

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

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

5 8. Cost-share payments for vegetated riparian buffer may not be made for more
6 than a total of 4 years.

7 9. The maximum state cost-share amount per watering system installed as part of
8 an intensive grazing management system is \$2,000.

9 10. The maximum cost-share rate for land acquisition, storm sewer re-routing and
10 removal of structures necessary to install structural urban best management practices is
11 50%.

12 **Note:** Landowners or operators having a debt-to-asset ratio between 40% and
13 80% may wish to contact the Wisconsin Housing and Economic Development
14 Authority's Nonpoint Source Pollution (NSP) Loan Guarantee Program. The NSP
15 program may guarantee an eligible borrower's share of the cost to install eligible best
16 management practices. For more information, please contact an Economic Development
17 Representative at the Wisconsin Housing and Economic Development Authority
18 (WHEDA), One Pinckney Street, Suite 500, P.O. Box 1728, Madison, WI 53701-1728.
19 WHEDA's toll-free number is 1-800-642-6474.

20 (c) Counties may use locally determined U.S. department of agriculture cost-share
21 rates per acre as provided for in consolidated farm services agency (CFSA) Handbook, 1-
22 WI (ACP), January 1994 or the following state cost-share rates per acre in lieu of the
23 state cost-share percentage listed in this section.

24 1. \$9.00 per acre for contour cropping.

25 2. \$13.50 per acre for strip-cropping.

26 3. \$7.50 per acre for field strip-cropping.

27 4. \$18.50 per acre per year for high residue management systems.

28 5. \$25 per acre per year for cropland protection cover (green manure).

29 6. \$100 per acre per year for vegetated riparian buffers.

30 7. Flat rates for fencing are as follows:

offer only ↓
cost sharing? (5)

- 1 a. Three strand barbed wire, steel or wooden post at a flat rate of \$5.00 per linear
- 2 rod (1 rod = 16.5 feet).
- 3 b. Woven wire, steel or wooden post at a flat rate of \$8.00 per linear rod.
- 4 c. Two strand electric, fiberglass, steel, or wooden post and insulators at a flat rate
- 5 of \$3.00 per linear rod.
- 6 d. Fiberglass posts, high tensile wire at a flat rate of \$7.50 per linear rod.

7 **(2) COST-EFFECTIVENESS.** (a) Only cost-effective practices may be funded
8 under this section unless an exception is granted by the department under s. 281.65 (8) (e)
9 or (4)(em), Stats. The department shall consider the level of pollution control and the
10 practice design standard when determining the cost-effectiveness of a best management
11 practice.

how determine
anything is
prohibited
below?
(5)

12 (b) Levels of control less stringent than the performance standards and technical
13 standards under ch. NR 151 are considered cost-effective only when the following
14 conditions are met:

- 15 1. The best management practices to be cost-shared are requested by a non-rural
- 16 grantee for eligible projects that existed on priority watershed or priority lake project
- 17 grants prior to the effective date of this rule ... [revisor insert date].
- 18 2. The non-rural grantee has made contractual commitments to procure
- 19 professional services or made previous financial expenditures prior to the effective date
- 20 of this rule ... [revisor insert date].

21 (c) Incremental costs for pollutant controls more stringent than those identified in
22 subds. 1. and 2. may not be eligible for cost sharing.

- 23 1. Performance standards and technical standards identified under ch. NR 151.
- 24 2. Levels of control more stringent than under subd. 1. when consistent with an
- 25 approved priority watershed or priority lake plan prepared under ch. NR 120 or a
- 26 department approved stormwater management plan.

27 (d) A governmental unit may set cost-share rates up to the maximum amount
28 specified for the practice in this section.

29 (e) The state cost-sharing amount shall be the total cost of an eligible practice
30 multiplied by the cost share rate, unless otherwise provided for in this chapter. Where 2
31 or more practices are of equal effectiveness in reducing pollutants consistent with par.

not
cost-
effective

1 (a), the amount of cost-sharing shall be based on the least cost practice unless an
2 alternative is cost-effective in improving safety, operation and maintenance or life
3 expectancy of the practice or providing fish and wildlife habitat.

4 (f) The department shall approve the cost-share agreement if the best management
5 practices are the least cost alternatives to control the pollution sources or are otherwise
6 consistent with the provisions of this subsection.

7 (g) The maximum amount cost-shared for leases of manure storage tanks shall be
8 70% of the down payment and lease cost of the tank during the grant period up.

9 (h) Governmental units may establish flat rates for the cost-sharing of critical area
10 stabilization in order to simplify the administration of cost-share funds for this practice.
11 Flat rates shall be based on the percentage, up to 70%, for state cost-sharing and the
12 average cost of the practice.

