standards under ch. NR 151 must be maintained  
21 in perpetuity.

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

27 **(5) SUBMITTAL TO DEPARTMENT.** Unless required otherwise under sub. (4), the  
28 cost-share agreement provider shall submit a copy of the cost-share agreement and amendments

1 to the department within 30 days of execution. The department may deny reimbursement to the  
2 governmental unit for costs associated with the installation of a urban best management practice  
3 not in conformance with the cost-share agreement, the runoff management grant agreement and  
4 the project grant application.

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

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

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

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

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

26 (a) The department may not provide cost-sharing for the maintenance or replacement of a  
27 practice more than once.

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

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

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

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

- 13 1. \$10,000 prior to January 1, 2005.
- 14 2. \$12,000 after December 31, 2004 and prior to January 1, 2010.
- 15 3. \$14,000 after December 31, 2009.

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

18 (11) RELEASE OF PROPERTY FROM OBLIGATIONS OF COST-SHARE

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

28

1           **NR 155.23 Cost containment. (1)** Governmental units as providers of cost-share  
2 agreements shall identify and agree to use one or more of the following cost containment  
3 procedures for each urban best management practice identified in the runoff management grant  
4 agreement:

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

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

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

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

- 20           • The governmental unit shows the proposed construction site to all prospective bidders on the  
21 same day and at the same time.
- 22           • There are at least 3 qualified bidders.
- 23           • All bids are sealed and delivered by a bid deadline to a location specified by the  
24 governmental unit.
- 25           • Bids are opened within 2 weeks after the bid deadline.
- 26           • The amount of the cost-share grant is based on the lowest qualified bid.

1 • The landowner or land operator selects a higher bidding contractor only if the or land  
2 operator agrees to pay the difference.

3 • The landowner or land operator may not select a contractor who did not bid.

4 (d) *Maximum cost-share limit.* A governmental unit or the department establishes a  
5 maximum cost-share rate limit not to exceed the rates specified in ch. NR 154 and this chapter  
6 for installation of an urban best management practice.

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

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

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

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

19 (a) All sources of local share donation shall be indicated in the project application  
20 submitted under s. NR 155.17.

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

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

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

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

3  
4 **NR 155.24 Easements. (1)** The department may distribute grants and aids to any  
5 governmental unit and the board of regents for the purchase of easements in a project area in  
6 order to install structural urban best management practices. Easements, including donated  
7 conservation easements, shall be acquired for perpetuity. Funding needed for the easement shall  
8 be included in the project application submitted under s. NR 155.17.

9 (2) The department may authorize, in writing, any governmental unit and the board of  
10 regents to enter into easements or accept a donated conservation easement consistent with the  
11 eligibility provision of the approved grant application and runoff management grant in  
12 accordance with the following:

13 (a) Prior written department approval for the purchase of an easement or an irrevocable  
14 lease shall be obtained if the cost exceeds \$50,000.

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

17 (c) An easement acquired by a governmental unit or the board of regents shall be  
18 recorded in the register of deeds office in each of the counties in which the property subject to  
19 the easement is located. The deed will vest title or a property interest in the governmental unit  
20 and reference the interest of the state of Wisconsin in the property under the terms of the grant  
21 contract.

22 (3) Upon acceptance of a donated easement under ch. NR 154, the department shall  
23 appraise the easement and issue a written opinion on the value or issue a statement of value of  
24 the easement.

25 (4) (a) The maximum allowable state cost-share rate for the acquisition cost of easements  
26 under this chapter shall be 50%.

27 (b) The maximum allowable state cost-share rate for appraisals for the acquisition of  
28 property shall be 70%.

1 (c) Eligible acquisition costs include the fair market value of the property as determined  
2 by department valuation guidelines and reasonable costs related to the purchase of the property  
3 limited to the cost of appraisals, land surveys, relocation payments, title evidence costs,  
4 recording fees, interest on installment payments with prior written approval of the department,  
5 and the cost of environmental inspections and audits. It does not include attorneys fees,  
6 environmental clean up costs, brokerage fees paid by the buyer, real estate transfer taxes or any  
7 other cost not identified in this subsection.

8  
9 **NR 155.25 Property acquisition. (1) ELIGIBLE ACTIVITIES.** The department may  
10 distribute grants to a governmental unit and the board of regents, holding a runoff management  
11 grant agreement under s. NR 155.21, to acquire land or an interest in land for the construction of  
12 a structural urban best management practice.

13 **(2) ACQUISITION PROPOSALS.** A grantee requesting runoff management grant funds  
14 for the acquisition of property under this section shall submit an acquisition proposal to the  
15 department for its review and approval. The acquisition proposal shall be submitted with the  
16 runoff management grant application or grant amendment request. The acquisition proposal shall  
17 include all of the following:

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

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

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

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

4 (e) A description of how the proposed acquisition complements other urban runoff  
5 control efforts.

6 (f) Other information the department may request.

7 **(3) GENERAL PROVISIONS.** (a) A grantee shall acquire and manage property acquired  
8 with a runoff management grant in accordance with all applicable local, state and federal laws  
9 and regulations.

