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 ft²)
  – 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