13 (3) LOCAL SHARE. Cost-share grants, up to the maximum rate identified in
14 this chapter, may be made by combining funds from the appropriations under s.
15 20.115(7)(c), 20.370(6)(aa) and (aq) or 20.866(2)(te) and (we). The local share of project
16 costs may include funds from other federal, state, local or private sources. A cost-share
17 grant under this chapter may not reimburse a landowner for any cost that another unit of
18 government is also reimbursing.

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

23 (b) The value of a conservation easement donated to the department, or to any
24 person approved by the department, may be considered as a portion of or all of the
25 landowner's or operator's share of a cost-share grant.

26 (4) ECONOMIC HARDSHIP. (a) The rate and maximum amount paid to a
27 landowner or land operator under a cost-share agreement shall be exceeded by the
28 governmental unit with written approval from the department if the landowner or land
29 operator can demonstrate economic hardship to the appropriate responsible governmental
30 unit.

1 (b) Economic hardship can be demonstrated by verifying in writing that all of
2 the following conditions exist for the landowner or operator that enters into a cost-share
3 agreement:

4 1. The landowner or operator has a debt-to-asset ratio of more than 60%, and net
5 assets of less than \$200,000, as verified by a compilation of financial conditions prepared
6 by a certified public accountant. *same person?*

7 2. The grant recipient has provided to a certified public accountant a full and true
8 disclosure of personal and marital assets and liabilities, including a copy of the prior
9 year's federal tax returns, as verified by a sworn and signed affidavit. The affidavit shall
10 be made on a form provided by the department.

11 3. The grant recipient will be able to pay the balance of the cost to install the
12 practice. The governmental unit shall make this finding based on a signed statement
13 from an accredited financial institution.

14 (c) Under evidence of economic hardship, the state cost-share rate shall be
15 increased by a maximum of 20% above the standard percentage listed in this section for
16 all best management practices for which the landowner or land operator is eligible.

17 (d) Under the provision of economic hardship as certified under par. (b), the
18 following percentage payment rates will apply to the construction of manure storage
19 facilities and barnyard runoff control systems:

20 1. First \$20,000 of eligible costs 80%

21 2. Eligible costs over \$20,000 70%

22
23 **NR 153.17 New best management practices and technical standards. (1)** The
24 department may approve best management practices other than those identified in s. NR
25 154.03 where necessary to meet the water resources objectives identified in projects
26 selected for funding under this subchapter.

27 **(2)** The department may approve technical standards other than those identified in
28 s. NR 154.03 where necessary to meet the water resources objectives identified in
29 projects selected for funding under this subchapter. In developing new technical
30 standards, the department shall use the technical standards development process in s. NR
31 151.31.

1 **NR 153.18 Local assistance grant agreement. (1) PURPOSE.** The local
2 assistance grant agreement is an agreement between the department and a state agency,
3 governmental unit or an agent acting on behalf of a state agency or governmental unit
4 providing funds for activities necessary to carry out the tasks identified in a project
5 selected for funding under this subsection. A local assistance grant awarded under this
6 section may be used for local project administration and management activities, easement
7 or property appraisals, or other activities determined by the department to satisfy the
8 requirements of s. 281.65 (4) (f), Stats. A local assistance grant may not be used for
9 promotional items, except for promotional items that are used for informational purposes,
10 such as brochures or videos.

11 **(2) GRANT PERIOD INITIATION.** No local assistance grant may be made for a
12 project under this subchapter before the project has been selected by the department

13 **(3) APPLICATION PROCEDURES.** The grantee shall apply for local assistance
14 grant funds on the form provided by the department for general scoring and selection of
15 projects under this subchapter.

16 **(4) ELIGIBLE COSTS.** The following costs are eligible for a local assistance
17 grant for projects selected by the department under this subchapter. The cost-share rate
18 may not exceed 70% of the eligible costs unless the department first provided a local
19 assistance grant to the governmental unit to fund these activities prior to July 1, 1998.

20 (a) Labor hired or retained under contract by the grantee as needed to carry out
21 the activities listed in subds. 1. to 11. The following activities shall be eligible for grant
22 assistance if additional staff are hired or retained under contract in order that the grantee
23 can conduct the activity as specifically approved by the department in selecting the grant
24 application for funding:

25 1. Contacting landowners and land operators of nonpoint sources described in the
26 grant application;

27 2. Identifying site-specific best management practices to control the nonpoint
28 sources;

29 3. Developing and reviewing cost-share agreements with the cost-share recipient;

30 4. Installing and verifying best management practices;

1 5. Reviewing best management practice operation and maintenance during the
2 implementation period;

3 6. Other activities determined by the department to be necessary to implement the
4 project;

5 7. Project management;

6 8. Administration of easements defined in s. NR 153.006;

7 9. Fiscal management;

8 10. Costs of appraisals for the acquisition of property defined in s. NR 153.007;

9 11. Assessment of compliance with performance standards and prohibitions
10 adopted under ch. NR 151.