10 (b) After approval of the acquisition proposal and receipt of a grant from the department,  
11 the grantee shall obtain an appraisal for each property.

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

14 a. The grantee shall submit the appraisal to the department.

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

16 c. After it has received approval from the department, the grantee may act on the  
17 appraisal.

18 2. All appraisals shall be conducted by a certified or licensed appraiser as described in ch.  
19 458, Stats., and chs. RL 80 to 86.

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

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

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

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

3 (f) A grantee may be allowed to acquire property prior to entering into a runoff  
4 management grant agreement, provided that the grantee has received written approval of the  
5 department prior to purchasing the targeted property. The grantee shall submit a written  
6 statement to the department, which explains the special circumstances justifying the need to  
7 acquire the property at that time. Prior to runoff management grant reimbursement for the  
8 acquisition, the grantee shall establish the value of the property in accordance with par. (b).

9 (g) The grantee shall record in the office of the register of deeds for each county in which  
10 property is located the deed which vests title or a property interest in the grantee and which  
11 references the interest of the state of Wisconsin in the property under the terms of the grant  
12 contract.

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

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

22 2. 50% of the appraisal amount approved by the department.

23 (b) The maximum allowable state cost-share rate for appraisals for the acquisition of  
24 property shall be 70% of the cost of the appraisal.

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

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

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

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

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

7 (e) In cases where the acquisition will prevent further degradation of water quality, the  
8 cost-effectiveness of the acquisition to the degree of threat of further degradation to the site.  
9

10 **NR 155.26 Local assistance grant agreement.** (1) The local assistance grant agreement  
11 is an agreement between the department and the board of regents or governmental unit providing  
12 funds for activities to carry out the tasks identified in a project selected for funding under this  
13 section. A local assistance grant awarded under this section may be used for local project  
14 administration and management activities, easement or property appraisals or other activities  
15 determined by the department to satisfy the requirements of s. 281.66, Stats.

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

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

24 (4) No local assistance grant may be made for a project under this chapter before the  
25 project has been selected by the department.

26 (5) The grantee shall apply for local assistance grant funds using the application process  
27 under s. NR 155.17.

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

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

10  
11 **NR 155.27 Procurement. (1) PROFITS.** Only fair and reasonable profits may be earned  
12 by contractors for contracts under grants described in this chapter. Profits included in a formally  
13 advertised, competitively bid, fixed price construction contract is presumed to be reasonable.

14 **(2) RESPONSIBILITY.** The governmental unit and board of regents shall administer and  
15 successfully complete activities for which grant assistance under this chapter is awarded in  
16 accordance with sound business judgment and good administrative practice under state and local  
17 laws.

18 **(3) GENERAL REQUIREMENTS FOR CONTRACTS.** Contracts shall be all of the  
19 following:

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

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

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

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

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

5 (5) WISCONSIN CONSERVATION CORPS. Each governmental unit and the board of  
6 regents shall encourage and use the Wisconsin conservation corps for appropriate projects to the  
7 greatest extent practicable.

8  
9 **NR 155.28 Grant reimbursement procedures. (1) RUNOFF MANAGEMENT**  
10 **GRANT AGREEMENTS.** (a) State cost-share funds may be used to share in the actual cost  
11 required for the installation of eligible urban best management practices identified in runoff  
12 management grant agreements described in s. NR 155.21.

13 (b) Governmental units and the board of regents shall comply with the following  
14 procedures when requesting reimbursement:

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

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

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

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

27 b. The grantee may submit a reimbursement request for a partially installed urban best  
28 management practice with approval from the department. In making its reimbursement decision,

1 the department shall consider the level of pollution control provided by the completed  
2 component and the component's structural and functional relationship to other components of the  
3 urban best management practice.

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

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

9 3. Progress reports required by the department shall accompany each reimbursement  
10 request.

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

13 5. The department in the scope of the grant agreement may further specify eligible costs,  
14 reimbursement amounts and reimbursement filing deadlines.

15 6. Failure to submit reports on schedule may result in withholding of grant payments.

16 7. The department shall deny reimbursements requested for installed practices that are not  
17 included in a cost-share agreement or enumerated as a grantee-installed practice on the grant  
18 agreement or otherwise authorized by this chapter. Reimbursement for local assistance expenses  
19 shall be limited to those activities identified as a grant budget line item or specifically  
20 enumerated in the grant agreement scope.

21 **(2) LOCAL ASSISTANCE GRANT AGREEMENTS.** (a) State funds may be used to  
22 share in the actual costs expended by the governmental unit and board of regents for eligible  
23 activities identified in local assistance grant agreements.

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

26 **(3) GENERAL PROVISIONS.** (a) Grant payments under this chapter to a governmental  
27 unit or the board of regents are contingent on the availability of funding.

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

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

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

18 (e) The department may withhold grant payments in the following cases:

19 1. The department may withhold a grant payment if the department determines, in  
20 writing, that a grantee has failed to comply with project objectives, grant conditions or reporting  
21 requirements.

22 2. The department shall withhold payment of, or otherwise recover, the amount of any  
23 indebtedness to the department, unless the department determines that collection of the debt will  
24 impair accomplishment of the project objectives and that continuation of the project is in the best  
25 interest of the nonpoint source water pollution abatement program.

