



Budget Briefs from the Legislative Reference Bureau

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NONPOINT SOURCE POLLUTION

The biennial state budget act (1997 Wisconsin Act 27), passed by the legislature and signed by Governor Tommy Thompson on October 11, 1997, contained a number of provisions relating to the alleviation of nonpoint source pollution. Among these were creation of a program for water quality protection, with an emphasis on nonpoint source pollution; revisions to the nonpoint source water pollution abatement program; and the granting of powers to local governments to regulate livestock operations.

I. WATER QUALITY PROTECTION

Agricultural Establishments. Act 27 defines nonpoint source water pollution as pollution that does not result from a point source or a “confined and discreet conveyance”. It grants rulemaking authority to the Department of Natural Resources (DNR), in consultation with the Department of Agriculture, Trade and Consumer Protection (DATCP), to develop performance standards and prohibitions for agricultural facilities and practices that are nonpoint sources. The rules must include certain specific regulations of livestock operations relating to the disposal of manure and livestock access to waters in areas where high concentration of animals prevents the maintenance of adequate sod cover. DATCP, in consultation with the DNR, is given the authority to create rules prescribing conservation practices and technical standards covering animal waste management, nutrients applied to the soil and cropland sediment delivery.

Act 27 specifies that agricultural facilities (including animal feeding operations) in existence before October 14, 1997, may not be required to comply with the standards set by DNR and DATCP unless cost-sharing is available. It also provides an appropriation for DNR to offer cost-sharing assistance if none is available from other programs.

Act 27 gives local units of government the power to enact regulations for livestock operations that are the same as the standards established by DNR and DATCP. To implement regulations that exceed those standards, a local government must demonstrate to DATCP or DNR that such action is necessary to achieve water quality standards. The two departments must create procedures for the review and approval of local regulations. No local regulation may be applied to livestock operations that existed on October 14, 1997, unless cost-sharing is available, nor may a local government prohibit existing livestock operations from continuing in operation for nonconformance with local zoning ordinances.

Nonagricultural Establishments. Act 27 assigns rulemaking authority to the DNR to set performance standards for nonpoint sources other than agricultural establishments. As passed by the legislature, Act 27 would have given DNR the authority to issue prohibitions by rule. Governor Thompson vetoed this authority, saying it would conflict with regulatory authority exercised by the Departments of Commerce and Transportation.

II. FINANCIAL ASSISTANCE MODIFICATIONS

Act 27 makes various modifications to the nonpoint source water pollution abatement grant program under Section 281.65, Wisconsin Statutes. The act requires the Land and Water Conservation Board to designate a priority list of watersheds and lakes, based on the level of impairment caused by nonpoint source pollution. (This may result in some current priority watersheds and lakes being dropped.) In addition, the act creates a procedure whereby operations outside the designated priority areas may apply to receive grants under the program. DNR and DATCP will set standards for evaluating grant applications and prepare a plan to allocate funding for staff in each county, as funds become available. The act generally provides that grants may be made only for those best management practices that DNR identifies as cost-effective. Act 27 specifies grants must cover no more than 70% of the cost of using cost-effective best management practices, except in cases of financial hardship (previously grants covered 50% – 80% of costs). Finally, the act includes grant provisions specific to the South Fork of the Hay River.

III. FOR MORE INFORMATION

For copies of Sections 92.15, 281.16 and 281.65, Wisconsin Statutes, relating to nonpoint source pollution as amended or created in 1997 Act 27, contact the Legislative Reference Bureau at (608) 266-0342. For more detailed information on this topic, contact the Department of Agriculture, Trade and Consumer Protection, Land and Water Resources Bureau, Conservation Management Section, at (608) 224-4625, and the Department of Natural Resources, Bureau of Watershed Management, at (608) 266-9277.