11 (b) Professional services contracts for necessary activities the grantee lacks
12 expertise or staff to complete.

13 (c) The cost of testing materials for use in best management practice design,
14 installation or operation.

15 (d) Travel expenses including personal vehicle mileage charges, meals, lodging
16 and other reasonable travel expenses necessary to the project.

17 (e) The cost of office space required for the project prorated based on percent use
18 on the project.

19 (f) The cost of recording the cost-share agreement with the county register of
20 deeds.

21 (g) Other direct costs necessary for the project and approved by the department.

22 (h) Field equipment necessary for the project.

23 (i) Office supplies including paper, copies, printing and postage, necessary to
24 support staff and the project.

25 (j) Evaluating alternatives for local financing of stormwater management
26 programs.

27 (k) Administrative costs associated with initial establishment of local funding
28 programs such as stormwater utilities.

29 **(5) INELIGIBLE COSTS.** The following costs are not eligible for funding under
30 local assistance grant agreements under this subchapter and shall be carried out by the
31 governmental unit as part of its commitment to the project:

1 (a) Activities covered by the WPDES permit program including those identified
2 in chs. NR 200 to 299, except notice of discharge activities identified in ch. NR 243.

3 **Note:** Municipalities required to comply with storm water permitting
4 requirements under ch. NR 216 may apply for grant funding under subch. II.

5 (b) Direct costs for other items not listed as eligible for up to 70% cost-sharing.

6 (c) Indirect costs.

7 **(6) REVIEW OF CONTRACTS.** If a governmental unit contracts with a
8 government agency or person to provide field, administrative, planning or other services
9 to carry out activities of the local assistance grant agreement, the contract shall be
10 submitted to the department. Contracts greater than \$25,000 shall be submitted for review
11 and approval prior to signing.

12 **(7) GRANT ADJUSTMENTS.** The grant amount may be reduced by the
13 department if the grantee has not met all conditions of the grant or grant amendment or
14 has not expended all of the awarded funds by the end of the project period or if the
15 grantee fails to meet a schedule included in the grant for interim work products. The
16 grantee shall provide an estimate of unexpended funds at the request of the department.

17
18 **NR 153.19 Ordinance requirements.** As a condition of a grant given under this
19 subchapter, the department may require adoption of a construction site erosion control
20 ordinance for sites where buildings are not attached, a stormwater management ordinance
21 or a manure storage ordinance. The department may require any ordinances to be
22 substantially consistent with model ordinances in chs. NR 152 and ATCP 50.

23
24 **Subchapter II – Urban Nonpoint Source Water Pollution Abatement and Storm**
25 **Water Management Program**

26
27 **NR 153.30 Purpose.** The purpose of this subchapter is to establish
28 administrative policies and procedures for a competitive urban grant program for eligible
29 grantees seeking to control point and nonpoint sources of storm water runoff from urban
30 areas, as authorized by s. 281.66, Stats. This subchapter promotes management of urban
31 stormwater runoff from existing urban areas, developing urban areas and areas of urban

1 redevelopment. The goal of urban storm water runoff management in these areas is to
2 achieve water quality standards, minimize flooding, protect groundwater, coordinate
3 urban nonpoint source management activities with the municipal storm sewer discharge
4 permit program under s. 283.33, Stats., and implement non-agricultural nonpoint source
5 performance standards under s. 281.16(2), Stats.

6
7 **NR 153.31 Applicability.** This subchapter applies to governmental units and the
8 board of regents of the university of Wisconsin system that meet the eligibility
9 requirements in s. NR 153.35(1). This subchapter applies to these entities when acting as
10 grant recipients and to eligible governmental units when acting as grantors to landowners
11 and operators.

12
13 **NR 153.32 Application and project selection. (1) FREQUENCY.** At a
14 minimum, the department shall initiate the application process bi-annually. The
15 department may initiate the application process and make grant awards annually if
16 needed to manage available grant funds.

17 **(2) SCHEDULE. (a)** In any year it initiates the application process, the
18 department shall provide public notice that application materials are available upon
19 request.

20 **(b)** The department shall distribute a copy of the application to any potential
21 applicant that requests it.

22 **(c)** The department shall score and rank projects and shall notify applicants of
23 project scores and ranks no later than September 15.

24 **(d)** The department shall notify applicants in writing as soon as practical of its
25 intent to prepare grant documents for selected projects.

26 **(e)** The department shall, where practical, issue grants by December 31.

