

Chapter NR 120

NONPOINT SOURCE WATER POLLUTION
ABATEMENT PROGRAM

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NR 120.01 Purpose. (1) The purpose of this chapter is to develop an administrative structure to accomplish the objectives of the nonpoint source water pollution abatement program contained in s. 144.25, Stats. The following policies are established to limit nonpoint source water pollution:

(a) Grants shall be made for the implementation of best management practices on the basis of the expected water quality benefits accruing to the public and secondarily on the basis of financial hardship.

(b) Priority watershed plan development, land management needs determination, and practice design and implementation shall involve local agencies.

(c) Project locations and practice eligibilities shall be coordinated with related federal programs to bring about the maximum utilization of federal cost-sharing monies and technical assistance.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-80.

NR 120.02 Definitions. (1) "Areawide water quality management plan" means a plan for protecting and enhancing water quality which considers the interrelationship of water quality and land and water resources on an areawide basis (hydrologic, political, or other) as set forth in ch. NR 121, Wis. Adm. Code.

(2) "ASCS" means the agricultural stabilization and conservation service of the U.S. department of agriculture.

(3) "Best management practices" as defined in s. 144.25 (2) (a), Stats., means practices, techniques or measures identified in areawide water quality management plans which are determined to be the most effective, practicable means of preventing or reducing pollutants gener-

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ated from nonpoint sources to a level compatible with water quality goals.

(4) "BSWCD" means the Wisconsin board of soil and water conservation districts.

(5) "Completed practice" means a best management practice which has been installed and certified to meet the standards and specifications identified in s. NR 120.10 (4) (b).

(6) "Cost-sharing agreement" means the contract established between the designated management agency and the grant recipient and described in s. NR 120.12.

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

(8) "Designated management agency" means any agency designated in an areawide water quality management plan having responsibility for implementing specific plan recommendations. This may be done through direct activities of the designated management agency or through delegation to other agencies, or units of government.

(9) "Designated planning agency" means any agency designated by the governor to prepare an areawide water quality management plan for an area similarly designated.

(10) "Lead designated management agency" means the designated management agency selected by all the designated management agencies involved in a priority watershed project to carry out the provisions of s. NR 120.06 (2) or the designated management agency carrying out a local priority project.

(11) "Local priority project" means an implementation project outside of priority watersheds selected according to procedures specified in s. NR 120.09.

(12) "Local share" means the nonfederal or nonstate portion of the cost of the installation of a best management practice as part of a cost-sharing agreement.

(13) "Nonpoint source" as set forth in s. 144.25, Stats., means a land management or use activity contributing to runoff, seepage or percolation and are sources which are not defined as a point source under s. 147.015 (8), Stats.