26  
27 **NR 155.29 Records. (1) REQUIRED RECORDS.** A governmental unit serving as a  
28 runoff management grant grantee or as a cost-share agreement provider, and the board of regents

1 serving as a runoff management grantee, shall maintain a financial management system which  
2 adequately provides for all of the following:

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

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

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

10 (d) Procedures for determining the eligibility and allocability of installation expenses in  
11 accordance with the cost containment requirements of s. NR 155.23 for all practices installed by  
12 the landowner or land operator.

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

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

16 2. Accounting records showing all receipts, encumbrances, expenditures and fund  
17 balances.

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

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

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

22 c. Verification by the grantee of proper installation.

23 d. Request for reimbursement by a landowner or land operator documenting costs  
24 incurred directly or for in-kind contributions by the landowner or land operator.

25 e. Evidence of payment for urban best management practice by a landowner or land  
26 operator including copies of checks or receipts.

27 f. Verification of practice completion in accordance with the cost-share agreement  
28 including amendments and approval of cost-share amounts by the grantee.

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

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

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

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

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

10 **(2) RECORD RETENTION.** (a) The governmental unit or board of regent's records and  
11 the records of contractors, including professional service contracts, shall be subject at all  
12 reasonable times to inspection, copying and audit by the department or its agent.

13 (b) The governmental unit, the board of regents and contractors shall preserve and make  
14 all records available to the department or its agent for whichever of the following is appropriate  
15 for their grant situation:

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

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

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

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

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

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

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

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

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

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

8  
9 **NR 155.30 Project evaluation and reporting.** (1) Grantees shall report to the  
10 department an annual accounting for accomplishments regarding its activities funded under the  
11 grant.

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

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

18  
19 **NR 155.31 Variances.** The department may approve in writing a variance from a  
20 requirement of this chapter upon written request from the grantee if the department determines  
21 that a variance is essential to effect necessary grant actions or water quality objectives and where  
22 special circumstances make a variance in the best interest of the program. A grantee's written  
23 variance request shall clearly explain the circumstances justifying the variance. Before approving  
24 a variance, the department shall take into account factors such as good cause, circumstances  
25 beyond the control of the grantee and financial hardship. The department may not grant  
26 variances from statutory requirements.

27

1           **NR 155.32 Grant evaluation and enforcement. (1) EVALUATION.** The department  
2 shall evaluate the progress of projects. During the evaluation, the department shall examine the  
3 progress of the project toward project goals and water quality objectives specified in the grant  
4 application, grant or grant amendment. Upon consulting with the grantee, the department may  
5 take appropriate action to improve the progress of the project. Department action may include,  
6 but is not limited to, more frequent project evaluation, the use of interim project goals, changes  
7 to project funding, and the adoption of sanctions in sub. (2).

8           **(2) SANCTIONS.** The department may impose the following sanctions for  
9 noncompliance with the provisions of s. 281.66, Stats., this chapter or any grant agreement  
10 entered into or amended in accordance with this chapter:

11           (a) The department may terminate or annul the grant under sub. (4).

12           (b) The department may declare ineligible project costs directly related to  
13 noncompliance.

14           (c) The department may withhold up to 10% of the payment otherwise due the grantee if  
15 the conditions of par. (f) are met.

16           (d) The department may suspend project work under sub. (3).

17           (e) The department may institute other administrative or judicial remedies as legally  
18 available and appropriate.

19           (f) The department may authorize the withholding or recovery of a grant payment if the  
20 department determines, in writing, that a grantee has failed to comply with project objectives,  
21 grant award conditions or reporting requirements or has not expended all funds it has received  
22 under this chapter on eligible activities. The department may recover payments made to grantees  
23 when it determines that the governmental unit will not complete the eligible activities on its grant  
24 within the current grant project budgeting period. Withholding and recovery shall be limited to  
25 only that amount necessary to assure compliance.

26           **(3) SUSPENSION OF GRANTS.** (a) *Liability.* The department may suspend state  
27 liability for work done under a grant after notification is given to the grantee in accordance with

1 this subsection. Suspension of state liability under a grant is accomplished by the issuance of a  
2 "stop-work order."

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

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

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

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

12 1. A description of the work to be suspended.

13 2. Instructions for how the grantee may acquire materials or services.

14 3. Guidance for action to be taken on contracts.

15 4. Other suggestions to the grantee for minimizing cost.

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

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

20 a. Cancel the stop-work order, in full or in part.

21 b. Terminate grant assistance under sub. (2) for the work covered by the stop-work order.

22 c. Authorize resumption of work.

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

26 (f) *Ineligible costs during suspension period.* Costs incurred by the grantee or its  
27 contractors, subcontractors or representatives, after a stop-work order is issued by the  
28 department, which relate to the project work suspended by the order and which are not

1 authorized by this section or specifically authorized in writing by the department, are not eligible  
2 for reimbursement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (6) RESPONSIBILITIES OF GRANTEES. Suspension or termination of a grant or  
20 portion of grant under this section does not relieve the grantee of its responsibilities under this  
21 chapter.

22

23