27
28 **NR 153.33 Application process. (1) APPLICATION SUBMITTAL.**
29 Applicants shall submit a completed project application to the department to be
30 considered for project funding. Applicants may submit one or more projects for
31 consideration in each application year.

1 (2) APPLICATION CONTENT. Each applicant shall submit to the department
2 the information identified in pars. (a) to (c).

3 (a) Each applicant shall submit the following administrative information:

- 4 1. Applicant name.
- 5 2. Name and title of authorized representative.
- 6 3. Contact name and telephone.
- 7 4. Type of governmental unit and applicant address.
- 8 5. Applicant signature.
- 9 6. Other information that the department may require to process the application.

10 (b) Each applicant shall submit the following screening information:

11 1. A map of the project area showing the watershed, subwatershed or specific site
12 to be served by the project.

13 2. For a project to be funded with a cost-sharing grant, documentation that the
14 project is in an urban area. For a project to be funded with a local assistance grant,
15 documentation that the project area is in an urban area or an area expected to become
16 urban within 20 years of the application date. In determining if a project area is, or will
17 become urban:

18 a. Existing and projected population shall be the population shown by the last
19 federal census or by any subsequent population estimate under s. 16.96, Stats.

20 b. When the project covers part of a municipality, such as a project for a localized
21 storm water treatment device or a storm water plan for a limited area, the area over which
22 the population density is calculated shall be the project area to the extent practical given
23 existing census data.

24 c. When the project covers substantially all of a municipality, such as a project for
25 a municipal storm water plan, an information and education program or municipal
26 ordinance, the area over which the population density is calculated shall be the entire area
27 within the municipal boundary to the extent practical given existing census data.

28 3. For projects to be funded with a cost-share grant, documentation that the
29 applicant can ensure adequate implementation of construction site pollution control, and
30 of storm water management after development, for development and redevelopment of
31 project sites of one or more acres within the municipality. Information shall be submitted

1 indicating the extent to which the applicant can assure management of storm water from
2 these sources. Information includes:

3 a. Adoption and enforcement of local regulations for construction sites consistent
4 with chs. NR 151 and 152.

5 b. Adoption and enforcement of municipal storm water management plans and
6 ordinances for new development and redevelopment consistent with chs. NR 151 and
7 152.

8 c. Adoption of municipal storm water plans or policies for existing urban
9 development consistent with ch. NR 151.

10 4. Identification of best management practices, including easements and land
11 acquisition, for which funding is requested.

12 5. Evidence that the proposed project can meet the statewide and targeted non-
13 agricultural performance standards contained in ch. NR 151.

14 6. Evidence that inter-municipal agreements have been or will be executed when
15 needed to assure design, construction and maintenance of storm water management
16 measures implemented cooperatively by multiple units of government.

17 7. Other information that the department may require to screen a project for
18 eligibility.

19 (c) Each applicant shall submit the following scoring information:

20 1. Fiscal accountability and cost-effectiveness including a workplan, financial
21 budget showing total costs and all funding sources and documentation of project cost-
22 effectiveness.

23 2. Water quality including documentation of water quality conditions, water
24 quality needs in the project, consistency of the project with priorities identified by the
25 department on a watershed or other geographic basis, consistency with storm water
26 research priorities identified by the department on a statewide basis and strategy for post-
27 project evaluation. Water quality needs and priorities may include impaired, threatened
28 or high quality surface and ground water resources.

29 3. Extent of pollutant control including the amount of control needed to meet
30 water quality objectives and the amount of control that will be provided by management
31 activities in the project area.

1 4. Extent of local support and likelihood of project success including evidence of
2 existing local involvement, plans to improve local involvement, ordinances or other
3 enforcement mechanisms, consistency with other resource management plans or
4 operations, use of other state funding sources, federal funding sources or local funds to
5 reduce the state share eligible for funding under this subchapter. Evidence of local
6 involvement includes a local unit of government 's continuous decision-making process
7 which ensures participation by minority and low income populations in affected areas,
8 along with majority populations, to ensure that as an outcome all people receive the
9 benefits of clean, healthy and sustainable environments regardless of race, national origin
10 or income.

11 5. Extent to which an application submitted by the city of Racine is necessary to
12 enable the city to comply with storm water discharge requirements under ch. NR 216.

13 6. Other information that the department may require to score projects.

14 (d) Notwithstanding the application requirements of this section, the department
15 may establish modified requirements for applications submitted for funding for a project
16 or activity that existed on a priority watershed grant prior to January 1, 2000.

17
18 **NR 153.34 Project scoring and selection. (1) SCORING.** The department shall
19 use the information included in s. NR 153.33 to establish funding priorities of projects for
20 which applications are submitted under this subchapter. The scoring system shall meet
21 the following conditions:

22 (a) Application information required under s. NR 153.33(2)(a) may not be
23 included in the scoring system. The department may refuse to score an application if the
24 applicant fails to submit the minimum information required by the department under s.
25 NR 153.33(2)(a).