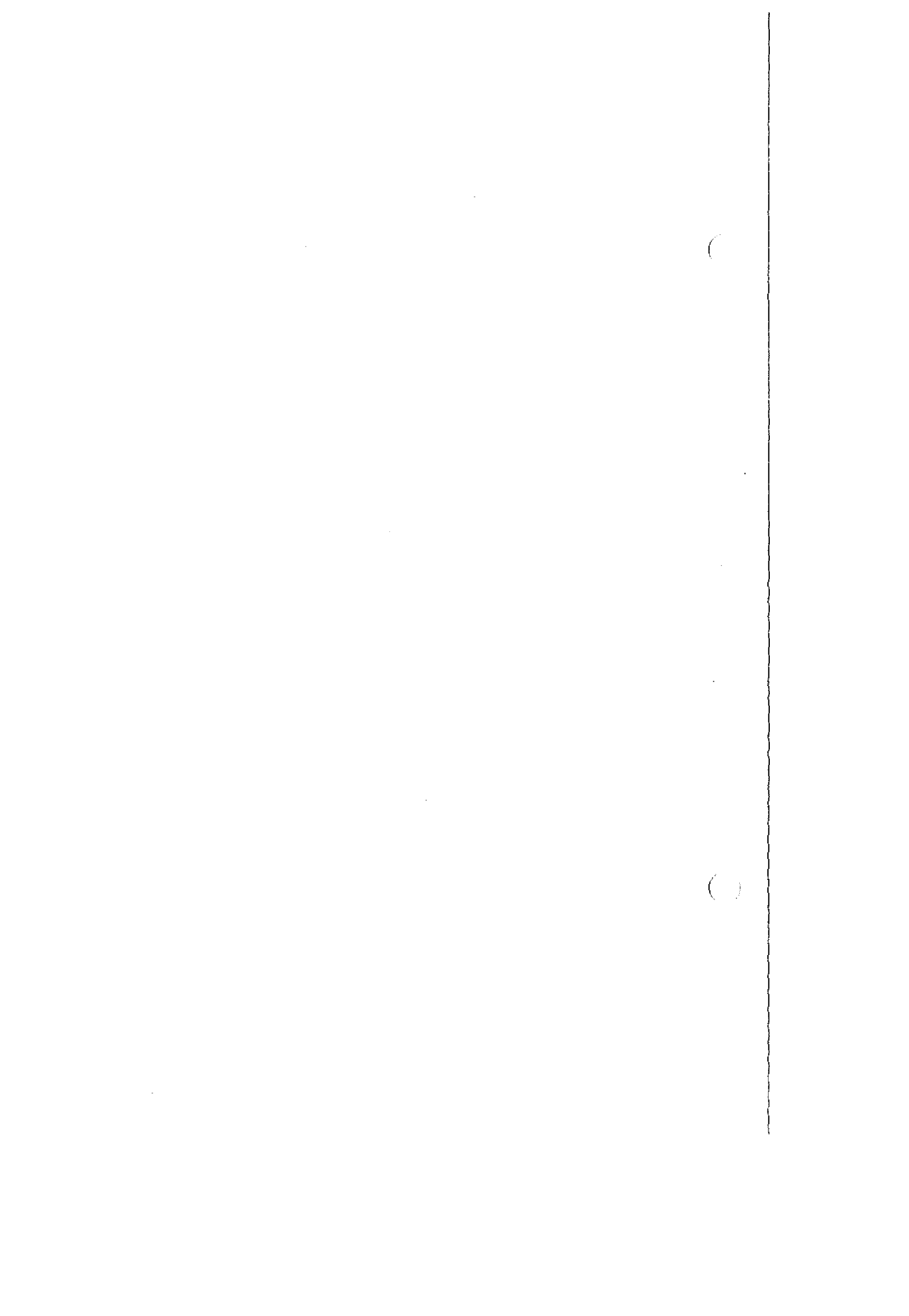
(14) "Priority management area" means that portion of a watershed from which the quantity of pollutants is most significant and where the application of best management practices will be the most effective.

(15) "Priority watershed" means a watershed of manageable size, delineated in the areawide water quality management plan, and selected according to the procedures specified in s. NR 120.07.

(16) "Priority watershed plan" means detailed element of the areawide water quality management plan prepared in priority watersheds as described in s. NR 120.08.

(17) "Program for implementation" means a written strategy to implement the priority watershed plan.

(18) "SCS" means the soil conservation service of the U.S. department of agriculture.



(13) Relation to financial assistance programs. State funds may be used to increase the combined federal and state cost-share to the limits prescribed in s. NR 120.14 (9).

(14) Local contributions. (a) Funds from nonfederal and nonstate financial assistance programs may be used to provide the local share of project costs, as set forth in s. 144.25 (8), Stats.

(b) In kind contributions of labor and material used directly in the installation of management practices may be considered part of the local share of practice costs, if properly described and substantiated to the designated management agency.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-80; renum. from NR 120.12 and am. Register, December, 1980, No. 300, eff. 1-1-81.

NR 120.15 Auditing. (1) The department shall conduct a final audit and may conduct pre-award and interim audits for each priority watershed and local priority project.

(2) Audits will include review of fiscal accountability as set forth in NR 120.06 (5) and (6) and program consistency with the priority watershed plan or approval portions of the local priority project application.

(3) The final audit may be prior or subsequent to final settlement.

(4) Any payment made prior to the final audit is subject to adjustment based on the audit.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-80; renum. from NR 120.13 and am. Register, December, 1980, No. 300, eff. 1-1-81.

NR 120.16 Program reporting and evaluation. (1) Annually, the department shall prepare a report which includes:

(a) Allocation of cost-sharing funds by priority watershed and local priority project.

(b) Number of cost-sharing agreements entered into, best management practices installed, funds encumbered for best management practices remaining to be installed for each priority watershed or local priority project.

(2) The department shall have the overall responsibility for program evaluation and shall after consultation with the state nonpoint source coordinating committee and the BSWCD, recommend program policy and administrative rule changes to the governor and legislature based on:

(a) Water quality monitoring to be conducted by the department in selected priority watersheds.

(b) The annual net changes in best management practices application within priority watersheds, as contained in the annual reports.

(2) The department shall report back to the legislature prior to January 1, 1982, detailing progress in the nonpoint source water pollution abatement program. The report by the department may include, but is not limited to:

(a) Progress toward achievement of water quality goals and objectives.

