

# Nonpoint Program Redesign Administrative Rules

# Nonpoint Redesign Process

- Public hearings - 22 in 11 locations
  - Over 2,000 oral and written comments
- Public comments - three categories
  - Not germane
  - Comments addressed through normal public hearing process
  - Comments indicating issues of great remaining controversy

# Nonpoint Redesign Process

- Established four workgroups
  - Agricultural issues
  - Non-agricultural issues
  - Implementation and enforcement
  - Transportation

# Nonpoint Redesign Rules

- Agricultural Issues
  - Soil loss from riparian areas -
    - Three buffer / conservation tillage options
      - 10 ft vegetated buffer with 90 ft @ 50% residue
      - 20 ft vegetated buffer with 30 ft @ 30% residue
      - 35 ft vegetated buffer
    - Enrollment and contract compliance in CRP or CREP meets this standard



# Nonpoint Redesign Rules

- Agricultural Issues
  - New and expanding operation definition
    - Cropland
      - Based on land practices not ownership
    - Livestock
      - Based on significant change in agricultural use
      - Limited expansions allowed for medium and small operations
        - » No restrictions under 250 animal units
        - » 20% allowed between 250 and 1,000 animal units
      - No cost-share for WPDES requirements

# Nonpoint Redesign Rules

- Agricultural Issues
  - Water Quality Management Areas
    - Areas susceptible to groundwater contamination - based on soil clay content and depth to groundwater or bedrock
      - Less than 2 feet is always susceptible
      - 2-3 feet - heavy clay (> 40% fines)
      - 3-5 feet - clay (20% to 40% fines)
      - 5 feet - (10% to 20% fines)
      - All areas susceptible (< 10% fines)

# Nonpoint Redesign Rules

- Agricultural Issues
  - Cattle access to streams
    - Exception made to the prohibition for properly designed livestock and equipment crossings
  - Grassed waterways
    - Provision added to clarify that compliance with this performance standard will not result in the grassed waterway being declared a navigable water.



# Nonpoint Redesign Rules

- Implementation and Enforcement
  - Clarification of responsibilities between state and local government
    - Counties and DNR may
      - Determine status of land
      - Determine cost-sharing availability based on code requirements
      - Provide notices of cost-sharing determinations
      - Set compliance periods and extensions
      - Collaborate on variance requests



# Nonpoint Redesign Rules

- Implementation and Enforcement
  - Integration of state and local efforts through grant programs
    - Scoring multipliers for
      - local implementation programs
      - enforcement program
      - ordinance coverage
  - DNR over-ride for imminent threats to public health or aquatic life

# Nonpoint Redesign Rules

## Outstanding Agriculture / Rural Issues

- Agriculture board
  - Concept of recent agricultural activity
  - CRP/CREP land converting back to agriculture
  - Prohibition on designating grassed waterways as navigable
- Wisconsin Land and Water Conservation Association - Creation of a guaranteed fund for counties through TRM

# Nonpoint Redesign Rules

- Non-Agricultural Issues
  - Infiltration standard
    - Exclusions
      - Fueling and vehicle maintenance
      - Karst areas and within 5 feet to groundwater or bedrock
      - Smaller parking lots and access roads (<5,000 ft<sup>2</sup>)
      - Areas near municipal or private wells
      - Redevelopment sites

# Nonpoint Redesign Rules

- Non-Agricultural Issues
  - Phosphorus used on lawns
    - Information and education program
    - Municipal properties must apply nutrients according to plan
  - Street sweeping
    - Identified as an urban best management practice
    - Funding allowed for high-efficiency sweepers



# Nonpoint Redesign Rules

- Non-Agricultural Issues
  - Riparian area standard
    - ORW / ERW - 100 foot buffer
    - Most other water bodies - 50 foot buffer
    - Concentrated flow channels - 10 foot buffer

# Nonpoint Redesign Rules

- Transportation
  - Targeted standards
    - Rural standard with swales adequate
    - Post-construction standards apply only to new construction and major reconstruction
  - Riparian standards
    - Consistent with non-agriculture standards
    - Allowance (MEP and redirection of runoff) for areas where buffer standards are impracticable

# Nonpoint Redesign Rules

- Technical Standards Development Process
  - Non-agricultural performance standards
  - Existing technical standards accepted until revised or replaced
  - DNR, other agencies or stakeholders can initiate
  - DNR will request other agencies to develop if appropriate
  - DNR evaluates adequacy and effectiveness

# Nonpoint Redesign Rules

## Outstanding Non-Agricultural Issues

- Commerce and Transportation dispute authority of performance standards
- Commerce wants tight, more quantitative standards
- Transportation wants flexible, more qualitative standards



# Nonpoint Redesign Rules

- Next steps
  - Natural Resources Board in January 2001
  - Second round of public hearings
    - March 2001
    - Ten hearing in five locations
  - Final to Natural Resources Board in June 2001
  - Legislature - July - October 2001
  - Promulgation - November / December 2001