26 (b) Application information required under s. NR 153.33(2)(b) may not be
27 included in the scoring system. The department may not score, and shall declare
28 ineligible for funding, any application that does not qualify for funding based on the
29 information submitted under s. NR 153.33(2)(b). The department may waive this
30 requirement for any activity that existed on a priority watershed project grant prior to

1 October 29, 1999 when completion of the project or activity is necessary to meet the
2 department's grant obligations under s. 281.65, Stats.

3 (c) Application information required under s. NR 153.33(2)(c) shall be used by
4 the department in calculating a project score. The department shall distribute points as
5 provided in subds. 1. to 5. The department may establish a minimum amount of points
6 that shall be earned in any given category in order to receive funding under this
7 subchapter:

- 8 1. Fiscal accountability and cost-effectiveness 30 points
- 9 2. Water quality 50 points
- 10 3. Extent of pollutant control 20 points
- 11 4. Extent of local support and likelihood
12 of project success 45 points
- 13 5. Extent to which an application submitted by the city of
14 Racine is necessary to enable the city to comply with storm water
15 discharge requirements under ch. NR 216. 5 points

16 (d) Notwithstanding the scoring system set forth in par. (c), the department shall
17 assign maximum total points to any application submitted for funding for a project or
18 activity that existed on a priority watershed grant prior to October 29, 1999, when
19 completion of the project is necessary to meet the department's grant obligations under s.
20 281.65, Stats.

21 **(2) PROJECT SELECTION.** The department shall evaluate applications and
22 assign a score to each project based on the scoring system developed in accordance with
23 this section. The department shall list projects in descending rank order according to
24 total project score. The department shall use the ranked list to allocate grant funds in
25 accordance with the following:

26 (a) Funds shall be allocated for eligible projects starting with the highest ranked
27 projects based on total project score and proceeding down the ranked list until available
28 project funds have been allocated.

29 (b) The department may establish a maximum amount that any project can receive
30 in grant awards based on the amount of funding available and the funding demand.

1 (c) Funding shall be provided based on activities identified in the project
2 application submitted by the grantee and approved by the department, verification by the
3 department of the eligibility of items and cost-share rates contained in the application,
4 and budgetary limitations established by the department.

5 (d) When the amount granted to an applicant is different than the amount
6 requested by the applicant, the department shall include the rationale for the amount
7 granted in a letter to the applicant.

8 (e) Notwithstanding pars. (a) and (b), during an application cycle the department
9 shall allocate a minimum total amount of funds to the group of projects on the ranked list
10 that includes projects in an active priority watershed. The minimum total amount of
11 funds for this group of projects shall be calculated according to the following formula:

$$12 \quad PWA_{\min} = (PWD/SD) TA$$

13 Where:

14 PWA_{\min} is the minimum total allocation made to the group of projects on the ranked list
15 that include projects in active priority watersheds.

16 PWD is the total demand included on applications for projects on the ranked list in active
17 priority watersheds.

18 SD is the total demand included on all applications for projects statewide that are on the
19 ranked list.

20 TA is the total amount of funding available for allocation to all projects statewide that
21 are on the ranked list.

22
23
24 **NR 153.35 Cost-share eligibility.** (1) The department may provide a cost-
25 sharing grant under this section to the entities identified in pars. (a) to (c) to implement
26 best management practices listed in s. NR 154.03 and practices identified through the
27 process in s. NR 153.37. Best management practices are only eligible for cost-sharing
28 under this section when installed under the minimum conditions specified in s. NR
29 154.03. The eligibility of a municipality to receive project funding is not affected by
30 storm water permitting requirements that the municipality must meet under ch. NR 216.

31 (a) A local unit of government having jurisdiction over the project area.

Assure

1 (b) A local unit of government not having jurisdiction over the project area if the
2 local government is required to control storm water discharges under s. 283.33, Stats.,
3 provided that inter-governmental agreements are in place, or will be put in place, as
4 needed to assure the measure is installed and maintained.

5 (c) The board of regents of the university of Wisconsin system for practices,
6 techniques or measures to control stormwater discharges on a university of Wisconsin
7 system campus where the campus is located in a municipality required to obtain a permit
8 under s. 283.33, Stats., provided that the municipality where the campus is located meets
9 at least one of the following:

- 10 1. Is located in a priority watershed as defined in s. 281.65(2)(c), Stats.
- 11 2. Is located in a priority lake area as defined in s. 281.65(2)(bs), Stats.
- 12 3. Is located in an area identified as an area of concern by the international joint
13 commission as defined in s. 281.35(1)(h), Stats., under the great lakes water quality
14 agreement.