(b) Needed adjustments in the cost-sharing element of the program.

(c) Need for additional authority or changes in existing authority to meet the objectives and purposes of the program.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-80; renum. from NR 120.14 and am. Register, December, 1980, No. 300, eff. 1-1-81.

NR 120.17 Resolution of conflicts between the BSWCD and the department. In the event that conflicts between the BSWCD and the department cannot be resolved by the appropriate staffs of the department and the BSWCD develop in the conduct of this program, the following procedure shall be used: a committee consisting of the chairman of the BSWCD or designee, the executive secretary of the BSWCD, the chairman of the natural resources board or designee, and the secretary of the department shall be convened for the purpose of resolving the identified conflicts.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-80; renum. from NR 120.15 and am. Register, December, 1980, No. 300, eff. 1-1-81.

NR 120.18 Severability. Should any section, paragraph, phrase or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-80; renum. from NR 120.16 and am. Register, December, 1980, No. 300, eff. 1-1-81.

NR 120.50 Purpose. The purpose of ss. NR 120.50 to NR 120.53 is to develop an administrative structure to distribute funds appropriated to carry out s. 144.25 (4) (f), Stats. The following general policies are established for distribution of those funds to designated management agencies.

(1) The designated management agency shall be reimbursed for actual services provided for the implementation of a priority watershed plan over and above ongoing staff commitments and reasonable redirection of staff time into the watershed plan.

(2) The program for implementation contained in the priority watershed plan as described in s. NR 120.08 shall serve as the scope of work for the local assistance program.

History: Emerg. cr. eff. 8-26-80; cr. Register, April, 1981, No. 304, eff. 6-1-81.

NR 120.51 Local assistance agreement. (1) The local assistance agreement is a contract between the department and the designated management agency for providing additional resources to the designated management agency in carrying out the priority watershed plan. The designated management agency shall be a party to the agreement.

(2) The duration of the local assistance agreement shall be no greater than 12 months.

(3) No local assistance agreement shall extend beyond the duration of the nonpoint source grant agreement.

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(4) The local assistance agreement shall contain the specific task and amount of time for each task attributable to the following activity categories based on the needs identified in the detailed program for implementation for the priority watershed project:

- (a) Technical assistance;
- (b) Fiscal management;
- (c) Program management; and
- (d) Information and education.

(5) All subcontracts shall be submitted to the department for review prior to signing.

History: Emerg. cr. eff. 8-25-80; cr. Register, April, 1981, No. 304, eff. 5-1-81.

NR 120.52 Eligible tasks. (1) The following tasks shall be eligible for reimbursement:

- (a) Contacting landowners and land users in the priority management area;
- (b) Development of cost-sharing agreements;
- (c) Design of best management practices;
- (d) Installation and certification of best management practices;
- (e) Annual review of best management practice operation and maintenance;
- (f) Recordkeeping including listing practices completed, filing referral forms, and making payments;
- (g) Preparation of informational and educational materials;
- (h) Conducting informational meetings and tours; and
- (i) Other.

(2) The following conditions shall be used to determine the amount of time attributable to each task within an activity category:

(a) All landowner and land user contacts and cost-sharing agreements shall be completed within 3 years unless exempted through the procedures described in s. NR 120.10 (1) (b).

(b) All best management practice installations shall be completed within 5 years of the signing of the appropriate cost-sharing agreement.

(c) To the extent possible the time per task shall be based on past experience in the participating county.

(d) A landowner or land user participation level of 75% shall be used.

(3) Procedures for determining local share and state share of costs.

(a) The local share shall be the hours determined by multiplying the percent of the county area in the watershed by 1.5 times the number of hours available from existing soil and water conservation district, soil

conservation service, and other appropriate technical and professional staff in the county.

(b) The state share shall be the difference between the total hours of work tasks and the hours determined to be the local share.

(c) The reimbursement rate per hour for the state share shall be based on the local pay rate for an appropriate position.

History: Emerg. cr. eff. 8-25-80; cr. Register, April, 1981, No. 304, eff. 5-1-81.

NR 120.53 Recordkeeping and reporting procedures. (1) All requests for reimbursement shall be supported by documentation of completed work tasks.

(2) Reimbursement shall be based on the completion of work tasks identified in the local assistance agreement.

(3) The department shall include the annual status of the local assistance program in the program annual report.

History: Emerg. cr. eff. 8-25-80; cr. Register, April, 1981, No. 304, eff. 5-1-81.