15 (2) Any entity identified under sub. (1)(a) or (b) may act as a grantor and enter
16 into a cost-share agreement with a landowner or land operator for the purposes of
17 implementing management practices for which it receives a grant from the department
18 under this subchapter.

19 (3) The department shall use the runoff management grant agreement, authorized
20 under s. NR 153.004, to serve as a cost-share agreement, authorized under s. NR 153.005,
21 between the department as grantor and the governmental unit or the board of regents of
22 the university of Wisconsin system as grantee. A local unit of government shall use the
23 cost-share agreement, authorized under s. NR 153.005, when serving as grantor to a
24 landowner or operator as grantee.

25 (4) Structural urban best management practices, including necessary land
26 acquisition, storm sewer rerouting and removal of structures and associated flood
27 management, are eligible for cost-share assistance when used in urban areas, including
28 redevelopment, to control the nonpoint sources in pars. (a) to (g).

- 29 (a) Streambanks and shorelines.
- 30 (b) Lake sediments contaminated by point and nonpoint sources of urban storm
31 water.

1 (c) Any area with a population of 1,000 or more per square mile.

2 (d) Commercial land uses such as strip commercial, office parks, shopping centers
3 and downtown commercial, or other land uses such as institutional, transportation and
4 recreational where such land uses contain critical source areas similar in nature to those
5 found in commercial areas. The land uses identified in this paragraph may be located
6 inside or outside of an urban area to be eligible.

7 (e) Manufacturing and non-manufacturing industrial land uses owned or operated
8 by a governmental unit. The land uses identified in this paragraph may be located inside
9 or outside of an urban area to be eligible.

10 (f) Industrial land uses that are not owned or operated by a municipality, but only
11 those source areas within these industrial land uses that are not considered to be
12 associated or contaminated by industrial activity, as defined under ch. NR 216. The land
13 uses identified in this paragraph may be located inside or outside of an urban area to be
14 eligible.

15 (g) Areas surrounded by pars. (c) to (f).

16 **(5) The following practices, sources or activities are not eligible for cost-share**
17 **assistance:**

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

20 (b) Activities covered by the WPDES permit program including those identified
21 in chs. NR 200 to 299, except for municipal activities identified in sub. (4) carried out by
22 the municipality to comply with municipal storm water permitting requirements under ch.
23 NR 216.

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

26 (d) Pollutant control measures needed during building and utility construction,
27 and storm water management practices for new development.

28 (e) Pollutant control measures needed during construction of highways and
29 bridges.

30 (f) Installing, operating and repairing a small scale on-site human domestic waste
31 facility.

- 1 (g) Dredging of harbors, lakes, rivers and ditches.
- 2 (h) Dams, pipes, conveyance systems and urban structural practices, including
3 storm sewer rerouting and land acquisition, when intended solely for flood control.
- 4 (i) Operation and maintenance of cost-shared practices.
- 5 (j) Practices whose purpose is to accelerate or increase the drainage of land or
6 wetlands, except where drainage is required as a component of a best management
7 practice.
- 8 (k) Practices to control spills from commercial bulk storage of pesticides,
9 fertilizers, petroleum and similar materials required by chs. ATCP 32 and 33 or other
10 administrative rules.
- 11 (L) Practices to be fully funded through other programs.
- 12 (m) Practices previously installed and necessary to support cost-shared practices.
- 13 (n) Minimum levels of street sweeping and leaf collection.
- 14 (o) Other practices which the department determines are not necessary to achieve
15 the objectives of the project.
- 16 (p) Structural urban best management practices, including necessary land
17 acquisition, storm sewer rerouting and removal of structures, and associated flood
18 management for projects located outside an urban area.

19
20 **NR 153.36 Cost-share rates. (1) STATE COST-SHARE RATES. (a)** State
21 cost-share rates for individual best management practices committed on signed cost share
22 agreements or nonpoint source grants prior to October 29, 1999 may not exceed 70% of
23 the eligible costs.

24 (b) State cost-share rates for best management practices committed on signed
25 cost-share agreements or nonpoint source grants after October 29, 1999 may not exceed
26 50% of the eligible costs.

27 (c) The state cost-share rates for land acquisition, storm sewer re-routing and
28 removal of structures necessary to install structural urban best management practices may
29 not exceed 50% of the eligible costs.

1 (2) COST-EFFECTIVENESS. (a) The department shall consider the level of
2 pollution control and the practice design standard when determining the cost-
3 effectiveness of a best management practice.

4 (b) Levels of control less stringent than the performance standards and technical
5 standards under ch. NR 151 are considered cost-effective only when the following
6 conditions are met:

7 1. The best management practices to be cost-shared are requested by a non-rural
8 grantee for eligible projects that existed on priority watershed or priority lake project
9 grants prior to the effective date of this rule ... [revisor insert date].

10 2. The non-rural grantee has made contractual commitments to procure
11 professional services or made previous financial expenditures prior to the effective date
12 of this rule ... [revisor insert date].

13 (c) Incremental costs for pollutant controls more stringent than those identified in
14 subs. 1. and 2. may not be eligible for cost sharing.

15 1. Performance standards and technical standards identified under ch. NR 151.

16 2. Levels of control more stringent than under subd. 1. when consistent with an
17 approved priority watershed or priority lake plan prepared under ch. NR 120 or a
18 department approved stormwater management plan.

19 (d) A governmental unit may set cost-share rates up to the maximum amount
20 specified for the practice in this section.

21 (e) The state cost-share amount shall be the total cost of an eligible practice
22 multiplied by the cost-share rate, unless otherwise provided for in this chapter. Where 2
23 or more practices are of equal effectiveness in reducing pollutants consistent with par.

24 (a), the department shall base the amount of cost-sharing provided on the least cost
25 practice unless an alternative is cost-effective in improving safety, operation and
26 maintenance or life expectancy of the practice or providing fish and wildlife habitat.

27 (f) The department shall approve the cost-share agreement if the best management
28 practices are the least cost alternatives to control the pollution sources or are otherwise
29 consistent with the provisions of this subsection.

30 (3) LOCAL SHARE. Cost-share grants, up to the maximum rate identified in
31 this chapter, may be made by combining funds from the appropriations under s.

1 20.115(7)(c), 20.370(6)(aa) and (aq) or 20.866(2)(te) and (we), Stats. The local share of
2 project costs may include funds from other federal, state, local or private sources. A cost-
3 share grant under this chapter may not reimburse a landowner for any cost that another
4 unit of government is also reimbursing.

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

9 (b) The value of a conservation easement donated to the department, or to any
10 person approved by the department, may be considered as a portion of or all of the
11 landowner's or operator's share of a cost-share grant.

12
13 **NR 153.37 New best management practices and technical standards. (1)** The
14 department may approve best management practices other than those identified in s. NR
15 154.03 where necessary to meet the water resources objectives identified in projects
16 selected for funding under this subchapter.

17 (2) The department may approve technical standards other than those identified in
18 s. NR 154.03 where necessary to meet the water resources objectives identified in
19 projects selected for funding under this subchapter. In developing new technical
20 standards, the department shall use the technical standards development process in s. NR
21 151.31.

22
23 **NR 153.38 Local assistance grant agreement. (1) PURPOSE.** The local
24 assistance grant agreement is an agreement between the department and a governmental
25 unit, an agent acting on behalf of a governmental unit or the board of regents of the
26 university of Wisconsin system for providing funds for activities necessary to carry out
27 the tasks identified in a project selected for funding under s. NR 153.34.

28 (2) APPLICATION PROCEDURES. Local assistance grant funding for projects
29 selected by the department shall be based on the application materials, verification by the
30 department of the eligibility of items and cost-share rates contained in the application,
31 and any limitations on the amount of funding established by the department.

1 (a) When the amount granted to an applicant is different than the amount
2 requested by the applicant, the department shall include in a letter to the applicant the
3 rationale for the amount granted.

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

8 (3) ELIGIBLE COSTS. The activities identified in par. (b) are eligible for a local
9 assistance grant for projects selected by the department under this subchapter that are in
10 an urban area or area expected to become urban within 20 years of the application
11 submittal date. The eligibility of a municipality to receive project funding is not affected
12 by storm water permitting requirements that the municipality must meet under ch. NR
13 216.

14 (a) The cost-share rates for eligible activities in par. (b) may not exceed the
15 following:

- 16 1. 70% of the cost of the activities for which the grant is provided if the
17 department first provides a grant to fund those activities after June 30, 1998.
- 18 2. 100% of the cost of activities for which the grant is provided if the department
19 first provides a grant to fund those activities prior to June 30, 1998.

20 (b) Labor hired or retained under contract by the grantee as needed to carry out
21 the activities listed in subds. 1. to 6. The following activities shall be eligible for grant
22 assistance if additional staff are hired or retained under contract in order that the grantee
23 can conduct the activity.

- 24 1. Storm water planning activities, for all or part of a municipality, to include:
 - 25 a. Developing comprehensive municipal storm water management plans for
26 development, new development and re-development including planning, pre-design and
27 general engineering feasibility studies. Plans for existing development include storm
28 water planning for urban areas, plans for illicit discharge detection and pollution
29 prevention/good housekeeping for municipal or facility operations.
 - 30 b. Preparing local ordinances including storm water management ordinances,
31 construction site erosion control ordinances, pet waste management ordinances, illicit

1 discharge management ordinances and other environmental resource conservation
2 ordinances that the department determines can further the intent of this subchapter.

3 c. Evaluating alternatives for local financing of storm water management
4 programs, including storm water utilities.

5 e. Other storm water planning activities determined by the department to further
6 the intent of this subchapter.

7 2. Storm water management implementation activities, to include:

8 a. Administering and enforcing local ordinances including construction site
9 erosion control ordinances, storm water management ordinances and other environmental
10 resource conservation ordinances that the department determines can further the intent of
11 this subchapter. The department may identify the level of reduction in cost-share rates
12 during the specified period of time in order to reflect the actual or anticipated collection
13 of local revenues.

14 b. Administration associated with initial establishment of local funding programs
15 such as storm water utilities.

16 c. Conducting engineering designs and detailed site engineering feasibility studies
17 for projects in existing urban areas and areas of urban redevelopment. The department
18 may include engineering designs and detailed engineering feasibility studies for projects
19 in new development for practices to be municipally owned or operated.

20 d. Construction services attendant to practice installation and construction
21 verification.

22 e. Administration of easements.

23 f. Costs of appraisals for land acquisition.

24 g. Contacting landowners and land operators of storm water and nonpoint
25 pollution sources described in the project.

26 h. Developing, reviewing and implementing cost-share agreements with the cost-
27 share recipient.

28 i. Illicit discharge detection and elimination.

29 j. Pollution prevention and good housekeeping measures for municipal facilities
30 or operations.

1 k. Other storm water management implementation activities determined by the
2 department to be necessary to implement the project.

3 3. Fiscal management and project administration costs associated with cost-share
4 and local assistance grant agreements for which the local government serves as the
5 grantor or the grantee.

6 4. Public participation, education and outreach activities to include:

7 a. Forming partnerships to cost-effectively manage storm water and urban
8 nonpoint pollution.

9 b. Preparing and using educational materials and strategies.

10 c. Developing and conducting demonstrations, tours and activities that incorporate
11 citizen involvement.

12 d. Other education activities determined by the department to be necessary to
13 implement the project.

14 5. Professional services contracts for necessary activities the grantee lacks
15 expertise or staff to complete.

16 6. Materials and other direct costs, to include the following:

17 a. Information and education activities approved by the department.

18 b. Training of staff approved by the department.

19 c. The urban and storm water management program's share of the single audit
20 costs.

21 d. The cost of testing materials for use in best management practice design,
22 installation or operation.

23 e. Travel expenses including personal vehicle mileage charges, meals, lodging
24 and other reasonable travel expenses necessary to the project.

25 f. The cost of office space required for the project prorated based on percent use
26 on the project.

27 g. The cost of recording a cost-share agreement with the county register of deeds.

28 h. Field equipment necessary for the project.

29 i. Office supplies including paper, copies, printing and postage, necessary to
30 support staff and the project.

31 j. Other direct costs necessary for the project and approved by the department.

1 (c) The participating governmental unit shall complete time sheets which shall
2 track hours spent on the project by all existing staff and staff hired to conduct the project.
3 Hours of staff retained under contract shall be accounted for as specified under the terms
4 of the contract.

5 (d) Hours of existing staff and staff hired to conduct the project may not be
6 accrued or carried over to a subsequent calendar year. Hours of staff retained under
7 contract may be carried over to a subsequent calendar year with prior approval by the
8 department.

9 (4) INELIGIBLE COSTS. Indirect costs are not eligible for funding under local
10 assistance grant agreements.

11 (5) REVIEW OF CONTRACTS. If a governmental unit or the board of regents
12 of the university of Wisconsin system contracts with a government agency or person to
13 provide field, administrative, planning or other services to carry out activities of the local
14 assistance grant agreement, the contract shall be submitted to the department. All
15 contracts greater than \$25,000 shall be submitted to the department for review and
16 approval prior to signing.

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

22
23 **NR 153.39 Ordinance requirements.** As a condition of a grant given under this
24 subchapter, the department may require adoption of a construction site erosion control
25 ordinance for sites where buildings are not attached or adoption of a storm water
26 management ordinance. The department may require any ordinances to be substantially
27 consistent with model ordinances in ch. NR 152.

28
29
30
31 The foregoing rule was approved and adopted by the State of Wisconsin Natural
32 Resources Board on _____.

1 The rule shall take effect on the first day of the month following publication in the
2 Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.
3

4
5 Dated at Madison, Wisconsin _____
6

7
8 STATE OF WISCONSIN
9 DEPARTMENT OF NATURAL RESOURCES
10

11
12
13 By _____
14 George E. Meyer, Secretary
15

16 (SEAL)